

**THE BOARD OF COUNTY COMMISSIONERS OF  
SANTA FE COUNTY**

**RESOLUTION NO. 2022 - 095**

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**A RESOLUTION SUPPORTING CHANGES TO THE NEW MEXICO  
MUNICIPAL HOUSING LAW FOR THE 2023 LEGISLATIVE SESSION**

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**WHEREAS**, the New Mexico Municipal Housing Law was enacted to address unsanitary and unsafe dwelling accommodations that exist in the State of New Mexico; and

**WHEREAS**, under the Municipal Housing Law, the New Mexico State Legislature determined that the providing of safe and sanitary dwelling accommodations for persons of low and moderate income are public uses and purposes for which public money may be spent and private property acquired, and are governmental functions of state and local concern; and

**WHEREAS**, under the Municipal Housing Law, the New Mexico State Legislature determined that the planning, development, and re-development of affordable housing to relieve housing shortages for low to moderate income persons is a public interest and matter of legislative determination; and

**WHEREAS**, Section 3-45-5 of the Municipal Housing Law conferred to cities and counties the power to create authorities, herein referred to as housing authorities, by a proper resolution of its governing body, as a public body politic and corporate separate from the city or county; and

**WHEREAS**, the Municipal Housing Law conferred to housing authorities the power to purchase, lease, construct, reconstruct, improve, alter, extend or repair any housing project or part of a housing project within a housing authority's jurisdiction; and

**WHEREAS**, the limited construction and availability of affordable housing within the County of Santa Fe and State of New Mexico continues to be a matter of public concern; and

**WHEREAS**, recent data published by the United States Department of Housing and Urban Development (HUD) identified the affordable rental market in the Santa Fe County areas as "extremely tight," with a vacancy rate of less than one percent; and

**WHEREAS**, housing authorities throughout the State of New Mexico and within the County of Santa Fe are having historically low-rates of placing low-income households who qualify for housing subsidy in affordable units in their local rental markets; and



**WHEREAS**, the creation of affordable housing developments by housing authorities is critical to alleviate current market conditions and provide safe, decent and affordable housing for low to moderate income families in the County of Santa Fe and the State of New Mexico; and

**WHEREAS**, legislative changes to the Municipal Housing Law would further aid housing authorities created under the law in the creation of affordable housing developments, and promote their ability to provide safe, decent and affordable housing to the low to moderate income persons of their jurisdictions; and

**WHEREAS**, the Board of County Commissioners of Santa Fe County (BCC) discusses and approves support for legislative priorities as an important step in assuring the preservation and provision of exemplary services and policies; and

**WHEREAS**, city and/or county officials and employees may contribute critical resources, support, and expertise to housing authorities; and

**WHEREAS**, housing authorities require flexibility to develop locally-driven, innovative, and cost-effective approaches and to create entities, partnerships, and joint ventures that assist in promoting, financing, and accomplishing affordable housing objectives; and

**WHEREAS**, it is important that the BCC take action to further the goals of the County's Strategic Plan, including the creation and preservation of affordable housing; and

**WHEREAS**, the last update to the Municipal Housing Law occurred over eight years ago in 2014; and

**WHEREAS**, the BCC would like to demonstrate strong support to the State Legislature for making the following statutory changes to the Municipal Housing Law, to further promote the ability of housing authorities created under the Municipal Housing Law to plan, design and create affordable housing developments within Santa Fe County and the State of New Mexico:

1. Amend Section 3-45-5(B)(2), NMSA 1978, "Creation of Authority," to remove the sentence which states, "A commissioner of an authority shall not hold any other office or employment of the city for which the authority is created."
2. Create additional provisions within Section 3-45-5 to provide explicit authority for a housing authority created under the Municipal Housing Law to form corporations or other entities for affordable housing purposes, similar to the explicit authority provide to regional housing authorities under Section 11-3A-9, NMSA 1978. Proposed draft language to this effect is attached hereto as Exhibit A.
3. Add language to the statute to explicitly state that debt incurred by a Housing Authority created under the Municipal Housing Law are not debts against a city or county government body of the jurisdiction in which the Authority was created.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of County Commissioners of Santa Fe County hereby supports the changes to the Municipal Housing Law set forth above, and urges enacting these changes by the State Legislature during its 2023 Legislative Session.



PASSED, APPROVED, AND ADOPTED THIS 15th DAY OF November, 2022.

**BOARD OF COUNTY COMMISSIONERS  
OF SANTA FE COUNTY**

By: Anna T. Hamilton  
Anna T. Hamilton, Chair

**ATTEST:**

Katharine E. Clark  
Katharine E Clark, Santa Fe County Clerk

Date: 11/16/22



**APPROVED AS TO FORM:**

Jeff Young  
Jeff Young, Santa Fe County Attorney

COUNTY OF SANTA FE )  
STATE OF NEW MEXICO ) ss  
I Hereby Certify That This Instrument Was Filed for  
Record On The 18TH Day Of November, 2022 at 09:36:23 AM  
And Was Duly Recorded as Instrument # 2001653  
Of The Records Of Santa Fe County

Witness My Hand And Seal Of Office  
Katharine E. Clark  
Deputy Destiny Romero County Clerk, Santa Fe, NM



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**Exhibit A**  
**Proposed Changes to Section 3-45-5, NMSA 1978**  
(new subsections are underlined)

**3-45-5. Creation of authority.**

A. Every city, in addition to other powers conferred by the Municipal Housing Law, shall have power and is authorized, by proper resolution of its governing body, to create an authority to be known as the "housing authority" of the city as a public body politic and corporate separate from the city. The city may delegate to the authority the power to construct, maintain, operate and manage any housing project or affordable housing programs of the city and may delegate to the authority any or all of the powers conferred on the city by the Municipal Housing Law.

B. When the governing body of a city adopts a resolution pursuant to Subsection A of this section:

(1) the mayor shall appoint three, five or seven persons as commissioners of the authority as follows:

(a) at least three commissioners if the municipality is a village, town or county that does not contain a metropolitan statistical area as defined by the United States census; or

(b) at least five but no more than seven commissioners if the municipality is a city or a county that contains a metropolitan statistical area as defined by the United States census; and

(2) the commissioners who are first appointed shall be designated to serve staggered terms of one to five years from the date of their appointment, depending on the size of the authority. Thereafter, commissioners shall be appointed for a term of office of five years, except that all vacancies shall be filled for the unexpired term. A commissioner of an authority shall not hold any other office or employment of the city for which the authority is created. A commissioner shall hold office until a successor has been appointed and has qualified, unless sooner removed according to law. A commissioner may serve two or more successive terms of office. A certificate of the appointment or reappointment of any commissioner shall be filed with the clerk, and the certificate shall be conclusive evidence of the due and proper appointment of the commissioner. A commissioner shall receive no compensation for services for the authority in any capacity, but shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of duties.

C. Two or more cities joined together pursuant to Subsection B of Section 3-45-4 NMSA 1978 shall establish their commissioners in accordance with Subsection B of this section, except that each city shall have equitable representation on the commission. The commissioners representing each city shall be appointed by the mayor of the city.

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D. Any powers delegated by a city to an authority shall be vested in the commissioners of the authority in office from time to time. A majority of commissioners shall constitute a quorum of the authority for the purpose of conducting its business and exercising its powers and for all other purposes. Action may be taken by the authority upon a vote of a majority of the commissioners present. The commission shall organize itself at its annual meeting each even-numbered year. Any city creating a housing authority may authorize the authority to employ a secretary, who shall be executive director and who shall be removable only for cause. With the delegated authority from the commission, the executive director may hire or terminate, according to the procurement and personnel policies and procedures of the authority, technical experts and such other officers, attorneys, agents and employees, permanent and temporary, as the authority may require; determine their qualifications, duties and compensation; and delegate to one or more of them such powers or duties as the authority may deem proper.

E. Every housing authority, in addition to other powers conferred by the Municipal Housing Law, shall have, if authorized by resolution of its commissioners, the power to create corporations, limited liability companies, partnerships, or other legal entities to carry out the powers and duties set forth in Section 3-45-4, NMSA 1978. The articles of incorporation and bylaws, and any subsequent changes, shall be recommended for approval by the New Mexico mortgage finance authority. Such nonprofit corporations shall be subject to all of the duties and limitations imposed on the housing authority and its commissioners.

F. A housing authority may participate as a general or limited partner, co-venturer, shareholder, or otherwise as a principal, an investor, a lender, a guarantor, a contracting party, or in any other manner, all upon such terms and conditions and with such rights and obligations as the commissioners of the housing authority shall, from time to time, in its discretion determine to be appropriate.

G. A housing authority may participate in cooperative arrangements with persons and for profit entities whose purpose is solely that of pecuniary gain, as well as with nonprofit entities and persons who seek no pecuniary gain. The participation of a local housing authority in any arrangement with other persons or entities, including for-profit persons and entities, shall not cause any activity engaged in by the authority to be characterized as proprietary nor deprive the authority of any privilege or immunity otherwise existing under law.

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