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 renovated or converted into affordable housing or a structure that is to be demolished and is located on land that is donated and upon which affordable housing will be constructed;

D. "governmental entity" means a state, a county, a municipality or the authority;

E. "household" means one or more persons occupying a housing unit;
F. "housing assistance grant" means the donation, provision or payment by a governmental entity of:

- land upon which affordable housing will be constructed;
- an existing building that will be renovated, converted or demolished and reconstructed as affordable housing;
- the costs of acquisition, development, construction, financing and operating or owning affordable housing; or
- the costs of financing or infrastructure necessary to support affordable housing;

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

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

- sanitary sewage systems, including collection, transport, storage, treatment, dispersal, effluent use and discharge;
- drainage and flood control systems, including collection, transport, diversion, storage, detention, retention, dispersal, use and discharge;
- water systems for domestic purposes, including production, collection, storage, treatment, transport, delivery, connection and dispersal;
(4) areas for motor vehicle use for road access, ingress, egress and parking;

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

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

(7) landscaping, including earthworks, structures, 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;

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

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

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

I. "infrastructure purpose" means:
(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 the owner;

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

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

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

K. "qualifying grantee" means:

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

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

(a) is organized under state, local or tribal laws and can provide proof of such organization;
(b) if a nonprofit organization, has no part of its net earnings inuring to the benefit of any member, founder, contributor or individual; and
(c) is approved by the governmental entity; and

L. "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, housing intended to provide or providing transitional or temporary housing for homeless persons and common health care, kitchen, dining, recreational and other facilities primarily for use by residents of a residential housing project."

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

"6-27-5. STATE, COUNTY, MUNICIPALITIES AND THE AUTHORITY--AUTHORIZATION FOR AFFORDABLE HOUSING.--The state, a county, a municipality or the authority may:
A. donate, provide or pay all, or a portion, of the costs of land for the construction on the land of affordable housing;

B. donate, provide or pay all or a portion of the costs of conversion or renovation of existing buildings into affordable housing;

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

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

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

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

A. A county or municipality may provide housing assistance grants pursuant to Article 9, Section 14 of the constitution of New Mexico after enactment by its governing body of an ordinance authorizing grants, stating the requirements of and purposes of the grants and authorizing transfer or disbursement to a qualifying grantee only after a
budget is 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 programs of the authority. No less than forty-five days prior to enactment, the county or municipality shall submit a proposed ordinance to the authority, which shall review the proposed ordinance to ensure compliance with rules promulgated by the authority pursuant to Section 6-27-8 NMSA 1978. Within fifteen days after enactment of the ordinance, the county or municipality shall submit a certified true copy of the ordinance to the authority.

B. A school district may transfer land or buildings owned by the school district to a county or municipality to be further granted as part or all of an affordable housing grant if the school district and the governing body of the county or municipality 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 school district.

C. The governing board of a public post-secondary educational institution may transfer land or buildings owned by that institution to a county or municipality; provided that:
(1) the property transferred shall be
granted by the county or municipality as part or all of an
affordable housing grant; and

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

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

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

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

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

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

B. The authority shall adopt rules covering:

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

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

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

(a) financial and management stability of the applicant;

(b) demonstrated commitment of the applicant to the community;

(c) cost-benefit analysis of the project proposed by the applicant;
(d) benefits to the community of a
proposed project;

(e) type or amount of assistance to be
provided;

(f) scope of the affordable housing
project;

(g) substantive or matching
contribution by the applicant to the proposed project; and

(h) performance schedule for the
qualifying grantee with performance criteria;

(4) a requirement for long-term
affordability of a state, county or municipal 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 qualifying grantee;

(5) a requirement that a grant for a state
or local project must impose a contractual obligation on the
qualifying grantee that the housing units in a state or local
project pursuant to the Affordable Housing Act be occupied by
low- or moderate-income households;

(6) provisions for adequate security against
the loss of public funds or property in the event that a
qualifying grantee abandons or otherwise fails to complete a
project;

(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;

(8) a requirement that, unless the period is
extended for good cause shown, the authority shall act on an
application within forty-five days of the date of receipt of
an application that the authority deems to be complete 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;

(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; and

(12) a requirement that the governmental
entity enter into a contract with a qualifying grantee
consistent with the Affordable Housing Act, which contract
shall include remedies and default provisions in the event of
the unsatisfactory performance by the qualifying grantee.

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

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

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