

AN ACT

RELATING TO ECONOMIC DEVELOPMENT; ENACTING THE ECONOMIC DEVELOPMENT CORPORATION ACT; CREATING A NONPROFIT CORPORATION, SEPARATE AND APART FROM THE STATE, TO CARRY OUT ECONOMIC DEVELOPMENT ACTIVITIES.

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

Section 1. SHORT TITLE.--This act may be cited as the "Economic Development Corporation Act".

Section 2. PURPOSES.--The purposes of the Economic Development Corporation Act are to:

- A. promote, stimulate, develop and advance business, prosperity, employment and economic welfare in the state and among its citizens;
- B. encourage and assist the location of new business and industry in this state and the rehabilitation and expansion of existing business and industry;
- C. cooperate and act in conjunction with other organizations, public or private, in the promotion and advancement of industrial, commercial, agricultural and recreational developments in the state; and
- D. provide for the creation of a nonprofit corporation with the responsibility to work with communities throughout New Mexico in effectuating these purposes in a manner that can be quantified and measured.

Section 3. CORPORATION AUTHORIZED--BOARD OF DIRECTORS-- ORGANIZATION--LIMITATION OF LIABILITY.--

- A. A nonprofit organization to provide economic development services

to the state is authorized to be organized and formed under the provisions of the Nonprofit Corporation Act and the Economic Development Corporation Act.

B. The corporation shall be governed by a board of directors composed of fifteen members as follows:

(1) the secretary of economic development;

(2) one economic development professional, appointed by the governor, from each regional planning district, provided that no more than four of the economic development professionals shall be members of the same political party; and

(3) one professional businessperson, appointed by the governor, from each regional planning district, provided that no more than four of the professional businesspersons shall be members of the same political party.

C. The governor shall appoint a chair and the board of directors shall elect other officers as the board deems necessary.

D. The board of directors shall adopt bylaws, in accordance with the provisions of the Nonprofit Corporation Act, governing the conduct of the corporation in the performance of its duties under the Economic Development Corporation Act.

E. The board of directors shall hire a president who shall be the chief administrative officer of the corporation and be responsible for its operations.

F. A director, the president or another officer shall not be personally liable for any damages resulting from:

(1) any negligent act or omission of an employee of the corporation;

(2) any negligent act or omission of another director or officer of the corporation; or

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(3) any action taken as a director or officer or a failure to take any action as a director or officer unless the director or officer has breached or failed to perform the duties of his office and the breach or failure to perform constitutes willful misconduct or recklessness.

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Section 4. CORPORATION--POWERS.--The corporation shall have the powers conferred upon domestic nonprofit corporations by the Nonprofit Corporation Act unless otherwise specified in the Economic Development Corporation Act and shall also have the power to:

- A. sue and be sued in its corporate name;
- B. purchase, take, receive or otherwise acquire; own, hold, dispose of or use; and otherwise deal in and with property, including an interest in or ownership of intangible personal property, intellectual property or technological innovations;
- C. sell, convey, pledge, exchange, transfer or otherwise dispose of its assets and properties for consideration upon terms and conditions that the corporation shall determine;
- D. make contracts, incur liabilities or borrow money at rates of interest that the corporation may determine;
- E. make and execute all contracts, agreements or instruments necessary or convenient in the exercise of the powers and functions granted the corporation by the Economic Development Corporation Act;
- F. receive and administer grants, contracts and private gifts;
- G. invest and reinvest its funds;
- H. conduct its activities, carry on its operations, have offices and exercise the powers granted by the Economic Development Corporation Act;
- I. employ officers and employees that it deems necessary, set their

compensation and prescribe their duties;

J. enter into agreements with insurance carriers to insure against any loss in connection with its operations;

K. authorize retirement programs and other benefits for salaried officers and employees of the corporation; and

L. contract with economic development experts and other experts and consultants that may be required and to fix and pay their compensation.

Section 5. CORPORATION--DUTIES.--Pursuant to policies established by its board of directors and as directed by its president, the corporation shall:

A. establish relationships with communities throughout New Mexico in order to understand their economic development goals;

B. work for those communities in recruiting the types of businesses and jobs that have been identified by the communities;

C. solicit economic development funds from federal and private sources;

D. participate in economic development conferences and job fairs in order to educate businesses throughout the country and the world on the economic benefits and other attractions of New Mexico;

E. sponsor such forums and conferences as are necessary in order to empower New Mexico businesses and citizens with those business skills needed to compete in a worldwide economy; and

F. perform such other activities as are needed to further the purposes of the Economic Development Corporation Act.

Section 6. APPLICATION OF OTHER LAWS.--

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A. The corporation formed pursuant to the Economic Development Corporation Act is separate and apart from the state and shall not be deemed an agency, public body or other political subdivision of New Mexico for purposes of applying laws relating to personnel, procurement of goods and services, gross receipts tax, disposition or acquisition of property, capital outlays and per diem and mileage.

B. Notwithstanding the provisions of the Open Meetings Act, meetings of the corporation shall be closed to the public when proprietary technical or business information or any information regarding location or expansion of a business is discussed.

C. Information obtained by the corporation that is proprietary technical or business information or related to the possible relocation or expansion of a business shall be confidential and not subject to inspection pursuant to the Inspection of Public Records Act.

D. The corporation, its officers, directors and employees shall be granted immunity from liability for any tort as provided in the Tort Claims Act and may enter into agreements with insurance carriers to insure against a loss in connection with its operations even though the loss may be included among losses covered by the risk management fund of New Mexico.