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SENATE BILL 142

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

John Arthur Smith

FOR THE LEGISLATIVE FINANCE COMMITTEE AND
FOR THE MORTGAGE FINANCE AUTHORITY ACT OVERSIGHT COMMITTEE

AN ACT

RELATING TO MORTGAGE FINANCING; CHANGING THE DEFINITION OF
"MORTGAGE LENDER" IN THE MORTGAGE FINANCE AUTHORITY ACT AND
CLARIFYING OTHER DEFINITIONS.

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

Section 1. Section 58-18-3 NMSA 1978 (being Laws 1975,
Chapter 303, Section 3, as amended) is amended to read:

"58-18-3. DEFINITIONS. --As used in the Mortgage Finance
Authority Act:

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

B. "bonds" or "notes" means the bonds or bond
anticipation notes, respectively, issued by the authority
pursuant to the Mortgage Finance Authority Act;

C. "federal government" means the United States of

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1 America and any agency or instrumentality [~~corporate or~~
2 ~~otherwise~~] of the United States of America;

3 D. "FHA" means the federal housing administration;

4 E. "FHLMC" means the federal home loan mortgage
5 corporation;

6 F. "FNMA" means the federal national mortgage
7 association;

8 G. "home improvement loan" means a mortgage loan
9 to finance [~~such~~] those alterations, repairs and improvements
10 on or in connection with an existing residence [~~as~~] that the
11 authority [~~may determine~~] determines will substantially
12 protect or improve the basic livability or energy efficiency
13 of the residence [~~including without limitation the acquisition~~
14 ~~and installation of energy conservation building materials and~~
15 ~~solar energy equipment~~];

16 H. "mobile home" means a movable or portable
17 housing structure, constructed to be towed on its own chassis
18 and designed [~~so as~~] to be installed with or without a
19 permanent foundation for human occupancy as a residence
20 [~~that~~]; it may include one or more components that can be
21 retracted for towing purposes and subsequently expanded for
22 additional capacity, or two or more units separately towable
23 but designed to be joined into one integral unit, as well as a
24 single unit, except that [~~the definition~~] "mobile home" does
25 not include recreational vehicles, or modular or

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1 premanufactured homes built to Uniform Building Code standards
2 and designed to be permanently affixed to real property;

3 I. "mortgage" means a mortgage, mortgage deed,
4 deed of trust or other instrument creating a lien, subject
5 only to title exceptions as may be acceptable to the
6 authority, on a fee interest in real property located within
7 the state or on a leasehold interest that has a remaining term
8 at the time of computation that exceeds or is renewable at the
9 option of the lessee until after the maturity day of the
10 mortgage loan or an instrument creating a lien on a mobile
11 home;

12 J. "mortgage lender" means any bank, bank or trust
13 company, trust company, mortgage company, mortgage banker,
14 national banking association, savings bank, savings and loan
15 association, credit union building and loan association and
16 any other lending institution; provided that [~~the principal~~
17 ~~office of~~] the mortgage lender [is] maintains an office in New
18 Mexico [and ~~the mortgage lender~~], is authorized to make
19 mortgage loans in the state and [~~that the mortgage lender~~] is
20 approved by the authority and either the FHA, VA, FNMA or
21 FHLMC;

22 K. "mortgage loan" means a financial obligation
23 secured by a mortgage [~~including a project mortgage loan~~];

24 L. "municipality" means [~~any~~] a county, city, town
25 or village of the state;

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1 M "new mortgage loan" means a mortgage loan
2 [~~including a home improvement loan~~] made by a mortgage lender
3 to a person of low or moderate income to finance project costs
4 and containing [~~such~~] terms and conditions [~~as the authority~~
5 ~~may require by regulation~~] required by rule of the authority;

6 N. "persons of low or moderate income" means
7 persons and families within the state who are determined by
8 the authority to lack sufficient income to pay enough to cause
9 private enterprise to build an adequate supply of decent, safe
10 and sanitary residential housing in their locality or in an
11 area reasonably accessible to their locality and whose incomes
12 are below the income levels established by the authority to be
13 in need of the assistance made available by the Mortgage
14 Finance Authority Act, taking into consideration [~~without~~
15 ~~limitation, such factors as~~] the following factors:

16 (1) the [~~amount of the~~] total income of those
17 persons and families available for housing needs;

18 (2) the size of the family units;

19 (3) the cost and condition of housing
20 facilities available;

21 (4) the ability of those persons and families
22 to compete successfully in the normal private housing market
23 and to pay the amounts at which private enterprise is
24 providing sanitary, decent and safe housing; and

25 (5) standards established by various programs

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1 of the federal government for determining eligibility based on
2 income of those persons and families;

3 0. "project" means [~~any~~] a work or undertaking,
4 whether new construction, acquisition of existing residential
5 housing, remodeling, improvement or rehabilitation approved by
6 the authority for the primary purpose of providing sanitary,
7 decent, safe and affordable residential housing within the
8 state for one or more persons of low or moderate income;

9 P. "project costs" means the [~~sum~~] total of all
10 costs incurred in the development of a project that [~~are~~] is
11 approved by the authority as reasonable and necessary; [~~Such~~]
12 "project costs" may include [~~but are not necessarily limited~~
13 ~~to~~]:

14 (1) the cost of acquiring real property and
15 [~~any buildings thereon~~] improvements located on the property,
16 including payments for options, deposits or contracts to
17 purchase [~~properties~~] real property;

18 (2) cost of site preparation, demolition and
19 development;

20 (3) fees in connection with the planning,
21 execution and financing of a project [~~such as those to the~~
22 ~~architects, engineers, attorneys, accountants and the~~
23 ~~authority~~];

24 (4) [~~cost of studies, surveys, plans and~~
25 ~~permits, insurance, interest, financing, tax and assessment~~

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1 ~~costs and other~~] operating and carrying costs during
2 construction;

3 (5) cost of construction, remodeling,
4 rehabilitation, reconstruction, home improvements, fixtures,
5 furnishings and equipment for the project;

6 (6) cost of land improvements [~~including,~~
7 ~~without limitation, landscaping and off-site improvements]~~
8 both on and off site;

9 (7) expenses in connection with initial
10 occupancy of a project;

11 (8) [a] reasonable profit and risk [fee] fees
12 to the general contractor in addition to the job overhead [~~to~~
13 ~~the general contractor~~] and, if applicable, to the developer;

14 (9) [~~an allowance~~] allowances established by
15 the authority for working capital and contingency reserves and
16 reserves for any anticipated operating deficits during the
17 first two years of occupancy; and

18 (10) the cost of [~~such~~] other items,
19 including tenant relocation if tenant relocation costs are not
20 otherwise being provided for, indemnity and surety bonds,
21 premiums on insurance and fees and expenses of trustees,
22 depositaries and paying agents of the bonds and notes [as]
23 that the authority [~~shall determine~~] determines to be
24 reasonable and necessary for the development of a project;

25 Q. "real property" means [~~all lands and~~

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1 ~~franchises, including interests in~~ land, space rights, [and]
2 air rights and [~~any and all~~] tangible, intangible, legal and
3 equitable interests in [~~such property less than full title,~~
4 ~~such as easements, incorporeal hereditaments and every estate,~~
5 ~~interest or rights, legal or equitable, including terms for~~
6 ~~years and liens by way of judgment, mortgage or otherwise and~~
7 ~~the indebtedness secured by the liens~~] land;

8 R. "rehabilitation loan" means a qualified
9 rehabilitation loan within the meaning of Section 143(k)(5) of
10 the Internal Revenue Code of 1986, as that section may be
11 amended or renumbered [~~or any successor provision~~];

12 S. "residential housing" means [~~a specific work or~~
13 ~~improvement~~] the acquisition, construction or rehabilitation
14 of real property, buildings and improvements undertaken
15 primarily to provide one or more dwelling accommodations
16 [~~including, without limitation, mobile homes, single family,~~
17 ~~multiple family, transitional and congregate dwellings~~] for
18 persons of low or moderate income [~~including the acquisition,~~
19 ~~construction or rehabilitation of real property, buildings and~~
20 ~~improvements~~];

21 T. "state" means New Mexico;

22 U. "state, local, federal or tribal agency" means
23 any board, authority, agency, department, commission, public
24 corporation, body politic or instrumentality of the state or
25 of [~~such~~] a local, federal or tribal government; and

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V. "VA" means the veterans affairs department. "

1 FORTY- FOURTH LEGISLATURE

2 FIRST SESSION, 1999

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5 February 2, 1999

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7 Mr. President:

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9 Your CORPORATIONS & TRANSPORTATION COMMITTEE, to
10 whom has been referred

11
12 SENATE BILL 142

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14 has had it under consideration and reports same with
15 recommendation that it DO PASS, and thence referred to the
16 FINANCE COMMITTEE.

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18 Respectfully submitted,

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Roman M. Maes, Chairman

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Adopted _____ Not

Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 7 For 0 Against

Yes: 7

No: 0

Excused: Macias, McKibben, Robinson

Absent: None

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1 FORTY-FOURTH LEGISLATURE
2 FIRST SESSION, 1999
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6 February 27, 1999
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8 Mr. Speaker:
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10 Your JUDICIARY COMMITTEE, to whom has been referred
11

12 SENATE BILL 142
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14 has had it under consideration and reports same with
15 recommendation that it DO PASS.

16 Respectfully submitted,
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21 R. David Pederson, Chairman
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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

HJC/SB 142

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Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 9 For 0 Against

Yes: 9

Excused: Luna, Mallory, T. Taylor

Absent: None

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