

HOUSE BILL 453

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

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This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO HOUSING; AMENDING AND ENACTING SECTIONS OF THE AFFORDABLE HOUSING ACT; CREATING THE CREDITWORTHINESS ASSISTANCE PROGRAM; PROVIDING FOR CREDITWORTHINESS ASSISTANCE GRANTS; CREATING THE CREDITWORTHINESS ASSISTANCE FUND ~~HAFC~~ ~~MAKING AN APPROPRIATION~~ HAFC .

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 6-27-3 NMSA 1978 (being Laws 2004,

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Chapter 104, Section 3, as amended) is amended to read:

"6-27-3. DEFINITIONS.--As used in the Affordable Housing Act:

A. "affordable housing" means residential housing primarily for persons or households of low or moderate income;

B. "authority" means the New Mexico mortgage finance authority;

C. "building" means a structure capable of being renovated or converted into affordable housing or a structure that is to be demolished and is located on land that is donated and upon which affordable housing will be constructed;

D. "creditworthiness assistance grant" means a grant of money to be used by a participant for:

(1) all or a portion of unpaid rent; and

(2) damages caused to a rented residential property by a participant in the creditworthiness assistance program;

~~[D-]~~ E. "governmental entity" means the state, including any agency or instrumentality of the state, a county, a municipality or the authority;

~~[E-]~~ F. "household" means one or more persons occupying a housing unit;

~~[F-]~~ G. "housing assistance grant" means the donation, provision or payment by a governmental entity of:

(1) land upon which affordable housing will be

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constructed;

(2) an existing building that will be renovated, converted or demolished and reconstructed as affordable housing;

(3) the costs of acquisition, development, construction, financing and operating or owning affordable housing; or

(4) the costs of financing or infrastructure necessary to support affordable housing;

[G-] H. "infrastructure" includes infrastructure improvements and infrastructure purposes;

[H-] I. "infrastructure improvement" includes, but is not limited to:

(1) sanitary sewage systems, including collection, transport, storage, treatment, dispersal, effluent use and discharge;

(2) drainage and flood control systems, including collection, transport, diversion, storage, detention, retention, dispersal, use and discharge;

(3) water systems for domestic purposes, including production, collection, storage, treatment, transport, delivery, connection and dispersal;

(4) areas for motor vehicle use for road access, ingress, egress and parking;

(5) trails and areas for pedestrian,

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equestrian, bicycle or other nonmotor vehicle use for access, ingress, egress and parking;

(6) parks, recreational facilities and open space areas to be used by residents for entertainment, assembly and recreation;

(7) landscaping, including earthworks, structures, plants, trees and related water delivery systems;

(8) electrical transmission and distribution facilities;

(9) natural gas distribution facilities;

(10) lighting systems;

(11) cable or other telecommunications lines and related equipment;

(12) traffic control systems and devices, including signals, controls, markings and signs;

(13) inspection, construction management and related costs in connection with the furnishing of the items listed in this subsection; and

(14) heating, air conditioning and weatherization facilities, systems or services, and energy efficiency improvements that are affixed to real property;

[F.] J. "infrastructure purpose" means:

(1) planning, design, engineering, construction, acquisition or installation of infrastructure, including the costs of applications, impact fees and other

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fees, permits and approvals related to the construction, acquisition or installation of the infrastructure;

(2) acquiring, converting, renovating or improving existing facilities for infrastructure, including facilities owned, leased or installed by the owner;

(3) acquiring interests in real property or water rights for infrastructure, including interests of the owner; and

(4) incurring expenses incident to and reasonably necessary to carry out the purposes specified in this subsection;

[J-] K. "municipality" means an incorporated city, town or village, whether incorporated under general act, special act or special charter, incorporated counties and H class counties;

L. "participant" means a person who participates in a training program authorized by the state, a county or a municipality that provides information on the importance of budgeting and the operation of credit histories and credit scores;

[K-] M. "public post-secondary educational institution" means a state university or a public community college;

[L-] N. "qualifying grantee" means:

(1) an individual who is qualified to receive

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assistance pursuant to the Affordable Housing Act and is approved by the governmental entity; and

(2) a governmental housing agency, regional housing authority, tribal housing agency, corporation, limited liability company, partnership, joint venture, syndicate, association or nonprofit organization that:

(a) is organized under state, local or tribal laws and can provide proof of such organization;

(b) if a nonprofit organization, has no part of its net earnings inuring to the benefit of any member, founder, contributor or individual; and

(c) is approved by the governmental entity; and

~~[M-]~~ O. "residential housing" means any building, structure or portion thereof that is primarily occupied, or designed or intended primarily for occupancy, as a residence by one or more households and any real property that is offered for sale or lease for the construction or location thereon of such a building, structure or portion thereof. "Residential housing" includes congregate housing, manufactured homes, housing intended to provide or providing transitional or temporary housing for homeless persons and common health care, kitchen, dining, recreational and other facilities primarily for use by residents of a residential housing project."

SECTION 2. A new section of the Affordable Housing Act is

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enacted to read:

"[NEW MATERIAL] CREDITWORTHINESS ASSISTANCE PROGRAM--
CREDITWORTHINESS ASSISTANCE GRANTS--ELIGIBILITY.--

A. The "creditworthiness assistance program" is created and shall be administered by the authority. The application for a creditworthiness assistance grant shall be in a form prescribed by the authority. To be eligible for a creditworthiness assistance grant:

(1) a nonindividual qualifying grantee shall:

(a) have a functioning accounting system that is operated in accordance with generally accepted accounting principles or shall designate an entity that will maintain such an accounting system consistent with generally accepted accounting principles; and

(b) have among its purposes significant activities related to renting residential housing; and

(2) an individual qualifying grantee shall meet all requirements provided pursuant to rules promulgated by the authority pursuant to the Affordable Housing Act.

B. A creditworthiness assistance grant provided pursuant to this section shall not exceed:

(1) five thousand dollars (\$5,000) of unpaid rent to a qualifying grantee per one participant;

(2) ten thousand dollars (\$10,000) of unpaid rent to a qualifying grantee per calendar year; and

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(3) two thousand five hundred dollars (\$2,500) for damages caused to a rented residential property by a participant.

C. The authority shall promulgate rules regarding:

- (1) requirements for a participant to be eligible to receive a creditworthiness assistance grant;
- (2) the application for a creditworthiness assistance grant;
- (3) the training program on the importance of budgeting and the operation of credit histories and credit scores; and
- (4) the process for other grantors to administer creditworthiness assistance grants."

SECTION 3. Section 6-27-5 NMSA 1978 (being Laws 2004, Chapter 104, Section 5, as amended) is amended to read:

"6-27-5. STATE, COUNTY, MUNICIPALITIES, INSTRUMENTALITIES OF THE STATE AND THE AUTHORITY--AUTHORIZATION FOR AFFORDABLE HOUSING.--The state, including any agency or instrumentality of the state, or a county, a municipality or the authority may:

A. donate, provide or pay all or a portion of the costs of land for the construction on the land of affordable housing;

B. donate, provide or pay all or a portion of the costs of conversion or renovation of existing buildings into affordable housing;

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C. provide or pay the costs of financing or infrastructure necessary to support affordable housing projects; [or]

D. provide or pay all or a portion of the costs of acquisition, development, construction, financing, operating or owning affordable housing; or

E. donate, provide or pay all or a portion of the costs of unpaid rent owed by a participant or damages caused to a residential property pursuant to the requirements provided in Subsection B of Section 2 of this 2025 act."

SECTION 4. Section 6-27-7 NMSA 1978 (being Laws 2004, Chapter 104, Section 7, as amended) is amended to read:

"6-27-7. REQUIREMENT FOR ENACTMENT OF AN ORDINANCE BY A COUNTY OR A MUNICIPALITY AND REVIEW BY THE AUTHORITY AUTHORIZING HOUSING ASSISTANCE GRANTS AND CREDITWORTHINESS ASSISTANCE GRANTS.--

A. A county or municipality may provide housing assistance grants pursuant to Article 9, Section 14 of the constitution of New Mexico and creditworthiness assistance grants pursuant to Section 2 of this 2025 act after enactment by its governing body of an ordinance authorizing grants stating the requirements of and purposes of the grants. The ordinance may provide for matching or using local, private or federal funds either through direct participation with a federal agency pursuant to federal law or through indirect

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participation through programs of the authority. No less than forty-five days prior to enactment, the county or municipality shall submit a proposed ordinance to the authority, which shall review the proposed ordinance to ensure compliance with rules promulgated by the authority pursuant to Section 6-27-8 NMSA 1978. Within fifteen days after enactment of the ordinance, the county or municipality shall submit a certified true copy of the ordinance to the authority. The governing body of the county or municipality shall authorize the transfer or disbursement of housing assistance grant funds only after the qualifying grantee has submitted a budget to the governing body and the governing body has approved the budget.

B. A school district may transfer land or buildings owned by the school district to a county or municipality to be further granted as part or all of an affordable housing grant if the school district and the governing body of the county or municipality enter into a contract that provides the school district with a negotiated number of affordable housing units that will be reserved for employees of the school district.

C. The governing board of a public post-secondary educational institution may transfer land or buildings owned by that institution to a county or municipality; provided that:

(1) the property transferred shall be granted by the county or municipality as part or all of an affordable housing grant; and

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(2) the governing board of the public post-secondary educational institution and the governing body of the county or municipality enter into a contract that provides the public post-secondary educational institution with affordable housing units.

D. Agencies or instrumentalities of the state may provide housing assistance grants pursuant to Article 9, Section 14 of the constitution of New Mexico in accordance with rules promulgated by the authority.

E. The authority may provide housing assistance grants pursuant to Article 9, Section 14 of the constitution of New Mexico in accordance with rules promulgated by the authority."

SECTION 5. Section 6-27-8 NMSA 1978 (being Laws 2004, Chapter 104, Section 8, as amended) is amended to read:

"6-27-8. PROVISIONS TO ENSURE SUCCESSFUL COMPLETION OF AFFORDABLE HOUSING PROJECTS--SALE AFTER FORECLOSURE.--

A. State, county and municipal housing assistance grants awarded pursuant to the Affordable Housing Act shall be applied for and awarded to qualifying grantees pursuant to the rules promulgated by the authority subject to the requirements of that act.

B. The authority shall adopt rules in accordance with the Administrative Procedures Act to carry out the purposes of the Affordable Housing Act. Concurrence by the New

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Mexico municipal league is required for rules applicable to municipalities. Concurrence by the New Mexico association of counties is required for rules applicable to counties.

C. The authority shall adopt rules covering:

(1) procedures to ensure that qualifying grantees meet the requirements of the Affordable Housing Act and rules promulgated pursuant to that act both at the time of the award and through the term of the grant or the creditworthiness assistance grant;

(2) establishment of an application and award timetable for housing assistance grants and creditworthiness assistance grants to permit the selection of the potential qualifying grantees prior to January of the year in which the grants would be made;

(3) contents of the application, including an independent evaluation of the:

(a) financial and management stability of the applicant;

(b) demonstrated commitment of the applicant to the community;

(c) cost-benefit analysis of the project proposed by the applicant;

(d) benefits to the community of a proposed project;

(e) type or amount of assistance to be

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provided;

(f) scope of the affordable housing project;

(g) substantive or matching contribution by the applicant to the proposed project; and

(h) performance schedule for the qualifying grantee with performance criteria;

(4) a requirement for long-term affordability of a state, county or municipal project so that a project cannot be sold shortly after completion and taken out of the affordable housing market;

(5) a requirement that a grant for a state or local project must impose a contractual obligation on the qualifying grantee that the housing units in a state or local project developed pursuant to the Affordable Housing Act be occupied by low- or moderate-income households;

(6) provisions for adequate security against the loss of public funds or property in the event that a qualifying grantee defaults on a contractual obligation for the project or abandons or otherwise fails to complete a project;

(7) a requirement for review and approval of a housing grant project budget by the grantor before any expenditure of grant funds or transfer of granted property;

(8) a requirement that, unless the period is extended for good cause shown, the authority shall act on an

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application within forty-five days of the date of receipt of an application that the authority deems to be complete and, if not acted upon, the application shall be deemed approved;

(9) a requirement that a condition of grant approval be proof of compliance with all applicable state and local laws, rules and ordinances;

(10) provisions defining "low- and moderate-income" and setting out requirements for verification of income levels;

(11) a requirement that a county or municipality that makes a housing assistance grant shall have an existing valid affordable housing plan or housing elements contained in its general plan;

(12) a requirement that the governmental entity enter into a contract with a qualifying grantee consistent with the Affordable Housing Act, which contract shall include remedies and default provisions in the event of the unsatisfactory performance by the qualifying grantee; and

(13) provisions necessary to ensure the timely sale of an affordable housing project on which a qualifying grantee has defaulted on a contractual obligation or abandoned or otherwise failed to complete.

D. The rules adopted by the authority pursuant to Paragraph (13) of Subsection C of this section shall require a governmental entity to:

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(1) make a determination that the property is not marketable for a price that would sufficiently recover the public funds invested in the project;

(2) ascertain that the property has a title that has been transferred to the contracting governmental entity through a foreclosure sale, a transfer of title by deed in lieu of foreclosure or any other manner;

(3) exercise reasonable efforts to ensure that all proceeds from the sale of a property pursuant to Paragraph (13) of Subsection C of this section are used solely for purposes pursuant to the Affordable Housing Act and that the qualifying grantee that held title to the property shall not benefit from the sale of the property or from the transfer of the affordable housing project; and

(4) provide the terms for:

(a) the sale of the property at fair market value; and

(b) the removal of the contractual obligation requiring long-term occupancy of the property by low- or moderate-income households."

SECTION 6. A new section of the Affordable Housing Act is enacted to read:

"[NEW MATERIAL] CREDITWORTHINESS ASSISTANCE FUND--
CREATED.--The "creditworthiness assistance fund" is created in the authority. The fund consists of distributions, gifts,

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grants, donations and income from investment of the fund.
Money remaining in the fund at the end of a fiscal year shall not revert to any other fund. The authority shall administer the fund, and money in the fund shall be used to provide creditworthiness assistance grants pursuant to Section 2 of this 2025 act and to pay the administrative costs of the authority in carrying out that section."

HAFC → ~~SECTION 7. APPROPRIATION. -- Two hundred fifty thousand dollars (\$250,000) is appropriated from the general fund to the department of finance and administration for expenditure in fiscal year 2026 and subsequent fiscal years to contract with the New Mexico mortgage finance authority to administer the creditworthiness assistance fund. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the general fund.~~ ← HAFC