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AN ACT

RELATING TO ECONOMIC DEVELOPMENT; AMENDING THE INDUSTRIAL REVENUE BOND ACT TO PROVIDE FOR ISSUANCE OF BONDS TO PROMOTE FILMMAKING; RECONCILING CONFLICTING AMENDMENTS TO THE SAME SECTION OF LAW BY REPEALING LAWS 2002, CHAPTER 25, SECTION 1.

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

Section 1. Section 3-32-1 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-31-1, as amended by Laws 2002, Chapter 25, Section 1 and by Laws 2002, Chapter 37, Section 1) is amended to read:

"3-32-1. INDUSTRIAL REVENUE BOND ACT--DEFINITIONS.--

Wherever used in the Industrial Revenue Bond Act unless a different meaning clearly appears in the context, the following terms whether used in the singular or plural shall be given the following respective interpretations:

A. "municipality" means a city, town or village in New Mexico;

B. "project" means any land and building or other improvements thereon, the acquisition by or for a New Mexico corporation of the assets or stock of an existing business or corporation located outside the state to be relocated within or near the municipality in the state and all real and personal properties deemed necessary in connection therewith, whether or not now in existence, which shall be suitable for

1 use by the following or by any combination of two or more  
2 thereof:

3 (1) an industry for the manufacturing,  
4 processing or assembling of agricultural or manufactured  
5 products;

6 (2) a commercial enterprise in storing,  
7 warehousing, distributing or selling products of agriculture,  
8 mining or industry but does not include a facility designed  
9 for the sale of goods or commodities at retail or  
10 distribution to the public of electricity, gas, water or  
11 telephone or other services commonly classified as public  
12 utilities;

13 (3) a business in which all or part of the  
14 activities of the business involve the supplying of services  
15 to the general public or to governmental agencies or to a  
16 specific industry or customer but does not include an  
17 establishment primarily engaged in the sale of goods or  
18 commodities at retail;

19 (4) a water distribution or irrigation  
20 system, including without limitation, pumps, distribution  
21 lines, transmission lines, towers, dams and similar  
22 facilities and equipment, designed to provide water to a  
23 vineyard or winery;

24 (5) an electric generation facility other  
25 than one for which both location approval and a certificate

1 of convenience and necessity are required prior to commencing  
2 construction or operation of the facility, pursuant to the  
3 Public Utility Act and Electric Utility Industry  
4 Restructuring Act of 1999;

5 (6) a 501(c)(3) corporation; and

6 (7) the production or postproduction of  
7 films, of which at least eighty percent of the employees are  
8 residents of New Mexico.

9 C. "governing body" means the board or body in  
10 which the legislative powers of the municipality are vested;

11 D. "property" means any land, improvements  
12 thereon, buildings and any improvements thereto, machinery  
13 and equipment of any and all kinds necessary to the project,  
14 operating capital and any other personal properties deemed  
15 necessary in connection with the project;

16 E. "mortgage" means a mortgage or a mortgage and  
17 deed of trust or the pledge and hypothecation of any assets  
18 as collateral security;

19 F. "health care service" means the diagnosis or  
20 treatment of sick or injured persons or medical research and  
21 includes the ownership, operation, maintenance, leasing and  
22 disposition of health care facilities such as hospitals,  
23 clinics, laboratories, x-ray centers and pharmacies and, for  
24 any small municipality only, office facilities for  
25 physicians;

1           G. "refinance a hospital or 501(c)(3) corporation  
2 project" means the issuance of bonds by a municipality and  
3 the use of all or substantially all of the proceeds to  
4 liquidate any obligations previously incurred to finance or  
5 aid in financing a project of a nonprofit corporation engaged  
6 in health care services, including nursing homes, or of a  
7 501 (c)(3) corporation, which would constitute a project  
8 under the Industrial Revenue Bond Act had it been originally  
9 undertaken and financed by a municipality pursuant to the  
10 Industrial Revenue Bond Act; and

11           H. "501(c)(3) corporation" means a corporation  
12 that demonstrates to the taxation and revenue department that  
13 it has been granted exemption from the federal income tax as  
14 an organization described in Section 501(c)(3) of the  
15 Internal Revenue Code of 1986, as amended or renumbered."

16           Section 2. Section 3-32-4 NMSA 1978 (being Laws 1965,  
17 Chapter 300, Section 14-31-2, as amended) is amended to read:

18           "3-32-4. LEGISLATIVE INTENT.--It is the intent of the  
19 legislature by the passage of the Industrial Revenue Bond Act  
20 to authorize municipalities to acquire, own, lease or sell  
21 projects for the purpose of promoting industry and trade  
22 other than retail trade by inducing manufacturing,  
23 industrial, filmmaking and other commercial enterprises to  
24 locate or expand in this state, promoting the use of the  
25 agricultural products and natural resources of this state and

1 promoting a sound and proper balance in this state between  
2 agriculture, commerce and industry. It is intended that each  
3 project be self-liquidating. It is not intended to authorize  
4 any municipality itself to operate any manufacturing,  
5 filmmaking, industrial or commercial enterprise. The  
6 Industrial Revenue Bond Act shall be liberally construed in  
7 conformity with the intent set forth in this section."

8 Section 3. Section 3-32-8 NMSA 1978 (being Laws 1965,  
9 Chapter 300, Section 14-31-5) is amended to read:

10 "3-32-8. SECURITY FOR BONDS.--The principal of and  
11 interest on any bonds issued under the authority of the  
12 Industrial Revenue Bond Act shall be secured by a pledge of  
13 the revenues out of which such bonds shall be made payable,  
14 may be secured by a mortgage covering all or any part of the  
15 project from which the revenues so pledged may be derived and  
16 may be secured by a pledge of the lease of such project or, if  
17 for a filmmaking project, by the prints, distribution or other  
18 contracts of the filmmaking enterprise. The ordinance and  
19 proceedings under which the bonds are authorized to be issued  
20 or any such mortgage may contain any agreements and provisions  
21 customarily contained in instruments securing bonds, including  
22 without limiting the generality of the foregoing provisions  
23 respecting the fixing and collection of all revenues from any  
24 project covered by such proceedings or mortgage, the terms to  
25 be incorporated in the lease of the project, the maintenance

1 and insurance of the project, the creation and maintenance of  
2 special funds from the revenues from the project and the  
3 rights and remedies available in event of default to the  
4 bondholders or to the trustee under a mortgage, all as the  
5 governing body deems advisable and as are not in conflict with  
6 the provisions of the Industrial Revenue Bond Act; provided,  
7 however, that in making any such agreements or provisions, a  
8 municipality shall not have the power to obligate itself  
9 except with respect to the project and the application of the  
10 revenues therefrom and shall not have the power to incur a  
11 pecuniary liability or a charge upon its general credit or  
12 against its taxing powers. The proceedings authorizing any  
13 bonds under the Industrial Revenue Bond Act and any mortgage  
14 securing the bonds may provide the procedure and remedies in  
15 the event of default in payment of the principal of or the  
16 interest on the bonds or in the performance of any agreement.  
17 No breach of any such agreement shall impose any pecuniary  
18 liability upon a municipality or any charge upon its general  
19 credit or against its taxing powers."

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