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SENATE BILL 20

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Mary Kay Papen

FOR THE MORTGAGE FINANCE AUTHORITY ACT OVERSIGHT COMMITTEE

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; MAKING AN APPROPRIATION; 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 ~~[or]~~ and unsafe dwelling
accommodations exist in the state;

B. ~~[persons of]~~ low- and moderate-income persons
are forced to reside in ~~[such]~~ unsanitary ~~[or]~~ and unsafe

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1 accommodations;

2 C. within the state:

3 (1) there is a shortage of safe ~~[or]~~ and
4 sanitary dwelling accommodations available at rents that
5 ~~[persons of]~~ low- and moderate-income persons can afford;

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

9 (3) these conditions cause an increase in and
10 spread of disease and crime and constitute a menace to the
11 health, safety, morals and welfare of the residents of the
12 state and impair economic values;

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

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

23 F. demolition, replanning, reconstruction or
24 renovation of unsanitary ~~[or]~~ and unsafe housing ~~[or]~~ and
25 acquisition of land to provide safe and sanitary dwellings for

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1 ~~[persons of]~~ low- and moderate-income persons are in the public
2 interest and are essential state and local governmental
3 functions requiring expenditures of public money; and

4 G. it is in the public interest that work on
5 projects for demolition, planning, reconstruction, renovation
6 ~~[or]~~ and land acquisition for provision of safe and sanitary
7 dwellings for low- and moderate-income ~~[people]~~ persons be
8 started immediately in order to relieve the housing shortage
9 that has reached emergency status, and it is a necessity that
10 the Regional Housing Law be continued to relieve that
11 emergency."

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

14 "11-3A-3. DEFINITIONS.--As used in the Regional Housing
15 Law:

16 ~~[A. "authority" means any regional housing
17 authority or a nonprofit corporation created by an authority;~~

18 ~~B. "bond" means any bond, note, interim
19 certificate, debenture or other obligation issued by the New
20 Mexico mortgage finance authority pursuant to the Regional
21 Housing Law;]~~

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

24 B. "affordable housing programs" means an ongoing
25 delivery system of affordable housing services that assists

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1 persons of low- and moderate-income;

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

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

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

15 (2) provide decent, safe and sanitary
16 dwellings, apartments, single-family dwellings or other
17 affordable living accommodations for low- and moderate-income
18 persons. The undertaking may include buildings, land,
19 equipment, facilities and other real or personal property for
20 necessary, convenient or desirable appurtenances, streets,
21 sewers, water service, parks, site preparation or gardening or
22 administrative, community, health, recreational, welfare or
23 other purposes. "Housing project" also may be applied to the
24 planning of buildings and improvements, acquisition of property
25 or existing structures, demolition of existing structures,

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1 construction, reconstruction, alteration and repair of
2 improvements or buildings or any other work performed to
3 complete housing projects;

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

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

10 [~~E-~~] G. "local public body" means any county,
11 municipality, commission, district or other political
12 subdivision of the state;

13 [~~F-~~] H. "low-income person" means any individual,
14 couple or family whose gross income does not exceed eighty
15 percent of the [~~resident's~~] person's particular [~~county~~] area
16 median income and who cannot afford to pay more than [~~thirty~~]
17 thirty-five percent of gross annual income for housing rent or
18 mortgage payments; or a low-income person as defined by the
19 federal government;

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

25 [~~G-~~] J. "obligee" means:

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1 (1) a holder of [~~bonds~~] indebtedness issued
2 pursuant to the Regional Housing Law or a trustee for [~~that~~
3 ~~bondholder~~] the holder of debt;

4 (2) a lessor leasing to [~~an~~] a regional
5 housing authority or a local housing authority property used in
6 connection with a housing project or any assignee of a lessor's
7 interest or partial interest; or

8 (3) the federal government when it is a party
9 to a contract with [~~an~~] a regional housing authority or a local
10 housing authority in regard to a housing project;

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

18 L. "regional housing authority" means any regional
19 housing authority or a nonprofit housing corporation approved
20 pursuant to Section 11-3A-9 NMSA 1978; and

21 [~~F.~~] M. "slum" means any area where dwellings
22 predominate, which by reason of dilapidation, overcrowding,
23 lack of ventilation, light or sanitary facilities or any
24 combination of these factors is detrimental to safety, health
25 or morals."

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

3 "11-3A-4. REGIONAL HOUSING AUTHORITIES CREATED.--[Seven]
4 Three regional housing authorities are created for the state of
5 New Mexico [~~The respective areas of the seven regional housing~~
6 ~~authorities are coextensive with the boundaries of the seven~~
7 ~~housing regions created as follows:~~

8 ~~A. Region No. 1 shall consist of the counties of~~
9 ~~Cibola, San Juan and McKinley;~~

10 ~~B. Region No. 2 shall consist of the counties of~~
11 ~~Rio Arriba, Los Alamos, Taos, Colfax, Mora, Santa Fe and San~~
12 ~~Miguel;~~

13 ~~C. Region No. 3 shall consist of the counties of~~
14 ~~Sandoval, Bernalillo, Valencia and Torrance;~~

15 ~~D. Region No. 4 shall consist of the counties of~~
16 ~~DeBaca, Curry, Roosevelt, Union, Harding, Quay and Guadalupe;~~

17 ~~E. Region No. 5 shall consist of the counties of~~
18 ~~Catron, Grant, Hidalgo and Luna;~~

19 ~~F. Region No. 6 shall consist of the counties of~~
20 ~~Lincoln, Chaves, Otero, Eddy and Lea; and~~

21 ~~G. Region No. 7 shall consist of the counties of~~
22 ~~Socorro, Sierra and Dona Ana] as follows:~~

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

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1 counties;

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

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

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

10 "11-3A-5. JURISDICTION.--~~[A regional authority created by~~
11 ~~the Regional Housing Law shall operate only within the area of~~
12 ~~its housing region.]~~

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

24 B. A subsequent withdrawal of consent by resolution
25 of a governing body of a municipality or county that has

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1 established a local housing authority shall not prohibit the
2 development and operation of any housing projects initiated
3 within the territorial boundary of that municipality or county
4 by the regional housing authority prior to the date of the
5 resolution withdrawing consent, except upon terms that are
6 mutually agreed upon between the regional housing authority and
7 the governing body of the municipality or county."

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

10 "11-3A-6. POWERS OF REGIONAL HOUSING AUTHORITY IN BOARD
11 OF COMMISSIONERS--APPOINTMENT OF BOARD OF REGIONAL HOUSING
12 AUTHORITIES--TERMS.--

13 A. The powers of each regional housing authority
14 shall be vested in its board of commissioners as the board may
15 be constituted, from time to time. The board of commissioners
16 of the regional housing authority for each of the [~~seven~~] three
17 regions shall consist of [~~seven commissioners who~~] one person
18 from each county within the designated area of the regional
19 housing authority, which person shall be [~~residents~~] a resident
20 of [~~the region for which the authority is created~~] that county
21 and shall be appointed by the governor. [~~Not more than three~~
22 ~~commissioners shall be appointed from any one county.~~]

23 Appointments shall be for terms of four years [~~or less~~] and
24 shall be made so that the terms of not more than [~~two~~] four
25 commissioners on each board of commissioners expire on July 1

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1 of each year. Vacancies shall be filled for the unexpired
2 term. Commissioners shall serve until their successors have
3 been appointed.

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

14 ~~[B.]~~ C. The members of the boards of commissioners
15 may receive per diem and mileage as provided in the Per Diem
16 and Mileage Act but shall receive no other compensation,
17 perquisite or allowance. ~~[Each board of commissioners shall~~
18 ~~select a chair and vice chair from among its members. Each~~
19 ~~board may employ necessary agents and employees and set the~~
20 ~~salaries of the agents and employees. Each board may delegate~~
21 ~~to its agents or employees such duties as the board deems~~
22 ~~proper. A regional planning and development district, created~~
23 ~~pursuant to the Planning District Act, may provide technical~~
24 ~~staff for an authority. Four] A majority of the appointed~~
25 commissioners shall constitute a quorum of a board of

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1 commissioners for the purpose of conducting its business and
2 exercising its powers and for all other purposes. Action may
3 be taken by ~~[an]~~ a regional housing authority upon a vote of a
4 majority of the commissioners present. Each board of
5 commissioners shall organize itself at its annual meeting each
6 ~~[even-numbered]~~ year. A board of commissioners may employ an
7 executive director, subject to approval by the New Mexico
8 mortgage finance authority ~~[and technical experts and other~~
9 ~~officers, attorneys, agents and employees, permanent and~~
10 ~~temporary, as the authority requires; to determine employee and~~
11 ~~contractor qualifications, duties and compensation; and to~~
12 ~~delegate to one or more employees or contractors the powers or~~
13 ~~duties that the board deems proper]. With delegated authority~~
14 from the board of commissioners, the executive director may
15 hire or terminate, according to the procurement and personnel
16 policies and procedures of the regional housing authority, any
17 technical experts, officers, attorneys, agents or employees,
18 permanent or temporary, as the regional housing authority may
19 require.

20 ~~[C. The financial affairs of every regional~~
21 ~~authority and any nonprofit corporation created by an authority~~
22 ~~shall be thoroughly examined and audited annually by the state~~
23 ~~auditor, by personnel of the state auditor's office designated~~
24 ~~by the state auditor or by auditors approved by the state~~
25 ~~auditor. The audits shall be conducted in accordance with~~

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1 ~~generally accepted auditing standards. Each regional authority~~
2 ~~shall submit to the state auditor, the department of finance~~
3 ~~and administration, the New Mexico mortgage finance authority,~~
4 ~~the Mortgage Finance Authority Act oversight committee and the~~
5 ~~legislative finance committee, within thirty days following the~~
6 ~~receipt of the audit by the authority, a copy of the annual~~
7 ~~audit.~~

8 ~~D. Upon receipt of the annual audits, the~~
9 ~~department of finance and administration shall review each~~
10 ~~regional authority's audit for approval. Upon a finding of~~
11 ~~nonapproval of an audit by the department of finance and~~
12 ~~administration, that regional authority's powers as provided in~~
13 ~~the Regional Housing Law may be suspended by the department~~
14 ~~until those conditions that resulted in the nonapproval are~~
15 ~~remedied to the satisfaction of the department of finance and~~
16 ~~administration.~~

17 ~~E. Effective October 1, 2007, every regional~~
18 ~~authority shall submit a quarterly report of its activities to~~
19 ~~the department of finance and administration, the Mortgage~~
20 ~~Finance Authority Act oversight committee and the legislative~~
21 ~~finance committee. Each report shall set forth a complete~~
22 ~~operating and financial statement covering its operations since~~
23 ~~the previous report was presented.]~~

24 D. The threshold requirements for commissioners of
25 regional housing authorities are that commissioners have

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1 expertise and experience in housing construction, real estate,
2 architecture, law, banking, housing finance, business, property
3 management, accounting, residential development, public housing
4 programs, community development, social services or health
5 care. The requirements set forth in this section shall not
6 apply to commissioners serving pursuant to requirements of the
7 federal department of housing and urban development.

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

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

17 "11-3A-7. POWERS.--

18 A. Every regional housing authority may:

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

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1 (2) lease or rent dwellings, houses,
2 accommodations, lands, buildings, structures or facilities
3 embraced in any housing project or affordable housing program
4 and establish and revise the rents or lease charges; own, hold
5 and improve real or personal property; purchase, lease, obtain
6 options upon or acquire by gift, grant, bequest, devise or
7 otherwise any real or personal property or any interest
8 therein; sell, lease, mortgage, exchange, transfer, assign,
9 pledge or dispose of real or personal property or any interest
10 in real or personal property; or procure or agree to the
11 procurement of insurance or guarantees from the federal
12 government of the payment of any bonds or parts thereof,
13 including the power to pay premiums on the insurance;

14 (3) enter on lands, buildings or property for
15 the purpose of making surveys, soundings and examinations in
16 connection with the planning or construction, or both, of a
17 housing project;

18 (4) insure or provide for the insurance of a
19 housing project of the regional housing authority against the
20 risks that the regional housing authority may deem advisable;

21 (5) arrange or contract for the furnishing by
22 any person or agency, public or private, of services,
23 privileges, works or facilities for or in connection with a
24 housing project or the occupants thereof and include in any
25 construction contract let in connection with a housing project

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1 stipulations requiring that the contractor and subcontractors
2 comply with employment requirements, including those in the
3 constitution and laws of this state, as to minimum wages and
4 maximum hours of labor and comply with any conditions that the
5 state or federal government may have attached to its financial
6 aid of the project;

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

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

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

25 (1) create partnerships between state,

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1 federal, city and county governments, nonprofit entities and
2 the private sector that will provide the necessary resources to
3 carry out the planning, financing, development and delivery of
4 affordable housing and affordable housing programs;

5 (2) assist [~~city or county~~] local housing
6 authorities or housing nonprofit agencies in developing the
7 knowledge, expertise and technical capacity to provide a
8 comprehensive approach to the development and delivery of
9 affordable housing and affordable housing programs; or

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

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

21 D. In the event of a resolution pursuant to
22 Subsection C of this section, the appropriate regional housing
23 authority or local housing authority shall accept by resolution
24 of its board of commissioners a transfer of the assets and
25 operations of a local housing authority that has been declared

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1 by the federal department of housing and urban development to
2 be in default on its annual contributions contract with that
3 department."

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

6 "11-3A-8. REQUIREMENTS RESPECTING LEASE.--

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

10 (1) the amount necessary in each year to pay
11 [~~the principal of and the interest on the bonds~~] indebtedness
12 proposed to [~~be issued to finance~~] fund the housing project;
13 and

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

23 B. The determinations and findings of the regional
24 housing authority required to be made in this section shall be
25 set forth in the proceedings under which the proposed [~~bonds~~

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1 ~~are]~~ indebtedness is to be ~~[issued]~~ incurred.

2 C. Prior to the ~~[issuance of the bonds]~~ incurrence
3 of any indebtedness, the regional housing authority shall lease
4 or sell the housing project to a lessee or purchaser under an
5 agreement that is conditioned upon completion of the housing
6 project and that provides for payment to the regional housing
7 authority of rentals or payments in an amount that is found,
8 based on the determinations and findings, to:

9 (1) pay the ~~[principal of and interest on the~~
10 ~~bonds issued]~~ indebtedness incurred to ~~[finance]~~ fund the
11 housing project;

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

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

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

21 "11-3A-9. NONPROFIT CORPORATIONS.--Every regional housing
22 authority, in addition to other powers conferred by the
23 Regional Housing Law, shall have, if authorized by resolution
24 of its board of commissioners and approved by the state board
25 of finance, the power to create nonprofit corporations to carry

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1 out the powers and duties set forth in Section 11-3A-7 NMSA
2 1978. The articles of incorporation and bylaws, and any
3 subsequent changes, shall be ~~[approved]~~ recommended for
4 approval by the state board of finance and the New Mexico
5 mortgage finance authority. Such nonprofit corporations shall
6 be subject to all of the duties and limitations imposed on the
7 regional housing authority and its board of commissioners."

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

10 "11-3A-10. ~~[INTERESTED OFFICERS OR EMPLOYEES]~~ PROHIBITED
11 ACTIONS.--~~[No officer or employee of an authority shall acquire~~
12 ~~any direct or indirect interest in any housing project or in~~
13 ~~any property included or planned to be included in any housing~~
14 ~~project of the authority or in any contract or proposed~~
15 ~~contract for materials or services to be furnished or used in~~
16 ~~connection with any housing project of the authority.]~~ Neither
17 the regional housing authority nor any of its contractors or
18 their subcontractors may enter into any contract, subcontract
19 or agreement in connection with a housing project under any
20 contract in which any of the following persons has an interest,
21 direct or indirect, during the person's tenure or for one year
22 thereafter:

23 A. any present or former member of the board of
24 commissioners of the regional housing authority or any member
25 of the member's immediate family. The prohibition established

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1 by this subsection shall not apply to any member who has not
2 served on the governing body of a resident management
3 corporation, and who otherwise has not occupied a policymaking
4 position with the resident management corporation or the
5 regional housing authority;

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

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

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

17 "11-3A-12. STATE POLICY--OPERATION NOT FOR PROFIT.--

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

25 B. No regional housing authority shall construct or

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1 operate ~~[any]~~ a housing project for profit.

2 C. ~~[An]~~ A regional housing authority shall ~~[fix]~~
3 set the ~~[rentals]~~ rental rates for dwellings in the housing
4 projects it manages and operates at no higher rates than it
5 finds to be necessary in order to produce revenues that,
6 together with any grants or subsidies from the state or federal
7 government or other sources for housing projects, will be
8 sufficient to:

9 (1) pay, as they become due, ~~[the principal~~
10 ~~and interest on the bonds]~~ indebtedness or other obligations of
11 the regional housing authority ~~[issued under]~~ incurred pursuant
12 to the Regional Housing Law;

13 (2) meet the cost of and provide for
14 maintaining and operating the housing projects, including the
15 cost of any insurance, the administrative expenses of the
16 regional housing authority incurred in connection with the
17 housing projects and the funding of ~~[any]~~ operational reserves
18 ~~[as]~~ the regional housing authority ~~[shall deem]~~ deems
19 appropriate;

20 (3) fund operational reserves to secure the
21 payment of ~~[its bonds]~~ indebtedness as the regional housing
22 authority deems appropriate; and

23 (4) allow private, profit-making entities to
24 enter into agreements with the regional housing authority,
25 without the agreements affecting the nonprofit status of the

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1 regional housing authority or conflicting with the intent of
2 the creation of the regional housing authority."

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

5 "11-3A-13. SALES, RENTALS AND TENANT SELECTION.--

6 A. In the operation or management of housing
7 projects or the sale of any property pursuant to the Regional
8 Housing Law, [~~an~~] a regional housing authority shall:

9 (1) rent, lease or sell the dwelling
10 accommodations in the housing project only to persons falling
11 within the standards adopted by the regional housing authority,
12 which standards shall comply with state and federal law;

13 (2) rent, lease or sell to a [~~tenant~~] person
14 dwelling accommodations consisting of the number of rooms, but
15 no greater number, that it deems necessary to provide safe and
16 sanitary accommodations to the proposed occupants without
17 overcrowding; and

18 (3) reject any person as a tenant in any
19 federally subsidized housing project if the person has an
20 annual [~~net~~] gross income in excess of federally established
21 standards.

22 B. Nothing contained in this section or Section
23 11-3A-12 NMSA 1978 shall be construed as limiting the power of
24 [~~an~~] a regional housing authority to vest in an obligee the
25 right, in the event of a default by the regional housing

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1 authority, to take possession and operate a housing project or
2 cause the appointment of a receiver for the housing project,
3 free from all the restrictions imposed by this section or
4 Section 11-3A-12 NMSA 1978."

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

7 "11-3A-19. REMEDIES OF AN OBLIGEE.--An obligee of [~~an~~] a
8 regional housing authority shall have the right, in addition to
9 all other rights that may be conferred on such obligee, subject
10 only to any contractual restrictions binding upon such obligee,
11 to:

12 A. compel by mandamus, suit, action or proceeding
13 at law or in equity, the regional housing authority and its
14 officers, agents or employees to perform [~~each and~~] every term,
15 provision and covenant contained in any contract of the
16 regional housing authority with or for the benefit of the
17 obligee and to require the carrying out of [~~any or~~] all
18 covenants and agreements of the regional housing authority and
19 the fulfillment of all duties imposed upon the regional housing
20 authority by the Regional Housing Law; and

21 B. enjoin by suit, action or proceeding in equity,
22 any acts or things that may be unlawful or in violation of [~~any~~
23 ~~of~~] the rights of the obligee of the regional housing
24 authority."

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

2 "11-3A-20. ADDITIONAL REMEDIES CONFERRABLE TO AN
3 OBLIGEE.--~~[An]~~ A regional housing authority shall have the
4 power by its resolution, trust indenture, lease or other
5 contract to confer upon any obligee holding or representing a
6 specified amount in ~~[bonds]~~ indebtedness, or holding a lease,
7 the right, in addition to all rights that may otherwise be
8 conferred, upon default as defined in the resolution or
9 instrument, by suit, action or proceeding in any court of
10 competent jurisdiction:

11 A. to cause possession of any housing project or
12 any part of a housing project to be surrendered to the obligee
13 and retained by the ~~[bondholder]~~ holder of debt or trustee so
14 long as the regional housing authority continues in default;

15 B. to obtain the appointment of a receiver of any
16 housing project of the regional housing authority and of the
17 rents and profits from the housing project. If a receiver is
18 appointed, ~~[he]~~ the receiver may enter and take possession of
19 all or a part of the housing project and, so long as the
20 regional housing authority continues in default, operate and
21 maintain the housing project and collect and receive all fees,
22 rents, revenues or other charges arising from the housing
23 project and shall keep the money in a separate account and
24 apply it in accordance with the obligations of the regional
25 housing authority as the court directs; and

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

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

7 "11-3A-21. EXEMPTION OF PROPERTY FROM EXECUTION
8 SALE.--All real property owned or held by [~~an~~] a regional
9 housing authority for the purposes of the Regional Housing Law
10 shall be exempt from levy and sale by virtue of an execution,
11 and no execution or other judicial process shall be issued
12 against property of the regional housing authority or shall any
13 judgment against [~~an~~] a regional housing authority be a charge
14 or lien on the regional housing authority's real property;
15 provided, however, that the provisions of this section shall
16 not apply to or limit the right of obligees to pursue any
17 remedies for the enforcement of any pledge or lien given to
18 them on rents, fees or revenues."

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

21 "11-3A-22. EXEMPTION OF PROPERTY FROM TAXATION.--The real
22 property of a housing project, as defined in the Regional
23 Housing Law, is declared to be public property used for
24 essential public and governmental purposes and is property of
25 [~~an~~] a regional housing authority of this state and is exempt

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1 from taxation until a deed conveying that property to a
2 nonexempt entity is executed and delivered by the regional
3 housing authority."

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

6 "11-3A-23. AID FROM STATE OR FEDERAL GOVERNMENT.--In
7 addition to the powers conferred upon [~~an~~] a regional housing
8 authority by other provisions of the Regional Housing Law, [~~an~~]
9 a regional housing authority is empowered to borrow money or
10 accept contributions, grants or other financial assistance from
11 the state or federal government for or in aid of any housing
12 project or affordable housing program within its area of
13 operation and, to these ends, to comply with conditions, trust
14 indentures, leases or agreements as necessary, convenient or
15 desirable. It is the purpose and intent of the Regional
16 Housing Law to authorize every regional housing authority to do
17 all things necessary, convenient or desirable to secure the
18 financial aid or cooperation of the federal government in the
19 undertaking, acquisition, construction, maintenance or
20 operation of any housing project of [~~an~~] a regional housing
21 authority."

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

24 "11-3A-24. COOPERATION IN UNDERTAKING HOUSING PROJECTS
25 AND AFFORDABLE HOUSING PROGRAMS.--For the purpose of aiding and

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1 cooperating in the planning, undertaking, construction or
2 operation of housing projects and affordable housing programs
3 located within the area in which it is authorized to act, [~~any~~]
4 a local public body may, upon such terms as it may determine,
5 with or without consideration:

6 A. dedicate, sell, convey or lease any of its
7 interest in any property or grant easements, licenses or any
8 other rights or privileges to [~~any~~] a regional housing
9 authority;

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

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

19 D. cause services to be furnished for housing
20 projects and affordable housing programs of the character
21 [~~which~~] that the local public body is otherwise empowered to
22 furnish;

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

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1 dwellings;

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

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

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

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

19 "11-3A-25. PROCEDURE FOR EXERCISING POWERS.--The exercise
20 by ~~[an]~~ a regional housing authority or other local public body
21 of the powers granted in the Regional Housing Law may be
22 authorized by resolution of the governing body of the regional
23 housing authority or local public body adopted by a majority of
24 the members of its governing body present at a meeting of the
25 governing body. The resolution may be adopted at the meeting

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1 at which the resolution is introduced. The resolution shall
2 take effect immediately and need not be laid over or published
3 or posted."

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

6 "11-3A-30. FINANCIAL AND OPERATIONAL OVERSIGHT.--

7 A. Without the prior approval of the [~~department of~~
8 ~~finance and administration~~] New Mexico mortgage finance
9 authority, no regional housing authority shall:

10 (1) enter into any contract, memorandum of
11 understanding or other agreement with a value greater than
12 [~~fifty thousand dollars (\$50,000)~~] one hundred thousand dollars
13 (\$100,000); or

14 (2) transfer, sell or liquidate any real or
15 personal property with a value greater than [~~twenty thousand~~
16 ~~dollars (\$20,000)~~] one hundred thousand dollars (\$100,000).

17 B. Not less than thirty days prior to the beginning
18 of its fiscal year, each regional housing authority and each
19 nonprofit corporation established pursuant to Section 11-3A-9
20 NMSA 1978 shall submit a [~~proposed operating budget for the~~
21 ~~subsequent fiscal year to the department of finance and~~
22 ~~administration for approval.~~ A] final operating budget [~~shall~~
23 ~~be submitted by July 1 of each year. On and after July 1,~~
24 ~~2007, no authority shall operate pursuant to the Regional~~
25 ~~Housing Law if its budget has not been approved by the~~

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1 ~~department. All operations of an authority shall be conducted~~
2 ~~pursuant to the approved operating budget except that:~~

3 ~~(1) budget adjustments totaling less than five~~
4 ~~percent of the operating budget may be made with prior notice~~
5 ~~to the department; and~~

6 ~~(2) budget adjustments totaling five percent~~
7 ~~or more of the operating budget may be made with the prior~~
8 ~~approval of the department.~~

9 ~~C. Prior to each fiscal year, the New Mexico~~
10 ~~mortgage finance authority shall conduct a needs assessment of~~
11 ~~the programs of each regional authority and shall work with and~~
12 ~~advise each authority on developing a plan to meet the assessed~~
13 ~~needs and in conjunction with the state housing plan] for the~~
14 ~~subsequent fiscal year to the New Mexico mortgage finance~~
15 ~~authority for review.~~

16 C. The financial affairs of every regional housing
17 authority and any nonprofit corporation created by a regional
18 housing authority shall be thoroughly examined and audited
19 annually by the state auditor, by personnel of the state
20 auditor's office designated by the state auditor or by auditors
21 approved by the state auditor. The audits shall be conducted
22 in accordance with generally accepted auditing standards. Each
23 regional housing authority shall submit to the state auditor,
24 the department of finance and administration, the New Mexico
25 mortgage finance authority, the Mortgage Finance Authority Act

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1 oversight committee and the legislative finance committee,
2 within thirty days following the receipt of the annual audit of
3 the regional housing authority, a copy of that audit.

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

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

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

22 "[NEW MATERIAL] TRANSITIONAL PROVISIONS--COMMISSIONERS--
23 CONTRACTS AND AGREEMENTS.--

24 A. Members of boards of commissioners of regional
25 housing authorities appointed prior to the effective date of

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1 this 2009 act shall continue to serve as members of boards of
2 commissioners until their terms expire or their successors are
3 appointed and qualified pursuant to the provisions of this 2009
4 act.

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

8 Section 21. APPROPRIATION.--

9 A. Four hundred fifty thousand dollars (\$450,000)
10 is appropriated from the general fund to the department of
11 finance and administration for regional housing authorities in
12 the amount of one hundred fifty thousand dollars (\$150,000)
13 each for expenditure in fiscal years 2009 and 2010 to carry out
14 the provisions of the Regional Housing Law. Any unexpended or
15 unencumbered balance remaining at the end of fiscal year 2010
16 shall revert to the general fund.

17 B. One hundred fifty thousand dollars (\$150,000) is
18 appropriated from the general fund to the department of finance
19 and administration for the state housing authority for
20 expenditure in fiscal years 2009 and 2010 to carry out the
21 responsibilities and duties imposed upon the state housing
22 authority pursuant to the provisions of the Regional Housing
23 Law. Any unexpended or unencumbered balance remaining at the
24 end of fiscal year 2010 shall revert to the general fund.

25 Section 22. EMERGENCY.--It is necessary for the public

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1 peace, health and safety that this act take effect immediately.

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