The Legislature

of the

State of New Mexico

49th **Legislature,** First **Session**

LAWS 2009

CHAPTER 48

SENATE BILL 20, as amended,

with emergency clause

Introduced by

SENATOR MARY KAY PAPEN
SENATOR MICHAEL S. SANCHEZ

FOR THE MORTGAGE FINANCE AUTHORITY ACT OVERSIGHT COMMITTEE

EMERGENCY CLAUSE

CHAPTER 48

AN ACT

RELATING TO REGIONAL HOUSING; EXPANDING ELIGIBILITY TO MODERATE-INCOME PERSONS; CONSOLIDATING REGIONAL HOUSING AUTHORITIES; REVISING THE GOVERNANCE AND OVERSIGHT OF REGIONAL HOUSING AUTHORITIES; DECLARING AN EMERGENCY.

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

Section 1. Section 11-3A-2 NMSA 1978 (being Laws 1994, Chapter 132, Section 2, as amended) is amended to read:

"11-3A-2. FINDING AND DECLARATION OF NECESSITY.--It is declared that:

A. unsanitary and unsafe dwelling accommodations exist in the state;

B. low- and moderate-income persons are forced to reside in unsanitary and unsafe accommodations;

C. within the state:

(1) there is a shortage of safe and sanitary dwelling accommodations available at rents that low- and moderate-income persons can afford;

(2) low- and moderate-income persons are forced to occupy overcrowded, congested dwelling accommodations; and

(3) these conditions cause an increase in and spread of disease and crime and constitute a menace to the health, safety, morals and welfare of the residents of

the state and impair economic values;

D. excessive and disproportionate expenditures of public funds for crime prevention and punishment, public health and safety, fire and accident protection and other public services and facilities are necessitated;

E. private enterprise alone cannot meet the need or resolve the problems inherent in providing appropriate, safe, sanitary and sufficient housing for low- and moderate-income persons, and public participation in construction of low- and moderate-income housing does not compete with private enterprise;

F. demolition, replanning, reconstruction or renovation of unsanitary and unsafe housing and acquisition of land to provide safe and sanitary dwellings for low- and moderate-income persons are in the public interest and are essential state and local governmental functions requiring expenditures of public money; and

G. it is in the public interest that work on projects for demolition, planning, reconstruction, renovation and land acquisition for provision of safe and sanitary dwellings for low- and moderate-income persons be started immediately in order to relieve the housing shortage that has reached emergency status, and it is a necessity that the Regional Housing Law be continued to relieve that emergency."

Section 2. Section 11-3A-3 NMSA 1978 (being Laws 1994,

Chapter 132, Section 3, as amended) is amended to read:

"11-3A-3. DEFINITIONS.--As used in the Regional Housing Law:

A. "affordable housing" means housing that serves the needs of low- and moderate-income persons;

B. "affordable housing programs" means an ongoing delivery system of affordable housing services that assists persons of low- and moderate-income;

C. "federal government" includes the United States of America, programs of the United States department of housing and urban development, the farmers home administration and rural development administration of the United States department of agriculture or housing programs or any other agency or instrumentality, corporate or otherwise, of the United States of America;

D. "housing project" means an undertaking of an authority to:

(1) demolish, clear or remove buildings from any slum area. The undertaking may embrace the adaptation of the area to public purposes, including parks or other recreational or community purposes; or

(2) provide decent, safe and sanitary dwellings, apartments, single-family dwellings or other affordable living accommodations for low- and moderate-income persons. The undertaking may include buildings, land,

equipment, facilities and other real or personal property for necessary, convenient or desirable appurtenances, streets, sewers, water service, parks, site preparation or gardening or administrative, community, health, recreational, welfare or other purposes. "Housing project" also may be applied to the planning of buildings and improvements, acquisition of property or existing structures, demolition of existing structures, construction, reconstruction, alteration and repair of improvements or buildings or any other work performed to complete housing projects;

E. "indebtedness" means any note, interim certificate, debenture or other obligation to be issued pursuant to the Regional Housing Law;

F. "local housing authority" means any municipal or county housing authority established by a municipality or county;

G. "local public body" means any county, municipality, commission, district or other political subdivision of the state;

H. "low-income person" means any individual, couple or family whose gross income does not exceed eighty percent of the person's particular area median income and who cannot afford to pay more than thirty-five percent of gross annual income for housing rent or mortgage payments; or a low-income person as defined by the federal government;

I. "moderate-income person" means any individual, couple or family whose gross annual income is not less than eighty percent of the person's particular area median income and does not exceed one hundred twenty percent of the area income;

J. "obligee" means:

(1) a holder of indebtedness issued pursuant to the Regional Housing Law or a trustee for the holder of debt;

(2) a lessor leasing to a regional housing authority or a local housing authority property used in connection with a housing project or any assignee of a lessor's interest or partial interest; or

(3) the federal government when it is a party to a contract with a regional housing authority or a local housing authority in regard to a housing project;

K. "real property" includes all lands, including improvements and fixtures on the land, property of any nature appurtenant to or used in connection with the land and every estate, interest and right, legal or equitable, in the land, including terms for years and liens by way of judgment, mortgage or other instrument and the indebtedness secured by the lien;

L. "regional housing authority" means any regional housing authority or a nonprofit housing corporation approved

pursuant to Section 11-3A-9 NMSA 1978; and

M. "slum" means any area where dwellings predominate, which by reason of dilapidation, overcrowding, lack of ventilation, light or sanitary facilities or any combination of these factors is detrimental to safety, health or morals."

Section 3. Section 11-3A-4 NMSA 1978 (being Laws 1994, Chapter 132, Section 4) is amended to read:

"11-3A-4. REGIONAL HOUSING AUTHORITIES CREATED.--Three regional housing authorities are created for the state of New Mexico as follows:

A. the northern regional housing authority that shall include Cibola, Taos, McKinley, Rio Arriba, San Juan, San Miguel, Mora, Los Alamos, Colfax and Sandoval counties;

B. the eastern regional housing authority that shall include Chaves, De Baca, Eddy, Guadalupe, Harding, Lea, Lincoln, Otero, Quay, Roosevelt, Union and Curry counties; and

C. the western regional housing authority that shall include Grant, Hidalgo, Luna, Sierra, Socorro, Catron, Torrance and Valencia counties."

Section 4. Section 11-3A-5 NMSA 1978 (being Laws 1994, Chapter 132, Section 5, as amended) is amended to read:

"11-3A-5. JURISDICTION.--

A. The regional housing authorities created

pursuant to Section 11-3A-4 NMSA 1978 shall operate within the specified area of their region except for any portion within the territorial boundary of a municipality or county that has established a local housing authority. If the governing body of a municipality or county that has established a local housing authority consents by resolution to have the regional housing authority take action within the territory that would be excluded pursuant to this section, the regional housing authority may enlarge its jurisdiction to include that territory.

B. A subsequent withdrawal of consent by resolution of a governing body of a municipality or county that has established a local housing authority shall not prohibit the development and operation of any housing projects initiated within the territorial boundary of that municipality or county by the regional housing authority prior to the date of the resolution withdrawing consent, except upon terms that are mutually agreed upon between the regional housing authority and the governing body of the municipality or county."

Section 5. Section 11-3A-6 NMSA 1978 (being Laws 1994, Chapter 132, Section 6, as amended) is amended to read:

"11-3A-6. POWERS OF REGIONAL HOUSING AUTHORITY IN BOARD OF COMMISSIONERS--APPOINTMENT OF BOARD OF REGIONAL HOUSING AUTHORITIES--TERMS.--

A. The powers of each regional housing authority shall be vested in its board of commissioners as the board may be constituted, from time to time. The board of commissioners of the regional housing authority for each of the three regions shall consist of one person from each county within the designated area of the regional housing authority, which person shall be a resident of that county and shall be appointed by the governor. Appointments shall be for terms of four years and shall be made so that the terms of not more than four commissioners on each board of commissioners expire on July 1 of each year. Vacancies shall be filled for the unexpired term. Commissioners shall serve until their successors have been appointed.

B. Members of a board of commissioners of a regional housing authority shall elect an executive committee consisting of a chair, vice chair, treasurer, secretary and one other member of the board to function and meet on a monthly basis as an executive committee. The executive committee shall have the authority to act on behalf of the board of commissioners of the regional housing authority as needed. The executive committee shall submit a report of actions to the full board of commissioners, which shall meet on a quarterly basis.

C. The members of the boards of commissioners may receive per diem and mileage as provided in the Per Diem and

1 Mileage Act but shall receive no other compensation,
2 perquisite or allowance. A majority of the appointed
3 commissioners shall constitute a quorum of a board of
4 commissioners for the purpose of conducting its business and
5 exercising its powers and for all other purposes. Action may
6 be taken by a regional housing authority upon a vote of a
7 majority of the commissioners present. Each board of
8 commissioners shall organize itself at its annual meeting
9 each year. A board of commissioners may employ an executive
10 director, subject to approval by the New Mexico mortgage
11 finance authority. With delegated authority from the board
12 of commissioners, the executive director may hire or
13 terminate, according to the procurement and personnel
14 policies and procedures of the regional housing authority,
15 any technical experts, officers, attorneys, agents or
16 employees, permanent or temporary, as the regional housing
17 authority may require.
18 D. The threshold requirements for commissioners of
19 regional housing authorities are that commissioners have
20 expertise and experience in housing construction, real
21 estate, architecture, law, banking, housing finance,
22 business, property management, accounting, residential
23 development, public housing programs, community development,
24 social services or health care. The requirements set forth
25 in this section shall not apply to commissioners serving

pursuant to requirements of the federal department of housing and urban development.

E. Commissioners are expected to attend all meetings of the board of commissioners of the regional housing authority, and more than three unexcused absences may be grounds for dismissal from the board. All recommendations for appointment as commissioners shall be forwarded to and reviewed by the New Mexico mortgage finance authority prior to recommendation to the governor."

Section 6. Section 11-3A-7 NMSA 1978 (being Laws 1994, Chapter 132, Section 7, as amended) is amended to read:

"11-3A-7. POWERS.--

A. Every regional housing authority may:

(1) within its region, prepare, carry out, acquire, purchase, lease, construct, reconstruct, improve, alter, extend or repair any housing project and operate and maintain the housing project or affordable housing program. For any of such purposes, the board of commissioners of the regional housing authority may expend money and authorize the use of any property of the regional housing authority;

(2) lease or rent dwellings, houses, accommodations, lands, buildings, structures or facilities embraced in any housing project or affordable housing program and establish and revise the rents or lease charges; own, hold and improve real or personal property; purchase, lease,

1 obtain options upon or acquire by gift, grant, bequest,
2 devise or otherwise any real or personal property or any
3 interest therein; sell, lease, mortgage, exchange, transfer,
4 assign, pledge or dispose of real or personal property or any
5 interest in real or personal property; or procure or agree to
6 the procurement of insurance or guarantees from the federal
7 government of the payment of any bonds or parts thereof,
8 including the power to pay premiums on the insurance;
9 (3) enter on lands, buildings or property
10 for the purpose of making surveys, soundings and examinations
11 in connection with the planning or construction, or both, of
12 a housing project;
13 (4) insure or provide for the insurance of a
14 housing project of the regional housing authority against the
15 risks that the regional housing authority may deem advisable;
16 (5) arrange or contract for the furnishing
17 by any person or agency, public or private, of services,
18 privileges, works or facilities for or in connection with a
19 housing project or the occupants thereof and include in any
20 construction contract let in connection with a housing
21 project stipulations requiring that the contractor and
22 subcontractors comply with employment requirements, including
23 those in the constitution and laws of this state, as to
24 minimum wages and maximum hours of labor and comply with any
25 conditions that the state or federal government may have

attached to its financial aid of the project;

(6) within its area of operation, investigate the living, dwelling and housing conditions and the means and methods of improving those conditions; determine where slum areas exist or where there is a shortage of decent, safe and sanitary dwelling accommodations for low- and moderate-income persons; make studies and recommendations relating to the problem of clearing, replanning and reconstructing slum areas and the problem of providing dwelling accommodations for low- and moderate-income persons and cooperate with the state or any political subdivision of the state in action taken in connection with the problems identified; and engage in research, studies and experimentation on the subject of housing; and

(7) exercise all or any part or combination of powers granted in this subsection.

B. To standardize the delivery of affordable housing programs and affordable housing services in New Mexico, regional housing authorities within their jurisdictions may:

(1) create partnerships between state, federal, city and county governments, nonprofit entities and the private sector that will provide the necessary resources to carry out the planning, financing, development and

delivery of affordable housing and affordable housing programs;

(2) assist local housing authorities or housing nonprofit agencies in developing the knowledge, expertise and technical capacity to provide a comprehensive approach to the development and delivery of affordable housing and affordable housing programs; or

(3) provide or secure planning, technical assistance and training that city or county governments and nonprofit entities may need in an effort to enhance the local affordable housing delivery system.

C. In the event a local housing authority is declared by the federal department of housing and urban development to be in default on its annual contributions contract with that department, the local housing authority may by resolution of its governing body transfer its assets and operations to the regional housing authority or local housing authority within which jurisdiction it lies.

D. In the event of a resolution pursuant to Subsection C of this section, the appropriate regional housing authority or local housing authority shall accept by resolution of its board of commissioners a transfer of the assets and operations of a local housing authority that has been declared by the federal department of housing and urban development to be in default on its annual contributions

contract with that department."

Section 7. Section 11-3A-8 NMSA 1978 (being Laws 1994, Chapter 132, Section 8, as amended) is amended to read:

"11-3A-8. REQUIREMENTS RESPECTING LEASE.--

A. Prior to the leasing of any housing project, the regional housing authority shall determine and find the following:

(1) the amount necessary in each year to pay indebtedness proposed to fund the housing project; and

(2) the amount necessary to be paid each year into any reserve funds that the regional housing authority may deem advisable to establish in connection with the retirement of any indebtedness and the maintenance of the housing project and, unless the terms under which the housing project is to be leased provide that the lessee shall maintain the housing project and carry all proper insurance with respect to it, the estimated cost of maintaining the housing project in good repair and keeping it properly insured.

B. The determinations and findings of the regional housing authority required to be made in this section shall be set forth in the proceedings under which the proposed indebtedness is to be incurred.

C. Prior to the incurrence of any indebtedness, the regional housing authority shall lease or sell the

housing project to a lessee or purchaser under an agreement that is conditioned upon completion of the housing project and that provides for payment to the regional housing authority of rentals or payments in an amount that is found, based on the determinations and findings, to:

(1) pay the indebtedness incurred to fund the housing project;

(2) build up and maintain any reserve deemed by the regional housing authority to be advisable in connection with the housing project; and

(3) pay the costs of maintaining the housing project in good repair and keeping it properly insured, unless the agreement of lease obligates the lessee to pay for the maintenance and insurance of the housing project."

Section 8. Section 11-3A-9 NMSA 1978 (being Laws 1994, Chapter 132, Section 9, as amended) is amended to read:

"11-3A-9. NONPROFIT CORPORATIONS.--Every regional housing authority, in addition to other powers conferred by the Regional Housing Law, shall have, if authorized by resolution of its board of commissioners and approved by the state board of finance, the power to create nonprofit corporations to carry out the powers and duties set forth in Section 11-3A-7 NMSA 1978. The articles of incorporation and bylaws, and any subsequent changes, shall be recommended for approval by the state board of finance and the New Mexico

mortgage finance authority. Such nonprofit corporations shall be subject to all of the duties and limitations imposed on the regional housing authority and its board of commissioners."

Section 9. Section 11-3A-10 NMSA 1978 (being Laws 1994, Chapter 132, Section 10, as amended) is amended to read:

"11-3A-10. PROHIBITED ACTIONS.--Neither the regional housing authority nor any of its contractors or their subcontractors may enter into any contract, subcontract or agreement in connection with a housing project under any contract in which any of the following persons has an interest, direct or indirect, during the person's tenure or for one year thereafter:

A. any present or former member of the board of commissioners of the regional housing authority or any member of the member's immediate family. The prohibition established by this subsection shall not apply to any member who has not served on the governing body of a resident management corporation, and who otherwise has not occupied a policymaking position with the resident management corporation or the regional housing authority;

B. any employee of the regional housing authority who formulates policy or who influences decisions with respect to a housing project, any member of the employee's immediate family or any partner of the employee; or

C. any public official, member of a governing body or state legislator, or any member of such person's immediate family, who exercises functions or responsibilities with respect to the housing project or the regional housing authority."

Section 10. Section 11-3A-12 NMSA 1978 (being Laws 1994, Chapter 132, Section 12, as amended) is amended to read:

"11-3A-12. STATE POLICY--OPERATION NOT FOR PROFIT.--

A. It is declared to be the policy of this state that each regional housing authority shall manage and operate its housing projects and affordable housing programs in an efficient manner so as to enable it to fix the rentals for dwelling accommodations at the lowest possible rates consistent with its providing decent, safe and sanitary dwelling accommodations.

B. No regional housing authority shall construct or operate a housing project for profit.

C. A regional housing authority shall set the rental rates for dwellings in the housing projects it manages and operates at no higher rates than it finds to be necessary in order to produce revenues that, together with any grants or subsidies from the state or federal government or other sources for housing projects, will be sufficient to:

(1) pay, as they become due, indebtedness or

other obligations of the regional housing authority incurred pursuant to the Regional Housing Law;

(2) meet the cost of and provide for maintaining and operating the housing projects, including the cost of any insurance, the administrative expenses of the regional housing authority incurred in connection with the housing projects and the funding of operational reserves the regional housing authority deems appropriate;

(3) fund operational reserves to secure the payment of indebtedness as the regional housing authority deems appropriate; and

(4) allow private, profit-making entities to enter into agreements with the regional housing authority, without the agreements affecting the nonprofit status of the regional housing authority or conflicting with the intent of the creation of the regional housing authority."

Section 11. Section 11-3A-13 NMSA 1978 (being Laws 1994, Chapter 132, Section 13, as amended) is amended to read:

"11-3A-13. SALES, RENTALS AND TENANT SELECTION.--

A. In the operation or management of housing projects or the sale of any property pursuant to the Regional Housing Law, a regional housing authority shall:

(1) rent, lease or sell the dwelling accommodations in the housing project only to persons falling

within the standards adopted by the regional housing authority, which standards shall comply with state and federal law;

(2) rent, lease or sell to a person dwelling accommodations consisting of the number of rooms, but no greater number, that it deems necessary to provide safe and sanitary accommodations to the proposed occupants without overcrowding; and

(3) reject any person as a tenant in any federally subsidized housing project if the person has an annual gross income in excess of federally established standards.

B. Nothing contained in this section or Section 11-3A-12 NMSA 1978 shall be construed as limiting the power of a regional housing authority to vest in an obligee the right, in the event of a default by the regional housing authority, to take possession and operate a housing project or cause the appointment of a receiver for the housing project, free from all the restrictions imposed by this section or Section 11-3A-12 NMSA 1978."

Section 12. Section 11-3A-19 NMSA 1978 (being Laws 1994, Chapter 132, Section 19, as amended) is amended to read:

"11-3A-19. REMEDIES OF AN OBLIGEE.--An obligee of a regional housing authority shall have the right, in addition

to all other rights that may be conferred on such obligee, subject only to any contractual restrictions binding upon such obligee, to:

A. compel by mandamus, suit, action or proceeding at law or in equity, the regional housing authority and its officers, agents or employees to perform every term, provision and covenant contained in any contract of the regional housing authority with or for the benefit of the obligee and to require the carrying out of all covenants and agreements of the regional housing authority and the fulfillment of all duties imposed upon the regional housing authority by the Regional Housing Law; and

B. enjoin by suit, action or proceeding in equity, any acts or things that may be unlawful or in violation of the rights of the obligee of the regional housing authority."

Section 13. Section 11-3A-20 NMSA 1978 (being Laws 1994, Chapter 132, Section 20, as amended) is amended to read:

"11-3A-20. ADDITIONAL REMEDIES CONFERRABLE TO AN OBLIGEE.--A regional housing authority shall have the power by its resolution, trust indenture, lease or other contract to confer upon any obligee holding or representing a specified amount in indebtedness, or holding a lease, the right, in addition to all rights that may otherwise be conferred, upon default as defined in the resolution or

instrument, by suit, action or proceeding in any court of competent jurisdiction:

A. to cause possession of any housing project or any part of a housing project to be surrendered to the obligee and retained by the holder of debt or trustee so long as the regional housing authority continues in default;

B. to obtain the appointment of a receiver of any housing project of the regional housing authority and of the rents and profits from the housing project. If a receiver is appointed, the receiver may enter and take possession of all or a part of the housing project and, so long as the regional housing authority continues in default, operate and maintain the housing project and collect and receive all fees, rents, revenues or other charges arising from the housing project and shall keep the money in a separate account and apply it in accordance with the obligations of the regional housing authority as the court directs; and

C. to require the regional housing authority and its officers and agents to account for the money actually received as if it and they were the trustees of an express trust."

Section 14. Section 11-3A-21 NMSA 1978 (being Laws 1994, Chapter 132, Section 21, as amended) is amended to read:

"11-3A-21. EXEMPTION OF PROPERTY FROM EXECUTION

SALE.--All real property owned or held by a regional housing authority for the purposes of the Regional Housing Law shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall be issued against property of the regional housing authority or shall any judgment against a regional housing authority be a charge or lien on the regional housing authority's real property; provided, however, that the provisions of this section shall not apply to or limit the right of obligees to pursue any remedies for the enforcement of any pledge or lien given to them on rents, fees or revenues."

Section 15. Section 11-3A-22 NMSA 1978 (being Laws 1994, Chapter 132, Section 22) is amended to read:

"11-3A-22. EXEMPTION OF PROPERTY FROM TAXATION.--The real property of a housing project, as defined in the Regional Housing Law, is declared to be public property used for essential public and governmental purposes and is property of a regional housing authority of this state and is exempt from taxation until a deed conveying that property to a nonexempt entity is executed and delivered by the regional housing authority."

Section 16. Section 11-3A-23 NMSA 1978 (being Laws 1994, Chapter 132, Section 23, as amended) is amended to read:

"11-3A-23. AID FROM STATE OR FEDERAL GOVERNMENT.--In

addition to the powers conferred upon a regional housing authority by other provisions of the Regional Housing Law, a regional housing authority is empowered to borrow money or accept contributions, grants or other financial assistance from the state or federal government for or in aid of any housing project or affordable housing program within its area of operation and, to these ends, to comply with conditions, trust indentures, leases or agreements as necessary, convenient or desirable. It is the purpose and intent of the Regional Housing Law to authorize every regional housing authority to do all things necessary, convenient or desirable to secure the financial aid or cooperation of the federal government in the undertaking, acquisition, construction, maintenance or operation of any housing project of a regional housing authority."

Section 17. Section 11-3A-24 NMSA 1978 (being Laws 1994, Chapter 132, Section 24, as amended) is amended to read:

"11-3A-24. COOPERATION IN UNDERTAKING HOUSING PROJECTS AND AFFORDABLE HOUSING PROGRAMS.--For the purpose of aiding and cooperating in the planning, undertaking, construction or operation of housing projects and affordable housing programs located within the area in which it is authorized to act, a local public body may, upon such terms as it may determine, with or without consideration:

A. dedicate, sell, convey or lease any of its interest in any property or grant easements, licenses or any other rights or privileges to a regional housing authority;

B. cause parks, playgrounds, recreational, community, educational, water, sewer or drainage facilities, or any other works that it is otherwise empowered to undertake, to be furnished adjacent to or in connection with housing projects and affordable housing programs;

C. furnish, dedicate, close, pave, install, grade, regrade, plan or replan streets, roads, roadways, alleys, sidewalks or other places that it is otherwise empowered to undertake;

D. cause services to be furnished for housing projects and affordable housing programs of the character that the local public body is otherwise empowered to furnish;

E. enter into agreements with respect to the exercise by the local public body of its powers relating to the repair, elimination or closing of unsafe, unsanitary or unfit dwellings;

F. do any things necessary or convenient to aid and cooperate in the planning, undertaking, construction or operation of housing projects or affordable housing programs;

G. incur the entire expense of any public improvements made by the local public body in exercising the powers granted in the Regional Housing Law; and

H. enter into agreements, which may extend over any period, notwithstanding any provision or rule of law to the contrary, with a regional authority respecting action to be taken by the local public body pursuant to any of the powers granted by the Regional Housing Law. Any law or statute to the contrary notwithstanding, any sale, conveyance, lease or agreement provided for in this section may be made by a local public body without appraisal, public notice, advertisement or public bidding."

Section 18. Section 11-3A-25 NMSA 1978 (being Laws 1994, Chapter 132, Section 25, as amended) is amended to read:

"11-3A-25. PROCEDURE FOR EXERCISING POWERS.--The exercise by a regional housing authority or other local public body of the powers granted in the Regional Housing Law may be authorized by resolution of the governing body of the regional housing authority or local public body adopted by a majority of the members of its governing body present at a meeting of the governing body. The resolution may be adopted at the meeting at which the resolution is introduced. The resolution shall take effect immediately and need not be laid over or published or posted."

Section 19. Section 11-3A-30 NMSA 1978 (being Laws 2007, Chapter 50, Section 6) is amended to read:

"11-3A-30. FINANCIAL AND OPERATIONAL OVERSIGHT.--

A. Without the prior approval of the New Mexico mortgage finance authority, no regional housing authority shall:

(1) enter into any contract, memorandum of understanding or other agreement with a value greater than one hundred thousand dollars ($100,000); or

(2) transfer, sell or liquidate any real or personal property with a value greater than one hundred thousand dollars ($100,000).

B. Not less than thirty days prior to the beginning of its fiscal year, each regional housing authority and each nonprofit corporation established pursuant to Section 11-3A-9 NMSA 1978 shall submit a final operating budget for the subsequent fiscal year to the New Mexico mortgage finance authority for review.

C. The financial affairs of every regional housing authority and any nonprofit corporation created by a regional housing authority shall be thoroughly examined and audited annually by the state auditor, by personnel of the state auditor's office designated by the state auditor or by auditors approved by the state auditor. The audits shall be conducted in accordance with generally accepted auditing standards. Each regional housing authority shall submit to the state auditor, the department of finance and administration, the New Mexico mortgage finance authority,

the Mortgage Finance Authority Act oversight committee and the legislative finance committee, within thirty days following the receipt of the annual audit of the regional housing authority, a copy of that audit.

D. Every regional housing authority shall submit an annual report of its financial and operational activities to the New Mexico mortgage finance authority for review and analysis and for dissemination to the department of finance and administration, the Mortgage Finance Authority Act oversight committee and the legislative finance committee. Each report shall set forth a complete operating and financial statement covering its operations since the previous report was presented.

E. Failure on the part of a regional housing authority to correct any qualified audit within one year of the release of the audit shall result in the abatement of any state funds until such corrective actions are taken. If a regional housing authority should receive a qualified audit opinion for more than two consecutive years, the oversight agency shall recommend corrective action to be taken."

Section 20. A new section of the Regional Housing Law is enacted to read:

"TRANSITIONAL PROVISIONS--COMMISSIONERS--CONTRACTS AND AGREEMENTS.--

A. Members of boards of commissioners of regional

housing authorities appointed prior to the effective date of this 2009 act shall continue to serve as members of boards of commissioners until their terms expire or their successors are appointed and qualified pursuant to the provisions of this 2009 act.

B. All contracts and agreements of regional housing authorities in effect on the effective date of this 2009 act shall continue in effect."

Section 21. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

Diane D. Denish, President
Senate

Lenore M. Naranjo, Chief Clerk
Senate

Ben Lujan, Speaker
House of Representatives

Stephen R. Arias, Chief Clerk
House of Representatives

Approved by me this 31st day of March, 2009

Governor Bill Richardson
State of New Mexico