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AN ACT

RELATING TO HOUSING; ENACTING THE NEW MEXICO HOUSING TRUST
FUND ACT; CREATING THE NEW MEXICO HOUSING TRUST FUND;
CREATING AN ADVISORY COMMITTEE; PROVIDING CERTAIN POWERS TO
THE NEW MEXICO MORTGAGE FINANCE AUTHORITY; AMENDING AND
ENACTING SECTIONS OF THE NMSA 1978; MAKING AN APPROPRIATION.

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

Section 1. SHORT TITLE.--Sections 1 through 9 of this
act may be cited as the "New Mexico Housing Trust Fund Act".

Section 2. PURPOSE.--The purpose of the New Mexico
Housing Trust Fund Act is to provide flexible funding for
housing initiatives in order to produce significant
additional housing investment in the state.

Section 3. DEFINITIONS.--As used in the New Mexico
Housing Trust Fund 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. "committee" means the New Mexico housing trust
fund advisory committee;

D. "fund" means the New Mexico housing trust fund;

E. "persons of low or moderate income" means

1 persons and households within the state who are determined by
2 the authority to lack sufficient income to pay enough to
3 cause private enterprise to build an adequate supply of
4 decent, safe and sanitary residential housing in their
5 locality or in an area reasonably accessible to their
6 locality and whose incomes are below the income levels
7 established by the authority to be in need of the assistance
8 made available by the New Mexico Housing Trust Fund Act,
9 taking into consideration, without limitation, such factors
10 as defined under that act; and

11 F. "residential housing" means any building,
12 structure or portion thereof that is primarily occupied, or
13 designed or intended primarily for occupancy, as a residence
14 by one or more households and any real property that is
15 offered for sale or lease for the construction or location
16 thereon of such a building, structure or portion thereof.
17 "Residential housing" includes congregate housing,
18 manufactured homes and housing intended to provide or
19 providing transitional or temporary housing for homeless
20 persons.

21 Section 4. NEW MEXICO HOUSING TRUST FUND CREATED.--

22 A. The "New Mexico housing trust fund" is created
23 in the authority. The fund shall consist of all
24 distributions and appropriations made to the fund. Earnings
25 of the fund shall be credited to the fund, and unexpended and

1 unencumbered balances in the fund shall not revert to any
2 other fund. The authority shall be the trustee for the fund,
3 and the state investment council shall be the investment
4 agent for the fund.

5 B. The fund shall consist of revenue from the
6 following recurring sources:

7 (1) appropriations and transfers from the
8 general fund;

9 (2) any other money appropriated or
10 distributed to the fund; or

11 (3) any private contributions to the fund.

12 C. Money in the fund is appropriated to the
13 authority for the purposes of carrying out the provisions of
14 the New Mexico Housing Trust Fund Act.

15 Section 5. ADVISORY COMMITTEE CREATED.--

16 A. The "New Mexico housing trust fund advisory
17 committee" is created. The committee shall consist of the
18 following nine members, who shall represent geographically
19 the state, affordable housing advocates and practitioners:

20 (1) three public members appointed by the
21 governor;

22 (2) three public members appointed by the
23 president pro tempore of the senate; and

24 (3) three public members appointed by the
25 speaker of the house of representatives.

1 B. Members of the committee shall be appointed for
2 two-year terms and shall be eligible for reappointment.
3 Vacancies shall be filled by the appropriate appointing
4 authority.

5 C. The committee shall be advisory to the
6 authority and shall be subject to oversight by the Mortgage
7 Finance Authority Act oversight committee.

8 D. The committee shall review all project
9 applications and make recommendations to the authority for
10 funding them. The committee shall not be involved in or
11 advisory to the authority in matters relating to the
12 investment of the fund.

13 E. The committee shall adopt rules regarding:

14 (1) the time, place and procedures of
15 committee meetings; and

16 (2) the procedures for the review of and
17 standards for recommending applications for loans or grant
18 projects.

19 Section 6. AWARD OF FUNDS--ACCOUNTABILITY.--

20 A. Trust funds shall be awarded on a competitive
21 basis. The authority's staff shall work with the committee
22 to develop an application and applicant scoring mechanism
23 that encourages applicants to develop solutions that are
24 responsive to local needs and are consistent with sound
25 housing policy.

1 B. The authority's governing body shall be
2 responsible for ensuring that on an annual basis the total
3 funds awarded for housing activities attract at least three
4 times as much funding from other sources.

5 Section 7. USE OF FUNDS--ELIGIBLE ACTIVITIES.--Money
6 from the fund and matching funds from other sources may be
7 used to finance in whole or in part any loans or grant
8 projects that will provide affordable housing. Money from
9 the fund may also be used to reimburse the authority for
10 actual expenses incurred in administering the fund in an
11 amount not to exceed five percent of total funds disbursed
12 from the fund.

13 Section 8. CONFLICT WITH FEDERAL REQUIREMENTS.--If any
14 part of the New Mexico Housing Trust Fund Act is found to be
15 in conflict with federal requirements that are a prescribed
16 condition to the allocation of federal funds to the state,
17 the conflicting part of that act is inoperative solely to the
18 extent of the conflict and with respect to the agencies
19 directly affected, and this finding does not affect the
20 operation of the remainder of that act in its application to
21 the agencies concerned. The rules adopted pursuant to the
22 provisions of the New Mexico Housing Trust Fund Act shall
23 meet those federal requirements that are a necessary
24 condition to the receipt of federal funds by the state.

25 Section 9. MATCHING FUNDS.--Money from the fund may be

1 used to match federal, local or private money to be used for
2 projects authorized under the New Mexico Housing Trust Fund
3 Act.

4 Section 10. Section 58-18-5 NMSA 1978 (being Laws 1975,
5 Chapter 303, Section 5, as amended) is amended to read:

6 "58-18-5. POWERS OF THE AUTHORITY.--The authority shall
7 have all the powers necessary or convenient to carry out and
8 effectuate the purposes and provisions of the Mortgage
9 Finance Authority Act, including but without limiting the
10 generality of the foregoing, the power:

11 A. to sue and be sued;

12 B. to have a seal and alter it at pleasure;

13 C. to make and alter bylaws for its organization
14 and internal management;

15 D. to appoint other officers, agents and
16 employees, prescribe their duties and qualifications and fix
17 their compensation;

18 E. to acquire, hold, improve, mortgage, lease and
19 dispose of real and personal property for its public
20 purposes;

21 F. subject to the provisions of Section 58-18-6
22 NMSA 1978, to make loans, and contract to make loans, to
23 mortgage lenders;

24 G. subject to the provisions of Section 58-18-7
25 NMSA 1978, to purchase, and contract to purchase, mortgage

1 loans from mortgage lenders;

2 H. to procure or require the procurement of a
3 policy of group or individual life insurance or disability
4 insurance or both to insure repayment of mortgage loans in
5 event of the death or disability of the borrower and to pay
6 any premiums for the policy;

7 I. to procure insurance against any loss in
8 connection with its operations, including without limitation
9 the repayment of any mortgage loan, in amounts and from
10 insurers, including the federal government, that the
11 authority deems necessary or desirable; to procure liability
12 insurance covering its members, officers and employees for
13 acts performed within the scope of their authority as
14 members, officers or employees; and to pay any premiums for
15 insurance procured;

16 J. subject to any agreement with bondholders or
17 noteholders:

18 (1) to renegotiate any mortgage loan or any
19 loan to a mortgage lender in default;

20 (2) to waive any default or consent to the
21 modification of the terms of any mortgage loan or any loan to
22 a mortgage lender and otherwise exercise all powers with
23 respect to its mortgage loans and loans to mortgage lenders
24 that any private creditor may exercise under applicable law;
25 and

1 (3) to commence, prosecute and enforce a
2 judgment in any action or proceeding, including without
3 limitation a foreclosure proceeding, to protect or enforce
4 any right conferred upon it by law, mortgage loan agreement,
5 contract or other agreement; and in connection with any such
6 proceeding, to bid for and purchase the property or acquire
7 or take possession of it and, in such event, complete,
8 administer, pay the principal of and interest on any
9 obligations incurred in connection with the property and
10 operate or dispose of and otherwise deal with the property in
11 such manner as the authority may deem advisable to protect
12 its interests therein;

13 K. to make and execute contracts for the
14 administration, servicing or collection of any mortgage loan
15 and pay the reasonable value of services rendered to the
16 authority pursuant to such contracts;

17 L. to fix, revise from time to time, charge and
18 collect fees and other charges in connection with the making
19 of mortgage loans, the purchasing of mortgage loans and any
20 other services rendered by the authority;

21 M. subject to any agreement with bondholders or
22 noteholders, to sell any mortgage loans at public or private
23 sale at such prices and on such terms as the authority shall
24 determine;

25 N. to borrow money and to issue bonds and notes

1 that may be negotiable and to provide for the rights of the
2 holders thereof;

3 O. to arrange for guarantees or other security,
4 liquidity or credit enhancements in connection with its
5 bonds, notes or other obligations by the federal government
6 or by any private insurer or other provider and to pay any
7 premiums therefor;

8 P. subject to any agreement with bondholders or
9 noteholders, to invest money of the authority not required
10 for immediate use, including proceeds from the sale of any
11 bonds or notes:

12 (1) in obligations of any municipality or
13 the state or the United States of America;

14 (2) in obligations the principal and
15 interest of which are guaranteed by the state or the United
16 States of America;

17 (3) in obligations of any corporation wholly
18 owned by the United States of America;

19 (4) in obligations of any corporation
20 sponsored by the United States of America that are or may
21 become eligible as collateral for advances to member banks as
22 determined by the board of governors of the federal reserve
23 system;

24 (5) in certificates of deposit or time
25 deposits in banks qualified to do business in New Mexico,

1 secured in the manner, if any, as the authority shall
2 determine;

3 (6) in contracts for the purchase and sale
4 of obligations of the types specified in this subsection; or

5 (7) as otherwise provided in any trust
6 indenture or a resolution authorizing the issuance of the
7 bonds or notes;

8 Q. subject to any agreement with bondholders or
9 noteholders, to purchase bonds or notes of the authority at
10 the price as may be determined by the authority or to
11 authorize third persons to purchase bonds or notes of the
12 authority; bonds or notes so purchased shall be canceled or
13 resold, as determined by the authority;

14 R. to make surveys and to monitor on a continuing
15 basis the adequacy of the supply of:

16 (1) funds available in the private banking
17 system in the state for affordable residential mortgages; and

18 (2) adequate, safe and sanitary housing
19 available to persons of low or moderate income in the state
20 and various sections of the state;

21 S. to make and execute agreements, contracts and
22 other instruments necessary or convenient in the exercise of
23 the powers and functions of the authority under the Mortgage
24 Finance Authority Act;

25 T. to employ architects, engineers, attorneys

1 (other than and in addition to the attorney general of the
2 state), accountants, housing, construction and financial
3 experts and such other advisors, consultants and agents as
4 may be necessary in its judgment and to fix and pay their
5 compensation;

6 U. to contract for and to accept any gifts or
7 grants or loans of funds or property or financial or other
8 aid in any form from the federal government or from any other
9 source and to comply, subject to the provisions of the
10 Mortgage Finance Authority Act, with the terms and conditions
11 thereof;

12 V. to maintain an office at such place in the
13 state as it may determine;

14 W. subject to any agreement with bondholders and
15 noteholders, to make, alter or repeal, subject to prior
16 approval by the Mortgage Finance Authority Act oversight
17 committee, hereby created, to be composed of four members
18 appointed by the president pro tempore of the senate and four
19 members appointed by the speaker of the house of
20 representatives, such rules and regulations with respect to
21 its operations, properties and facilities as are necessary to
22 carry out its functions and duties in the administration of
23 the Mortgage Finance Authority Act;

24 X. to make, purchase, guarantee, service and
25 administer mortgage loans for residential housing for the

1 purposes set forth in the Mortgage Finance Authority Act
2 where private banking channels and private enterprise,
3 unaided, have not, cannot or are unwilling to make, purchase,
4 guarantee, service or administer the loans;

5 Y. to act as trustee and administer the land title
6 trust fund created pursuant to Section 58-28-3 NMSA 1978;

7 Z. to act as trustee and administrator pursuant to
8 the Low-Income Housing Trust Act;

9 AA. to act as trustee and statewide administrator
10 of the New Mexico housing trust fund pursuant to and to
11 receive funds under the New Mexico Housing Trust Fund Act;

12 BB. to act as a governmental entity or a
13 qualifying grantee or as an intermediary for a governmental
14 entity or a qualifying grantee pursuant to the Affordable
15 Housing Act; and

16 CC. to do any and all things necessary or
17 convenient to carry out its purposes and exercise the powers
18 given and granted in the Mortgage Finance Authority Act."

19 Section 11. EFFECTIVE DATE.--The effective date of the
20 provisions of this act is July 1, 2005. _____

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