

Housing New Mexico MFA

Affordable Housing Act

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What is the Affordable Housing Act (AHA)?

Constitutional Amendment 4 – Passed in General Election of 2004, created the Affordable Housing Act (Section 6-27-3 NMSA 1978): Exempts government donations to affordable housing from the Anti-Donation Clause of the New Mexico State Constitution

Eligible Donors:

- The State of New Mexico
- Counties
- Municipalities
- School Districts or Post-Secondary Educational Institution

Eligible Donations to Affordable Housing Projects:

- Land or an existing building
- Provide or pay for infrastructure
- Provide financing (pay for the cost of acquisition, development, construction, financing, operating or owning)
- Abatement of locally-imposed fees

The AHA designates oversight responsibility to Housing New Mexico.

What isn't the AHA?

The AHA does not supersede other regulation or statute, such as the New Mexico Administrative Code, State Board of Finance rules, local government ordinances or resolutions, and capital outlay rules. The scope of the AHA is limited to allowing for the affordable housing exception to the anti-donation clause and governing the requirements for the exception.

The AHA does not regulate procurement of qualified grantees to receive donations for affordable housing. Local governments must follow their procurement policies and procedures in selecting a qualified grantee that will receive a donation for an affordable housing project or program. Capital outlay funds for affordable housing projects or programs are also subject to a local government's procurement process.

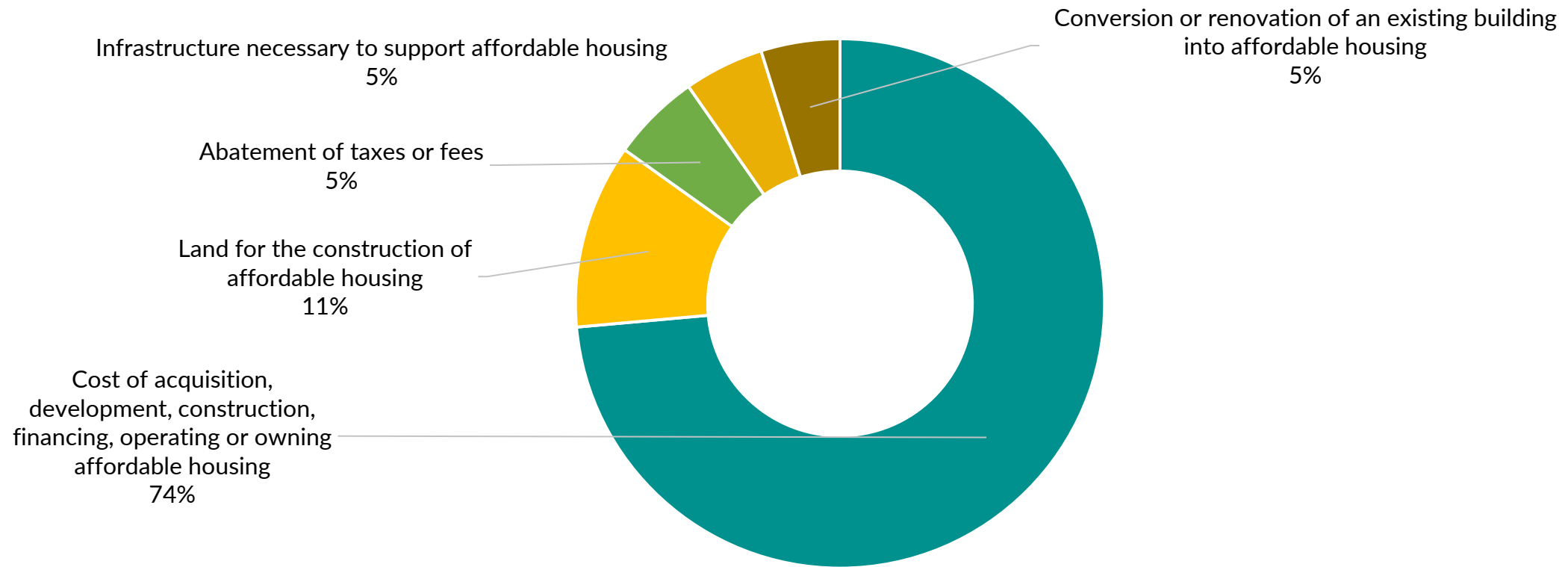
The AHA does not regulate how federal funds are used for affordable housing.



A mural adorns Three Sisters Apartments in Las Cruces, New Mexico, a 70-unit affordable housing development that opened its doors in May 2025.

AHA Donations to Date

Affordable Housing Act Donations Made Since 2004:
\$142.9 Million



Affordable Housing Plan

Affordable
Housing Plan
Components:

Community and Housing Profile – Demographics
& Housing Market Statistics

Housing Needs Assessment - Existing &
Projected Housing Needs

Land Use and Policy Review – Analysis of Land
Use & Construction Constraints

Goals, Policies, and Quantifiable Objectives –
Identification of Resources & Actions Needed to
Expand Affordable Housing Opportunity

Draft plan



Submit plan
to Housing
New Mexico
for review
and approval



Adopt plan
via resolution



Luminaria Senior Community, a 92-unit new construction rental housing development in Albuquerque, was completed in 2022.

Affordable Housing Ordinance

Affordable housing ordinances are the local enabling legislation to permit the exception to the anti-donation clause.

Ordinance must be drafted by local government, submitted to and approved by Housing New Mexico, and approved version passed by local government, with a copy of recorded Ordinance sent to Housing New Mexico.

The ordinance establishes local rules for affordable housing donation but must be at least as restrictive as the Affordable Housing Act.

The ordinance must define the process for selecting a qualified grantee, define income limits and affordability periods for donations.

Housing New Mexico can provide a template ordinance.

Qualifying Grantees

Qualified grantees are entities eligible to receive donations under the Affordable Housing Act.

- A qualified governmental housing agency
- Any type of for-profit or non-profit organization that has among its purposes significant activities related to providing housing or services to low- or moderate-income persons or household
- A qualified individual

Affordability Period

If the fair market value of any Housing Assistance Grant, or the total amount of Affordable Housing Funds which have been awarded, loaned, donated, or otherwise conveyed to the Qualifying Grantee is:

Then the Affordability Period must be not less than:

\$1 to \$14,999	5 years
\$15,000 up to and including \$40,000	10 years
From \$40,000 up to and including \$100,000	15 years
Greater than \$100,000	20 years

The Governmental Entity and/or Housing New Mexico, in its discretion, may increase the Affordability Period in any contract, note, mortgage, loan agreement, land use restriction agreement, restrictive covenant agreements.

In the discretion of Housing New Mexico, weatherization funds from the State, and/or any other similar conveyances where an Affordability Period is not practical, may not necessarily be subject to the Affordability Period requirements. **However, any such conveyances may be subject to recapture on some pro-rated basis as determined by the Governmental Entity and/or MFA.**

How are Local Governments Using the AHA?

Examples from the City of Las Cruces

Land Donation

- City donated a parcel valued at \$100,000 to Three Sisters Apartments project, an affordable rental housing development being led by the for-profit partner Chelsea Development Corp.

Building Donation

- City purchased a four-plex then turned over the building to Mesilla Valley Community of Hope to provide transitional housing to women and children.

Funding Donation

- City provided \$4 million from its Health Care Reserve Fund and sought a \$5.4 million capital outlay appropriation for Amador Crossing, a 50-unit permeant supportive housing complex.

Impact Fee waivers

- Fees waived for affordable single-family development carried out the non-profits Tierra del Sol and Habitat for Humanity.

Affordable Housing Act Funding

During the 2026 session the Legislature designated \$500,000 of the \$50 million general fund appropriation made to Housing New Mexico for “administration of the Affordable Housing Act.”

Housing New Mexico is developing a request for information to solicit feedback from communities on how the funding could best be deployed. Uses may include, but are not limited to:

- Funding for AHA plans, with prioritization for communities without an AHA plan.
- Technical assist with AHA plan implementation.
- Predevelopment funding for a project consistent with a community’s AHA plan.

Based on the feedback collected during the RFI process, Housing New Mexico will develop and issue a “Notice of Funding Availability” to make awards to local governments.

Questions?

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