

AN ACT

RELATING TO HOUSING; ENACTING THE NEW MEXICO HOUSING TRUST FUND ACT; CREATING THE NEW MEXICO HOUSING TRUST FUND; CREATING AN ADVISORY COMMITTEE; PROVIDING CERTAIN POWERS TO THE NEW MEXICO MORTGAGE FINANCE AUTHORITY; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978; MAKING AN APPROPRIATION.

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

Section 1. SHORT TITLE.--Sections 1 through 9 of this act may be cited as the "New Mexico Housing Trust Fund Act".

Section 2. PURPOSE.--The purpose of the New Mexico Housing Trust Fund Act is to provide flexible funding for housing initiatives in order to produce significant additional housing investment in the state.

Section 3. DEFINITIONS.--As used in the New Mexico Housing Trust Fund 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. "committee" means the New Mexico housing trust fund advisory committee;

D. "fund" means the New Mexico housing trust fund;

E. "persons of low or moderate income" means persons and households within the state who are determined by

the authority to lack sufficient income to pay enough to cause private enterprise to build an adequate supply of decent, safe and sanitary residential housing in their locality or in an area reasonably accessible to their locality and whose incomes are below the income levels established by the authority to be in need of the assistance made available by the New Mexico Housing Trust Fund Act, taking into consideration, without limitation, such factors as defined under that act; and

F. "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 and housing intended to provide or providing transitional or temporary housing for homeless persons.

Section 4. NEW MEXICO HOUSING TRUST FUND CREATED.--

A. The "New Mexico housing trust fund" is created in the authority. The fund shall consist of all distributions and appropriations made to the fund. Earnings of the fund shall be credited to the fund, and unexpended and unencumbered balances in the fund shall not revert to any other fund. The authority shall be the trustee for the fund, and the state

investment council shall be the investment agent for the fund.

B. The fund shall consist of revenue from the following recurring sources:

(1) appropriations and transfers from the general fund;

(2) any other money appropriated or distributed to the fund; or

(3) any private contributions to the fund.

C. Money in the fund is appropriated to the authority for the purposes of carrying out the provisions of the New Mexico Housing Trust Fund Act.

Section 5. ADVISORY COMMITTEE CREATED.--

A. The "New Mexico housing trust fund advisory committee" is created. The committee shall consist of the following nine members, who shall represent geographically the state, affordable housing advocates and practitioners:

(1) three public members appointed by the governor;

(2) three public members appointed by the president pro tempore of the senate; and

(3) three public members appointed by the speaker of the house of representatives.

B. Members of the committee shall be appointed for two-year terms and shall be eligible for reappointment.

Vacancies shall be filled by the appropriate appointing

authority.

C. The committee shall be advisory to the authority and shall be subject to oversight by the Mortgage Finance Authority Act oversight committee.

D. The committee shall review all project applications and make recommendations to the authority for funding them. The committee shall not be involved in or advisory to the authority in matters relating to the investment of the fund.

E. The committee shall adopt rules regarding:

(1) the time, place and procedures of committee meetings; and

(2) the procedures for the review of and standards for recommending applications for loans or grant projects.

Section 6. AWARD OF FUNDS--ACCOUNTABILITY.--

A. Trust funds shall be awarded on a competitive basis. The authority's staff shall work with the committee to develop an application and applicant scoring mechanism that encourages applicants to develop solutions that are responsive to local needs and are consistent with sound housing policy.

B. The authority's governing body shall be responsible for ensuring that on an annual basis the total funds awarded for housing activities attract at least three times as much funding from other sources.

Section 7. USE OF FUNDS--ELIGIBLE ACTIVITIES.--Money from the fund and matching funds from other sources may be used to finance in whole or in part any loans or grant projects that will provide affordable housing. Money from the fund may also be used to reimburse the authority for actual expenses incurred in administering the fund in an amount not to exceed five percent of total funds disbursed from the fund.

Section 8. CONFLICT WITH FEDERAL REQUIREMENTS.--If any part of the New Mexico Housing Trust Fund Act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of that act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of that act in its application to the agencies concerned. The rules adopted pursuant to the provisions of the New Mexico Housing Trust Fund Act shall meet those federal requirements that are a necessary condition to the receipt of federal funds by the state.

Section 9. MATCHING FUNDS.--Money from the fund may be used to match federal, local or private money to be used for projects authorized under the New Mexico Housing Trust Fund Act.

Section 10. Section 58-18-5 NMSA 1978 (being Laws 1975, Chapter 303, Section 5, as amended) is amended to read:

"58-18-5. POWERS OF THE AUTHORITY.--The authority shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of the Mortgage Finance Authority Act, including but without limiting the generality of the foregoing, the power:

A. to sue and be sued;

B. to have a seal and alter it at pleasure;

C. to make and alter bylaws for its organization and internal management;

D. to appoint other officers, agents and employees, prescribe their duties and qualifications and fix their compensation;

E. to acquire, hold, improve, mortgage, lease and dispose of real and personal property for its public purposes;

F. subject to the provisions of Section 58-18-6 NMSA 1978, to make loans, and contract to make loans, to mortgage lenders;

G. subject to the provisions of Section 58-18-7 NMSA 1978, to purchase, and contract to purchase, mortgage loans from mortgage lenders;

H. to procure or require the procurement of a policy of group or individual life insurance or disability insurance or both to insure repayment of mortgage loans in event of the death or disability of the borrower and to pay any premiums for the policy;

I. to procure insurance against any loss in connection with its operations, including without limitation the repayment of any mortgage loan, in amounts and from insurers, including the federal government, that the authority deems necessary or desirable; to procure liability insurance covering its members, officers and employees for acts performed within the scope of their authority as members, officers or employees; and to pay any premiums for insurance procured;

J. subject to any agreement with bondholders or noteholders:

(1) to renegotiate any mortgage loan or any loan to a mortgage lender in default;

(2) to waive any default or consent to the modification of the terms of any mortgage loan or any loan to a mortgage lender and otherwise exercise all powers with respect to its mortgage loans and loans to mortgage lenders that any private creditor may exercise under applicable law; and

(3) to commence, prosecute and enforce a judgment in any action or proceeding, including without limitation a foreclosure proceeding, to protect or enforce any right conferred upon it by law, mortgage loan agreement, contract or other agreement; and in connection with any such proceeding, to bid for and purchase the property or acquire or

take possession of it and, in such event, complete, administer, pay the principal of and interest on any obligations incurred in connection with the property and operate or dispose of and otherwise deal with the property in such manner as the authority may deem advisable to protect its interests therein;

K. to make and execute contracts for the administration, servicing or collection of any mortgage loan and pay the reasonable value of services rendered to the authority pursuant to such contracts;

L. to fix, revise from time to time, charge and collect fees and other charges in connection with the making of mortgage loans, the purchasing of mortgage loans and any other services rendered by the authority;

M. subject to any agreement with bondholders or noteholders, to sell any mortgage loans at public or private sale at such prices and on such terms as the authority shall determine;

N. to borrow money and to issue bonds and notes that may be negotiable and to provide for the rights of the holders thereof;

O. to arrange for guarantees or other security, liquidity or credit enhancements in connection with its bonds, notes or other obligations by the federal government or by any private insurer or other provider and to pay any premiums



therefor;

P. subject to any agreement with bondholders or noteholders, to invest money of the authority not required for immediate use, including proceeds from the sale of any bonds or notes:

(1) in obligations of any municipality or the state or the United States of America;

(2) in obligations the principal and interest of which are guaranteed by the state or the United States of America;

(3) in obligations of any corporation wholly owned by the United States of America;

(4) in obligations of any corporation sponsored by the United States of America that are or may become eligible as collateral for advances to member banks as determined by the board of governors of the federal reserve system;

(5) in certificates of deposit or time deposits in banks qualified to do business in New Mexico, secured in the manner, if any, as the authority shall determine;

(6) in contracts for the purchase and sale of obligations of the types specified in this subsection; or

(7) as otherwise provided in any trust indenture or a resolution authorizing the issuance of the

bonds or notes;

Q. subject to any agreement with bondholders or noteholders, to purchase bonds or notes of the authority at the price as may be determined by the authority or to authorize third persons to purchase bonds or notes of the authority; bonds or notes so purchased shall be canceled or resold, as determined by the authority;

R. to make surveys and to monitor on a continuing basis the adequacy of the supply of:

(1) funds available in the private banking system in the state for affordable residential mortgages; and

(2) adequate, safe and sanitary housing available to persons of low or moderate income in the state and various sections of the state;

S. to make and execute agreements, contracts and other instruments necessary or convenient in the exercise of the powers and functions of the authority under the Mortgage Finance Authority Act;

T. to employ architects, engineers, attorneys (other than and in addition to the attorney general of the state), accountants, housing, construction and financial experts and such other advisors, consultants and agents as may be necessary in its judgment and to fix and pay their compensation;

U. to contract for and to accept any gifts or

grants or loans of funds or property or financial or other aid in any form from the federal government or from any other source and to comply, subject to the provisions of the Mortgage Finance Authority Act, with the terms and conditions thereof;

V. to maintain an office at such place in the state as it may determine;

W. subject to any agreement with bondholders and noteholders, to make, alter or repeal, subject to prior approval by the Mortgage Finance Authority Act oversight committee, hereby created, to be composed of four members appointed by the president pro tempore of the senate and four members appointed by the speaker of the house of representatives, such rules and regulations with respect to its operations, properties and facilities as are necessary to carry out its functions and duties in the administration of the Mortgage Finance Authority Act;

X. to make, purchase, guarantee, service and administer mortgage loans for residential housing for the purposes set forth in the Mortgage Finance Authority Act where private banking channels and private enterprise, unaided, have not, cannot or are unwilling to make, purchase, guarantee, service or administer the loans;

Y. to act as trustee and administer the land title trust fund created pursuant to Section 58-28-3 NMSA 1978;

