

28 [~~(1)~~] (2) "Director" means the director of the division.

29 [~~(2)~~] (3) "Division" means the Division of Community Development.

30 Section 2. Section **9-4-202** is amended to read:

31 **9-4-202. Powers and duties of division.**

32 (1) The division shall:

33 (a) assist local governments and citizens in the planning, development, and
34 maintenance of necessary public infrastructure and services;

35 (b) cooperate with, and provide technical assistance to, counties, cities, towns, regional
36 planning commissions, area-wide clearinghouses, zoning commissions, parks or recreation
37 boards, community development groups, community action agencies, and other agencies
38 created for the purpose of aiding and encouraging an orderly, productive, and coordinated
39 development of the state and its political subdivisions;

40 (c) assist the governor in coordinating the activities of state agencies which have an
41 impact on the solution of community development problems and the implementation of
42 community plans;

43 (d) serve as a clearinghouse for information, data, and other materials which may be
44 helpful to local governments in discharging their responsibilities and provide information on
45 available federal and state financial and technical assistance;

46 (e) carry out continuing studies and analyses of the problems faced by communities
47 within the state and develop such recommendations for administrative or legislative action as
48 appear necessary;

49 (f) assist in funding affordable housing and addressing problems of homelessness;

50 (g) support economic development activities through grants, loans, and direct programs
51 financial assistance;

52 (h) certify project funding at the local level in conformance with federal, state, and
53 other requirements;

54 (i) utilize the capabilities and facilities of public and private universities and colleges
55 within the state in carrying out its functions;

56 (j) assist and support local governments, community action agencies, and citizens in
57 the planning, development, and maintenance of home weatherization, energy efficiency, and
58 antipoverty activities; and

59 (k) assist and support volunteer efforts in the state.

60 (2) The division may:

61 (a) accept for and on behalf of, and bind the state to, any federal program in which the
62 state is invited, permitted, or authorized to participate in the distribution, disbursement, or
63 administration of any fund or service advanced, offered, or contributed in whole or in part, by
64 the federal government for purposes consistent with the powers and duties of the department;

65 (b) if any federal program requires the expenditure of state funds as a condition to
66 participation by the state in any fund, property, or service, with the governor's approval, expend
67 whatever funds are necessary out of the money provided by the Legislature for the use of the
68 department; ~~and~~

69 (c) in accordance with Part 13, Domestic Violence Shelters, assist in developing,
70 constructing, and improving shelters for victims of domestic violence, as described in Section
71 77-36-1, through loans and grants to nonprofit and governmental entities[-]; and

72 (d) assist, when requested by a county or municipality, in the development of
73 accessible housing.

74 Section 3. Section **9-4-505** is amended to read:

75 **9-4-505. Allocation of volume cap.**

76 (1) (a) Subject to Subsection (1)(b), the volume cap for each year shall be distributed
77 by the board of review to the various allotment accounts as set forth in Section 9-4-506.

78 (b) The board of review may distribute up to 50% of each increase in the volume cap
79 that occurs after the effective date of this Subsection (1)(b) for use in development that occurs
80 in quality growth areas, depending upon the board's analysis of the relative need for additional
81 volume cap between development in quality growth areas and the allotment accounts under
82 Section 9-4-506.

83 (2) To obtain an allocation of the volume cap, issuing authorities shall submit to the
84 board of review an application containing information required by the procedures and
85 processes of the board of review.

86 (3) The board of review shall establish criteria for making allocations of volume cap
87 that are consistent with the purposes of the code and this part. In making an allocation of
88 volume cap the board of review shall consider the following:

89 (a) the principal amount of the bonds proposed to be issued;

- 90 (b) the nature and the location of the project or the type of program;
- 91 (c) the likelihood that the bonds will be sold and the timeframe of bond issuance;
- 92 (d) whether the project or program could obtain adequate financing without an
93 allocation of volume cap;
- 94 (e) the degree to which an allocation of volume cap is required for the project or
95 program to proceed or continue;
- 96 (f) the social, health, economic, and educational effects of the project or program on
97 the local community and state as a whole;
- 98 (g) the anticipated economic development created or retained within the local
99 community and the state as a whole;
- 100 (h) the anticipated number of jobs, both temporary and permanent, created or retained
101 within the local community and the state as a whole;
- 102 (i) if the project is a residential rental project, the degree to which the residential rental
103 project:
 - 104 (i) targets lower income populations; ~~h~~ [and] ~~h~~
 - 105 (ii) is accessible housing; and
 - 106 (j) whether the project meets the principles of quality growth recommended by the
107 Quality Growth Commission created under Section 11-38-201.
- 108 (4) The board of review shall evidence an allocation of volume cap by issuing a
109 certificate in accordance with Section 9-4-507.
- 110 (5) (a) From January 1 to June 30, the board shall set aside at least 50% of the Small
111 Issue Bond Account that may be allocated only to manufacturing projects.
- 112 (b) From July 1 to August 15, the board shall set aside at least 50% of the Pool
113 Account that may be allocated only to manufacturing projects.
- 114 Section 4. Section **9-4-609** is amended to read:
115 **9-4-609. Powers of housing authority.**
 - 116 (1) Each authority shall have perpetual succession and all the powers necessary or
117 convenient to carry out and effectuate the purposes and provisions of this part.
 - 118 (2) Any authority may:
 - 119 (a) sue and be sued;
 - 120 (b) have a seal and alter it;

- 121 (c) make and execute contracts and other instruments necessary or convenient to the
122 exercise of its powers;
- 123 (d) make, amend, and repeal bylaws and rules;
- 124 (e) within its area of operation, prepare, carry out, and operate projects and provide for
125 the acquisition, construction, reconstruction, rehabilitation, improvement, extension, alteration
126 or repair of any project;
- 127 (f) undertake and carry out studies and analyses of housing needs within its area of
128 operation and ways of meeting these needs, including data with respect to population and
129 family groups and its distribution according to income groups, the amount and quality of
130 available housing, including accessible housing, and its distribution according to rentals and
131 sales prices, employment, wages and other factors affecting the local housing needs and
132 meeting these needs;
- 133 (g) make the results of studies and analyses available to the public and the building,
134 housing, and supply industries and engage in research and disseminate information on housing
135 programs;
- 136 (h) utilize, contract with, act through, assist, and cooperate or deal with any person,
137 agency, institution, or organization, public or private, for the provision of services, privileges,
138 works, or facilities, or in connection with its projects;
- 139 (i) notwithstanding anything to the contrary contained in this part or in any other
140 provision of law, agree to any conditions attached to federal financial assistance relating to the
141 determination of prevailing salaries or wages or payment of not less than prevailing salaries or
142 wages or compliance with labor standards in the development or administration of projects,
143 include in any contract awarded or entered into in connection with a project stipulations
144 requiring that the contractor and all subcontractors comply with requirements as to minimum
145 salaries or wages and maximum hours of labor, and comply with any conditions attached to the
146 financial aid of the project;
- 147 (j) lease, rent, sell, or lease with option to purchase any dwellings, lands, buildings,
148 structures, or facilities embraced in any project;
- 149 (k) subject to the limitations contained in this part with respect to the rental or charges
150 for dwellings in housing projects, establish and revise the rents or charges therefor;
- 151 (l) own, hold, and improve real or personal property;

152 (m) purchase, lease, obtain options upon, acquire by gift, grant, bequest, devise, or
153 otherwise any real or personal property or any interest in it;

154 (n) sell, lease, exchange, transfer, assign, pledge, or dispose of any real or personal
155 property or any interest in it;

156 (o) make loans for the provision of housing for occupancy by persons of medium and
157 low income;

158 (p) make loans or grants for the development and construction of accessible housing;

159 [~~(p)~~] (q) insure or provide for the insurance, in stock or mutual companies, of any real
160 or personal property or operations of the authority against any risks or hazards;

161 [~~(q)~~] (r) procure or agree to the procurement of government insurance or guarantees of
162 the payment of any bonds, in whole or in part, issued by the authority, including the power to
163 pay premiums on any insurance;

164 [~~(r)~~] (s) invest any funds held in reserves, sinking funds, or any funds not required for
165 immediate disbursement in property or securities in which savings banks may legally invest
166 funds subject to their control;

167 [~~(s)~~] (t) redeem its bonds at the redemption price established or purchase its bonds at
168 less than redemption price, with all bonds so redeemed or purchased to be canceled;

169 [~~(t)~~] (u) within its area of operation, determine where blighted areas exist or where
170 there is unsafe, insanitary, or overcrowded housing;

171 [~~(u)~~] (v) make studies and recommendations relating to the problem of clearing,
172 replanning, and reconstructing blighted areas, and the problem of eliminating unsafe,
173 insanitary, or overcrowded housing and providing dwelling accommodations and maintaining a
174 wholesome living environment for persons of medium and low income, and cooperate with any
175 public body or the private sector in action taken in connection with those problems;

176 [~~(v)~~] (w) acting through one or more commissioners or other persons designated by the
177 authority, conduct examinations and investigations and hear testimony and take proof under
178 oath at public or private hearings on any matter material for its information;

179 [~~(w)~~] (x) administer oaths, issue subpoenas requiring the attendance of witnesses or the
180 production of books and papers, and issue commissions for the examination of witnesses
181 outside the state who are unable to appear before the authority or are excused from attendance;

182 [~~(x)~~] (y) make available to appropriate agencies, including those charged with the duty

183 of abating or requiring the correction of nuisances or like conditions or of demolishing unsafe
184 or insanitary structures within its area of operation, its findings and recommendations with
185 regard to any building or property where conditions exist that are dangerous to the public
186 health, morals, safety, or welfare; and

187 ~~[(y)]~~ (z) exercise all or any part or combination of the powers granted under this part.

188 (3) No provision of law with respect to the acquisition, operation, or disposition of
189 property by other public bodies is applicable to an authority unless the Legislature specifically
190 states that it is.

191 Section 5. Section **9-4-705** is amended to read:

192 **9-4-705. Activities authorized to receive fund moneys -- Powers of the executive**
193 **director.**

194 At the direction of the board, the executive director may:

195 (1) provide fund moneys to any of the following activities:

196 (a) acquisition, rehabilitation, or new construction of low-income housing units;

197 (b) matching funds for social services projects directly related to providing housing for
198 special-need renters in assisted projects;

199 (c) the development and construction of accessible housing designed for low-income
200 persons;

201 ~~[(e)]~~ (d) shelters and transitional housing for the homeless; and

202 ~~[(d)]~~ (e) other activities that will assist in improving the availability or quality of
203 housing in the state for low-income persons;

204 (2) do any act necessary or convenient to the exercise of the powers granted by this part
205 or reasonably implied therefrom including:

206 (a) making or executing contracts and other instruments necessary or convenient for
207 the performance of the executive director and board's duties and the exercise of the executive
208 director and board's powers and functions under this part, including contracts or agreements for
209 the servicing and originating of mortgage loans;

210 (b) procuring insurance against any loss in connection with property or other assets
211 held by the fund, including mortgage loans, in amounts and from insurers it considers
212 desirable;

213 (c) entering into agreements with any department, agency, or instrumentality of the

214 United States or this state and with mortgagors and mortgage lenders for the purpose of
215 planning and regulating and providing for the financing and refinancing, purchase,
216 construction, reconstruction, rehabilitation, leasing, management, maintenance, operation, sale,
217 or other disposition of any residential housing undertaken with the assistance of the department
218 under this part;

219 (d) proceeding with a foreclosure action, to own, lease, clear, reconstruct, rehabilitate,
220 repair, maintain, manage, operate, assign, encumber, sell, or otherwise dispose of any real or
221 personal property obtained by the fund due to the default on any mortgage loan held by the
222 fund in preparation for disposition of the property, taking assignments of leases and rentals,
223 proceeding with foreclosure actions, and taking other actions necessary or incidental to the
224 performance of its duties; and

225 (e) selling, at a public or private sale, with public bidding, any mortgage or other
226 obligation held by the fund.

227 Section 6. Section **9-4-707** is amended to read:

228 **9-4-707. Application process and priorities.**

229 (1) (a) In each calendar year that moneys are available from the fund for distribution by
230 the executive director under the direction of the board, the director shall, at least once in that
231 year, announce a grant and loan application period by sending notice to interested persons.

232 (b) The executive director shall accept applications which are received in a timely
233 manner.

234 (2) The executive director shall give first priority to applications for projects and
235 activities that use existing privately-owned housing stock, including privately owned housing
236 stock purchased by nonprofit public development authorities.

237 (3) Preference shall be given to applications that demonstrate the following:

238 (a) a high degree of leverage with other sources of financing;

239 (b) high recipient contributions to total project costs, including allied contributions
240 from other sources such as professional, craft and trade services, and lender interest rate
241 subsidies;

242 (c) high local government project contributions in the form of infrastructure
243 improvements, or other assistance;

244 (d) projects that encourage ownership, management, and other project-related

245 responsibility opportunities;

246 (e) projects that demonstrate a strong probability of serving the original target group or
247 income level for a period of at least 15 years;

248 (f) projects where the applicant has demonstrated the ability, stability, and resources to
249 complete the project;

250 (g) projects that appear to serve the greatest need;

251 (h) projects that provide housing for persons and families with the lowest income;

252 (i) projects that promote economic development benefits;

253 (j) projects that allow integration into a local government housing plan; and

254 (k) projects that would mitigate or correct existing health, safety, or welfare problems.

255 (4) Consideration may be given to projects that increase the supply of accessible
256 housing.

257 Section 7. Section **9-4-910** is amended to read:

258 **9-4-910. Corporation -- Powers.**

259 The corporation has and may exercise all powers necessary or appropriate to carry out
260 the purposes of this part, including the following:

261 (1) to have perpetual succession as a body politic and corporate, constituting a public
262 corporation, and to adopt, amend, and repeal rules, policies, and procedures for the regulation
263 of its affairs and the conduct of its business;

264 (2) to sue and be sued in its own name;

265 (3) to have an official seal and power to alter that seal at will;

266 (4) to maintain an office at any place or places within this state it may designate;

267 (5) to adopt, amend, and repeal bylaws and rules, not inconsistent with this part, to
268 carry into effect the powers and purposes of the corporation and the conduct of its business;

269 (6) to make and execute contracts and all other instruments necessary or convenient for
270 the performance of its duties and the exercise of its powers and functions under this part,
271 including contracts or agreements for the servicing and originating of mortgage loans;

272 (7) to employ advisers, consultants, and agents, including financial experts,
273 independent legal counsel, and any advisers, consultants, and agents as may be necessary in its
274 judgment and to fix their compensation;

275 (8) to procure insurance against any loss in connection with its property and other

276 assets, including mortgage loans, in amounts and from insurers it considers desirable;
277 (9) to borrow money and to issue bonds and notes or other evidences of indebtedness
278 as provided in this part;
279 (10) to receive and accept aid or contributions from any source of money, property,
280 labor, or other things of value to be held, used, loaned, granted, and applied to carry out the
281 purposes of this part subject to the conditions, if any, upon which the grants and contributions
282 are made, including gifts or grants from any department, agency, or instrumentality of the
283 United States or of this state for any purpose consistent with this part;
284 (11) to enter into agreements with any local public body, any housing sponsor, any
285 department, agency, or instrumentality of the United States or this state, or with mortgagors
286 and mortgage lenders for the purpose of planning and regulating and providing for the
287 financing and refinancing, construction, rehabilitation, leasing, management, maintenance,
288 operation, sale, or other disposition of, any residential housing undertaken with the assistance
289 of the corporation under this part;
290 (12) to exercise all of its remedies following the default under any mortgage loan,
291 including:
292 (a) proceeding with a foreclosure action or private sale to obtain title to the real and
293 personal property held as collateral and taking assignments of leases and rentals;
294 (b) to own, lease, clear, reconstruct, rehabilitate, repair, maintain, manage, and operate
295 this property in preparation for its disposition; and
296 (c) to assign, encumber, sell, or otherwise dispose of this property;
297 (13) to invest any funds not required for immediate disbursement, including funds held
298 in reserve, in a manner consistent with applicable provisions of Title 51, Chapter 7, State
299 Money Management Act [~~of 1974~~];
300 (14) to provide technical and financial assistance to housing sponsors and advisory
301 committees in the development or operation of housing for low and moderate income persons;
302 (15) to gather and distribute data and information concerning the housing needs of low
303 and moderate income families within the various communities of this state;
304 (16) to the extent permitted under any contract with the holders of bonds, notes, and
305 other obligations of the corporation, to consent to any modification with respect to rate of
306 interest, time and payment of any installment of principal or interest security, or any other term

307 of any contract, mortgage, mortgage loan, mortgage loan commitment, contract, or agreement
308 of any kind to which the corporation is a party;

309 (17) to the extent permitted under any contract with the holders of bonds, notes, and
310 other obligations of the corporation, to enter into contracts with any mortgagor or housing
311 sponsor containing provisions enabling the mortgagor to reduce the rental or carrying charges
312 to persons unable to pay the regular schedule of charges where, by reason of other income or
313 payment by any department, agency, or instrumentality of the United States or of this state, the
314 reduction can be made without jeopardizing the economic stability of residential housing being
315 financed;

316 (18) to acquire property within this state for the purpose of holding it for subsequent
317 disposition to a housing sponsor or other entity that can use it for residential housing for low
318 and moderate income persons, except that if no person can be found to use it in this manner,
319 the corporation may dispose of the property to any person;

320 (19) to purchase, own and operate residential housing for the benefit, in whole or in
321 part, of low and moderate income persons, so long as the corporation makes reasonable efforts
322 to sell that residential housing to a housing sponsor;

323 (20) to incorporate or form one or more subsidiaries of the corporation for the purpose
324 of carrying out any of the powers of the corporation and accomplishing any of the purposes of
325 the corporation, to invest in and provide financial assistance to these subsidiaries, to borrow
326 from these subsidiaries, to guarantee the obligations of these subsidiaries, and to enter into
327 agreements with these subsidiaries to carry out any of the corporation's powers under this part;

328 (21) to enter into partnership and limited liability company agreements, to purchase
329 and sell interests in housing sponsors, to serve as general partner of a partnership, and to serve
330 as a manager of a limited liability company to carry out any of the corporation's powers under
331 this part;

332 (22) to require that persons receiving a mortgage loan or financial assistance from the
333 corporation subject the property involved to restrictive covenants that shall be considered to be
334 running with the land, regardless of whether or not the corporation enjoys privity of estate or
335 whether or not the covenant touches and concerns the burdened property;

336 (23) to enter into management agreements with any person or entity for the
337 performance by the person or entity for the corporation of any of its functions or powers, with

338 terms and conditions as may be mutually agreeable;

339 (24) to sell, at public or private sale, with or without public bidding, any mortgage loan
340 or other obligation held by the corporation;

341 (25) to sell or convey real property owned by the corporation to low or moderate
342 income persons and housing sponsors, without consideration if the sale or conveyance will
343 inure primarily to the benefit of low or moderate income persons living in a housing
344 development;

345 (26) upon making a determination that the financial status of a housing development
346 will jeopardize any economic interest of the corporation in the housing development, to assume
347 managerial and financial control of the property or the owner and to supervise and prescribe the
348 activities of the property or the owner in a manner and under terms and conditions as the
349 corporation may stipulate in any contract;

350 (27) to supervise housing sponsors of housing developments;

351 (28) to service mortgage loans; ~~[and]~~

352 (29) to give consideration to those activities which promote the availability of
353 accessible housing; and

354 ~~[(29)]~~ (30) to do any act necessary or convenient to the exercise of the powers granted
355 in or reasonably implied from this part.

Legislative Review Note
as of 12-3-02 9:19 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

Interim Committee Note
as of 12-12-02 4:42 PM

The Health and Human Services Interim Committee recommended this bill.

Fiscal Note
Bill Number HB0036

Accessible Housing

13-Jan-03

5:32 PM

State Impact

No significant fiscal impact.

Individual and Business Impact

No significant fiscal impact.

Office of the Legislative Fiscal Analyst