MINUTES
of the
FOURTH MEETING
of the
MORTGAGE FINANCE AUTHORITY ACT
OVERSIGHT COMMITTEE

October 2, 2012
Mortgage Finance Authority Office
344 Fourth St. SW
Albuquerque, New Mexico

The fourth meeting of the Mortgage Finance Authority (MFA) Act Oversight Committee for the 2012 interim was called to order by Senator Nancy Rodriguez, chair, at 10:10 a.m. on October 2, 2012 at the office of the MFA in Albuquerque, New Mexico.

Present	**Absent**
Sen. Nancy Rodriguez, Chair	Rep. Joni Marie Gutierrez, Vice Chair
Rep. Alonzo Baldonado	Sen. Mark Boitano
Rep. Ernest H. Chavez	Rep. Nate Gentry
Sen. Cisco McSorley	
Sen. Gerald Ortiz y Pino	

Advisory Members

Rep. Thomas A. Anderson	Sen. Rod Adair
Rep. Roberto "Bobby" J. Gonzales	Rep. Dennis J. Roch
Rep. Sandra D. Jeff	Sen. David Ulibarri
Rep. Rick Little	
Sen. Lynda M. Lovejoy	
Rep. James Roger Madalena	
Sen. Richard C. Martinez	
Sen. Sander Rue	

Staff
Claudia Armijo, Staff Attorney, Legislative Council Service (LCS)
Sharon Ball, Senior Researcher, LCS

Guests
The guest list is in the meeting file.

Handouts
Copies of all handouts and written testimony are in the meeting file.

October 2

Call to Order

Senator Rodriguez welcomed members of the committee, staff and guests to the meeting. She reminded members that the meeting was being video webcast and suggested they try to keep sidebar conversations to a minimum to avoid noise interference with the webcast.

Approval of the August 10, 2012 Minutes

Senator Rodriguez announced that the August 10 meeting minutes were not yet ready and would be approved at the November 20 meeting.

New Mexico Mortgage Finance Authority Update

Senator Rodriguez recognized Jay Czar, executive director, MFA, who welcomed committee members, staff and guests. He reported that MFA staff had provided the Legislative Finance Committee (LFC) an overview of the MFA for FY 2012 and FY 2013. Mr. Czar and the committee discussed the highlights of the report, including the following:

- the agency's vision and strategic plan: the MFA has served more than 88,000 people and provided $5.2 billion in financing and funding since its creation in 1975;
- the agency's audit process, which includes an average of 24 audits per year conducted by nine federal agencies and three state agencies;
- the agency's upgraded Standard & Poor's rating from A+ to AA+ during a time that the government credit ratings, in general, are being downgraded;
- the agency's provision of more than $275 million in affordable housing and related services throughout New Mexico; and
- the agency's use of 100 percent of the federal American Recovery and Reinvestment Act of 2009 (ARRA) funds allocated to it.

Mr. Czar also said that the MFA is getting a steady $2.5 million to $3 million a week in mortgage products with a 10 percent market share. He said that the current market is a "perfect storm" for first-time homebuyers because mortgage payments are generally lower than rental rates. He noted that the MFA has provided $4 million in downpayment assistance to first-time homebuyers.

Mr. Czar also thanked those committee members who attended the 2012 New Mexico housing summit, "Dwelling in the Future", presented by the MFA and the Southwest Affordable Housing Group in Albuquerque in August.

Municipal Housing Revenue Bonds

Mr. Czar directed committee members' attention to the information behind Tab 1 in their meeting notebooks and introduced Paul Cassidy, managing director, RBC Capital Markets, to discuss the issue of municipal housing revenue bonds.

Mr. Cassidy explained that municipal housing bonds can be issued only by governmental entities and can be taxable or tax exempt. He said that tax exempt bonds require the allocation of a federal private activity bond (PAB) cap so investor interest income is exempt from federal and state income tax. He said that these bonds are debt obligations (an "I.O.U.") of the issuer that are paid back from the cash flows on the mortgages funded by the bond proceeds.

He said that the MFA issues municipal housing bonds that are taxable or tax exempt. He explained that taxable bonds have been used in the past to leverage a PAB when that resource was so scarce so that more bonds could be issued to fund the demand for mortgages. He said that the MFA housing bonds are federally guaranteed so that the MFA does not take on any mortgage default risk. He said that this secured structure is called a mortgage-backed securities (MBS) structure. In response to a committee member's question, Mr. Cassidy explained that cash flows from the mortgages are composed of monthly principal and interest payments plus any prepayments that come from the mortgagee.

Mr. Cassidy explained that the MFA issues several municipal housing bond programs each year to minimize negative arbitrage. He explained that "negative arbitrage" is the difference between the yield on the bonds and the yield on bond funds that are invested. The rate is typically fixed to match fixed-rate mortgages. The debt is structured, he said, with the least amount of risk.

In response to committee questions and comments, Mr. Cassidy said that these policies are what distinguish the MFA from the currently troubled New Mexico Finance Authority (NMFA), and he suggested that the similarity in names is confusing and that the MFA may wish to amend its authorizing statutes to change its name during the upcoming legislative session.

Mr. Cassidy explained that the MFA works with a group of professionals secured through the state procurement process. He explained that the MFA is called the "issuer" and that issuers of municipal bonds are state and local government institutions, including housing finance agencies such as the MFA. He said that other professionals include the following:

- issuer's counsel: Sheehan & Sheehan, P.A., which advises the MFA on all general legal matters (not necessarily relevant to individual bond financings) and delivers legal opinions;
- *bond counsel*: Ballard Spahr, LLP out of Salt Lake City, which advises the MFA on legal matters as they relate to bond and tax issues. The bond counsel drafts bond documents and give legal opinions;
- *underwriters*: RBC Capital Markets and Merrill Lynch, which are bankers that work closely with the MFA and other issuers to meet their financing needs. Underwriters work with bond investors to determine market demand and set appropriate interest rates on the bonds on the pricing date. Salespersons and traders buy and sell bonds in the primary and secondary markets to provide liquidity to investors;
- *underwriters' counsel*: Dorsey & Whitney and Modrall Sperling, which represent the underwriters and draft official statements, bond purchase contracts and "blue sky" securities;
- *trustee*: Zion's Bank, which represents the interest of the bondholder and acts as

custodian of the bond proceeds to ensure the proper transfers of funds and accounts (and pays the bondholders); and
- *master servicer*: U.S. Bank, which purchases loans from participating lenders and packages them into MBS.

In response to committee questions and comments about mortgage loan eligibility requirements for loans funded with tax-exempt revenue bonds, Mr. Cassidy gave the following examples.

- The **first-time homebuyer** must have had no ownership interest in a residence in the last three years.
- **Income limitation:** The buyer's family income cannot exceed the applicable percentages of applicable median family income. Mr. Cassidy directed members' attention to the spreadsheet on page 5 of the meeting notebook, which shows that the annual income limit for a family of three or more for the Albuquerque metropolitan statistical area's targeted area is $85,400 per year and $61,870 for all other targeted areas in the state.
- **Purchase price limitation:** The purchase price of the home must not exceed 90 percent of the average area purchase price for the related area (110 percent for target area residences).
- **Transaction type:** Mortgages must be new mortgages, not refinanced mortgages.
- **Bond proceeds allocation:** Twenty percent of the bond proceeds must be dedicated to targeted area residences for up to one year.

Mr. Cassidy explained that private activity bonds permit the issuance of tax-exempt revenue bonds for housing. He explained that each state is allocated a PAB cap. He said that since 2002, with inflation adjustments, the PAB cap for New Mexico has risen to $284,560,000. He explained that in New Mexico, the State Board of Finance in 2012 allocated $50 million to purchase single-family homes, $40 million to multifamily developments and approximately $194.6 million to economic development. He noted that there is very little demand for these funds. He said that the State Board of Finance reallocates the unused cap as a carry-forward PAB cap. Each state allocates a PAB cap among its issuers for use over the next three years.

In response to committee discussion and questions, Mr. Cassidy showed the committee the MFA's current ratings for various types of bonds (with the highest ranking at AAA):

Issuer Credit Rating	AA-
NIBP Indenture Rating	AA+
1995 Master Indenture	AA+
Stand-Alone Series	A- to AA+

Mr. Cassidy explained that the MFA's bonds are currently on "negative outlook" because of the federal debt ceiling. The outlook is also affected by the future of government-sponsored enterprises (GSEs), such as the Federal National Mortgage Association (FNMA, or "Fannie

Mae"), the Federal Home Loan Mortgage Corporation (FHLMC, or "Freddie Mac") and the Government National Mortgage Association (GNMA, or "Ginnie Mae"), which is uncertain in light of possible housing reform policy changes. Almost 80 percent of the MFA loans are secured by Ginnie Mae.

Mr. Cassidy said that he could make the following case for the MFA's management objectives:

- maintaining the viability of the residential home loan program;
- minimizing expense and subsidy;
- maximizing the monetary return to the MFA with full-spread transaction and administration fees of at least 20 percent; and
- analyzing and implementing other strategies that are the most advantageous to the MFA in case the bond market is not an option in 2013.

Mr. Cassidy summarized the challenges facing the MFA management: the future of GSEs; minimizing expenses while maximizing revenues; the uncertain future of tax-exempt bonds; the Federal Reserve Bank artificially holding mortgage rates down; and the changing regulatory environment.

In terms of governance responsibilities, Mr. Cassidy said that he sees the MFA board's general responsibility as setting board policies that are consistent with the MFA's purpose; managing the MFA's resources (both human and fiduciary responsibilities); and ensuring that the MFA support and develop programs for those it serves while maintaining fiscal sustainability. In relation to the board's responsibility for bond issuances, he said that he believes the board should be generally familiar with the process of issuing bonds, be aware of and review bond official statements, approve bond resolutions and be aware of any changes in programs that change risk profile, such as continuous lending, various types of interest rate risk, changes in counterparties and the vagaries of the market.

Federal Housing and Economic Stimulus Update: ARRA Update and Post-ARRA Projections

Joseph Montoya, deputy director of programs, MFA, directed committee members' attention to the spreadsheet behind Tab 2 in their meeting notebooks. Mr. Montoya said he was pleased to be able to report to the oversight committee that the MFA has, since passage of the ARRA in 2009 and the subsequent distribution of the funds, been able to spend more than $95 million in federal ARRA funds appropriately and in a timely matter. He indicated that the MFA managed to account for all program expenditures by the end of the federal fiscal year, September 30, 2012.

Mr. Montoya reported that the MFA had received approximately $26.9 million for the weatherization assistance program, New Mexico "Energy$mart", and has expended the entire amount through the Central New Mexico Housing Corporation in Albuquerque, the Community Action Agency of Southern New Mexico in Las Cruces and Los Amigos Educational Resource Center, Inc., in Santa Fe.

Mr. Montoya noted that the MFA had expended nearly $6.8 million for the Homelessness Prevention and Rapid Re-Housing Program through Catholic Charities in Albuquerque, the Gallup Housing Authority, the Housing Authority of the City of Las Cruces, the Rio Arriba County Housing Authority, the San Juan County Partnership, the Soccoro County Housing Authority, the Life Link and the New Mexico Coalition To End Homelessness in Santa Fe and the Tierra del Sol Housing Corporation in Anthony.

With the Tax Credit Assistance Program (TCAP), Mr. Montoya said the MFA was able to expend nearly $13.9 million on the following project recipients: Downtown @ 700 2nd, Albuquerque; La Pradera, Hobbs; La Terraza, Farmington; Villa Alegre Apartments and Villa Alegre Senior Apartments, Santa Fe; Belen Apartments, Belen; Casa Linda Apartments, Silver City; Hilltop Apartments, Los Lunas; La Villa Elena Apartments, Bernalillo; Rio Abajo Apartments, Truth or Consequences; Sage Apartments, Gallup; and Southview Apartments, Lovington.

Finally, Mr. Montoya said that the MFA was able to expend nearly $47.8 million through the Tax Credit Exchange Program for the following project recipients: Cimarron II, Anthony; Falcon Ridge, Hatch; New Life Homes 4, Sawmill Senior Housing and The Artisan at Sawmill Village, Albuquerque; and the Village Sage, Santa Fe.

Committee members complimented the MFA staff on its efficient, expeditious expenditure of the federal stimulus funds. Some committee members noted the continued need throughout New Mexico and the entire country and expressed varying degrees of regret about the end of the federal stimulus program and its success. Some committee members also expressed concern about the apparently high per-unit cost of some of the multifamily housing. Mr. Montoya explained that multifamily housing is an "extremely regulated" environment, which accounts, in part, for high per-unit costs.

The MFA Budget for FY 2012-FY 2013

Gina Hickman, deputy director, finance and administration, MFA, directed committee members' attention to the information behind Tab 3 in the meeting notebooks — a memorandum to committee members from Ms. Hickman regarding the agency's proposed budget. She reminded committee members that the MFA receives no state general fund dollars and that the use of the term "general fund" in the document refers to the agency's general fund. She also noted that the MFA operates on the same fiscal year as the federal government: October 1 through September 30 of each calendar year.

Ms. Hickman pointed out that revenue for FY 2012-2013 is projected at $11.7 million, a decrease of just under $1.2 million, or nine percent under the projected September 30, 2012 actual revenue, and -$424,000, or minus three percent, under the prior-year budget. The expense budget is projected at just over $9.2 million, an increase of $475,000, or five percent, over the September 30, 2012 projected actual revenue and a decrease of -$167,000, or minus two percent, under the prior year budget. She said that the 2012-2013 budgeted excess revenue over expenses is just under $2.5 million.

Ms. Hickman provided an analysis of significant decreases and increases. She said that the decrease on the revenue side under prior-year actual revenue (minus nine percent) and budget (minus three percent) is related to the loss of ARRA program-related administrative fees, offset by an increase in weatherization program carryover administrative fees and an increase in the interest on investment and loan portfolios. In addition, the decrease under prior-year actual revenue also reflects the projected State Investment Council fair market value gain for FY 2012 of nearly $850,000, which is not budgeted.

On the operating expenses side, Ms Hickman said that the increases over the prior-year actual expenses were $418,000 (six percent), with decreases under the prior-year budget of -$302,000 (minus four percent) with the following specifics:

- **Salaries.** increase over prior-year actual: $285,000 (nine percent); increase over prior-year budget: $38,000 (three percent). She explained that regular merit increases are budgeted at zero percent for next year. The increase in actual expenses and budget is a result of changes in staff positions. Actual and budgeted expenses reflect the elimination of three term positions related to ARRA program administration. The decrease is offset by the addition of the director of community development, who returned from military leave, and the addition of two housing programs analysts to support another program. The increase in comparison to actual revenues is a result of vacancies realized this year, as well as adjustments to the market.

- **Incentives.** Increase over prior-year actual: $73,000 (38 percent); increase over prior-year budget: $73,000 (38 percent). Ms. Hickman explained that the increase is related to a one-time incentive payment in lieu of merit increases.

- **Payroll taxes; employee benefits.** Increase under prior-year actual expenses: $203,000 (14 percent); increase over prior-year budget: $9,000 (1 percent). She explained that the increase in taxes and benefits over actual expenses is primarily due to the vacancies realized this year, as well as changes in staff positions identified previously.

- **Public information.** Decrease under prior-year actual expenses: -$12,000 (minus eight percent); decrease under prior-year budget: -$24,000 (-14 percent). Ms. Hickman explained that the decrease is a result of a decrease in advertising.

- **Out-of-state travel:** increase over prior-year actual expenses: $23,000 (23 percent); decrease under prior year budget: -$5,000 (-4 percent). Ms. Hickman explained that the increase over prior-year actual expenses is a result of increased outreach and training-related travel, and the decrease under the prior-year budget is a result of a decrease in training opportunities below the planned amount for this year.

- **Repairs; maintenance.** Increase over prior-year actual expenses: $30,000 (12 percent); increase over prior-year budget: $28,000 (12 percent). Ms. Hickman explained that the increase reflects the addition of maintenance for Bloomberg marketing service software.

- **Interest expenses.** Decrease under prior-year actual expenses: -$79,000 (-38 percent); decrease under prior-year budget: -$147,000 (-53 percent). Ms. Hickman explained that the decrease is due to short-term borrowing anticipated to capture the volume cap included this year that will not be necessary next year.

- **Contractual services.** Decrease under prior-year actual expenses: -$100,000 (-13 percent); decrease under prior-year budget: -$212,000 (-25 percent). Ms. Hickman explained that the decrease under prior-year actual expenses is because of fees for legal services related to mortgage servicing defaults. The budgeted decrease reflects this same decrease in legal fees and a decrease in internal and external audit services fees, offset by the addition of consultant services for fraud/waste/abuse and multifamily financial services.

- **Professional services program.** Decrease under prior-year actual expenses: -$46,000 (-50 percent); decrease under prior-year budget: -$45,000 (-50 percent). She explained that the decreases are because the MFA no longer needs consultant services to support ARRA programs, as well as a decrease in required property inspections.

Regarding non-operating expenses, Ms. Hickman said that the proposed budget shows a decrease under prior-year actual expenses of -$79,000 (-10 percent), and a decrease under the prior-year budget of -$112,000 (-13 percent). Ms. Hickman explained that these decreases are a result of a decrease in Energy$mart training and technical assistance, as well as the elimination of one program and the agency's not participating in another.

In terms of capital outlays, the agency is budgeting a decrease under the prior-year actual expenses of -$35,000 and an increase over the prior-year budget of $4,000. Ms. Hickman explained that the decrease is a result of items purchased this year under the ARRA grant.

In terms of non-cash items, Ms. Hickman said the agency is budgeting an increase over the prior-year actual expenses of $171,000 (37 percent) and an increase over the prior-year budget of $3,800. Specifically, she noted a decrease in depreciation because of assets that have become fully depreciated, an increase over prior-year budget because of the amortization of internally generated computer software, which was not budgeted last year, and an increase in the provision for loan losses because of an adjustment for the second mortgage losses anticipated.

Committee members complimented Ms. Hickman and other agency staff, as well as the MFA board, for their thorough analysis of the MFA proposed budget.

MFA's Proposed Legislative Agenda

Mr. Montoya directed committee members' attention to the information behind Tab 4 in the committee notebooks for a discussion about the MFA's proposed 2013 legislative agenda.

- **Appropriate $5 Million for the New Mexico Housing Trust Fund**

Discussion: Created in 2005, this trust fund was capitalized with an initial appropriation of $10 million. Since that time, the fund has received a total of $15 million, not including a $3 million appropriation in 2012 that should be available soon. The MFA serves as the fund's trustee and has awarded approximately $25 million for affordable housing development, an amount that has leveraged approximately $231 million in other housing funding and will result in new construction and preservation of 1,503 affordable homes throughout New Mexico. The requested $5 million appropriation will further capitalize the New Mexico Housing Trust Fund to create homes and hundreds of construction jobs.

- **Appropriate $1 Million for the New Mexico Energy$mart Program**

Discussion: In 2009, New Mexico received $27 million in ARRA funds for the Weatherization Assistance Program. By March 31, 2012, the MFA's partners spent all of the stimulus funds to weatherize more than 4,000 homes. This ramped-up production saved New Mexicans millions of dollars and put hundreds of contractors back to work, but the MFA estimates that more than 85,000 homes are eligible for weatherization services through the Energy$mart program, and stimulus funds are now gone. The MFA leverages state funds with federal Department of Energy Weatherization Program funding and Low Income Home Energy Assistance Program funding. In response to committee comments and discussion, Mr. Montoya said that the Energy$mart program plays a crucial role in reducing energy costs for moderate- to low-income families. He noted that low-income homeowners can spend up to 25 percent of their monthly budgets on utility costs, compared to about five percent for homeowners with higher incomes.

- **Appropriate $250,000 for Regional Housing Authority (RHA) Funding**

Discussion: As part of the RHA reform process, the state has appropriated funds for RHA board members to travel to board meetings, staff to attend training sessions and other essential organizational governance and capacity-building expenses. The legislature also has appropriated funds to pay for oversight expenses in order to ensure appropriate oversight and continued success in the authorities' transition.

- **Appropriate $100,000 for Affordable Housing Act Oversight**

Discussion: Enacted in 2004, the Affordable Housing Act (Section 6-27-1 NMSA 1978) was substantially amended in 2007 to ensure consistency with constitutional language, as well as to clarify some additional issues related to oversight and enforcement. The act specifically designates the MFA with these oversight responsibilities. In addition to oversight as designated in statute, the MFA has undertaken technical assistance training to assist local governments in the pursuit of their respective affordable housing endeavors. Until now, the MFA has used its own funds to provide oversight of the statutes and rules required in the act.

- **Amend the Affordable Housing Act**

Discussion: The Affordable Housing Act allows state and local governments to contribute public funds, buildings or other resources to create or preserve affordable housing. In exchange, the act imposes a long-term affordability requirement on publicly subsidized properties. No exception from this requirement is made for those foreclosed properties that might not be marketable with long-term affordability restrictions. The inability to sell such properties after foreclosure results in a loss of public funds, as well as the loss of those properties from the affordable housing stock. Amending the act to exempt foreclosed properties for the long-term affordability provision would make the properties more marketable. A second proposed amendment would address the fact that the act does not include any specific penalties for violations of the act's provisions. The Attorney General's Office, which is charged with enforcement of the act's provisions, requests the inclusion of penalties to enable enforcement. The MFA is requesting a penalty provision amendment that would prescribe appropriate civil fines for violation of the act, as well as violation of the act's rules and, where applicable, criminal penalties under current criminal statutes for fraud, theft, forgery, embezzlement and similar crimes likely to occur in the transfer of land in violation of the act.

- **Appropriate $500,000 for Rapid Re-Housing Services**

Discussion: This appropriation would primarily serve people living in poverty who experience homelessness because of a crisis (such as job loss, illness or domestic violence) and who do not need access to long-term, intensive services to remain housed, including individuals without children and families with children; people who are employed or seeking employment; and those unable to work because of a disability. This funding would provide short- to medium-term services and rental assistance that helps homeless individuals and families quickly obtain permanent housing. Eligible activities would include rental subsidies to help pay rent, money for back rent and utilities, basic case management services and financial literacy and life skills classes and one-on-one assistance.

- **Appropriate $500,000 for Permanent Housing Services**

Discussion: This appropriation would primarily serve homeless people with disabilities who need long-term access to supportive services in order to stay housed, including people with mental health disabilities, substance abuse issues and physical disabilities.

Senator Rodriguez thanked the MFA staff members for their very thorough and informative presentation of the MFA's legislative agenda. In response to a committee question, Senator Rodriguez indicated that the bill sponsors would be suggested at the November meeting. Members requested that LCS staff provide draft copies of proposed legislation a few days before the November meeting so that committee members will have an opportunity to study the legislation in advance.

MFA 2012-2014 Strategic Plan Goals and Objectives Year 2

Ms. Hickman directed members to information behind Tab 5 in their meeting notebooks. She explained that the MFA is in the middle of its strategic plan that was approved for FY 2012-2013. She explained that the plan consists of five goals with appropriate accompanying objectives and activities.

Goal 1: Development of stronger communities. Create, facilitate, promote and support planning and development of sustainable, affordable housing strategies, programs and delivery systems that foster healthy living environments and livable communities.

Objectives:

1. Incorporate sustainable, healthy, energy-efficient design in all applicable MFA products and programs. For FY 2013, Ms. Hickman said that the MFA will incorporate new New Mexico Energy$mart standards into rehab specifications with select agencies.
2. Increase capacity of MFA partners to deliver services and housing.
3. Improve customer satisfaction, as measured by regular customer satisfaction surveys. The MFA will review subgrantee relationships for FY 2013 by September 30, 2014.
4. Research, design and develop responsive programs.
5. Develop public awareness campaign strategy and implement strategy by September 30, 2014.
6. Research and assess the feasibility of new sustainable revenue-generating activities and launch by September 30, 2014.

Goal 2: Homeownership. Provide financial and educational resources to create and preserve affordable homeownership opportunities, with an emphasis on quality customer service, support for underserved markets and sustainable home ownership.

Objectives:

1. Provide first mortgage financing to 3,180 homebuyers. FY 2012: 880 first-time homebuyer loans; FY 2013: 1,050 first-time and non-first-time homebuyers; and FY 2014: 1,250 first-time and non-first-time homebuyers.
2. Increase assistance to rural households. May include first mortgage loans, downpayment assistance loans, pre-purchase counseling and loss mitigation counseling. The goal for FY 2012 was to increase assistance over baseline, and the goal for FY 2013 is to develop and implement a rural marketing and referral program.
3. Assist at-risk homeowners to obtain loss mitigation counseling; assisting 200 at-risk homeowners in FY 2012 and an additional 200 at-risk homeowners in FY 2013.
4. Assist in the development and implementation of the attorney general's homeownership preservation initiative. Currently (for FY 2013), the MFA is developing a memordandum of understanding (MOU) with the Attorney General's Office; the MOU will include objective measurement.
5. Assist 2,694 first-time homebuyers to obtain face-to-face or online counseling sessions with 762 online counseling units and 32 face-to-face sessions for FY 2012; 880 online counseling units and 35 face-to-face sessions for FY 2013; and 850 online counseling units and 35 face-to-face sessions for FY 2014.
6. Rehabilitate 2,507 existing housing units in New Mexico to achieve MFA health and resource conservation standards with 1,400 units in FY 2012 through the successful closeout of ARRA weatherization grants and transfer of New Mexico Energy$mart contracts to new entities, 507 units with HOME and Energy$mart in 2013 and 600 in

2014.

7. Provide funds to acquire and rehabilitate 14 units, for sale or rent, to reduce the inventory of foreclosed homes and to stabilize affected communities with 13 units in FY 2012 and one unit in FY 2013. Committee members wanted to know why the MFA would stop this objective with FY 2013: and whether there are there any more to save. Mr. Montoya explained that every sale creates a loss simply by the nature of the transaction. Committee members indicated a desire to continue to discuss this issue.
8. Maintain the MFA share of the single-family market by establishing a benchmark in 2013 and implementing the process by the end of FY 2014.

Senator Rodriguez thanked the MFA for the presentation and, in response to committee discussion, requested that MFA staff provide a graphic representation of the results of implementation of the objectives.

New Mexico Statutes — Current Mortgage Industry: Update and Issues

Mr. Czar directed committee members to the information behind Tab 6 in their notebooks, as well as several handouts. He then introduced members of the next panel, most of whom are current or former presidents of the New Mexico Mortgage Lenders Association (NMMLA) to present the association's concerns about potential conflicts related to "anti-steering" language with federal and state statutes regarding mortgages and deeds of trust: Jack Thompson, current president and chief executive officer/president, Legacy Mortgage; Angela Muxworthy, current treasurer and past president, New Mexico Educators Federal Credit Union; Matt Teskey, past president and vice president of corresponding lending, West Star Mortgage Corporation; and Eric Nore, director, homeownership, MFA. Mr. Thompson explained that "loan steering" is a predatory practice by a lender to place a consumer into a loan with repayment terms that are far less favorable to the consumer than otherwise available because the lender anticipates additional gain for the difference in the terms. When the New Mexico Administrative Code was amended to protect a mortgage consumer from improper loan steering, the mechanism used was establishment of a limited fiduciary responsibility between the mortgage loan originator (MLO) and the consumer.

Mr. Teskey explained that the Dodd-Frank Wall Street Reform and Consumer Protection Act (Section 1403 of HR 4173), which goes into effect today (October 2, 2012), does not impose a fiduciary requirement; rather, in an attempt to address the same concern of improper loan steering, it amends Section 129 of the Truth in Lending Act (TILA) or requires the newly created Consumer Financial Protection Bureau to create, implement and enforce several rules regarding the construction of mortgage originator compensation. Simply put, he said, the net result of amending TILA prohibits any varying degrees of MLO compensation based upon prospective loan terms.

Committee members expressed their thanks to the panel for bringing this concern to their attention and indicated that they will look forward to updates as the law is implemented.

Senator Rodriguez thanked the staff for providing excellent, informative meetings both this month and in August. There being no further business to come before the committee, the meeting adjourned at 1:58 p.m.