

AN ACT

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RELATING TO HOUSING; ENACTING THE AFFORDABLE HOUSING ACT TO
IMPLEMENT THE FUNDING FOR AFFORDABLE HOUSING PERMITTED PURSUANT
TO ARTICLE 9, SECTION 14 OF THE CONSTITUTION OF NEW MEXICO.

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

Section 1. SHORT TITLE.--This act may be cited as the "Affordable Housing Act".

Section 2. PURPOSE.--The purpose of the Affordable Housing Act is to implement the provisions of Subsection F of Section 14 of Article 9 of the constitution of New Mexico.

Section 3. DEFINITIONS.--As used in the Affordable Housing Act:

A. "affordable housing" means primarily residential housing for persons or households of low- or moderate-income;

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

C. "building" means a structure capable of being renovated or converted into affordable housing or a structure that is to be demolished and is located on land donated for use in connection with an affordable housing project;

D. "household" means one or more persons occupying a housing unit;

E. "housing assistance grant" means the donation by the state, a county or a municipality of:

(1) land for construction of an affordable housing project;

(2) an existing building for conversion or renovation as

affordable housing; or

(3) the costs of infrastructure necessary to support affordable housing;

F. "infrastructure" means infrastructure improvements and infrastructure purposes;

G. "infrastructure improvement" means:

- (1) sanitary sewage systems, including collection, transport, storage, treatment, dispersal, effluent use and discharge;
- (2) drainage and flood control systems, including collection, transport, diversion, storage, detention, retention, dispersal, use and discharge;
- (3) water systems for domestic purposes, including production, collection, storage, treatment, transport, delivery, connection and dispersal;
- (4) areas for motor vehicle use for travel, ingress, egress and parking;
- (5) trails and areas for pedestrian, equestrian, bicycle or other nonmotor vehicle use for travel, ingress, egress and parking;
- (6) parks, recreational facilities and open space areas for the use of residents for entertainment, assembly and recreation;
- (7) landscaping, including earthworks, structures, lakes and other water features, plants, trees and related water delivery systems;
- (8) electrical transmission and distribution facilities;
- (9) natural gas distribution facilities;
- (10) lighting systems;
- (11) cable or other telecommunications lines and related equipment;

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(12) traffic control systems and devices, including signals, controls, markings and signs; and

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(13) inspection, construction management and program management costs in connection with the furnishing of the items listed in this subsection;

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H. "infrastructure purpose" means:

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(1) planning, design, engineering, construction, acquisition or installation of infrastructure, including the costs of applications, impact fees and other fees, permits and approvals related to the construction, acquisition or installation of the infrastructure;

(2) acquiring, converting, renovating or improving existing facilities for infrastructure, including facilities owned, leased or installed by an owner;

(3) acquiring interests in real property or water rights for infrastructure, including interests of an owner; and

(4) incurring expenses incident to and reasonably necessary to carry out the purposes specified in this subsection;

I. "municipality" means an incorporated city, town or village, whether incorporated under general act, special act or special charter, incorporated counties and H class counties; and

J. "residential housing" means any building, structure or portion thereof that is primarily occupied, or designed or intended primarily for occupancy, as a residence by one or more households and any real property that is offered for sale or lease for the construction or location thereon of such a building, structure or portion thereof. "Residential housing" includes congregate housing, manufactured homes and

housing intended to provide or providing transitional or temporary housing for
homeless persons.

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Section 4. REQUIREMENT FOR SPECIFIC LAW AUTHORIZING A HOUSING
ASSISTANCE GRANT FROM STATE.--The state may make a housing assistance grant
only by legislative enactment of a law authorizing the grant, stating its purpose and
appropriating the amount of the grant to the department of finance and administration
for disbursement by the authority to a specified grantee in accordance with rules
promulgated by the authority and approved by the Mortgage Finance Authority Act
oversight committee. Rules adopted by the authority may include provisions for
matching or using local, private or federal funds in connection with a specific grant, but
the authorizing law shall not require or prohibit matching or using federal funds.

Section 5. REQUIREMENT FOR ENACTMENT OF ORDINANCE BY COUNTY
OR MUNICIPALITY AUTHORIZING A HOUSING ASSISTANCE GRANT.--

A. A county or municipality may make a housing assistance grant only
by enactment by its governing body of an ordinance authorizing the grant, stating its
purpose and authorizing its transfer or disbursement to a specified grantee pursuant to
a budget to be submitted to and approved by the governing body. The ordinance may
provide for matching or using local, private or federal funds either through direct
participation with a federal agency pursuant to federal law or through indirect
participation through the authority. The ordinance shall be submitted to the authority,
which shall approve it if it adequately ensures that the recipients of the grant meet the
requirements of the Affordable Housing Act and the rules promulgated by the authority
at the time of the award and throughout the term of the grant. The ordinance shall be
effective when approved by the authority subject to local ordinance requirements for

publication or filing.

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B. A school district may transfer land owned by the district to a municipality or county to be further granted as part or all of an affordable housing grant if the district and the local government governing body enter into a contract that provides the school district with a negotiated number of affordable housing units that will be reserved for employees of the district.

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C. The governing body of a post-secondary educational institution may transfer land owned by that institution to a municipality or county provided that:

(1) the property transferred shall be granted by the municipality or county as part or all of an affordable housing grant; and

(2) the post-secondary educational institution and the local government governing board shall enter into a contract that provides the post-secondary educational institution with a negotiated number of affordable housing units that shall be reserved for employees of the granting post-secondary educational institution.

D. As used in this section, "post-secondary educational institution" means a state university or a public community college.

Section 6. APPLICATION FOR AND AWARD OF AFFORDABLE HOUSING GRANTS.--

A. State housing assistance grants shall be applied for and awarded pursuant to rules promulgated by the authority subject to the requirements of Section 4 of the Affordable Housing Act. Local housing assistance grants shall be applied for and awarded pursuant to rules promulgated by the authority subject to the requirements of Section 5 of the Affordable Housing Act.

<p>B. The authority shall adopt rules covering the following issues and subjects:</p> <p>(1) procedures to ensure that both state and local housing assistance grantees meet requirements of the Affordable Housing Act and rules promulgated pursuant to that act both at the time of the award and throughout the term of the grant;</p> <p>(2) the establishment of an application and award timetable for state housing assistance grants to permit the selection of the potential grantee prior to January of the year in which the grant would be made;</p> <p>(3) a requirement for long-term affordability of a state or local project so that a project cannot be sold shortly after completion and taken out of the affordable housing market to ensure a quick profit for the grantee;</p> <p>(4) a requirement that a grant for a state or local project must establish a contractual obligation on the grantee for the housing units in the project to be occupied by low- or moderate-income households;</p> <p>(5) a requirement that for projects of a designated size a cost-benefit or similar analysis must be completed and submitted as part of the application process;</p> <p>(6) provisions for adequate security against the loss of public funds or property in the event that the grantee abandons or otherwise fails to complete the project;</p> <p>(7) a requirement for review and approval of a housing grant project budget by the grantor before any expenditure of grant funds or transfer of granted property;</p>	<p>H B</p> <p>8 8 3 P a g e</p> <p>6</p>
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- (8) a requirement that, unless the period is extended for good cause shown, the authority shall act on applications within forty-five days of the date of receipt and, if not acted upon, the application shall be deemed approved;
- (9) a requirement that a condition of grant approval be proof of compliance with all applicable state and local laws, rules and ordinances;
- (10) provisions defining "low- and moderate-income" and setting out requirements for verification of income levels; and
- (11) a requirement that a county or municipality that makes a housing assistance grant shall have an existing valid affordable housing plan or housing elements contained in its general plan.

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C. In addition to the rulemaking mandated in Subsection B of this section, the authority may adopt additional rules to carry out the purpose of the Affordable Housing Act. Rulemaking procedures pursuant to the Affordable Housing Act shall:

- (1) provide a public hearing at at least four locations in the state prior to adoption of a rule with adequate notice and procedures by which persons may comment on a proposed rule; and
- (2) require concurrence in a rule having application to local government by both the New Mexico municipal league and the New Mexico association of counties.