

**FORTY-EIGHTH LEGISLATURE
FIRST SESSION, 2007**

March 17, 2007

Mr. Speaker:

Your **BUSINESS AND INDUSTRY COMMITTEE**, to whom has been referred

SENATE BILL 519, as amended

has had it under consideration and reports same with recommendation that it **DO PASS**, amended as follows:

1. Strike Senate Public Affairs Committee Amendment 1.
2. Strike Senate Finance Committee Amendment 1.

3. On page 1, line 12, after the semicolon, strike the remainder of the line, strike lines 13 through 19 in their entirety and insert in lieu thereof the following:

"EXPANDING REPORTING REQUIREMENTS; TRANSFERRING BONDING CAPACITIES; AMENDING, REPEALING AND ENACTING SECTIONS OF THE REGIONAL HOUSING LAW; MAKING AN APPROPRIATION; DECLARING AN EMERGENCY."

4. On page 1, strike lines 22 through 25, strike pages 2 through 6 in their entirety and on page 7, strike lines 1 through 15 in their entirety and insert in lieu thereof:

"Section 1. Section 11-3A-3 NMSA 1978 (being Laws 1994, Chapter 132, Section 3, as amended) is amended to read:

"11-3A-3. DEFINITIONS.--As used in the Regional Housing Law:

A. "authority" means any regional housing authority or a nonprofit corporation created by an authority;

B. "bond" means any bond, note, interim certificate, debenture or other obligation issued by [~~an authority~~] the New Mexico mortgage finance authority pursuant to the Regional Housing Law;

C. "federal government" includes the United States of America, programs of the United States department of housing and urban development, the farmers home administration and rural development administration of the United States department of agriculture or housing programs or any other agency or instrumentality, corporate or otherwise, of the United States of

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America;

D. "housing project" means an undertaking of an authority to:

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

(2) provide decent, safe and sanitary dwellings, apartments, single-family dwellings or other living accommodations for [~~persons of~~] low-income persons. The undertaking may include buildings, land, equipment, facilities and other real or personal property for necessary, convenient or desirable appurtenances, streets, sewers, water service, parks, site preparation or gardening or administrative, community, health, recreational, welfare or other purposes. "Housing project" also may be applied to the planning of buildings and improvements, acquisition of property or existing structures, demolition of existing structures, construction, reconstruction, alteration and repair of improvements or buildings or any other work performed to complete housing projects;

E. "local public body" means any county, municipality, commission, district or other subdivision of the state;

F. "low-income person" means any individual, couple or family whose gross income does not exceed eighty percent of the resident's particular county median income and who cannot afford to pay more than thirty percent of [~~his~~] gross income for housing rent or mortgage payments or a low-income person as defined by the federal government;

G. "obligee" means:

(1) a holder of bonds issued pursuant to the Regional Housing Law or a trustee for that bondholder;

(2) a lessor leasing to an authority property used in connection with a housing project or any assignee of a lessor's interest or partial interest; or

(3) the federal government when it is a party to a

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contract with an authority in regard to a housing project;

H. "real property" includes all lands, including improvements and fixtures on the land, property of any nature appurtenant to or used in connection with the land and every estate, interest and right, legal or equitable, in the land, including terms for years and liens by way of judgment, mortgage or other instrument and the indebtedness secured by the lien; and

I. "slum" means any area where dwellings predominate, which by reason of dilapidation, overcrowding, lack of ventilation, light or sanitary [~~facilitates~~] facilities or any combination of these factors [~~are~~] is detrimental to safety, health or morals."

Section 2. Section 11-3A-5 NMSA 1978 (being Laws 1994, Chapter 132, Section 5, as amended) is amended to read:

"11-3A-5. JURISDICTION.--A regional authority created by the Regional Housing Law shall operate only within the area of its housing region. [~~If a portion of the area lies within the territorial boundary of a municipality or county that has established an authority or housing agency, the regional authority and the municipal or county authority or agency may each exercise its jurisdiction over the common area pursuant to a resolution enacted by a municipality or county.]"~~

Section 3. Section 11-3A-6 NMSA 1978 (being Laws 1994, Chapter 132, Section 6, as amended) is amended to read:

"11-3A-6. POWERS OF AUTHORITY IN BOARD OF COMMISSIONERS--
APPOINTMENT OF BOARD OF AUTHORITIES--TERMS.--

A. The powers of each regional authority shall be vested in its board of commissioners as the board may be constituted, from time to time. The board of commissioners of the authority for each of the seven regions shall consist of seven commissioners who shall be residents of the region for which the authority is created and shall be appointed by the governor. Not more than three commissioners shall be appointed from any one county. Appointments shall be for terms of four years or less and shall be made so that the terms of not more than two commissioners on each board expire on July 1 of each year. Vacancies shall be filled for the unexpired term. Commissioners shall serve until their successors have been

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appointed.

B. The members of the boards of commissioners may receive per diem and mileage as provided in the Per Diem and Mileage Act but shall receive no other compensation, perquisite or allowance. Each board of commissioners shall select a ~~[chairman]~~ chair and vice ~~[chairman]~~ chair from among its members. Each board may employ necessary agents and employees and set the salaries of the agents and employees. Each board may delegate to its agents or employees such duties as the board deems proper. A regional planning and development district, created pursuant to the Planning District Act, may provide technical staff for an authority. Four commissioners shall constitute a quorum of a board for the purpose of conducting its business and exercising its powers and for all other purposes. Action may be taken by an authority upon a vote of a majority of the commissioners present. Each board shall organize itself at its annual meeting each even-numbered year. A board may ~~[authorize an authority to] employ [a secretary, who shall be executive director and who shall be removable only for cause]~~ an executive director, subject to approval by the New Mexico mortgage finance authority, and technical experts and other officers, attorneys, agents and employees, permanent and temporary, as the authority requires; to determine employee and contractor qualifications, duties and compensation; and to delegate to one or more employees or contractors the powers or duties that the board deems proper.

C. The financial affairs of every regional authority and any nonprofit corporation created by an authority shall be thoroughly examined and audited annually by the state auditor, by personnel of ~~[his]~~ the state auditor's office designated by ~~[him]~~ the state auditor or by auditors approved by ~~[him]~~ the state auditor. The audits shall be conducted in accordance with generally accepted auditing standards. Each regional authority shall submit to the state auditor, the department of finance and administration, the ~~[state housing]~~ New Mexico mortgage finance authority, the Mortgage Finance Authority Act oversight committee and the legislative finance committee, within thirty days following the receipt of the audit by the authority, a copy of the annual audit.

D. Upon receipt of the annual audits, the department of finance and administration shall review each regional authority's audit for approval. Upon a finding of nonapproval of an audit by

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the department of finance and administration, that regional authority's powers as provided in the Regional Housing Law may be suspended by the department until those conditions that resulted in the nonapproval are remedied to the satisfaction of the department of finance and administration.

E. Effective October 1, 2007, every regional authority shall submit a quarterly report of its activities to the department of finance and administration, the Mortgage Finance Authority Act oversight committee and the legislative finance committee. Each report shall set forth a complete operating and financial statement covering its operations since the previous report was presented."

Section 4. Section 11-3A-7 NMSA 1978 (being Laws 1994, Chapter 132, Section 7, as amended) is amended to read:

"11-3A-7. POWERS.--

A. Every authority may:

(1) within its region, prepare, carry out, acquire, purchase, lease, construct, reconstruct, improve, alter, extend or repair any housing project and operate and maintain the housing project. For any of such purposes, the board of commissioners of the authority may [~~appropriate~~] expend money and authorize the use of any property of the authority;

~~[(2) purchase its bonds at a price of not more than the principal amount and the accrued interest. All bonds so purchased shall be canceled;~~

~~(3)]~~ (2) lease or rent [~~any~~] dwellings, houses, accommodations, lands, buildings, structures or facilities embraced in any housing project and establish and revise the rents or lease charges; own, hold and improve real or personal property; purchase, lease, obtain options upon or acquire by gift, grant, bequest, devise or otherwise any real or personal property or any interest therein; [~~acquire by the exercise of the power of eminent domain any real property~~] sell, lease, mortgage, exchange, transfer, assign, pledge or dispose of [~~any~~] real or personal property or any interest in real or personal property; or procure or agree to the procurement of insurance or guarantees from the federal government of the payment of any bonds or parts thereof, including the power to pay

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premiums on the insurance;

[~~(4)~~] (3) enter on [~~any~~] lands, buildings or property for the purpose of making surveys, soundings and examinations in connection with the planning or construction, or both, of [~~any~~] a housing project;

[~~(5)~~] (4) insure or provide for the insurance of [~~any~~] a housing project of the authority against the risks that the authority may deem advisable;

[~~(6)~~] (5) arrange or contract for the furnishing by any person or agency, public or private, of services, privileges, works or facilities for or in connection with a housing project or the occupants thereof and include in any construction contract let in connection with a housing project stipulations requiring that the contractor and [~~any~~] subcontractors comply with employment requirements, including those in the constitution and laws of this state, as to minimum wages and maximum hours of labor and comply with any conditions that the state or federal government may have attached to its financial aid of the project;

[~~(7)~~] (6) within its area of operation, investigate the living, dwelling and housing conditions and the means and methods of improving those conditions; determine where slum areas exist or where there is a shortage of decent, safe and sanitary dwelling accommodations for [~~persons of~~] low-income persons; make studies and recommendations relating to the problem of clearing, replanning and reconstructing slum areas and the problem of providing dwelling accommodations for [~~persons of~~] low-income persons and cooperate with the state or any political subdivision of the state in action taken in connection with the problems identified; and engage in research, studies and experimentation on the subject of housing; and

[~~(8)~~] (7) exercise all or any part or combination of powers granted in this subsection.

B. To standardize the delivery of affordable housing programs and services in New Mexico, regional authorities within their jurisdictions [~~shall~~] may:

(1) create partnerships between state, federal,

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city and county governments, nonprofit entities and the private sector that will provide the necessary resources to carry out the planning, financing, development and delivery of affordable housing;

(2) assist city or county authorities or housing nonprofit agencies in developing the knowledge, expertise and technical capacity to provide a comprehensive approach to the development and delivery of affordable housing; ~~and~~ or

(3) provide or secure planning, technical assistance and training that city or county governments and nonprofit entities may need in an effort to enhance the local affordable housing delivery system.

~~[G. Any two or more cities or authorities may join or cooperate with one another to exercise, either jointly or otherwise, any of their powers for the purpose of financing, including the provision of security for or the issuance of bonds or contracting with respect to a housing project located within the area of operation of any one or more of the cities or authorities. A city or authority may prescribe and authorize by resolution another authority to act on its behalf to exercise, as its agent, any power granted to the city or authority pursuant to the provisions of the Regional Housing Law. The authorized authority may act in the name of the city, the authorizing authority or in its own name.]"~~

Section 5. Section 11-3A-9 NMSA 1978 (being Laws 1994, Chapter 132, Section 9, as amended) is amended to read:

"11-3A-9. NONPROFIT CORPORATIONS.--Every authority, in addition to other powers conferred by the Regional Housing Law, shall have, if authorized by resolution of its board and approved by the state board of finance, the power to create nonprofit corporations to carry out the powers and duties set forth in Section 11-3A-7 NMSA 1978. The articles of incorporation and bylaws, and any subsequent changes, shall be approved by the state board of finance and the New Mexico mortgage finance authority. Such nonprofit corporations shall be subject to all of the duties and limitations imposed on the authority and its board of commissioners."

Section 6. A new section of the Regional Housing Law is enacted to read:

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"[NEW MATERIAL] FINANCIAL AND OPERATIONAL OVERSIGHT.--

A. Without the prior approval of the department of finance and administration, no regional authority shall:

(1) enter into any contract, memorandum of understanding or other agreement with a value greater than fifty thousand dollars (\$50,000); or

(2) transfer, sell or liquidate any real or personal property with a value greater than twenty thousand dollars (\$20,000).

B. Not less than thirty days prior to the beginning of its fiscal year, each regional authority and each nonprofit corporation established pursuant to Section 11-3A-9 NMSA 1978 shall submit a proposed operating budget for the subsequent fiscal year to the department of finance and administration for approval. A final operating budget shall be submitted by July 1 of each year. On and after July 1, 2007, no authority shall operate pursuant to the Regional Housing Law if its budget has not been approved by the department. All operations of an authority shall be conducted pursuant to the approved operating budget except that:

(1) budget adjustments totaling less than five percent of the operating budget may be made with prior notice to the department; and

(2) budget adjustments totaling five percent or more of the operating budget may be made with the prior approval of the department.

C. Prior to each fiscal year, the New Mexico mortgage finance authority shall conduct a needs assessment of the programs of each regional authority and shall work with and advise each authority on developing a plan to meet the assessed needs and in conjunction with the state housing plan."

Section 7. TEMPORARY PROVISIONS.--

A. No later than July 1, 2007, each nonprofit corporation exercising a power or performing any act under the Regional Housing Law shall submit its bylaws and articles of

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incorporation to the New Mexico mortgage finance authority for approval. After September 1, 2007, a nonprofit corporation shall conduct no business under the Regional Housing Law unless its bylaws and articles of incorporation have been approved.

B. By September 1, 2007, each executive director of a regional housing authority shall be approved by the New Mexico mortgage finance authority or shall be deemed to have resigned.

C. On September 1, 2007, the position of each commissioner of a regional housing authority who has not been appointed or reappointed by the governor after April 1, 2007 shall be deemed vacant.

D. Notwithstanding any requirement of the Regional Housing Law for the sale of housing projects or units with housing projects for a specific purpose, with the prior approval of the department of finance and administration, a regional housing authority may sell any property held on April 1, 2007 that is not suitable for the purposes of that act.

Section 8. APPROPRIATION--ACCOUNTING OF ASSETS.--Two hundred thousand dollars (\$200,000) is appropriated from the general fund to the state auditor for expenditure in fiscal years 2007 and 2008 for the purpose of conducting an accounting of all assets acquired by regional housing authorities pursuant to the Regional Housing Law. No later than December 1, 2007, the results of the accounting shall be presented to the legislative finance committee, the Mortgage Finance Authority Act oversight committee and the department of finance and administration. Any unexpended or unencumbered balance remaining at the end of fiscal year 2008 shall revert to the general fund.

Section 9. REPEAL.--Sections 11-3A-11, 11-3A-14 through 11-3A-18 and 11-3A-27 NMSA 1978 (being Laws 1994, Chapter 132, Sections 11, 14 through 18 and 27, as amended) are repealed."

5. Renumber the succeeding section accordingly.,

and thence referred to the **APPROPRIATIONS AND FINANCE COMMITTEE**.

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Respectfully submitted,

Debbie A. Rodella, Chair

Adopted _____
(Chief Clerk)

Not Adopted _____
(Chief Clerk)

Date _____

The roll call vote was 13 For 0 Against
Yes: 13
No: 0
Excused: None
Absent: None

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