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AN ACT

RELATING TO PUBLIC FINANCE; PERMITTING STATE AND LOCAL GOVERNMENTS TO PROVIDE OR PAY THE COST OF LAND, BUILDINGS OR NECESSARY FINANCING FOR AFFORDABLE HOUSING PROJECTS; AMENDING THE AFFORDABLE HOUSING ACT.

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

Section 1. Section 6-27-3 NMSA 1978 (being Laws 2004, Chapter 104, Section 3) 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. "governmental entity" means a state, a county, a municipality or the authority;

E. "household" means one or more persons occupying a housing unit;

1 F. "housing assistance grant" means the donation,
2 provision or payment by a governmental entity of:

3 (1) land upon which affordable housing will
4 be constructed;

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

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

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

13 G. "infrastructure" includes infrastructure
14 improvements and infrastructure purposes;

15 H. "infrastructure improvement" includes, but is
16 not limited to:

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

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

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

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

3 (5) trails and areas for pedestrian,
4 equestrian, bicycle or other nonmotor vehicle use for access,
5 ingress, egress and parking;

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

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

11 (8) electrical transmission and distribution
12 facilities;

13 (9) natural gas distribution facilities;

14 (10) lighting systems;

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

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

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

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

25 I. "infrastructure purpose" means:

1 (1) planning, design, engineering,
2 construction, acquisition or installation of infrastructure,
3 including the costs of applications, impact fees and other
4 fees, permits and approvals related to the construction,
5 acquisition or installation of the infrastructure;

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

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

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

15 J. "municipality" means an incorporated city, town
16 or village, whether incorporated under general act, special
17 act or special charter, incorporated counties and H class
18 counties;

19 K. "qualifying grantee" means:

20 (1) an individual who is qualified to
21 receive assistance pursuant to the Affordable Housing Act and
22 is approved by the governmental entity; and

23 (2) a governmental housing agency, regional
24 housing authority, tribal housing agency, corporation,
25 limited liability company, partnership, joint venture,

1 syndicate, association or nonprofit organization that:

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

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

7 (c) is approved by the governmental
8 entity; and

9 L. "residential housing" means any building,
10 structure or portion thereof that is primarily occupied, or
11 designed or intended primarily for occupancy, as a residence
12 by one or more households and any real property that is
13 offered for sale or lease for the construction or location
14 thereon of such a building, structure or portion thereof.

15 "Residential housing" includes congregate housing,
16 manufactured homes, housing intended to provide or providing
17 transitional or temporary housing for homeless persons and
18 common health care, kitchen, dining, recreational and other
19 facilities primarily for use by residents of a residential
20 housing project."

21 Section 2. Section 6-27-5 NMSA 1978 (being Laws 2004,
22 Chapter 104, Section 5) is amended to read:

23 "6-27-5. STATE, COUNTY, MUNICIPALITIES AND THE
24 AUTHORITY--AUTHORIZATION FOR AFFORDABLE HOUSING.--The state,
25 a county, a municipality or the authority may:

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

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

7 C. provide or pay the costs of financing or
8 infrastructure necessary to support affordable housing
9 projects; or

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

13 Section 3. Section 6-27-7 NMSA 1978 (being Laws 2004,
14 Chapter 104, Section 7) is amended to read:

15 "6-27-7. REQUIREMENT FOR ENACTMENT OF AN ORDINANCE BY A
16 COUNTY OR A MUNICIPALITY AND REVIEW BY THE AUTHORITY
17 AUTHORIZING HOUSING ASSISTANCE GRANTS--REQUIREMENT FOR
18 ADOPTION OF A RESOLUTION BY THE GOVERNING BODY OF THE
19 AUTHORITY AUTHORIZING HOUSING ASSISTANCE GRANTS.--

20 A. A county or municipality may provide housing
21 assistance grants pursuant to Article 9, Section 14 of the
22 constitution of New Mexico after enactment by its governing
23 body of an ordinance authorizing grants, stating the
24 requirements of and purposes of the grants and authorizing
25 transfer or disbursement to a qualifying grantee only after a

1 budget is submitted to and approved by the governing body.
2 The ordinance may provide for matching or using local,
3 private or federal funds either through direct participation
4 with a federal agency pursuant to federal law or through
5 indirect participation through programs of the authority. No
6 less than forty-five days prior to enactment, the county or
7 municipality shall submit a proposed ordinance to the
8 authority, which shall review the proposed ordinance to
9 ensure compliance with rules promulgated by the authority
10 pursuant to Section 6-27-8 NMSA 1978. Within fifteen days
11 after enactment of the ordinance, the county or municipality
12 shall submit a certified true copy of the ordinance to the
13 authority.

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

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

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

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

9 D. The authority may provide housing assistance
10 grants pursuant to Article 9, Section 14 of the constitution
11 of New Mexico after enactment by its governing body of a
12 resolution authorizing grants, stating the requirements and
13 purposes of the grants and authorizing disbursement to a
14 qualifying grantee after a budget is submitted to and
15 approved by the governing body. The resolution may provide
16 for matching or for using local, private or federal funds
17 either through direct participation with a federal agency
18 pursuant to federal law or through indirect participation
19 through programs of the authority. The resolution shall
20 comply with rules promulgated by the authority pursuant to
21 Section 6-27-8 NMSA 1978.

22 E. As used in this section, "public post-secondary
23 educational institution" means a state university or a public
24 community college."

25 Section 4. Section 6-27-8 NMSA 1978 (being Laws 2004,

1 Chapter 104, Section 8) is amended to read:

2 "6-27-8. PROVISIONS TO ENSURE SUCCESSFUL COMPLETION OF
3 AFFORDABLE HOUSING PROJECTS--INVESTIGATION.--

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

9 B. The authority shall adopt rules covering:

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

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

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

20 (a) financial and management stability
21 of the applicant;

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

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

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

3 (e) type or amount of assistance to be
4 provided;

5 (f) scope of the affordable housing
6 project;

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

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

11 (4) a requirement for long-term
12 affordability of a state, county or municipal project so that
13 a project cannot be sold shortly after completion and taken
14 out of the affordable housing market to ensure a quick profit
15 for the qualifying grantee;

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

21 (6) provisions for adequate security against
22 the loss of public funds or property in the event that a
23 qualifying grantee abandons or otherwise fails to complete a
24 project;

25 (7) a requirement for review and approval of

1 a housing grant project budget by the grantor before any
2 expenditure of grant funds or transfer of granted property;

3 (8) a requirement that, unless the period is
4 extended for good cause shown, the authority shall act on an
5 application within forty-five days of the date of receipt of
6 an application that the authority deems to be complete and,
7 if not acted upon, the application shall be deemed approved;

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

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

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

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

23 C. In addition to the rulemaking mandated in
24 Subsection B of this section, the authority may adopt
25 additional rules to carry out the purposes of the Affordable

1 Housing Act. Rulemaking procedures pursuant to the
2 Affordable Housing Act shall:

3 (1) provide a public hearing in accordance
4 with the state Administrative Procedures Act; and

5 (2) require concurrence in a rule having
6 application to local government by both the New Mexico
7 municipal league and the New Mexico association of counties.

8 D. The attorney general shall investigate any
9 alleged violation of the Affordable Housing Act as reported
10 by the authority."

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