

RESOLUTION 2001- 10

**A RESOLUTION BY THE BOARD OF COUNTY  
COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA,  
CLARIFYING THE MATURITY DATE AND TERMS OF  
THE STATE HOUSING INITIATIVES PARTNERSHIP  
(SHIP) HOME BUYER PROGRAM MORTGAGE LIEN;  
AND SETTING AN EFFECTIVE DATE.**

**WHEREAS**, Section 420.9075(4)(g), Florida Statutes, states that loans or grants for eligible owner-occupied housing constructed, rehabilitated, or otherwise assisted from proceeds provided from the local housing assistance trust fund shall be subject to recapture requirements as provided by the county or eligible municipality in its local housing assistance plan (LHAP); and

**WHEREAS**, recapture requirements have been stated on all LHAP's and subsequent amendments approved by the Board and the State of Florida; and

**WHEREAS**, the SHIP Home Buyer Program has been operational since 1994, offering purchase assistance to very-low, low and moderate income households; and

**WHEREAS**, said purchase assistance has caused a lien (second or third mortgage) to be placed on the properties so assisted by St. Johns County, at zero (0) percent interest; and

**WHEREAS**, the Home Buyer lien instrument does not state a maturity date; and

**WHEREAS**, Section 95.281(1)(6), Florida Statutes, provides that if the final maturity date cannot be otherwise ascertained from the face of the mortgage, the lien terminates in 20 years from the date of recording; and

**WHEREAS**, the Rehabilitation Program, which provides home repairs for very-low and low income owner-occupants, has a deferred payment loan recorded as a second or third mortgage, which is forgiven at a rate of ten (10) percent of total funds expenditure every year over a ten-year period.

**NOW THEREFORE BE IT RESOLVED** by the Board of County Commissioners of St. Johns County, Florida, as follows.

**SECTION 1.** The Home Buyer lien instrument is hereby amended to state that future Home Buyer liens are considered deferred payment loans (recorded as security agreements or mortgages) which are forgivable at 10 percent per year for 10 years, prorated on a monthly basis, providing that the homes remain owner-occupied and the participants honor all requirements of the deferred payment loans and the subsequent mortgages.

**SECTION 2.** All previously-recorded Home Buyer liens, beginning with state FY 1995-96 funds, shall expire 20 years from their recording dates.

**SECTION 3.** Mortgagers of previously-recorded Home Buyer liens, beginning with state FY 1995-96 funds, may apply to the SHIP Office for the more lenient policy specified in Section 1 above, that is, the lien is forgiven at 10 percent per year for 10 years, prorated on a monthly basis, providing that the homes remain owner-occupied and the participants honor all requirements of the deferred payment loans and the subsequent mortgages.

**SECTION 4.** This Resolution becomes effective on the date it is passed and adopted.

**PASSED AND ADOPTED** this 16<sup>th</sup> day of January, 2001.

BOARD OF COUNTY COMMISSIONERS  
OF ST. JOHNS COUNTY, FLORIDA

By: Mary F. Kohnke  
Mary F. Kohnke, Chair

ATTEST: CHERYL STRICKLAND, CLERK

By: Cheryl Strickland  
Deputy Clerk

Return to: Judith Foxworth, SHIP Administrator  
St. Johns County Housing Programs, P. O. Drawer 349  
St. Augustine, FL 32085-0349  
(904) 823-2625 Fax 823-2481

*note: recommended additions are underlined;  
deletions are ~~stricken~~.*

***MORTGAGE LIEN AGREEMENT***  
**UNDER ST. JOHNS COUNTY, FLORIDA**  
**STATE HOUSING INITIATIVES PARTNERSHIP HOME BUYER PROGRAM**  
**(seventh revision, January 2001)**

*(Unless otherwise indicated, the recorded document should be returned from the County Clerk's office directly to Housing/SHIP via interdepartmental mail, or sent to SHIP Housing Programs, P. O. Drawer 349, St. Augustine, FL 32085-0349.)*

**THIS INDENTURE**, made this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, between \_\_\_\_\_, whose mailing address is or shall be \_\_\_\_\_, and whose street address of the property described below is or shall be \_\_\_\_\_,

hereinafter called the "Owner" ("Owner" refers to singular or plural as the context requires), and St. Johns County, Florida, a political subdivision existing under the laws of the State of Florida (Federal ID No. 59-6000825), whose post office address is c/o Clerk of Circuit Court, P.O. Drawer 300, St. Augustine, Florida 32085, hereinafter called "County";

WITNESSETH:

**WHEREAS**, the State of Florida, through the County has made available to Owner under the State Housing Initiatives Partnership Program, Chapter 420, Part VIII, Florida Statutes, and St. Johns County Ordinance No. 93-21, hereinafter referred to jointly as "SHIP," funds to be used for closing costs, down payment, or improvements on an existing house by very low, low, or moderate income home buyers; and

**WHEREAS**, the parties hereto wish to preclude speculation and windfall profits from the sales of properties assisted with such funds.

**NOW, THEREFORE**, in consideration of the provision of financial assistance to the Owner for closing costs, down payment, and/or improvement assistance on the property hereinafter described subject to the terms and conditions hereinafter provided, the Owner has mortgaged, granted, and conveyed to County the following described land situate, lying and being in the County of St. Johns, State of Florida, to-wit:

, altogether hereinafter referred to as "Property," together with all improvements, replacements and additions now or hereafter erected on the Property, and all easements, appurtenances and fixtures now or hereafter a part of the Property, the said Owner does hereby fully warrant the title to said Property and will defend the same against the lawful claims of all persons whomsoever.

**SUBJECT, HOWEVER**, to the following terms and conditions each of which the Owner hereby accepts and agrees to:

1. SHIP funds in the amount of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) have been provided to or for the benefit of the Owner to assist in the housing assistance of the Property, the receipt whereof is hereby acknowledged by Owner.
2. Owner agrees that Owner occupies and will occupy the Property as his or her principal and primary place of residence.
3. Owner is given a deferred payment SHIP loan (recorded as a security agreement or mortgage) which is forgivable at 10 percent per year for 10 years, prorated on a monthly basis, providing that the home remains owner-occupied and the participants honor all requirements of the deferred payment loan and the subsequent mortgage.
4. If the property shall be sold, refinanced, or transferred, Owner or Owner's estate, successors, or assigns, shall be jointly and severably liable to repay to the County the entire remaining amount due of said financial assistance provided to Owner under the SHIP program immediately after the sale, refinance, or transfer of the property, except as provided below.

Transfer means any transfer of Property by deed or inheritance or foreclosure or delivery of possession of the Property for use or occupancy by one other than the Owner whether by contract for deed, lease, or otherwise; provided, however, if illness or other hardship of the Owner should make it impossible for the Owner to properly care for the Property physically, or financially infeasible to permanently reside at the property, then the Owner may rent or lease the Property upon written consent of the County Housing Advisory Committee (HAC) of St. Johns County, Florida, or whichever committee or board succeeds the HAC, or of the Board of County Commissioners.

In cases of transfer for reasons of said illness or hardship, a payment schedule may be instituted so that the outstanding loan is repaid to the "St. Johns County Board of County Commissioners Local Housing Assistance Trust Fund" on a monthly or other regular basis, at a rate of interest equal to the rate set in accordance with Florida Statute 55.03. The rate of interest applicable on the date of this repayment option approval shall be the rate for the entire repayment period. The repayment schedule shall commence immediately after the transfer has occurred.

The County may forgive any of the SHIP assistance should there be insufficient net proceeds derived from a good faith sale of the Property at market value upon approval of the HAC. "Net proceeds" is defined as the amount remaining after all private debts incurred by the Owner to acquire or improve the Property are repaid.

5. Paragraph 3 of this agreement regarding transfer of the subject property shall not apply to a transfer from the Owner to the Owner's spouse or ex-spouse pursuant to a court order as part of a divorce action; but if transferred to an Owner's spouse or ex-spouse, the agreements contained herein shall run with title to the land and, thereafter, be applicable to any transfer made by the Owner's said spouse or ex-spouse.

6. Owner understands and agrees that this agreement shall be recorded in the office of the Clerk of the Circuit Court in and for St. Johns County, Florida, and its obligations thereof shall run with title to the property and shall encumber and burden title to the property.

7. THE OWNER UNDERSTANDS AND AGREES THAT THIS INSTRUMENT SHALL PLACE A LIEN UPON OWNER'S PROPERTY DESCRIBED HEREIN ABOVE AND THIS AGREEMENT SHALL BE BINDING UPON THE HEIRS, DEVISEES, SUCCESSORS AND ASSIGNS OF THE OWNER.

8. In any instance where the Owner enters or has entered into one or more mortgages that are used solely to finance ownership of the Property, this Mortgage Lien Agreement shall be subordinate to said mortgage or mortgages. Any mortgage, lien, indenture, encumbrance or other instrument entered into by the Owner pertaining to the Property that is not solely used to finance the ownership of the Property (e.g., home improvement loans, mechanics liens, etc.), shall not be considered superior to this Mortgage Lien Agreement, unless otherwise provided by law.

9. The Owner further understands and agrees that any payments received by Owner as a result of false or misleading information submitted to County will be paid back to the County by the Owner immediately upon discovery of same.

10. All obligations and conditions herein that are applicable to Owner are secured by this mortgage lien.

**PROVIDED** that if the Owner shall pay all obligations described herein and shall comply with all conditions and perform all agreements set forth herein, then this mortgage and the estate hereby created shall cease and be null and void.

**IN WITNESS WHEREOF**, Owner has executed this instrument under seal on the day and year first above written.

Signed, sealed and delivered in the presence of:

\_\_\_\_\_ (Seal)

\_\_\_\_\_  
(Print or type witness's name)

\_\_\_\_\_ (Seal)

\_\_\_\_\_  
(Print or type witness's name)

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

The foregoing Lien Agreement was Acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 200\_\_, by \_\_\_\_\_

who \_\_\_\_ is personally known to me or \_\_\_\_ has produced as identification the following: \_\_\_\_\_ and who \_\_\_\_ did or \_\_\_\_ did not take an oath.

\_\_\_\_\_  
(Notary Signature)

(Notarial Seal)

\_\_\_\_\_  
(Print or type name of Notary Public)

Commission No.: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

*(To reimburse St. Johns County for the no-interest SHIP loan and to clear the title of this lien, contact SHIP Housing Programs or the County Administrator's Office. Cashier's check or money order should be made payable to "St. Johns Co. BCC Local Housing Asst. Trust Fund for "repayment of Participant's Name SHIP lien".)*