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HOUSE BILL 293

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

Janelle Anyanonu and Pamilya Herndon and Kathleen Cates and
Cristina Parajón

AN ACT

RELATING TO HOUSING; AMENDING AND ENACTING SECTIONS OF THE
AFFORDABLE HOUSING ACT; CREATING THE CREDITWORTHINESS
ASSISTANCE PROGRAM; PROVIDING FOR CREDITWORTHINESS ASSISTANCE
GRANTS; CREATING THE CREDITWORTHINESS ASSISTANCE FUND; MAKING
AN APPROPRIATION.

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, as amended) 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;

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1 C. "building" means a structure capable of being
2 renovated or converted into affordable housing or a structure
3 that is to be demolished and is located on land that is donated
4 and upon which affordable housing will be constructed;

5 D. "creditworthiness assistance grant" means a
6 grant of money to be used by a participant for:

7 (1) all or a portion of unpaid rent; and

8 (2) damages caused to a rented residential
9 property by a participant in the creditworthiness assistance
10 program;

11 ~~[D-]~~ E. "governmental entity" means the state,
12 including any agency or instrumentality of the state, a county,
13 a municipality or the authority;

14 ~~[E-]~~ F. "household" means one or more persons
15 occupying a housing unit;

16 ~~[F-]~~ G. "housing assistance grant" means the
17 donation, provision or payment by a governmental entity of:

18 (1) land upon which affordable housing will be
19 constructed;

20 (2) an existing building that will be
21 renovated, converted or demolished and reconstructed as
22 affordable housing;

23 (3) the costs of acquisition, development,
24 construction, financing and operating or owning affordable
25 housing; or

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1 (4) the costs of financing or infrastructure
2 necessary to support affordable housing;

3 ~~[G.]~~ H. "infrastructure" includes infrastructure
4 improvements and infrastructure purposes;

5 ~~[H.]~~ I. "infrastructure improvement" includes, but
6 is not limited to:

7 (1) sanitary sewage systems, including
8 collection, transport, storage, treatment, dispersal, effluent
9 use and discharge;

10 (2) drainage and flood control systems,
11 including collection, transport, diversion, storage, detention,
12 retention, dispersal, use and discharge;

13 (3) water systems for domestic purposes,
14 including production, collection, storage, treatment,
15 transport, delivery, connection and dispersal;

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

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

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

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

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1 (8) electrical transmission and distribution
2 facilities;

3 (9) natural gas distribution facilities;

4 (10) lighting systems;

5 (11) cable or other telecommunications lines
6 and related equipment;

7 (12) traffic control systems and devices,
8 including signals, controls, markings and signs;

9 (13) inspection, construction management and
10 related costs in connection with the furnishing of the items
11 listed in this subsection; and

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

15 ~~[F.]~~ J. "infrastructure purpose" means:

16 (1) planning, design, engineering,
17 construction, acquisition or installation of infrastructure,
18 including the costs of applications, impact fees and other
19 fees, permits and approvals related to the construction,
20 acquisition or installation of the infrastructure;

21 (2) acquiring, converting, renovating or
22 improving existing facilities for infrastructure, including
23 facilities owned, leased or installed by the owner;

24 (3) acquiring interests in real property or
25 water rights for infrastructure, including interests of the

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1 owner; and

2 (4) incurring expenses incident to and
3 reasonably necessary to carry out the purposes specified in
4 this subsection;

5 ~~[J.]~~ K. "municipality" means an incorporated city,
6 town or village, whether incorporated under general act,
7 special act or special charter, incorporated counties and H
8 class counties;

9 L. "participant" means a person who participates in
10 a training program authorized by the state, a county or a
11 municipality that provides information on the importance of
12 budgeting and the operation of credit histories and credit
13 scores;

14 ~~[K.]~~ M. "public post-secondary educational
15 institution" means a state university or a public community
16 college;

17 ~~[L.]~~ N. "qualifying grantee" means:

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

21 (2) a governmental housing agency, regional
22 housing authority, tribal housing agency, corporation, limited
23 liability company, partnership, joint venture, syndicate,
24 association or nonprofit organization that:

25 (a) is organized under state, local or

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1 tribal laws and can provide proof of such organization;

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

5 (c) is approved by the governmental
6 entity; and

7 [M.] O. "residential housing" means any building,
8 structure or portion thereof that is primarily occupied, or
9 designed or intended primarily for occupancy, as a residence by
10 one or more households and any real property that is offered
11 for sale or lease for the construction or location thereon of
12 such a building, structure or portion thereof. "Residential
13 housing" includes congregate housing, manufactured homes,
14 housing intended to provide or providing transitional or
15 temporary housing for homeless persons and common health care,
16 kitchen, dining, recreational and other facilities primarily
17 for use by residents of a residential housing project."

18 SECTION 2. A new section of the Affordable Housing Act is
19 enacted to read:

20 "[NEW MATERIAL] CREDITWORTHINESS ASSISTANCE PROGRAM--
21 CREDITWORTHINESS ASSISTANCE GRANTS--ELIGIBILITY.--

22 A. The "creditworthiness assistance program" is
23 created and shall be administered by the authority. The
24 application for a creditworthiness assistance grant shall be in
25 a form prescribed by the authority. To be eligible for a

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1 creditworthiness assistance grant:

2 (1) a nonindividual qualifying grantee shall:

3 (a) have a functioning accounting system
4 that is operated in accordance with generally accepted
5 accounting principles or shall designate an entity that will
6 maintain such an accounting system consistent with generally
7 accepted accounting principles; and

8 (b) have among its purposes significant
9 activities related to renting residential housing; and

10 (2) an individual qualifying grantee shall
11 meet all requirements provided pursuant to rules promulgated by
12 the authority pursuant to the Affordable Housing Act.

13 B. A creditworthiness assistance grant provided
14 pursuant to this section shall not exceed:

15 (1) five thousand dollars (\$5,000) of unpaid
16 rent to a qualifying grantee per one participant;

17 (2) ten thousand dollars (\$10,000) of unpaid
18 rent to a qualifying grantee per calendar year; and

19 (3) two thousand five hundred dollars (\$2,500)
20 for damages caused to a rented residential property by a
21 participant.

22 C. The authority shall promulgate rules regarding:

23 (1) requirements for a participant to be
24 eligible to receive a creditworthiness assistance grant;

25 (2) the application for a creditworthiness

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1 assistance grant;

2 (3) the training program on the importance of
3 budgeting and the operation of credit histories and credit
4 scores; and

5 (4) the process for other grantors to
6 administer creditworthiness assistance grants."

7 SECTION 3. Section 6-27-5 NMSA 1978 (being Laws 2004,
8 Chapter 104, Section 5, as amended) is amended to read:

9 "6-27-5. STATE, COUNTY, MUNICIPALITIES, INSTRUMENTALITIES
10 OF THE STATE AND THE AUTHORITY--AUTHORIZATION FOR AFFORDABLE
11 HOUSING.--The state, including any agency or instrumentality of
12 the state, or a county, a municipality or the authority may:

13 A. donate, provide or pay all or a portion of the
14 costs of land for the construction on the land of affordable
15 housing;

16 B. donate, provide or pay all or a portion of the
17 costs of conversion or renovation of existing buildings into
18 affordable housing;

19 C. provide or pay the costs of financing or
20 infrastructure necessary to support affordable housing
21 projects; [~~or~~]

22 D. provide or pay all or a portion of the costs of
23 acquisition, development, construction, financing, operating or
24 owning affordable housing; or

25 E. donate, provide or pay all or a portion of the

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1 costs of unpaid rent owed by a participant or damages caused to
2 a residential property pursuant to the requirements provided in
3 Subsection B of Section 2 of this 2024 act."

4 SECTION 4. Section 6-27-7 NMSA 1978 (being Laws 2004,
5 Chapter 104, Section 7, as amended) is amended to read:

6 "6-27-7. REQUIREMENT FOR ENACTMENT OF AN ORDINANCE BY A
7 COUNTY OR A MUNICIPALITY AND REVIEW BY THE AUTHORITY
8 AUTHORIZING HOUSING ASSISTANCE GRANTS AND CREDITWORTHINESS
9 ASSISTANCE GRANTS.--

10 A. A county or municipality may provide housing
11 assistance grants pursuant to Article 9, Section 14 of the
12 constitution of New Mexico and creditworthiness assistance
13 grants pursuant to Section 2 of this 2024 act after enactment
14 by its governing body of an ordinance authorizing grants
15 stating the requirements of and purposes of the grants. The
16 ordinance may provide for matching or using local, private or
17 federal funds either through direct participation with a
18 federal agency pursuant to federal law or through indirect
19 participation through programs of the authority. No less than
20 forty-five days prior to enactment, the county or municipality
21 shall submit a proposed ordinance to the authority, which shall
22 review the proposed ordinance to ensure compliance with rules
23 promulgated by the authority pursuant to Section 6-27-8 NMSA
24 1978. Within fifteen days after enactment of the ordinance,
25 the county or municipality shall submit a certified true copy

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1 of the ordinance to the authority. The governing body of the
2 county or municipality shall authorize the transfer or
3 disbursement of housing assistance grant funds only after the
4 qualifying grantee has submitted a budget to the governing body
5 and the governing body has approved the budget.

6 B. A school district may transfer land or buildings
7 owned by the school district to a county or municipality to be
8 further granted as part or all of an affordable housing grant
9 if the school district and the governing body of the county or
10 municipality enter into a contract that provides the school
11 district with a negotiated number of affordable housing units
12 that will be reserved for employees of the school district.

13 C. The governing board of a public post-secondary
14 educational institution may transfer land or buildings owned by
15 that institution to a county or municipality; provided that:

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

19 (2) the governing board of the public post-
20 secondary educational institution and the governing body of the
21 county or municipality enter into a contract that provides the
22 public post-secondary educational institution with affordable
23 housing units.

24 D. Agencies or instrumentalities of the state may
25 provide housing assistance grants pursuant to Article 9,

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1 Section 14 of the constitution of New Mexico in accordance with
2 rules promulgated by the authority.

3 E. The authority may provide housing assistance
4 grants pursuant to Article 9, Section 14 of the constitution of
5 New Mexico in accordance with rules promulgated by the
6 authority."

7 SECTION 5. Section 6-27-8 NMSA 1978 (being Laws 2004,
8 Chapter 104, Section 8, as amended) is amended to read:

9 "6-27-8. PROVISIONS TO ENSURE SUCCESSFUL COMPLETION OF
10 AFFORDABLE HOUSING PROJECTS--SALE AFTER FORECLOSURE.--

11 A. State, county and municipal housing assistance
12 grants awarded pursuant to the Affordable Housing Act shall be
13 applied for and awarded to qualifying grantees pursuant to the
14 rules promulgated by the authority subject to the requirements
15 of that act.

16 B. The authority shall adopt rules in accordance
17 with the Administrative Procedures Act to carry out the
18 purposes of the Affordable Housing Act. Concurrence by the New
19 Mexico municipal league is required for rules applicable to
20 municipalities. Concurrence by the New Mexico association of
21 counties is required for rules applicable to counties.

22 C. The authority shall adopt rules covering:

23 (1) procedures to ensure that qualifying
24 grantees meet the requirements of the Affordable Housing Act
25 and rules promulgated pursuant to that act both at the time of

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1 the award and through the term of the grant or the
2 creditworthiness assistance grant;

3 (2) establishment of an application and award
4 timetable for housing assistance grants and creditworthiness
5 assistance grants to permit the selection of the potential
6 qualifying grantees prior to January of the year in which the
7 grants would be made;

8 (3) contents of the application, including an
9 independent evaluation of the:

10 (a) financial and management stability
11 of the applicant;

12 (b) demonstrated commitment of the
13 applicant to the community;

14 (c) cost-benefit analysis of the project
15 proposed by the applicant;

16 (d) benefits to the community of a
17 proposed project;

18 (e) type or amount of assistance to be
19 provided;

20 (f) scope of the affordable housing
21 project;

22 (g) substantive or matching contribution
23 by the applicant to the proposed project; and

24 (h) performance schedule for the
25 qualifying grantee with performance criteria;

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1 (4) a requirement for long-term affordability
2 of a state, county or municipal project so that a project
3 cannot be sold shortly after completion and taken out of the
4 affordable housing market;

5 (5) a requirement that a grant for a state or
6 local project must impose a contractual obligation on the
7 qualifying grantee that the housing units in a state or local
8 project developed pursuant to the Affordable Housing Act be
9 occupied by low- or moderate-income households;

10 (6) provisions for adequate security against
11 the loss of public funds or property in the event that a
12 qualifying grantee defaults on a contractual obligation for the
13 project or abandons or otherwise fails to complete a project;

14 (7) a requirement for review and approval of a
15 housing grant project budget by the grantor before any
16 expenditure of grant funds or transfer of granted property;

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

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

25 (10) provisions defining "low- and moderate-

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1 income" and setting out requirements for verification of income
2 levels;

3 (11) a requirement that a county or
4 municipality that makes a housing assistance grant shall have
5 an existing valid affordable housing plan or housing elements
6 contained in its general plan;

7 (12) a requirement that the governmental
8 entity enter into a contract with a qualifying grantee
9 consistent with the Affordable Housing Act, which contract
10 shall include remedies and default provisions in the event of
11 the unsatisfactory performance by the qualifying grantee; and

12 (13) provisions necessary to ensure the timely
13 sale of an affordable housing project on which a qualifying
14 grantee has defaulted on a contractual obligation or abandoned
15 or otherwise failed to complete.

16 D. The rules adopted by the authority pursuant to
17 Paragraph (13) of Subsection C of this section shall require a
18 governmental entity to:

19 (1) make a determination that the property is
20 not marketable for a price that would sufficiently recover the
21 public funds invested in the project;

22 (2) ascertain that the property has a title
23 that has been transferred to the contracting governmental
24 entity through a foreclosure sale, a transfer of title by deed
25 in lieu of foreclosure or any other manner;

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1 (3) exercise reasonable efforts to ensure that
2 all proceeds from the sale of a property pursuant to Paragraph
3 (13) of Subsection C of this section are used solely for
4 purposes pursuant to the Affordable Housing Act and that the
5 qualifying grantee that held title to the property shall not
6 benefit from the sale of the property or from the transfer of
7 the affordable housing project; and

8 (4) provide the terms for:
9 (a) the sale of the property at fair
10 market value; and

11 (b) the removal of the contractual
12 obligation requiring long-term occupancy of the property by
13 low- or moderate-income households."

14 SECTION 6. A new section of the Affordable Housing Act is
15 enacted to read:

16 "[NEW MATERIAL] CREDITWORTHINESS ASSISTANCE FUND--
17 CREATED.--The "creditworthiness assistance fund" is created in
18 the authority. The fund consists of distributions, gifts,
19 grants, donations and income from investment of the fund.
20 Money remaining in the fund at the end of a fiscal year shall
21 not revert to any other fund. The authority shall administer
22 the fund, and money in the fund shall be used to provide
23 creditworthiness assistance grants pursuant to Section 2 of
24 this 2024 act and to pay the administrative costs of the
25 authority in carrying out that section."

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