

PP8000052835



THE UNITED STATES
CORPORATION
COMPANY

ACCOUNT NO. : 072100000032

REFERENCE : 877477 4332656

AUTHORIZATION :

COST LIMIT :

PPD

FILED
98 JUL -1 PM 12:18
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

ORDER DATE : July 1, 1998

ORDER TIME : 1:13 PM

ORDER NO. : 877477-005

CUSTOMER NO: 4332656

CUSTOMER: Kent Ihrig, Esq
Anderson & Orcutt
Suite 2400
401 East Jackson Street
Tampa, FL 33602

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*****87.50 *****87.50

Amend

DOMESTIC AMENDMENT FILING

NAME: DELPHI MORTGAGE, INC.

EFFECTIVE DATE:

XX ARTICLES OF AMENDMENT
 RESTATED ARTICLES OF INCORPORATION

PLEASE RETURN THE FOLLOWING AS PROOF OF FILING:

XX CERTIFIED COPY
 PLAIN STAMPED COPY
 CERTIFICATE OF GOOD STANDING

CONTACT PERSON: Cassandra Bryant

EXAMINER'S INITIALS:

PPD
7/2/98

RECEIVED
98 JUL -1 PM 1:54
DIVISION OF CORPORATION

**ARTICLES OF AMENDMENT
TO
ARTICLES OF INCORPORATION
OF
DELPHI MORTGAGE, INC.
(a Florida corporation)
AND CERTIFICATE OF
DESIGNATION, PREFERENCES, RIGHTS AND
LIMITATIONS OF
SERIES A CONVERTIBLE PREFERRED STOCK,
\$2,500.00 PAR VALUE**

FILED
98 JUL -1 PM 2:18
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

Delphi Mortgage, Inc. (the "**Corporation**"), organized and existing under the laws of the State of Florida, hereby certifies as follows:

1. The name of this Corporation is Delphi Mortgage, Inc.
2. Article IV of the Articles of Incorporation of the Corporation is hereby amended by deleting therefrom the present form of said Article IV and substituting therefor the following:

The aggregate number of shares of capital stock authorized to be issued by this Corporation shall be 7,000 shares of common stock each with a par value of \$1.00 per share (the "**Common Stock**") and 500 shares of preferred stock, each with a par value of \$2,500.00 (the "**Preferred Stock**"). Each share of issued and outstanding Common Stock shall entitle the holder thereof to one (1) vote on each matter with respect to which shareholders have the right to vote, to fully participate in all shareholder meetings, and to share ratably in the net assets of the Corporation upon liquidation, dissolution or winding down, but each such share shall be subject to the rights and preferences of the Preferred Stock as hereinafter set forth.

The Preferred Stock, may be issued from time to time in one or more series in any manner permitted by law, as determined from time to time by the Board of Directors of the Corporation and stated in any resolution providing for the issuance of such shares adopted by the Board of Directors of the Corporation pursuant to authority hereby vested in it, each series to be appropriately designated, prior to the issuance of any shares thereof, by some distinguishing letter, number or title. All shares of each series of Preferred Stock shall be alike in every particular and of equal rank, have the same powers, preferences and rights and be subject to the same qualifications, limitations and restrictions, without distinction between

shares of different series thereof, except in regard to the following particulars, which may differ as to different series:

- (a) the annual rate of dividends payable and the dates from which such dividends shall commence to accrue, if at all;
- (b) the amount payable upon a share redemption and the manner in which shares of a particular series may be redeemed;
- (c) the amount payable upon any voluntary or involuntary liquidation, dissolution or winding up of the Corporation;
- (d) the provisions of any sinking fund established with respect to the shares of a series;
- (e) the terms and rates of conversion or exchange, if shares of a series are convertible or exchangeable, if any; and
- (f) the provisions as to voting rights, if any.

Before any shares of a particular series of Preferred Stock are issued, the designations of such series and its terms in respect of the foregoing particulars shall be fixed and determined by the Board of Directors of the Corporation in any manner permitted by law and stated in a resolution providing for the issuance of such shares adopted by the Board of Directors of the Corporation pursuant to authority duly vested in it. Such designations and terms shall be set forth in full or summarized on the certificates for such series. The Board of Directors may increase the number of such shares by providing that any unissued shares of Preferred Stock shall constitute part of such series, or may decrease (but not below the number of shares thereof then outstanding) the number of shares of any series of Preferred Stock already created by providing that any unissued shares previously assigned to such series shall no longer constitute part thereof. The Board of Directors is hereby empowered to classify or reclassify any unissued shares of Preferred Stock by fixing or altering the terms thereof in respect of the above-referenced particulars and by assigning the same to an existing or newly established series from time to time before the issuance of such shares.

The holders of shares of each series shall, if so designated, be entitled to receive, out of funds legally available therefor, when and as declared by the

Board of Directors of the Corporation, cash dividends at such rate per annum as shall be fixed by resolution of the Board of Directors of the Corporation for such series, payable periodically on the dates fixed by the Board of Directors of the Corporation for the series. Such dividends may be cumulative or non-cumulative, deemed to accrue from day to day regardless of whether or not earned or declared, and may commence to accrue on each share of Preferred Stock from such date or dates, all as may be determined and stated by the Board of Directors of the Corporation prior to the issuance thereof. The Corporation shall make dividend payments ratably upon all outstanding shares of Preferred Stock in proportion to the amount of dividends accrued thereon to the date of such dividend payment, if any.

As long as any shares of the Preferred Stock shall remain outstanding, no dividend (other than a dividend payable in shares ranking junior to such Preferred Stock with respect to the payment of dividends or liquidating assets) shall be declared or paid upon, nor shall any distribution be made or ordered in respect of, shares of the Common Stock or any other class of shares ranking junior to the shares of such Preferred Stock as to the payment of dividends or liquidating assets, nor shall any monies (other than the net proceeds received from the sale of shares ranking junior to the shares of such Preferred Stock as to the payment of dividends or liquidating assets) be set aside for or applied to the purchase or redemption (through a sinking fund or otherwise) of shares of the Common Stock or of any other class of shares ranking junior to the shares of such Preferred Stock as to dividends or assets unless:

(a) all dividends on the shares of Preferred Stock of all series for past dividend periods shall have been paid and the full dividend on all outstanding shares of Preferred Stock of all series for the then current dividend period shall have been paid or declared and set apart for payment; and

(b) the Corporation shall have set aside all amounts, if any, required to be set aside as and for sinking funds, if any, for the shares of Preferred Stock of all series for the then current year, and all defaults, if any, in complying with any such sinking fund requirements in respect of previous years shall have been cured.

The Corporation, at the option of the Board of Directors of the Corporation, may at any time redeem the whole, or from time to time any part, of any series of Preferred Stock, subject to such limitations as may be adopted by the Board of Directors of the Corporation authorizing the

issuance of such shares, by paying therefor in cash the amount which shall have been determined by the Board of Directors of the Corporation in the resolution authorizing such series, to be payable upon the redemption of such shares at such time. Redemption may be made of the whole or any part of the outstanding shares of any one or more series, in the discretion of the Board of Directors of the Corporation; but if the redemption shall be effected only with respect to a part of a series, the shares to be redeemed may be selected by lot, or all of the shares of such series may be redeemed pro rata, in such manner as may be prescribed by resolution of the Board of Directors of the Corporation.

Subject to the foregoing provisions and to any qualifications, limitations, or restrictions applicable to any particular series of Preferred Stock which may be stated in the resolution providing for the issuance of such series, the Board of Directors of the Corporation shall have authority to prescribe from time to time the manner in which any series of Preferred Stock shall be redeemed.

Upon any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, the shares of Preferred Stock of each series shall be entitled, before any distribution shall be made with respect to shares of Common Stock or to any other class of shares junior to the shares of Preferred Stock as to the payment of dividends or liquidating assets, to be paid the full preferential amount fixed by the Board of Directors of the Corporation for such series as herein authorized; but the shares of Preferred Stock shall not be entitled to any further payment and any remaining net assets shall be distributed ratably to all outstanding shares of Common Stock. If upon such liquidation or dissolution of the Corporation, whether voluntary or involuntary, the net assets of the Corporation shall be insufficient to permit payment of all of outstanding shares of Preferred Stock of all series of the full preferential amounts to which they are respectively entitled, the entire net assets of the Corporation shall be distributed ratably to all outstanding shares of Preferred Stock in proportion to the full preferential amount to which each such share is entitled. Neither a consolidation nor a merger of the Corporation with or into any other entity nor the sale of all or substantially all of the assets of the Corporation shall be deemed to be a liquidation or dissolution within the meaning of this paragraph.

3. That, pursuant to authority conferred upon the Board of Directors of the Corporation by the Articles of Incorporation of the Corporation, as amended pursuant to paragraph 2 above, and pursuant to the provisions of Section 607.0602 of the Florida Business Corporation Act, as amended, the Board of Directors of the Corporation, by written action, taken June 24, 1998, to be effective as of June 12, 1998, has adopted a

resolution amending further amending Article IV of the Corporation's Articles of Incorporation and providing for the creation and issuance of shares of its authorized preferred stock \$2,500.00 par value, to be designated Series A Convertible Preferred Stock, which amendment is as follows and which shall be deemed to be added to said Article IV of the Articles of Incorporation of the Corporation:

A series of the Corporation's authorized class of preferred stock, \$2,500.00 par value, is hereby established and designated as "Series A Convertible Preferred Stock, \$2,500.00 Par Value," (the "Series A Preferred Stock") which series shall consist of 100 authorized shares. The preferences and relative, participating, optional or other special rights of, and the qualifications, limitations and restrictions imposed upon the Series A Preferred Stock shall be as follows:

1. *Cash Dividends.*

No preferential cash dividends shall be paid or declared on the Series A Preferred Stock.

2. *Redemption Rights.*

(a) *Voluntary:* Shares of the Series A Preferred Stock shall be redeemable, in whole or in part, at the option of the Corporation, by resolution of its Board of Directors of the Corporation adopted, at any time, at a price equal to the sum of \$2,500.00 per share plus all dividends accrued but unpaid with respect to each such share up to the date fixed for redemption. In the event that less than all of the outstanding shares of Series A Preferred Stock are redeemed at any one time, the shares to be redeemed shall be selected in a non-discriminatory manner to be determined by the Board of Directors of the Corporation. Not less than 10 nor more than 60 days prior to the date fixed for redemption of any shares of Series A Preferred Stock, a notice specifying the time and place of such redemption shall be given to all holders of record of shares of Series A Preferred Stock, at their respective addresses as the same shall appear on the stock books of the Corporation, but no failure on the part of the shareholder to receive such notice and no defect in the wording of the notice shall affect the validity of the proceedings adopted with respect to the redemption of any such shares.

(b) *Effect of Redemption:* On the redemption date selected by the Corporation under subsection (a) each shareholder some or all of whose shares of Series A Preferred Stock are being redeemed shall tender such shares for cancellation by the Corporation and against payment of the redemption price. Upon the consummation of any such redemption, each holder of shares of Series A Preferred Stock whose shares have been

redeemed shall cease to be a shareholder with respect to such shares, shall have no interest in or claim against the Corporation by virtue thereof and shall have no rights with respect to such shares as are redeemed. Any shares of Series A Preferred Stock received by the Corporation upon redemption shall resume the status of authorized but unissued shares of preferred stock.

3. ***Voting Rights.*** Each issued and outstanding share of Series A Preferred Stock shall entitle the registered holder thereof to one (1) vote on each matter with respect to which shareholders of the Common Stock have the right to vote and to fully participate in all shareholder meetings.

4. ***Priority in the Event of Liquidation or Dissolution.*** In the event of any liquidation, dissolution or winding up of the affairs of the Corporation, whether voluntary or otherwise, after payment or provision for payment of the debts and other liabilities of the Corporation and before any distribution shall be made to the holders of any class of the Common Stock of the Corporation, each holder of Series A Preferred Stock shall be entitled to receive, out of the net assets of the Corporation, the sum of \$2,500.00 in cash for each share of Series A Preferred Stock so held plus an amount, if any, equal to all dividends accrued and unpaid on each such share up to the date fixed for distribution. After payment shall have been made in full to the holders of Series A Preferred Stock, or funds necessary for such payment shall have been set aside in trust for the exclusive benefit of such holders, the holders of the Series A Preferred Stock shall be entitled to no further participation in any distribution of the assets of the Corporation.

5. ***Conversion of Series A Preferred Stock into Common Stock.***

(a) Subject to the provisions of this Section 5, the holder of record of any share or shares of Series A Preferred Stock shall have the right, at such holder's option, which right shall not be exercisable prior to January 1, 1999, to convert each said share or shares of Series A Preferred Stock into 30 shares of fully paid non-assessable Common Stock. In the event any shares of the Series A Preferred Stock shall have been called for redemption as herein provided, such right of conversion in respect of the shares so called for redemption shall cease and terminate as at the close of business on the tenth day prior to the date fixed for the redemption of such shares, unless default shall be made in the payment of the redemption price.

(b) Any holder of a share or shares of Series A Preferred Stock desiring to convert such Series A Preferred Stock into Common Stock shall surrender the certificate or certificates representing the share or shares of Series A Preferred Stock so to be converted, duly endorsed to the Corporation or in blank, at the principal office of the Corporation (or at

such other place as may be designated by the Corporation), and shall give written notice to the Corporation at said office that he elects to convert the same and setting forth the name or names (with the address or addresses) in which the shares of Common Stock are to be issued.

(c) Conversion of Series A Preferred Stock shall be subject to the following additional terms and provisions:

(i) As promptly as practicable after the surrender for conversion of any Series A Preferred Stock, the Corporation shall deliver or cause to be delivered at the principal office of the Corporation (or such other place as may be designated by the Corporation), to or upon the written order of the holder of such Series A Preferred Stock, certificates representing the shares of Common Stock issuable upon such conversion, issued in the name or names as such holder may direct. Shares of the Series A Preferred Stock shall be deemed to have been converted as of the close of business on the date of the surrender of the Series A Preferred Stock for conversion, as provided above; and the rights of the holders of such Series A Preferred Stock shall cease at such time, and the person or persons in whose name or names the certificates for such shares are to be issued shall be treated for all purposes as having become the record holder or holders of such Common Stock at such time; *provided, however*, that any such surrender on any date when the stock transfer books of the Corporation shall be closed shall constitute the person or persons in whose name or names the certificates for such shares are to be issued as the record holder or holders thereof for all purposes at the close of business on the next succeeding day on which such stock transfer books are open.

(ii) The Corporation shall at the time of such conversion pay to the holder of record of any share or shares of Series A Preferred Stock any accrued but unpaid dividends on said Series B Preferred Stock on said Series A Preferred Stock so surrendered for conversion.

(iii) The Corporation shall not be required to issue any scrip or fractional shares of Common Stock upon conversions of Series A Preferred Stock. If more than one share of Series A Preferred Stock shall be surrendered for conversion at one time by the same holder, the number of full shares of

Common Stock which shall be issuable upon conversion of such Series A Preferred Stock shall be computed on the basis of the aggregate number of shares of Series A Preferred Stock so surrendered. Instead of any fractional shares of Common Stock which would otherwise be issuable upon conversion of the Series A Preferred Stock, the Corporation shall pay to the holder of the shares of Series A Preferred Stock which are then being converted a cash adjustment in respect of such fraction in an amount equal to the same fraction of the fair market value per share of the Common Stock at the close of business as of the date of such conversion.

(iv) In the event that the Corporation shall at any time subdivide or combine in a greater or lesser number of shares the outstanding shares of Common Stock, the number of shares of Common Stock issuable upon conversion of the Series A Preferred Stock shall be proportionately increased in the case of subdivision or decreased in the case of a combination, effective in either case at the close of business on the date when such subdivision or combination shall become effective.

(v) In the event that the Corporation shall be recapitalized, consolidated with or merged into any other corporation, or shall sell or convey to any other corporation all or substantially all of its property as an entirety, provision shall be made as part of the terms of such recapitalization, consolidation, merger, sale or conveyance so that any holder of Series A Preferred Stock may thereafter receive in lieu of the Common Stock otherwise issuable to such holder upon conversion of his Series A Preferred Stock, but at the conversion ratio stated in this Section 5, the same kind and amount of securities or assets as may be distributable upon such recapitalization, consolidation, merger, sale or conveyance, with respect to the Common Stock of the Corporation.

(vi) In the event that the Corporation shall at any time pay to the holders of Common Stock a dividend in Common Stock, the number of shares of Common Stock issuable upon conversion of the Series A Preferred Stock shall be proportionately increased, effective at the close of business

on the record date for determination of the holders of Common Stock entitled to such dividend.

(vii) Except as provided in subparagraph (ix) of this subsection (c) of this Section 5, in the event that the Corporation shall at any time pay any dividend or make any other distribution on its Common Stock in property, other than in cash or in Common Stock of the Corporation, then provision shall be made as part of the terms of such dividend or distribution so that the holder of any Series A Preferred Stock surrendered for conversion after the record date for determination of holders of Common Stock entitled to such dividend or distribution shall be entitled to receive the same kind and the same proportionate share of such property which he would have been entitled to receive had such Series A Preferred Stock been converted immediately prior to such record date.

(viii) Such adjustments shall be made successively if more than one event listed in subparagraphs (iv), (v), (vi) and (vii) of this subsection (c) of this Section 5 shall occur.

(ix) No adjustment of the conversion ratio shall be made by reason of:

- (A) the payment of any cash dividend on the Common Stock or any other class of the capital stock of the Corporation; or
- (B) the purchase, acquisition, redemption or retirement by the Corporation of any shares of the Common Stock or of any other class of the capital stock of the Corporation, except as provided in subparagraph (iv) of this subsection (c); or
- (C) the issuance, other than as provided in subparagraphs (iv), (vi) and (vii) of this subsection (c), of any shares of Common Stock of the Corporation, or of any securities convertible into shares of Common Stock or other securities of the Corporation, or of any rights, warrants or options to subscribe for or purchase shares of the Common Stock or other securities of the Corporation, or of any other securities of the Corporation, provided that in the

event the Corporation offers any of its securities, or any rights, warrants or options to subscribe for or purchase any of its securities, to the holders of its Common Stock pursuant to any preemptive or preferential rights granted to holders of Common Stock by the Articles of Incorporation of the Corporation, or pursuant to any similar rights that may be granted to such holders of Common Stock by the Board of Directors of the Corporation, the Corporation shall mail written notice of such offer to the holders of the Series A Preferred Stock then of record at least 20 days prior to the record date for the determination of holders of the Common Stock entitled to receive any such offer; or

- (D) any offer by the Corporation to redeem or acquire shares of its Common Stock by paying or exchanging therefor stock of another corporation or the carrying out by the Corporation of the transactions contemplated by such offer, provided that at least 20 days prior to the expiration of any such offer the Corporation shall mail written notice of such offer to the holders of the Series A Preferred Stock then of record; or
- (E) the distribution to holders of Common Stock of the Corporation of stock, if the issuer of such stock shall be engaged at the time of such distribution in a business (1) which shall have been previously operated on a divisional, or subsidiary, basis by a corporation acquired by the Corporation and (2) which shall be distinct from the principal businesses of the corporation so acquired.

(x) The Corporation shall at all times reserve and keep available solely for the purpose of issue upon conversion of Series A Preferred Stock, as herein provided, such number of shares of Common Stock as shall be issuable upon the conversion of all outstanding Series A Preferred Stock.

(d) The issuance of certificates for shares of Common Stock upon conversion of the Series A Preferred Stock shall be made without charge for any tax in respect of such issuance. However, if any certificate is to be issued in a name other than that of the holder of record of the Series A

Preferred Stock so converted, the person or persons requesting the issuance thereof shall pay to the Corporation the amount of any tax which may be payable in respect, of any transfer involved in such issuance, or shall establish to the satisfaction of the Corporation that such tax has been paid or is not due and payable.

6. ***Limitations on Corporation; Shareholder Consent.*** So long as any shares of Series A Preferred Stock are outstanding, the Corporation shall not, without affirmative vote or the written consent as provided by law, of 80% of the holders of the outstanding shares of that the Series A Preferred Stock, voting as a class, change the preferences, rights or limitations with respect to such Series A Preferred Stock in any material respect prejudicial to the holders thereof, or increase the authorized number of shares of such Series A Preferred Stock, but nothing herein contained shall require such a class vote or consent (a) in connection with any increase in the total number of authorized shares of Common Stock or (b) in connection with the authorization, designation, increase or issuance of any class or series of stock holding a ranking subordinate to the Series A Preferred Stock. Further, no such vote or written consent of the holders of the Series A Preferred Stock shall be required if, at or prior to the time when any such change is to take effect, provision is made for the redemption of all shares of such Series A Preferred Stock at the time outstanding; and the provisions of this Section 6, shall not in any way limit the right and power of the Corporation to issue any bonds, notes, mortgages, debentures and other obligations, and to incur indebtedness to banks and to other lenders.


7. ***Stated Capital.*** Of the consideration received by the Corporation in exchange for the issuance of each share of the Series A Preferred Stock, \$2,500.00 shall constitute the stated capital of the Corporation.

8. ***Notices.*** All notices or other communications required or permitted to be given pursuant to this Amendment shall be in writing and shall be considered as properly given or made if hand delivered, mailed by certified or registered mail, return receipt requested, or sent by prepaid telegram, if to the Corporation at its address indicated in its Annual Report as most recently filed with the Florida Department of State, and if to a holder of Series A Preferred Stock at the address set forth in the shareholder records as maintained by the Corporation, or to such other address as any such shareholder may have designated by like notice forwarded to the Corporation. All notices, except notices of change of address, shall be deemed given when mailed or hand delivered and notices of change of address shall be deemed given when received.

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IN WITNESS WHEREOF, Delphi Mortgage, Inc. has caused its corporate seal to be hereunto affixed and this Certificate to be executed by its President and Assistant Secretary, as of June 24, 1998.

DELPHI MORTGAGE, INC.

By: 
Sean Brogan, President

By: 
William Kestner,
Assistant Secretary

STATE OF FLORIDA

COUNTY OF HILLSBOROUGH

THE FOREGOING INSTRUMENT was acknowledged before me this 24th day of June, 1998, by Sean Brogan, as President of Delphi Mortgage, Inc., a Florida corporation, on behalf of the corporation. He/she is personally known to me or ✓ has produced Sean Dr. Brogan as identification and did not take an oath. [Notary: Check appropriate blank, and if taking identification, please enter the type of identification.]

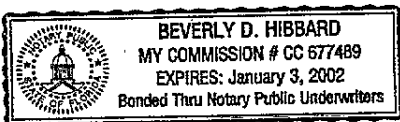
8625-787-59-121-0


Notary Public

Printed Name of Notary

Rank or Serial Number

My commission expires:



STATE OF FLORIDA

COUNTY OF HILLSBOROUGH

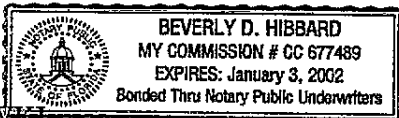
THE FOREGOING INSTRUMENT was acknowledged before me this 24th day of June, 1998, by William Kent Thang, as Assistant Secretary of Delphi Mortgage, Inc., a Florida corporation, on behalf of the corporation. He/she is personally known to me or has produced as identification and did not take an oath. [Notary: Check appropriate blank, and if taking identification, please enter the type of identification.]

Beverly D. Hibbard
Notary Public

Printed Name of Notary

Rank or Serial Number

My commission expires:



WKL:mas
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