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SENATE BILL 534

**48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

INTRODUCED BY

Nancy Rodriguez

AN ACT

RELATING TO PUBLIC FINANCE; PERMITTING STATE AND LOCAL  
GOVERNMENTS TO PROVIDE OR PAY THE COST OF LAND, BUILDINGS OR  
NECESSARY FINANCING FOR AFFORDABLE HOUSING PROJECTS; AMENDING  
THE AFFORDABLE HOUSING ACT.

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

Section 1. Section 6-27-3 NMSA 1978 (being Laws 2004,  
Chapter 104, Section 3) is amended to read:

"6-27-3. DEFINITIONS.--As used in the Affordable Housing  
Act:

A. "affordable housing" means residential housing  
primarily 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

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1 renovated or converted into affordable housing or a structure  
2 that is to be demolished and is located on land that is donated  
3 ~~[for use in connection with an affordable housing project]~~ and  
4 upon which affordable housing will be constructed;

5 D. "governmental entity" means a state, a county  
6 ~~[or]~~, a municipality or the authority;

7 E. "household" means one or more persons occupying  
8 a housing unit;

9 F. "housing assistance grant" means the donation,  
10 provision or payment by a governmental entity of:

11 (1) land ~~[for construction of an affordable~~  
12 ~~housing project]~~ upon which affordable housing will be  
13 constructed;

14 (2) an existing building ~~[for conversion or~~  
15 ~~renovation]~~ that will be renovated, converted or demolished and  
16 reconstructed as affordable housing; ~~[or]~~

17 (3) the costs of acquisition, development,  
18 construction, financing and operating or owning affordable  
19 housing; or

20 ~~[3]~~ (4) the costs of financing or  
21 infrastructure necessary to support affordable housing;

22 G. "infrastructure" includes infrastructure  
23 improvements and infrastructure purposes;

24 H. "infrastructure improvement" includes, but is  
25 not limited to:

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1 (1) sanitary sewage systems, including  
2 collection, transport, storage, treatment, dispersal, effluent  
3 use and discharge;

4 (2) drainage and flood control systems,  
5 including collection, transport, diversion, storage, detention,  
6 retention, dispersal, use and discharge;

7 (3) water systems for domestic purposes,  
8 including production, collection, storage, treatment,  
9 transport, delivery, connection and dispersal;

10 (4) areas for motor vehicle use for road  
11 access, ingress, egress and parking;

12 (5) trails and areas for pedestrian,  
13 equestrian, bicycle or other nonmotor vehicle use for access,  
14 ingress, egress and parking;

15 (6) parks, recreational facilities and open  
16 space areas to be used by residents for entertainment, assembly  
17 and recreation;

18 (7) landscaping, including earthworks,  
19 structures, plants, trees and related water delivery systems;

20 (8) electrical transmission and distribution  
21 facilities;

22 (9) natural gas distribution facilities;

23 (10) lighting systems;

24 (11) cable or other telecommunications lines  
25 and related equipment;

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

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

6 (14) heating, air conditioning and  
7 weatherization facilities, systems or services, and energy  
8 efficiency improvements that are affixed to real property;

9 I. "infrastructure purpose" means:

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

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

18 (3) acquiring interests in real property or  
19 water rights for infrastructure, including interests of the  
20 owner; and

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

24 J. "municipality" means an incorporated city, town  
25 or village, whether incorporated under general act, special act

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1 or special charter, incorporated counties and H class counties;

2 K. "qualifying grantee" means:

3 (1) an individual who is qualified to receive  
4 assistance pursuant to the Affordable Housing Act and is  
5 approved by the governmental entity; and

6 (2) a governmental housing agency, regional  
7 housing authority, tribal housing agency, corporation, limited  
8 liability company, partnership, joint venture, syndicate,  
9 association or nonprofit organization that:

10 (a) is organized under state, local or  
11 tribal laws and can provide proof of such organization;

12 (b) if a nonprofit organization, has no  
13 part of its net earnings inuring to the benefit of any member,  
14 founder, contributor or individual; and

15 (c) is approved by the governmental  
16 entity; and

17 L. "residential housing" means any building,  
18 structure or portion thereof that is primarily occupied, or  
19 designed or intended primarily for occupancy, as a residence by  
20 one or more households and any real property that is offered  
21 for sale or lease for the construction or location thereon of  
22 such a building, structure or portion thereof. "Residential  
23 housing" includes congregate housing, manufactured homes, [and]  
24 housing intended to provide or providing transitional or  
25 temporary housing for homeless persons and common health care,

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1 kitchen, dining, recreational and other facilities primarily  
2 for use by residents of a residential housing project."

3 Section 2. Section 6-27-5 NMSA 1978 (being Laws 2004,  
4 Chapter 104, Section 5) is amended to read:

5 "6-27-5. STATE, COUNTY, ~~[AND]~~ MUNICIPALITIES AND THE  
6 AUTHORITY--AUTHORIZATION FOR AFFORDABLE HOUSING.--The state, a  
7 county, ~~[or]~~ a municipality or the authority may:

8 A. donate, provide or pay all, or a portion, of the  
9 costs of land for the construction on the land of affordable  
10 housing ~~[or an existing building for];~~

11 B. donate, provide or pay all or a portion of the  
12 costs of conversion or renovation of existing buildings into  
13 affordable housing ~~[or may];~~

14 C. provide or pay the costs of financing or  
15 infrastructure necessary to support affordable housing  
16 projects; or

17 D. provide or pay all or a portion of the costs of  
18 acquisition, development, construction, financing, operating or  
19 owning affordable housing."

20 Section 3. Section 6-27-7 NMSA 1978 (being Laws 2004,  
21 Chapter 104, Section 7) is amended to read:

22 "6-27-7. REQUIREMENT FOR ENACTMENT OF AN ORDINANCE BY A  
23 COUNTY OR A MUNICIPALITY AND REVIEW BY THE AUTHORITY  
24 AUTHORIZING HOUSING ASSISTANCE GRANTS--REQUIREMENT FOR ADOPTION  
25 OF A RESOLUTION BY THE GOVERNING BODY OF THE AUTHORITY

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1 AUTHORIZING HOUSING ASSISTANCE GRANTS.--

2           A. A county or municipality may provide housing  
3 assistance grants pursuant to [~~Section 14 of~~] Article 9,  
4 Section 14 of the constitution of New Mexico after enactment by  
5 its governing body of an ordinance authorizing grants, stating  
6 the requirements of and purposes of the grants and authorizing  
7 transfer or disbursement to a qualifying grantee only after a  
8 budget is submitted to and approved by the governing body. The  
9 ordinance may provide for matching or using local, private or  
10 federal funds either through direct participation with a  
11 federal agency pursuant to federal law or through indirect  
12 participation [~~throughout~~] through programs of the authority.  
13 [~~The ordinance shall comply~~] No less than forty-five days prior  
14 to enactment, the county or municipality shall submit a  
15 proposed ordinance to the authority, which shall review the  
16 proposed ordinance to ensure compliance with rules promulgated  
17 by the authority pursuant to Section [8 of the Affordable  
18 Housing Act] 6-27-8 NMSA 1978. Within fifteen days after  
19 enactment of the ordinance, the county or municipality shall  
20 submit a certified true copy of the ordinance to the authority.

21           B. A school district may transfer land or buildings  
22 owned by the school district to a county or municipality to be  
23 further granted as part or all of an affordable housing grant  
24 if the school district and the governing body of the county or  
25 municipality enter into a contract that provides the school

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1 district with a negotiated number of affordable housing units  
2 that will be reserved for employees of the school district.

3 C. The governing board of a public post-secondary  
4 educational institution may transfer land or buildings owned by  
5 that institution to a county or municipality; provided that:

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

9 (2) the governing board of the public post-  
10 secondary educational institution and the governing body of the  
11 county or municipality enter into a contract that provides the  
12 public post-secondary educational institution with affordable  
13 housing units.

14 D. The authority may provide housing assistance  
15 grants pursuant to Article 9, Section 14 of the constitution of  
16 New Mexico after enactment by its governing body of a  
17 resolution authorizing grants, stating the requirements and  
18 purposes of the grants and authorizing disbursement to a  
19 qualifying grantee after a budget is submitted to and approved  
20 by the governing body. The resolution may provide for matching  
21 or for using local, private or federal funds either through  
22 direct participation with a federal agency pursuant to federal  
23 law or through indirect participation through programs of the  
24 authority. The resolution shall comply with rules promulgated  
25 by the authority pursuant to Section 6-27-8 NMSA 1978.

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1           ~~[D-]~~ E. As used in this section, "public post-  
2 secondary educational institution" means a state university or  
3 a public community college."

4           Section 4. Section 6-27-8 NMSA 1978 (being Laws 2004,  
5 Chapter 104, Section 8) is amended to read:

6           "6-27-8. PROVISIONS TO ENSURE SUCCESSFUL COMPLETION OF  
7 AFFORDABLE HOUSING PROJECTS--INVESTIGATION--

8           A. State, county and municipal housing assistance  
9 grants pursuant to the Affordable Housing Act shall be applied  
10 for and awarded to qualifying grantees pursuant to the rules  
11 promulgated by the authority subject to the requirements of  
12 that act.

13           B. The authority shall adopt rules covering:

14                   (1) procedures to ensure that qualifying  
15 grantees meet the requirements of the Affordable Housing Act  
16 and rules promulgated pursuant to that act both at the time of  
17 the award and through the term of the grant;

18                   (2) establishment of an application and award  
19 timetable for housing assistance grants to permit the selection  
20 of the potential qualifying grantees prior to January of the  
21 year in which the grants would be made;

22                   (3) contents of the application, including an  
23 independent evaluation of the:

24                           (a) financial and management stability  
25 of the applicant;

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- 1 (b) demonstrated commitment of the  
2 applicant to the community;
- 3 (c) cost-benefit analysis of the project  
4 proposed by the applicant;
- 5 (d) benefits to the community of a  
6 proposed project;
- 7 (e) type or amount of assistance to be  
8 provided;
- 9 (f) scope of the affordable housing  
10 project;
- 11 (g) substantive or matching contribution  
12 by the applicant to the proposed project; and
- 13 (h) performance schedule for the  
14 qualifying grantee with performance criteria;
- 15 (4) a requirement for long-term affordability  
16 of a state, county or municipal project so that a project  
17 cannot be sold shortly after completion and taken out of the  
18 affordable housing market to ensure a quick profit for the  
19 qualifying grantee;
- 20 (5) a requirement that a grant for a state or  
21 local project must impose a contractual obligation on the  
22 qualifying grantee that the housing units in a state or local  
23 project pursuant to the Affordable Housing Act be occupied by  
24 low- or moderate-income households;
- 25 (6) provisions for adequate security against

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1 the loss of public funds or property in the event that a  
2 qualifying grantee abandons or otherwise fails to complete a  
3 project;

4 (7) a requirement for review and approval of a  
5 housing grant project budget by the grantor before any  
6 expenditure of grant funds or transfer of granted property;

7 (8) a requirement that, unless the period is  
8 extended for good cause shown, the authority shall act on an  
9 application within forty-five days of the date of receipt of an  
10 application that the authority deems to be complete and, if not  
11 acted upon, the application shall be deemed approved;

12 (9) a requirement that a condition of grant  
13 approval be proof of compliance with all applicable state and  
14 local laws, rules and ordinances;

15 (10) provisions defining "low- and moderate-  
16 income" and setting out requirements for verification of income  
17 levels;

18 (11) a requirement that a county or  
19 municipality that makes a housing assistance grant shall have  
20 an existing valid affordable housing plan or housing elements  
21 contained in its general plan; and

22 (12) a requirement that the governmental  
23 entity enter into a contract with a qualifying grantee  
24 consistent with the Affordable Housing Act, which contract  
25 shall include remedies and default provisions in the event of

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1 the unsatisfactory performance by the qualifying grantee.

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

7 (1) provide a public hearing in accordance  
8 with the state Administrative Procedures Act; and

9 (2) require concurrence in a rule having  
10 application to local government by both the New Mexico  
11 municipal league and the New Mexico association of counties.

12 D. The attorney general shall investigate any  
13 alleged violation of the Affordable Housing Act as reported by  
14 the authority."