

1 SENATE BILL 71

2 **51ST LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2014**

3 INTRODUCED BY

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6
7 ENDORSED BY THE MORTGAGE FINANCE AUTHORITY ACT

8 OVERSIGHT COMMITTEE

9
10 AN ACT

11 RELATING TO HOUSING; AMENDING THE MUNICIPAL HOUSING LAW BY
12 CLARIFYING PROVISIONS AND DEFINITIONS AND PROVIDING OPTIONS FOR
13 THE APPOINTMENT OF COMMISSIONERS.

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 SECTION 1. Section 3-45-3 NMSA 1978 (being Laws 1965,
17 Chapter 300, Section 14-46-3, as amended) is amended to read:

18 "3-45-3. DEFINITIONS.--The following terms, wherever used
19 or referred to in the Municipal Housing Law, shall have the
20 following respective meanings:

21 A. "city" means any municipality and, unless the
22 context otherwise clearly indicates, any county. "The city"
23 means the particular city or county for which a particular
24 housing authority is created. "County" means any county;

25 B. "governing body" means, in the case of a city,

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1 the council or board of commissioners and, in the case of other
2 state public bodies, the council, commissioners, board or other
3 body having charge of the fiscal affairs of the state public
4 body;

5 C. "mayor" means the mayor of the city or the
6 officer charged with the duties customarily imposed on the
7 mayor or executive head of a city. In the case of a county,
8 the term "mayor" means the board of county commissioners;

9 D. "clerk" means the city recorder, the county
10 clerk or the officer charged with the duties customarily
11 imposed on the clerk;

12 E. "area of operation" includes all of the city or,
13 in the case of a county, includes all of the county, except the
14 area shall not include any area that lies within the boundaries
15 of any city that has an established housing authority or
16 housing agency without the consent of the city. Upon approval
17 by the governing bodies of the cities involved, the area of
18 operation of one city pursuant to the Municipal Housing Law may
19 be enlarged to include the area within the boundaries of any
20 other city. Any subsequent withdrawal of consent of a city for
21 operation within its boundaries by another city shall not
22 prohibit the development and operation of any housing projects
23 initiated in the city by another city prior to the date of
24 withdrawal;

25 F. "authority" or "housing authority" means any

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1 agency or other instrumentality of a city or a separate public
2 body politic and corporate created pursuant to the Municipal
3 Housing Law;

4 G. "state public body" means any county, municipal
5 corporation, commission, district, authority, housing
6 authority, other subdivision or public body of the state;

7 H. "federal government" includes the United States
8 of America, the federal department of housing and urban
9 development or any other agency or instrumentality, corporate
10 or otherwise, of the United States of America;

11 I. "slum" means any area where dwellings
12 predominate that by reason of dilapidation, overcrowding, lack
13 of ventilation, light or sanitary facilities or any combination
14 of these factors, are detrimental to the safety, health or
15 well-being of the occupants or to surrounding properties;

16 J. "housing project" means any work or undertaking
17 of the city:

18 (1) to demolish, clear or remove buildings
19 from any slum area. The work or undertaking may embrace the
20 adaptation of the area to public purposes, including parks or
21 other recreational or community purposes;

22 (2) to provide decent, safe and sanitary
23 dwellings, apartments, single-family dwellings or other
24 affordable living accommodations for persons of low and
25 moderate income. The work or undertaking may include

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1 buildings, land, equipment, facilities and other real or
2 personal property for necessary convenient or desirable
3 appurtenances, streets, sewers, water service, parks, site
4 preparation, gardening, administrative, community, health,
5 recreational, welfare or other purposes; or

6 (3) to accomplish a combination of the
7 foregoing.

8 The term "housing project" also may be applied to the
9 planning of the buildings and improvements, the acquisition of
10 property or existing structures, the demolition of existing
11 structures, the construction, reconstruction, alteration and
12 repair of the improvements and all other work in connection
13 therewith;

14 K. "low-income person" means any individual, couple
15 or family whose gross income does not exceed eighty percent of
16 that person's particular area median income and who cannot
17 afford to pay more than thirty-five percent of gross annual
18 income for housing rent or mortgage payments or a "low-income
19 person" as defined by the federal government;

20 L. "bonds" means any bonds, notes, interim
21 certificates, debentures or other obligations issued by a city
22 pursuant to the Municipal Housing Law;

23 M. "real property" includes all lands, including
24 improvements and fixtures on the lands and property of any
25 nature appurtenant to the lands or used in connection with the

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1 lands, and every estate, interest and right, legal or
2 equitable, therein, including terms for years and liens by way
3 of judgment, mortgage or otherwise and the indebtedness secured
4 by such liens;

5 N. "obligee" includes any holder of bonds issued
6 pursuant to the Municipal Housing Law, trustees for any such
7 bondholders, or lessor demising to a city property used in
8 connection with a housing project, or any assignee or assignees
9 of the lessor's interest or any part of the lessor's interest
10 and the federal government when it is a party to any contract
11 with a city in regard to a housing project;

12 O. "affordable housing" means any housing
13 accommodations that serve the needs of low- and moderate-income
14 persons;

15 P. "affordable housing program" means an ongoing
16 delivery system of affordable housing services that assists
17 persons of low and moderate income;

18 Q. "moderate-income person" means any individual,
19 couple or family whose gross annual income is not less than
20 eighty percent of that person's particular area median income
21 and does not exceed one hundred twenty percent of that area
22 median income;

23 R. "multi-jurisdictional housing authority" means
24 two or more housing authorities joined or cooperating for the
25 purposes of consolidating administrative duties and obligations

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1 and providing more effective and efficient housing projects and
2 programs within their jurisdictions; and

3 S. "immediate family member" means:

4 (1) a spouse, including a former spouse, a de
5 facto spouse or a former de facto spouse;

6 (2) a child or an adult child, including an
7 adopted child, a step-child or an ex-nuptial child;

8 (3) a parent or a step-parent;

9 (4) a grandparent;

10 (5) a grandchild;

11 (6) a sibling or a step-sibling;

12 (7) a first cousin;

13 (8) an aunt or an uncle;

14 (9) a father-in-law or a mother-in-law;

15 (10) a sister-in-law or a brother-in-law; and

16 (11) any other relative who is financially
17 supported."

18 SECTION 2. Section 3-45-5 NMSA 1978 (being Laws 1965,
19 Chapter 300, Section 14-46-5, as amended) is amended to read:

20 "3-45-5. CREATION OF AUTHORITY.--

21 A. Every city, in addition to other powers
22 conferred by the Municipal Housing Law, shall have power and is
23 authorized, by proper resolution of its governing body, to
24 create [as an agent of the city] an authority to be known as
25 the "housing authority" of the city [The housing authority of

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1 ~~the city may constitute a public body corporate~~ as a public
2 body politic and corporate separate from the city. The city
3 may delegate to the authority the power to construct, maintain,
4 operate and manage any housing project or affordable housing
5 programs of the city and may delegate to the authority any or
6 all of the powers conferred on the city by the Municipal
7 Housing Law.

8 B. When the governing body of a city adopts a
9 resolution pursuant to Subsection A of this section:

10 (1) the mayor shall appoint [~~five~~] three, five
11 or seven persons as commissioners of the authority [~~created as~~
12 ~~agent for the city~~] as follows:

13 (a) at least three commissioners if the
14 municipality is a village, town or county that does not contain
15 a metropolitan statistical area as defined by the United States
16 census; or

17 (b) at least five but no more than seven
18 commissioners if the municipality is a city or a county that
19 contains a metropolitan statistical area as defined by the
20 United States census; and

21 (2) the commissioners who are first appointed
22 shall be designated to serve [~~for terms of one, two, three,~~
23 ~~four and five years, respectively~~] staggered terms of one to
24 five years from the date of their appointment, [~~but~~] depending
25 on the size of the authority. Thereafter, commissioners shall

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1 be appointed for a term of office of five years, except that
2 all vacancies shall be filled for the unexpired term. A
3 commissioner of an authority shall not hold any other office or
4 employment of the city for which the authority is created. A
5 commissioner shall hold office until a successor has been
6 appointed and has qualified, unless sooner removed according to
7 law. A commissioner may serve two or more successive terms of
8 office. A certificate of the appointment or reappointment of
9 any commissioner shall be filed with the clerk, and the
10 certificate shall be conclusive evidence of the due and proper
11 appointment of the commissioner. A commissioner shall receive
12 no compensation for services for the authority in any capacity,
13 but shall be entitled to the necessary expenses, including
14 traveling expenses, incurred in the discharge of duties.

15 C. Two or more cities joined together pursuant to
16 Subsection B of Section 3-45-4 NMSA 1978 shall establish their
17 commissioners in accordance with Subsection B of this section,
18 except that each city shall have equitable representation on
19 the commission. The commissioners representing each city shall
20 be appointed by the mayor of the city.

21 D. Any powers delegated by a city to an authority
22 shall be vested in the commissioners of the authority in office
23 from time to time. [~~Three~~] A majority of commissioners shall
24 constitute a quorum of the authority for the purpose of
25 conducting its business and exercising its powers and for all

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1 other purposes. Action may be taken by the authority upon a
2 vote of a majority of the commissioners present. The
3 commission shall organize itself at its annual meeting each
4 even-numbered year. Any city creating a housing authority may
5 authorize the authority to employ a secretary, who shall be
6 executive director and who shall be removable only for cause.
7 With the delegated authority from the commission, the executive
8 director may hire or terminate, according to the procurement
9 and personnel policies and procedures of the authority,
10 technical experts and such other officers, attorneys, agents
11 and employees, permanent and temporary, as the authority may
12 require; determine their qualifications, duties and
13 compensation; and delegate to one or more of them such powers
14 or duties as the authority may deem proper."

15 SECTION 3. Section 3-45-12 NMSA 1978 (being Laws 1965,
16 Chapter 300, Section 14-46-12, as amended) is amended to read:

17 "3-45-12. FORM AND SALE OF BONDS--INTEREST ON CERTAIN
18 OBLIGATIONS.--

19 A. Bonds of a city issued under the Municipal
20 Housing Law shall be authorized by its resolution and may be
21 issued in any one or more series and shall bear such date,
22 mature at such time, bear interest at such rate, be in such
23 denomination, be in such form, either coupon or registered,
24 carry such conversion or registration privileges, have such
25 rank or priority, be executed in such manner, be payable in

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1 such medium of payment at such place and be subject to such
2 terms of redemption, with or without premium, as the
3 resolution, its trust indenture or the bond so issued may
4 provide.

5 B. Obligations issued by a city that are true loan
6 obligations made to the [~~farmers home administration~~] farm
7 service agency of the United States department of agriculture
8 or the department of housing and urban development may bear
9 interest at a rate of interest not exceeding par.

10 C. The bonds shall be sold at not less than par at
11 public sale held after notice published once at least five days
12 prior to the sale in a newspaper having a general circulation
13 in the city jurisdiction and in a financial newspaper published
14 in the city of San Francisco, California, or in the city of New
15 York, New York; provided that the bonds may be sold to the
16 federal government at private sale at not less than par, and,
17 in the event less than all of the bonds authorized in
18 connection with any housing project are sold to the federal
19 government, the balance of the bonds may be sold at private
20 sale at not less than par at an interest cost to the city not
21 to exceed the interest cost to the city of the portion of the
22 bonds sold to the federal government.

23 D. In case any of the officers of the city, the
24 authority or any of its instrumentalities whose signatures
25 appear on any bonds or coupons cease to be officers before the

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1 delivery of the bonds, the signatures shall, nevertheless, be
2 valid and sufficient for all purposes the same as if the
3 officers had remained in office until delivery. Any provision
4 of any law to the contrary notwithstanding, any bonds issued
5 pursuant to the Municipal Housing Law shall be fully
6 negotiable.

7 E. In any suit, action or proceedings involving the
8 validity or enforceability of any bond of a city or the
9 security for the bond, any such bond reciting in substance that
10 it has been issued by the city to aid in financing a housing
11 project to provide dwelling accommodations for persons of low
12 and moderate income shall be conclusively deemed to have been
13 issued for a housing project of that character, and the housing
14 project shall be conclusively deemed to have been planned,
15 located and constructed in accordance with the purposes and
16 provisions of the Municipal Housing Law."

17 SECTION 4. EFFECTIVE DATE.--The effective date of the
18 provisions of this act is July 1, 2014.