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HOUSE BILL 474

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

Sharon Clahchischilliage

AN ACT

RELATING TO THE NEW MEXICO FINANCE AUTHORITY; ALLOWING THE
AUTHORITY TO PARTICIPATE IN LOANS UNDER THE PUBLIC PROJECT
FINANCE PROGRAM.

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

SECTION 1. Section 6-21-3 NMSA 1978 (being Laws 1992,
Chapter 61, Section 3, as amended) is amended to read:

"6-21-3. DEFINITIONS.--As used in the New Mexico Finance
Authority Act:

A. "authority" means the New Mexico finance
authority;

B. "bank":

(1) means:

(a) any state or national bank engaged
in the business of receiving deposits, other than trust funds,

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1 which deposits are insured by the federal deposit insurance
2 corporation in accordance with the Federal Deposit Insurance
3 Act; or

4 (b) an institution organized under the
5 laws of this state, the laws of the United States, any state of
6 the United States, the District of Columbia, any territory of
7 the United States, Puerto Rico, Guam, American Samoa or the
8 Virgin Islands that accepts deposits that the depositor may
9 withdraw by check or similar means for payment to third parties
10 and is engaged in the business of making commercial loans; and

11 (2) excludes an entity operating under Section
12 25 or 25a of the Federal Reserve Act, an entity that does not
13 conduct business within the United States, a credit union or a
14 savings and loan association organized under the laws of this
15 state, the laws of the United States, any state of the United
16 States, the District of Columbia, any territory of the United
17 States, Puerto Rico, Guam, American Samoa or the Virgin
18 Islands;

19 ~~[B-]~~ C. "bond" means any bonds, notes, certificates
20 of participation or other evidence of indebtedness;

21 ~~[G-]~~ D. "bondholder" or "holder" means a person who
22 is the owner of a bond, whether registered or not;

23 ~~[D-]~~ E. "emergency public project" means a public
24 project:

25 (1) made necessary by an unforeseen occurrence

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1 or circumstance threatening the public health, safety or
2 welfare; and

3 (2) requiring the immediate expenditure of
4 money that is not within the available financial resources of
5 the qualified entity as determined by the authority;

6 ~~[E-]~~ F. "public project" means the acquisition,
7 construction, improvement, alteration or reconstruction of
8 assets of a long-term capital nature by a qualified entity,
9 including land; buildings; water rights; water, sewerage and
10 waste disposal systems; streets; airports; municipal utilities;
11 public recreational facilities; public transportation systems;
12 parking facilities; and machinery, furniture and equipment.

13 "Public project" includes all proposed expenditures related to
14 the entire undertaking. "Public project" also includes the
15 acquisition, construction or improvement of real property,
16 buildings, facilities and other assets by the authority for the
17 purpose of leasing the property;

18 ~~[F-]~~ G. "qualified entity" means the state or an
19 agency or institution of the state or a county, municipality,
20 school district, two-year public post-secondary educational
21 institution, charter school, land grant corporation, acequia
22 association, public improvement district, federally chartered
23 college located in New Mexico, intercommunity water or natural
24 gas supply association or corporation, special water, drainage,
25 irrigation or conservancy district or other special district

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1 created pursuant to law, nonprofit foundation or other support
2 organization affiliated with a public university, college or
3 other higher educational institution located in New Mexico,
4 including a university research park corporation, an Indian
5 nation, tribe or pueblo located wholly or partially in New
6 Mexico, including a political subdivision or a wholly owned
7 enterprise of an Indian nation, tribe or pueblo or a consortium
8 of those Indian entities or a consortium of any two or more
9 qualified entities created pursuant to law; and

10 [~~G.~~] H. "security" or "securities", unless the
11 context indicates otherwise, means bonds, notes, certificates
12 or other evidence of indebtedness or loan participation issued
13 by a qualified entity or leases or certificates or other
14 evidence of participation in the lessor's interest in and
15 rights under a lease with a qualified entity and that are
16 payable from taxes, revenues, rates, charges, assessments or
17 user fees or from the proceeds of funding or refunding bonds,
18 notes or other evidence of indebtedness of a qualified entity
19 or from certificates or evidence of participation in a lease
20 with a qualified entity."

21 **SECTION 2.** Section 6-21-8 NMSA 1978 (being Laws 1992,
22 Chapter 61, Section 8, as amended) is amended to read:

23 "6-21-8. PUBLIC PROJECT FINANCE PROGRAM--LOANS--PURCHASE
24 OR SALE OF SECURITIES.--To implement a program to assist
25 qualified entities in financing public projects, the authority

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1 has the powers specified in this section; provided that the
2 authority shall take no action concerning a project financed
3 with money in the public project revolving fund unless the
4 project is specifically authorized by law or authorized
5 pursuant to other provisions of the New Mexico Finance
6 Authority Act. The authority may:

7 A. make loans to qualified entities that establish
8 one or more dedicated sources of revenue to repay the loan from
9 the authority;

10 B. participate in a loan originated by a bank to a
11 qualified entity; provided that:

12 (1) the qualified entity provides
13 documentation of one or more dedicated sources of revenue with
14 which the qualified entity shall repay the loan;

15 (2) the portion of the loan representing the
16 participation of the authority is guaranteed by the United
17 States department of agriculture, the bureau of Indian affairs
18 of the United States department of the interior, the United
19 States small business administration or other federal agency;
20 and

21 (3) the collateral position of the authority,
22 in the event of default by a qualified entity, shall be
23 superior to or equal to the collateral position of the bank
24 that originates the loan;

25 [~~B.~~] C. make, enter into and enforce all contracts

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1 necessary, convenient or desirable for the purposes of the
2 authority or pertaining to:

3 (1) a loan to a qualified entity;

4 (2) a grant to a qualified entity from money
5 available to the authority except money in the public project
6 revolving fund;

7 (3) a purchase or sale of securities
8 individually or on a pooled basis; [~~or~~]

9 (4) participation in a loan originated by a
10 bank to a qualified entity; or

11 [~~(4)~~] (5) the performance of its duties and
12 execution of its powers under the New Mexico Finance Authority
13 Act;

14 [~~G-~~] D. purchase or hold securities at prices and
15 in a manner the authority considers advisable, giving due
16 consideration to the financial capability of the qualified
17 entity or the bank, and sell securities acquired or held by it
18 at prices without relation to cost and in a manner the
19 authority considers advisable;

20 [~~D-~~] E. prescribe the form of application or
21 procedure required of a qualified entity or a bank for a loan,
22 a loan participation or a purchase of [~~its~~] securities, fix the
23 terms and conditions of the loan, the loan participation or the
24 purchase of securities and enter into [~~agreements~~] an agreement
25 with a qualified [~~entities~~] entity with respect to [~~loans or~~

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1 ~~purchases]~~ a loan, a loan participation or a purchase of
2 securities;

3 ~~[E-]~~ F. charge for its costs and services in review
4 or consideration of a proposed loan to a qualified entity or
5 purchase by the authority of securities, whether or not the
6 loan is made or the securities purchased;

7 ~~[F-]~~ G. fix and establish terms and provisions with
8 respect to:

9 (1) a purchase of securities by the authority,
10 including date and maturities of the securities;

11 (2) redemption or payment before maturity; and

12 (3) any other matters that in connection with
13 the purchase are necessary, desirable or advisable in the
14 judgment of the authority;

15 ~~[G-]~~ H. to the extent permitted under its contracts
16 with the holders of bonds of the authority, consent to
17 modification of the rate of interest, time and payment of
18 installment of principal or interest, security or any other
19 term of a bond, contract or agreement of any kind to which the
20 authority is a party;

21 ~~[H-]~~ I. in connection with the purchase of any
22 securities, consider the ability of the qualified entity to
23 secure financing from other sources and the costs of that
24 financing and the particular public project or purpose to be
25 financed or refinanced with the proceeds of the securities to

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