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HOUSE BILL 293

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

Janelle Anyanonu

AN ACT

RELATING TO HOUSING; AMENDING AND ENACTING SECTIONS OF THE AFFORDABLE HOUSING ACT; CREATING THE CREDITWORTHINESS ASSISTANCE PROGRAM; PROVIDING FOR CREDITWORTHINESS ASSISTANCE GRANTS; CREATING THE CREDITWORTHINESS ASSISTANCE FUND; MAKING AN APPROPRIATION.

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, as amended) 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

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1 finance authority;

2 C. "building" means a structure capable of being
3 renovated or converted into affordable housing or a structure
4 that is to be demolished and is located on land that is donated
5 and upon which affordable housing will be constructed;

6 D. "creditworthiness assistance grant" means a
7 grant of money to be used by a participant for:

8 (1) all or a portion of unpaid rent; and

9 (2) damages caused to a rented residential
10 property by a participant in the creditworthiness assistance
11 program;

12 [~~D.~~] E. "governmental entity" means the state,
13 including any agency or instrumentality of the state, a county,
14 a municipality or the authority;

15 [~~E.~~] F. "household" means one or more persons
16 occupying a housing unit;

17 [~~F.~~] G. "housing assistance grant" means the
18 donation, provision or payment by a governmental entity of:

19 (1) land upon which affordable housing will be
20 constructed;

21 (2) an existing building that will be
22 renovated, converted or demolished and reconstructed as
23 affordable housing;

24 (3) the costs of acquisition, development,
25 construction, financing and operating or owning affordable

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1 housing; or

2 (4) the costs of financing or infrastructure
3 necessary to support affordable housing;

4 ~~[G.]~~ H. "infrastructure" includes infrastructure
5 improvements and infrastructure purposes;

6 ~~[H.]~~ I. "infrastructure improvement" includes, but
7 is not limited to:

8 (1) sanitary sewage systems, including
9 collection, transport, storage, treatment, dispersal, effluent
10 use and discharge;

11 (2) drainage and flood control systems,
12 including collection, transport, diversion, storage, detention,
13 retention, dispersal, use and discharge;

14 (3) water systems for domestic purposes,
15 including production, collection, storage, treatment,
16 transport, delivery, connection and dispersal;

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

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

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

25 (7) landscaping, including earthworks,

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1 structures, plants, trees and related water delivery systems;

2 (8) electrical transmission and distribution
3 facilities;

4 (9) natural gas distribution facilities;

5 (10) lighting systems;

6 (11) cable or other telecommunications lines
7 and related equipment;

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

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

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

16 ~~[F.]~~ J. "infrastructure purpose" means:

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

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

25 (3) acquiring interests in real property or

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1 water rights for infrastructure, including interests of the
2 owner; and

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

6 ~~[J.]~~ K. "municipality" means an incorporated city,
7 town or village, whether incorporated under general act,
8 special act or special charter, incorporated counties and H
9 class counties;

10 L. "participant" means a person who participates in
11 a training program authorized by the state, a county or a
12 municipality that provides information on the importance of
13 budgeting and the operation of credit histories and credit
14 scores;

15 ~~[K.]~~ M. "public post-secondary educational
16 institution" means a state university or a public community
17 college;

18 ~~[L.]~~ N. "qualifying grantee" means:

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

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

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

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

6 (c) is approved by the governmental
7 entity; and

8 [M.] O. "residential housing" means any building,
9 structure or portion thereof that is primarily occupied, or
10 designed or intended primarily for occupancy, as a residence by
11 one or more households and any real property that is offered
12 for sale or lease for the construction or location thereon of
13 such a building, structure or portion thereof. "Residential
14 housing" includes congregate housing, manufactured homes,
15 housing intended to provide or providing transitional or
16 temporary housing for homeless persons and common health care,
17 kitchen, dining, recreational and other facilities primarily
18 for use by residents of a residential housing project."

19 SECTION 2. A new section of the Affordable Housing Act is
20 enacted to read:

21 "[NEW MATERIAL] CREDITWORTHINESS ASSISTANCE PROGRAM--
22 CREDITWORTHINESS ASSISTANCE GRANTS--ELIGIBILITY.--

23 A. The "creditworthiness assistance program" is
24 created and shall be administered by the authority. The
25 application for a creditworthiness assistance grant shall be in
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1 a form prescribed by the authority. To be eligible for a
2 creditworthiness assistance grant:

3 (1) a nonindividual qualifying grantee shall:

4 (a) have a functioning accounting system
5 that is operated in accordance with generally accepted
6 accounting principles or shall designate an entity that will
7 maintain such an accounting system consistent with generally
8 accepted accounting principles; and

9 (b) have among its purposes significant
10 activities related to renting residential housing; and

11 (2) an individual qualifying grantee shall
12 meet all requirements provided pursuant to rules promulgated by
13 the authority pursuant to the Affordable Housing Act.

14 B. A creditworthiness assistance grant provided
15 pursuant to this section shall not exceed:

16 (1) five thousand dollars (\$5,000) of unpaid
17 rent to a qualifying grantee per one participant;

18 (2) ten thousand dollars (\$10,000) of unpaid
19 rent to a qualifying grantee per calendar year; and

20 (3) two thousand five hundred dollars (\$2,500)
21 for damages caused to a rented residential property by a
22 participant.

23 C. The authority shall promulgate rules regarding:

24 (1) requirements for a participant to be
25 eligible to receive a creditworthiness assistance grant;

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1 (2) the application for a creditworthiness
2 assistance grant;

3 (3) the training program on the importance of
4 budgeting and the operation of credit histories and credit
5 scores; and

6 (4) the process for other grantors to
7 administer creditworthiness assistance grants."

8 SECTION 3. Section 6-27-5 NMSA 1978 (being Laws 2004,
9 Chapter 104, Section 5, as amended) is amended to read:

10 "6-27-5. STATE, COUNTY, MUNICIPALITIES, INSTRUMENTALITIES
11 OF THE STATE AND THE AUTHORITY--AUTHORIZATION FOR AFFORDABLE
12 HOUSING.--The state, including any agency or instrumentality of
13 the state, or a county, a municipality or the authority may:

14 A. donate, provide or pay all or a portion of the
15 costs of land for the construction on the land of affordable
16 housing;

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

20 C. provide or pay the costs of financing or
21 infrastructure necessary to support affordable housing
22 projects; [~~or~~]

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

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1 E. donate, provide or pay all or a portion of the
2 costs of unpaid rent owed by a participant or damages caused to
3 a residential property pursuant to the requirements provided in
4 Subsection B of Section 2 of this 2024 act."

5 SECTION 4. Section 6-27-7 NMSA 1978 (being Laws 2004,
6 Chapter 104, Section 7, as amended) is amended to read:

7 "6-27-7. REQUIREMENT FOR ENACTMENT OF AN ORDINANCE BY A
8 COUNTY OR A MUNICIPALITY AND REVIEW BY THE AUTHORITY
9 AUTHORIZING HOUSING ASSISTANCE GRANTS AND CREDITWORTHINESS
10 ASSISTANCE GRANTS.--

11 A. A county or municipality may provide housing
12 assistance grants pursuant to Article 9, Section 14 of the
13 constitution of New Mexico and creditworthiness assistance
14 grants pursuant to Section 2 of this 2024 act after enactment
15 by its governing body of an ordinance authorizing grants
16 stating the requirements of and purposes of the grants. The
17 ordinance may provide for matching or using local, private or
18 federal funds either through direct participation with a
19 federal agency pursuant to federal law or through indirect
20 participation through programs of the authority. No less than
21 forty-five days prior to enactment, the county or municipality
22 shall submit a proposed ordinance to the authority, which shall
23 review the proposed ordinance to ensure compliance with rules
24 promulgated by the authority pursuant to Section 6-27-8 NMSA
25 1978. Within fifteen days after enactment of the ordinance,

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1 the county or municipality shall submit a certified true copy
2 of the ordinance to the authority. The governing body of the
3 county or municipality shall authorize the transfer or
4 disbursement of housing assistance grant funds only after the
5 qualifying grantee has submitted a budget to the governing body
6 and the governing body has approved the budget.

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

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

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

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

25 D. Agencies or instrumentalities of the state may

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1 provide housing assistance grants pursuant to Article 9,
2 Section 14 of the constitution of New Mexico in accordance with
3 rules promulgated by the authority.

4 E. The authority may provide housing assistance
5 grants pursuant to Article 9, Section 14 of the constitution of
6 New Mexico in accordance with rules promulgated by the
7 authority."

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

10 "6-27-8. PROVISIONS TO ENSURE SUCCESSFUL COMPLETION OF
11 AFFORDABLE HOUSING PROJECTS--SALE AFTER FORECLOSURE.--

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

17 B. The authority shall adopt rules in accordance
18 with the Administrative Procedures Act to carry out the
19 purposes of the Affordable Housing Act. Concurrence by the New
20 Mexico municipal league is required for rules applicable to
21 municipalities. Concurrence by the New Mexico association of
22 counties is required for rules applicable to counties.

23 C. The authority shall adopt rules covering:

24 (1) procedures to ensure that qualifying
25 grantees meet the requirements of the Affordable Housing Act

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1 and rules promulgated pursuant to that act both at the time of
2 the award and through the term of the grant or the
3 creditworthiness assistance grant;

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

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

11 (a) financial and management stability
12 of the applicant;

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

15 (c) cost-benefit analysis of the project
16 proposed by the applicant;

17 (d) benefits to the community of a
18 proposed project;

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

21 (f) scope of the affordable housing
22 project;

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

25 (h) performance schedule for the

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1 qualifying grantee with performance criteria;

2 (4) a requirement for long-term affordability
3 of a state, county or municipal project so that a project
4 cannot be sold shortly after completion and taken out of the
5 affordable housing market;

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

11 (6) provisions for adequate security against
12 the loss of public funds or property in the event that a
13 qualifying grantee defaults on a contractual obligation for the
14 project or abandons or otherwise fails to complete a project;

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

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

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

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1 (10) provisions defining "low- and moderate-
2 income" and setting out requirements for verification of income
3 levels;

4 (11) a requirement that a county or
5 municipality that makes a housing assistance grant shall have
6 an existing valid affordable housing plan or housing elements
7 contained in its general plan;

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

13 (13) provisions necessary to ensure the timely
14 sale of an affordable housing project on which a qualifying
15 grantee has defaulted on a contractual obligation or abandoned
16 or otherwise failed to complete.

17 D. The rules adopted by the authority pursuant to
18 Paragraph (13) of Subsection C of this section shall require a
19 governmental entity to:

20 (1) make a determination that the property is
21 not marketable for a price that would sufficiently recover the
22 public funds invested in the project;

23 (2) ascertain that the property has a title
24 that has been transferred to the contracting governmental
25 entity through a foreclosure sale, a transfer of title by deed

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1 in lieu of foreclosure or any other manner;

2 (3) exercise reasonable efforts to ensure that
3 all proceeds from the sale of a property pursuant to Paragraph
4 (13) of Subsection C of this section are used solely for
5 purposes pursuant to the Affordable Housing Act and that the
6 qualifying grantee that held title to the property shall not
7 benefit from the sale of the property or from the transfer of
8 the affordable housing project; and

9 (4) provide the terms for:

10 (a) the sale of the property at fair
11 market value; and

12 (b) the removal of the contractual
13 obligation requiring long-term occupancy of the property by
14 low- or moderate-income households."

15 SECTION 6. A new section of the Affordable Housing Act is
16 enacted to read:

17 "[NEW MATERIAL] CREDITWORTHINESS ASSISTANCE FUND--
18 CREATED.--The "creditworthiness assistance fund" is created in
19 the authority. The fund consists of distributions, gifts,
20 grants, donations and income from investment of the fund.
21 Money remaining in the fund at the end of a fiscal year shall
22 not revert to any other fund. The authority shall administer
23 the fund, and money in the fund shall be used to provide
24 creditworthiness assistance grants pursuant to Section 2 of
25 this 2024 act and to pay the administrative costs of the

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1 authority in carrying out that section."

2 SECTION 7. APPROPRIATION.--Two hundred fifty thousand
3 dollars (\$250,000) is appropriated from the general fund to the
4 department of finance and administration for expenditure in
5 fiscal year 2025 and subsequent fiscal years to contract with
6 the New Mexico mortgage finance authority to administer the
7 creditworthiness assistance fund. Any unexpended or
8 unencumbered balance remaining at the end of a fiscal year
9 shall not revert to the general fund.

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