



# Brevard County Board of County Commissioners

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Legislation Text

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**File #:** 2431, **Version:** 1

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### **Subject:**

Approval, Re: Housing and Human Services Department Policy for Foreclosure

### **Fiscal Impact:**

FY 20-21: There will be no impact to the General Fund. All future costs associated with foreclosure will be paid using the Brevard County Affordable Housing Trust Fund (Fund 0035, Cost Center 221010).

### **Dept/Office:**

Housing and Human Services

### **Requested Action:**

It is requested that the Board of County Commissioners review, approve, and authorize the Chair to sign the Housing and Human Services Department Policy for Foreclosure.

### **Summary Explanation and Background:**

Numerous programs administered by the Housing and Human Services Department (Department) are designed to provide a variety of affordable housing activities from first time home buyer to rehabilitation to the creation of new affordable housing. In each instance where local, state, and/or federal funds are expended the Department seeks to protect taxpayer investment utilizing mortgages, liens, and/or a Land Use Restriction Agreement (LURA). Occasionally an assisted Mortgagor, which can be an agency or individual, defaults upon the conditions of a security instrument. Up until this point the Department, in conjunction with the County Attorney's Office, has been able to cure these issues and resume compliance. However, it is only a matter of time before such an issue is unable to be cured. While these security instruments identify the County's right to declare all of the sums secured by them to be due and payable immediately and contemplate foreclosure, there is a lack of direction from the Board of County Commissioners on the process for pursuing a foreclosure action in court.

At no time will a foreclosure proceeding be initiated due to non-payment. The vast majority of Department security instruments are forgivable liens, which expire after a defined affordability period without any funds being repaid. The exception for forgivable liens is the Purchase Assistance Program (First Time Homebuyer) when assistance is given to households between 81% - 120% of area median income. These households agree to repay the mortgage over a 10-year period and if they default (don't pay) their liens are frozen at the time of default and the lien plus interest will remain on the property until they come into compliance or the property is sold and the lien is repaid.

The Department Foreclosure Policy is meant to address those properties who refuse to correct program violations during the period of affordability (for example, not renting to low income individuals/families, charging more rent than is allowed per HUD regulations, etc.) which could result in negative findings during an

audit/monitoring and might require repayment from the General Fund.

The attached policy: (1) provides guidance and clarity regarding the steps required to foreclose on any property (assisted with funds under the discretion of the Department) with a mortgage, lien, or LURA; (2) identifies the Department as being responsible for the administration and monitoring of the policy; (3) identifies the Brevard County Affordable Housing Trust Fund (Non-General Fund) as the funding source for fees and costs associated with foreclosure; (4) authorizes the Department Director to act as the County's Agent and to take all necessary steps to initiate foreclosure proceedings; and, (5) identifies how recaptured funds will be managed.

### **Clerk to the Board Instructions:**

Please have the Chair sign, the Clerk Attest, and then return the executed Policy to the Housing and Human Services Department.