

Part 4 Housing Authorities

35A-8-401 Definitions.

As used in this part:

- (1) "Area of operation" means:
 - (a) in the case of an authority of a city, the city, except that the area of operation of an authority of a city does not include an area that lies within the territorial boundaries of some other city; or
 - (b) in the case of an authority of a county, all of the county for which it is created except, that a county authority may not undertake a project within the boundaries of a city unless a resolution has been adopted by the governing body of the city, and by any authority which has been established and authorized to exercise its powers in the city, declaring that there is need for the county authority to exercise its powers within that city.
- (2) "Blighted area" means an area where dwellings predominate that, by reason of dilapidation, overcrowding, faulty arrangement or design, lack of ventilation, light, or sanitary facilities or any combination of these factors, are detrimental to safety, health, and morals.
- (3) "Bonds" means bonds, notes, interim certificates, debentures, or other obligations issued by an authority under this part.
- (4) "City" means a city or town in the state.
- (5) "Clerk" means the city or county clerk, or the officer charged with the duties customarily imposed on the clerk.
- (6) "County" means a county in the state.
- (7) "Elderly" means a person who meets the age, disability, or other conditions established by regulation of the authority.
- (8) "Federal government" includes the United States of America, the Department of Housing and Urban Development, or any other agency or instrumentality, corporate or otherwise, of the United States.
- (9) "Governing body" means, in the case of a city, the council or other body of the city in which is vested legislative authority customarily imposed on the city council, and in the case of a county, the board of county commissioners.
- (10) "Housing authority" or "authority" means a public body corporate and politic created by this part.
- (11)
 - (a) "Housing project" or "project" means a work or undertaking, on contiguous or noncontiguous sites to:
 - (i) demolish, clear, or remove buildings from a blighted area;
 - (ii) provide or assist in providing decent, safe, and sanitary urban or rural dwellings, apartments, or other living accommodations for persons of medium and low income by any suitable methods, including rental, sale of individual units in single or multifamily structures under conventional condominium, cooperative sales contract, lease-purchase agreement, loans, or subsidizing of rentals or charges; or
 - (iii) accomplish a combination of Subsections (11)(a)(i) and (ii).
 - (b) "Housing project" includes:
 - (i) buildings, land, equipment, facilities, and other real or personal property for necessary, convenient, or desirable appurtenances;
 - (ii) streets, sewers, water service, utilities, parks, site preparation and landscaping;

- (iii) facilities for administrative, community, health, recreational, welfare, or other purposes;
 - (iv) the planning of the buildings and other improvements;
 - (v) the acquisition of property or any interest in the property;
 - (vi) the demolition of existing structures;
 - (vii) the construction, reconstruction, rehabilitation, alteration, or repair of the improvements and all other work in connection with them; and
 - (viii) all other real and personal property and all tangible or intangible assets held or used in connection with the housing project.
- (12) "Major disaster" means a flood, drought, fire, hurricane, earthquake, storm, or other catastrophe, which in the determination of the governing body is of sufficient severity and magnitude to warrant the use of available resources of the federal, state, and local governments to alleviate the damage, hardship, or suffering caused.
- (13) "Mayor" means the mayor of the city or the officer charged with the duties customarily imposed on the mayor or executive head of a city.
- (14) "Obligee of an authority" or "obligee" includes a bondholder, agent or trustee for a bondholder, a lessor demising to the authority used in connection with a project, an assignee or assignees of the lessor's interest in whole or in part, and the federal government when it is a party to a contract with the authority.
- (15) "Persons of medium and low income" mean persons or families who, as determined by the authority undertaking a project, cannot afford to pay the amounts at which private enterprise, unaided by appropriate assistance, is providing a substantial supply of decent, safe and sanitary housing.
- (16) "Person with a disability" means a person with any disability as defined by and covered under the Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12102.
- (17) "Public body" means a city, county or municipal corporation, commission, district, authority, agency, subdivision, or other body of the foregoing.
- (18) "Real property" includes all lands, improvements, and fixtures on them, property of any nature appurtenant to them or used in connection with them, and every estate, interest, and right, legal or equitable, including terms for years.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-402 Creation of housing authority authorized -- Procedure.

- (1) The governing body of each public body of the state, except the state itself, may create an authority, corporate and politic, to be known as a "housing authority."
- (2) The governing body of a city or county shall give consideration to the need for an authority:
- (a) on its own motion; or
 - (b) upon the filing of a petition signed by 25 electors of the city or county asserting that there is need for an authority to function in the city or county and requesting that its governing body make a declaration to that effect.
- (3) The governing body shall adopt a resolution declaring there is need for an authority and creating an authority in the city or county if it finds:
- (a) that unsanitary or unsafe inhabited dwelling accommodations exist in the city or county; or
 - (b) that there is a shortage of safe and sanitary dwelling accommodations in the city or county available to persons of medium and low income at rentals or prices they can afford.
- (4)
- (a) In any suit, action, or proceeding involving the validity or enforcement of a contract of the authority, an authority shall be conclusively deemed to have become established and

authorized to transact business and exercise its powers upon proof of the adoption of the resolution prescribed in Subsection (3).

- (b) A copy of the resolution duly certified by the clerk shall be admissible in evidence in a suit, action, or proceeding.
- (5) In counties of the third, fourth, fifth, and sixth class, the governing body of each public body of the state, except the state itself, may contract with or execute an interlocal agreement for services to be provided by an existing housing authority established in another political subdivision.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-403 Indian housing authorities.

- (1)
 - (a) There is created, with respect to each Indian tribe, band, or community in the state, a public body corporate and politic, to function in the operating area of the Indian tribe, band, or community to be known as the "housing authority" of the Indian tribe, band, or community, which is an agency of this state, possessing all powers, rights, and functions specified for city and county authorities created under this part.
 - (b) This Indian housing authority may not transact business or exercise its powers unless the governing council of the tribe, band, or community, by proper resolution, declares that there is a need for an authority to function for the tribe, band, or community.
- (2)
 - (a) Except as otherwise provided in this part, the provisions of law applicable to housing authorities created for cities and counties and the commissioners of these authorities shall be applicable to Indian housing authorities and the commissioners of those authorities.
 - (b) The chief or other governing head of an Indian tribe, band, or community may exercise all appointing and other powers with respect to an Indian housing authority that are vested by this part in the mayor of a city relating to a city housing authority.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-404 Commissioners -- Appointment -- Terms -- Quorum -- Meetings -- Employment of other officers and employees authorized.

- (1) If a housing authority is authorized to transact business and exercise powers under this part, not less than five nor more than seven people shall be appointed as commissioners of the authority:
 - (a) in the case of a city, by the mayor, with the advice and consent of the city's governing body;
or
 - (b) in the case of a county, by the county's governing body.
- (2)
 - (a) The commissioners first appointed under this part shall serve for terms of one, two, three, four, and five years, respectively, from the date of their appointment.
 - (b) After the first commissioners are appointed under Subsection (2)(a), commissioners are appointed for a term of office of four years.
 - (c) Notwithstanding Subsections (2)(a) and (b), all vacancies are filled for the unexpired term.
- (3) A commissioner qualifies by taking the official oath of office.
- (4) A commissioner may not receive compensation except necessary expenses, including traveling expenses, incurred in the discharge of the commissioner's duties.

- (5) A commissioner holds office until the commissioner's successor is appointed and qualified.
- (6) A certificate of appointment or reappointment of a commissioner shall be:
 - (a) filed with the authority; and
 - (b) conclusive evidence of the appointment of the commissioner.
- (7) The powers of each authority are vested in the commissioners.
- (8)
 - (a) A majority of the commissioners of an authority constitutes a quorum for the purpose of conducting its business and exercising its powers and for all other purposes notwithstanding the existence of any vacancies.
 - (b) The authority may take action upon a vote of a majority of the commissioners present, unless the bylaws of the authority require a larger number.
- (9) Meetings of the commissioners of an authority may be held:
 - (a) anywhere within the area of operation of the authority; or
 - (b) within any area not described in Subsection (9)(a) in which the authority is authorized to undertake a project.
- (10) The commissioners of an authority shall elect a chair and vice chair from the commissioners.
- (11) An authority may employ an executive director, legal and technical experts, and other officers, agents, and employees, permanent and temporary, and shall determine their qualifications, duties, and compensation.
- (12) An authority may delegate to one or more of its agents or employees any powers or duties the authority considers proper.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-405 Disclosure of interest in project -- Restrictions.

- (1) A commissioner, officer, or employee of an authority, who has voluntarily acquired any of the following interests, shall disclose to the commissioners of the authority, as soon as the person has knowledge of the interest, the nature and extent of the interest:
 - (a) a present or future interest, direct or indirect, in a project;
 - (b) a present or future interest, direct or indirect, in a property included in or planned to be included in a project;
 - (c) a contract or proposed contract relating to a project; or
 - (d) any other transaction or agreement with the authority.
- (2) The commissioners shall enter the particulars of the disclosure into the minutes of the authority.
- (3) After a disclosure of interest, the commissioner, officer, or employee may participate in any discussions concerning proposed authority action on the property, contract, transaction, or agreement in which the person has an interest, but the commissioner, officer, or employee may not vote on any action proposed by the authority regarding that property, contract, transaction, or agreement.
- (4) Commissioners, officers, and employees of an authority are not "public officers" for purposes of Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-406 Misconduct of commissioners -- Removal.

- (1) A commissioner of an authority may be removed by the mayor or, in the case of an authority for a county, by the body that appointed the commissioner for inefficiency, neglect of duty, or misconduct in office.

- (2) A commissioner may be removed only after a hearing and after having been given a copy of the charges at least 10 days prior to the hearing and having an opportunity to be heard in person or by counsel.
- (3) If a commissioner is removed, a record of the proceedings, together with the charges and findings, shall be filed in the office of the clerk.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-407 Powers of housing authority.

- (1) An authority has perpetual succession and all the powers necessary to carry out the purposes of this part.
- (2) An authority may:
 - (a) sue and be sued;
 - (b) have a seal and alter it;
 - (c) make and execute contracts and other instruments necessary to the exercise of its powers;
 - (d) make, amend, and repeal bylaws and rules;
 - (e) within its area of operation, prepare, carry out, and operate projects and provide for the acquisition, construction, reconstruction, rehabilitation, improvement, extension, alteration or repair of any project;
 - (f) undertake and carry out studies and analyses of housing needs within its area of operation and ways of meeting those needs, including data with respect to population and family groups and its distribution according to income groups, the amount and quality of available housing, including accessible housing, and its distribution according to rentals and sales prices, employment, wages and other factors affecting the local housing needs and meeting these needs;
 - (g)
 - (i) make the results of studies and analyses available to the public and the building, housing, and supply industries; and
 - (ii) engage in research and disseminate information on housing programs;
 - (h) utilize, contract with, act through, assist, and cooperate or deal with any person, agency, institution, or organization, public or private, for the provision of services, privileges, works, or facilities, or in connection with its projects;
 - (i) notwithstanding anything to the contrary contained in this part or in any other provision of law:
 - (i) agree to any conditions attached to federal financial assistance relating to the determination of prevailing salaries or wages or payment of not less than prevailing salaries or wages or compliance with labor standards in the development or administration of projects;
 - (ii) include in any contract awarded or entered into in connection with a project stipulations requiring that the contractor and all subcontractors comply with requirements as to minimum salaries or wages and maximum hours of labor; and
 - (iii) comply with any conditions attached to the financial aid of the project;
 - (j) lease, rent, sell, or lease with the option to purchase any dwellings, lands, buildings, structures, or facilities embraced in a project;
 - (k) subject to the limitations contained in this part with respect to the rental or charges for dwellings in housing projects, establish and revise the rents or charges for the dwellings;
 - (l) own, hold, and improve real or personal property;
 - (m) purchase, lease, obtain options upon, acquire by gift, grant, bequest, devise, or otherwise any real or personal property or any interest in it;

- (n) sell, lease, exchange, transfer, assign, pledge, or dispose of real or personal property or any interest in it;
 - (o) make loans for the provision of housing for occupancy by persons of medium and low income;
 - (p) make loans or grants for the development and construction of accessible housing;
 - (q) insure or provide for the insurance, in stock or mutual companies, of real or personal property or operations of the authority against any risks or hazards;
 - (r) procure or agree to the procurement of government insurance or guarantees of the payment of any bonds, in whole or in part, issued by the authority, including the power to pay premiums on the insurance;
 - (s) invest money held in reserves, sinking funds, or any funds not required for immediate disbursement in property or securities in which savings banks may legally invest money subject to their control;
 - (t) redeem its bonds at the redemption price established or purchase its bonds at less than redemption price, with all bonds that are redeemed or purchased to be canceled;
 - (u) within its area of operation, determine where blighted areas exist or where there is unsafe, insanitary, or overcrowded housing;
 - (v) make studies and recommendations relating to the problem of clearing, replanning, and reconstructing blighted areas, and the problem of eliminating unsafe, insanitary, or overcrowded housing and providing dwelling accommodations and maintaining a wholesome living environment for persons of medium and low income, and cooperate with any public body or the private sector in action taken in connection with those problems;
 - (w) acting through one or more commissioners or other persons designated by the authority, conduct examinations and investigations and hear testimony and take proof under oath at public or private hearings on any matter material for its information;
 - (x) administer oaths, issue subpoenas requiring the attendance of witnesses or the production of books and papers, and issue commissions for the examination of witnesses outside the state who are unable to appear before the authority or are excused from attendance;
 - (y) make available to appropriate agencies, including those charged with the duty of abating or requiring the correction of nuisances or like conditions or of demolishing unsafe or insanitary structures within its area of operation, its findings and recommendations with regard to any building or property where conditions exist that are dangerous to the public health, morals, safety, or welfare; and
 - (z) exercise all or any part or combination of the powers granted under this part.
- (3)
- (a) If there are two or more housing authorities established within a county of the first or second class, then those housing authorities shall create a uniform online application for the housing choice voucher program with links to each of the housing authorities within the county.
 - (b) As used in Subsection (3)(a), "housing choice voucher program" means the federal government's housing assistance program administered by a housing authority, which enables low-income families, the elderly, and the disabled to secure decent, safe, and sanitary housing in the private market.
- (4) No provision of law with respect to the acquisition, operation, or disposition of property by other public bodies is applicable to an authority unless the Legislature specifically states that it is.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-408 Profit from projects prohibited -- Criteria for determining rentals and payments.

- (1) To accomplish the public, governmental, and charitable purposes of this part, the Legislature declares that:
 - (a) an authority manage and operate the authority's housing projects in an efficient manner to enable each housing project to provide decent, safe, and sanitary dwelling accommodations for persons of medium and low income and fix the rentals or payments for these accommodations for persons of low income at low rates; and
 - (b) an authority may not be operated as a source of revenue to the city or county.
- (2) An authority shall fix the rentals or payments for dwellings in the authority's projects at no higher rates than the authority finds necessary in order to produce revenues that, together with all other available money, revenues, income, and receipts of the authority from whatever sources derived, including federal financial assistance necessary to maintain the low-rent character of the projects, is sufficient to:
 - (a) pay, as they become due, the principal and interest on the bonds of the authority;
 - (b) create and maintain reserves required to assure the payment of principal and interest as it becomes due on its bonds;
 - (c) meet the cost of, and provide for, maintaining and operating the projects, including necessary reserves and the cost of any insurance, and the administrative expenses of the authority; and
 - (d) make payments in lieu of taxes and, after payment in full of all obligations for which federal annual contributions are pledged, make repayments of federal and local contributions as it determines are consistent with the maintenance of the low-rent character of projects.
- (3) Rentals or payments for dwellings shall be established and the projects administered, in so far as possible, to assure that any federal financial assistance required is strictly limited to amounts and periods necessary to maintain the low-rent character of the projects.
- (4) Nothing in this section limits the amount an authority may charge for nondwelling facilities.
- (5) All income and revenue described in this section shall be used in the operation of the projects to aid in accomplishing the public, governmental, and charitable purposes of this part.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-409 Eligibility requirements for occupants -- Rights of obligee on default of authority.

- (1) An authority shall make rules establishing eligibility requirements consistent with the purposes and objectives of this part for admission to and continued occupancy in its projects.
- (2) Nothing contained in this section or in Section 35A-8-408 may be construed to limit the power of an authority, with respect to a housing project, to vest in an obligee the right, in case of a default by the authority, to take possession or cause the appointment of a receiver free from the restrictions imposed by this section or Section 35A-8-408.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-410 Penalties for fraudulently obtaining or continuing to receive housing assistance benefits.

- (1) A person may not knowingly, by misrepresentation, impersonation, or other fraudulent means, make a false statement to housing authority personnel or, after being accepted as a recipient of housing authority benefits, fail to disclose to housing authority personnel any:
 - (a) change in household composition;
 - (b) employment change;
 - (c) change in marital status;
 - (d) receipt of any other monetary assistance;

- (e) receipt of in-kind gifts; or
 - (f) other material fact or change in circumstances that would affect the determination of that person's eligibility to receive housing assistance benefits, or would affect the amount of benefits for which the person is eligible.
- (2) A person may not fail to disclose any of the information described in Subsection (1) for the purpose of obtaining or continuing to receive funds or other housing assistance benefits to which the person is not entitled, or in an amount larger than that to which the person is entitled.
- (3) A person who has duties relating to the administration of a housing authority program may not fraudulently misappropriate funds or other assistance with which the person has been entrusted, or of which the person has gained possession by virtue of the person's position.
- (4) A person may not knowingly:
- (a) file or falsify a claim, report, or document required by state or federal law, or provider agreement, to obtain or attempt to obtain unauthorized housing assistance benefits under this part; or
 - (b) attempt to commit, or aid or abet the commission of, an act prohibited by this section.
- (5) The punishment for violation of a provision of this section by a housing assistance recipient is determined by the cumulative value of the money or other benefits the person received from all instances of fraud committed by the person, and not by each separate instance of fraud.
- (6) The punishment for the offenses of this section are:
- (a) a second degree felony if the value of the funds or other benefits received, misappropriated, claimed, or applied for, is equal to or exceeds \$5,000;
 - (b) a third degree felony if the value of the funds or other benefits received, misappropriated, claimed, or applied for, is equal to or greater than \$1,500 but less than \$5,000;
 - (c) a class A misdemeanor if the value of the funds or other benefits received, misappropriated, claimed, or applied for, is equal to or greater than \$500 but less than \$1,500; or
 - (d) a class B misdemeanor if the value of the funds or other benefits received, misappropriated, claimed, or applied for, is less than \$500.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-411 Authorities may join or cooperate.

- (1) Two or more authorities may cooperate with one another or jointly exercise any or all of their powers for the purpose of financing, issuing bonds and other obligations and giving security for them, planning, undertaking, owning, constructing, operating, or contracting with respect to a housing project or projects located within the area of operation of any one or more of the authorities.
- (2) For this purpose, an authority may by resolution authorize a housing authority joining or cooperating with the authority to act on the authority's behalf.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-412 Preference for elderly and persons with a disability.

- (1) For the purpose of increasing the supply of low-rent housing and related facilities for medium and low-income elderly and medium and low-income persons with a disability, an authority may exercise any of its powers under this part in projects involving dwelling accommodations designed specifically for these persons.

- (2) For dwelling units in any projects suitable to the needs of the elderly or persons with a disability, special preference may be extended in admission to those dwelling units to these persons of medium and low income.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-413 Victims of major disaster.

- (1)
 - (a) Notwithstanding the provisions of this or any other law relating to rentals, preferences, or eligibility for admission or occupancy of dwellings in housing projects during the period an authority determines that there is an acute need for housing to assure the availability of dwellings for victims of a major disaster, the authority may undertake the development and administration of housing projects for the federal government.
 - (b) Dwellings in any housing project under the jurisdiction of the authority may be made available to victims of a major disaster.
- (2) An authority may contract with the federal government or a public body for advance payment or reimbursement for the furnishing of housing to victims of a major disaster, including the furnishing of housing free of charge to needy disaster victims during any period covered by a determination of acute need by the authority.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-414 Property and funds of authority declared public property -- Exemption from taxes -- Alternative agreement with public body.

- (1) The property and funds of an authority are declared to be public property used for essential public, governmental, and charitable purposes.
- (2)
 - (a) Subject to Subsections (2)(b) and (c), the property and authority are exempt from all taxes and special assessments of a public body.
 - (b) This tax exemption does not apply to any portion of a project used for a profit-making enterprise.
 - (c) In taxing these portions appropriate allowance shall be made for any expenditure by an authority for utilities or other public services it provides to serve the property.
- (3) In lieu of taxes on its exempt property an authority may agree to make payments to a public body if the authority finds that making the payments is consistent with the maintenance of the low-rent character of housing projects and the achievement of the purposes of this part.

Amended by Chapter 278, 2013 General Session

35A-8-415 Projects subject to local building regulations.

A project of an authority is subject to the planning, zoning, sanitary, and building laws, ordinances, and regulations applicable to the locality in which the project is situated.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-416 Bonds authorized -- Payment -- Security -- Liability -- Purpose -- Exemption from taxes except corporate franchise tax.

- (1) An authority may:

- (a) issue bonds for any of its corporate purposes;
- (b) issue refunding bonds for the purpose of paying or retiring bonds previously issued by it;
- (c) issue bonds on which the principal and interest are payable:
 - (i) exclusively from the income and revenues of the project financed with the proceeds of the bonds;
 - (ii) exclusively from the income and revenues of certain designated projects, whether or not they are financed in whole or in part with the proceeds of the bonds; or
 - (iii) from its revenues generally.
- (2) Bonds issued by the authority may be additionally secured by a pledge of any loan, grant, or contributions, in whole or in part, from the federal government or other source, or a pledge of any income or revenues of the authority.
- (3) The members of an authority and a person executing the bonds are not liable personally on the bonds.
- (4)
 - (a) The bonds and other obligations of an authority are not a debt of the city, county, state, or a political subdivision, and do not constitute indebtedness for purposes of any constitutional or statutory debt limitation or restrictions.
 - (b) A bond or other obligation of an authority shall include a statement on the face of the bond or other obligation that explains that the bond or other obligation is not a debt of the city, county, state, or a political subdivision, and does not constitute indebtedness for purposes of any constitutional or statutory debt limitation or restrictions.
- (5) The city, county, state, or political subdivision is not liable on the bonds or other obligations.
- (6) These bonds or obligations may not be payable out of funds or properties other than those of the authority.
- (7) Bonds of an authority are declared to be issued for an essential public and governmental purpose and to be public instrumentalities and, together with interest and income, are exempt from all taxes, except the corporate franchise tax.
- (8) The provisions of this part exempting from taxation the properties of an authority and its bonds and interests and income on them are part of the contract for the security of bonds and have the force of contract, by virtue of this part and without the necessity of this being restated in the bonds, between the bondholders, including all transferees of the bonds, on the one hand and an authority and the state on the other.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-417 Bonds to be authorized by resolution -- Form -- Sale -- Negotiability -- Validity presumed.

- (1) Bonds of an authority are authorized by resolution, may be issued in one or more series, and shall as provided by the resolution or its trust indenture:
 - (a) bear dates, including maturity dates;
 - (b) bear interest rates;
 - (c) be in denominations;
 - (d) be either coupon or registered;
 - (e) carry conversion or registration privileges;
 - (f) have rank or priority;
 - (g) be executed;
 - (h) be payable; and
 - (i) be subject to terms of redemption with or without premium.

- (2)
 - (a) The bonds may bear interest at a variable interest rate as provided by the resolution.
 - (b) The resolution may establish a method, formula, or index to determine the current interest rate on the bonds.
- (3) In connection with the bonds, the authority may authorize and enter into agreements or other arrangements with financial, banking, and other institutions for:
 - (a) letters of credit;
 - (b) standby letters of credit;
 - (c) surety bonds;
 - (d) reimbursement agreements;
 - (e) remarketing agreements;
 - (f) indexing agreements;
 - (g) tender agent agreements; and
 - (h) other agreements with respect to:
 - (i) securing the bonds;
 - (ii) enhancing the marketability and creditworthiness of the bonds;
 - (iii) determining a variable interest rate on the bonds; and
 - (iv) the payment from any legally available source, including proceeds of the bonds, fees, charges, or other amounts coming due from the agreements.
- (4) As provided by resolution, the bonds may be sold at a public or private sale at par value, in excess of par value, or below par value.
- (5) If a member or an officer of an authority whose signature appears on a bond or coupon ceases to be a member or an officer before the delivery of the bond or coupon, the signature is valid and sufficient for all purposes.
- (6) A bond issued under this part is fully negotiable.
- (7) In a suit, action, or proceeding involving the validity or enforceability of a bond of an authority or the security for it, a bond reciting in substance that it has been issued by the authority to aid in financing a project is conclusively considered to have been issued for that purpose, and the project is conclusively considered to have been planned, located, and carried out in accordance with this part.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-418 Bonds and other obligations -- Additional powers of authority.

In connection with the issuance of bonds or the incurring of obligations under leases and in order to secure the payment of bonds or obligations, an authority may:

- (1) pledge all or a part of its gross or net rents, fees, or revenues to which its right currently exists or will accrue;
- (2) mortgage all or a part of its real or personal property owned or acquired;
- (3) covenant against pledging all or a part of its rents, fees, and revenues, or against mortgaging all or a part of its real or personal property to which its right or title then exists or will accrue, or against permitting or suffering any lien on the revenues or property;
- (4) covenant with respect to limitations on its right to sell, lease, or otherwise dispose of any housing project and covenant as to what other, or additional debts or obligations may be incurred by it;
- (5) covenant as to bonds to be issued and as to the issuance of bonds in escrow or otherwise, and as to the use and disposition of the bond proceeds;
- (6) provide for the replacement of lost, destroyed, or mutilated bonds;

- (7) covenant against extending the time for the payment of its bonds or interest on them;
- (8) covenant for the redemption of the bonds and provide the terms and conditions for them;
- (9) covenant, subject to the limitations contained in this part as to the rents and fees to be charged in the operation of a housing project, the amount to be raised each year or other period of time by rents, fees, and other revenues, and as to the use and disposition of the revenues;
- (10) authorize the creation of special funds for money held for construction or operating costs, debt service, reserves, or other purposes, and covenant as to the use and disposition of the money held in those funds;
- (11) prescribe the procedure by which the terms of a contract with bondholders may be amended or abrogated, the proportion of outstanding bonds which must consent to the action, and the manner in which consent shall be given;
- (12) covenant as to the use, maintenance, and replacement of any or all of its real or personal property, the insurance to be carried on it, and the use and disposition of insurance money;
- (13) covenant as to the rights, liabilities, powers, and duties arising upon breach by it of a covenant, condition, or obligation;
- (14) covenant and prescribe as to events of default and terms and conditions upon which any or all of its bonds or obligations shall become or may be declared due before maturity, and as to the terms and conditions upon which such declaration and its consequences may be waived;
- (15) vest in an obligee of the authority, or a specified proportion of them, the right to enforce the payment of bonds or any covenants securing or relating to the bonds;
- (16) vest an obligee with the right after default by the authority to take possession of and use, operate, and manage any project or any part of it or any funds connected with them, collect the rents and revenues arising from them, and dispose of them in accordance with the agreement with the authority;
- (17) provide the powers and duties of an obligee and limit the obligee's liabilities;
- (18) provide the terms and conditions upon which an obligee may enforce any covenant or rights securing or relating to the bonds;
- (19) exercise all or any part or combination of the powers granted and make any covenants in addition to the covenants expressly authorized in this section;
- (20) do any acts necessary, convenient, or desirable to secure its bonds; and
- (21) make any covenants or do any acts calculated to make the bonds more marketable.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-419 Issuance of bonds -- Other laws not to apply.

- (1) This part constitutes full authority for the authorization and issuance of bonds.
- (2) No other law for the authorization or issuance of obligations or the deposit of their proceeds that requires a bond election or in any way impedes or restricts the carrying out of the acts authorized to be done shall be construed as applying to any proceedings taken or acts done under this part.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-420 Rights of obligees of authority.

An obligee of an authority, in addition to all other rights conferred on the obligee subject to any contractual restrictions binding upon the obligee, may:

- (1) compel an authority, its officers, agents, or employees to perform each term, provision, and covenant contained in a contract of the authority for the benefit of the obligee and to require

- the carrying out of all covenants and agreements of the authority and the fulfillment of all duties imposed upon it by this part; and
- (2) enjoin any acts or things that may be unlawful, or the violation of any of the rights of an obligee of the authority.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-421 Obligees -- Additional rights conferred by authority.

- (1) An authority may by resolution, trust indenture, mortgage, lease, or other contract, confer upon an obligee the right, in addition to all rights that may otherwise be conferred, upon default as defined in a resolution or instrument, by suit, action, or proceeding in a court of competent jurisdiction to:
 - (a) cause possession of a project, in whole or in part, to be surrendered to the obligee;
 - (b) obtain the appointment of a receiver of a project, in whole or in part, and of the rents and profits from the project; and
 - (c) require the authority and its officers, agents, and employees to account as if they were the trustees of an express trust.
- (2) The receiver:
 - (a) may enter and take possession of the project or any part of it;
 - (b) may operate and maintain the project;
 - (c) may collect and receive all fees, rents, revenues, or other charges arising from the project;
 - (d) shall keep the money collected from the project in a separate account; and
 - (e) shall use the money in accordance with the obligations of the authority as the court directs.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-422 Property of authority exempt from levy and sale -- Obligees excepted -- Waiver.

- (1)
 - (a) Property, including money, acquired or held by an authority under this part shall be exempt from levy and sale by virtue of an execution.
 - (b) An execution or other judicial process may not issue against the property.
 - (c) A judgment against the authority is not a charge or lien upon the property.
- (2) This section does not apply to or limit the right of an obligee to pursue a remedy for the enforcement of a pledge or lien given by the authority on its rents, fees, or revenues or the right of the federal government to pursue a remedy conferred upon it under this part.
- (3) An authority may waive its exemption with respect to claims against a profit-making enterprise occupying a portion of a project if that waiver does not affect or impair the rights of any obligee of the authority.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-423 Financial assistance from federal government permitted.

- (1) In addition to the powers conferred upon an authority by other provisions of this part, an authority may:
 - (a) borrow money or accept contributions, grants, or other financial assistance from the federal government in aid of a project or related activity concerning health, welfare, economic, educational, environmental, or related issues faced by persons of medium and low income;

- (b) take over, lease, or manage a project or undertaking constructed or owned by the federal government; and
 - (c) comply with conditions and enter into contracts, covenants, mortgages, trust indentures, leases, or agreements considered necessary, convenient, or desirable to accomplish the purposes of Subsections (1)(a) and (b).
- (2)
- (a) The purpose and intent of this part is to authorize an authority to do everything necessary or desirable to secure the financial aid or cooperation of the federal government in the provision of decent, safe, and sanitary dwellings and maintaining a wholesome living environment for persons of medium and low income.
 - (b) To accomplish the purpose of Subsection (2)(a) an authority may include in a contract for financial assistance with the federal government the provisions that the federal government may require as conditions to the federal government's financial aid unless those provisions are inconsistent with the purposes of this part.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-424 Defaults -- Conveyance of title to federal government.

- (1) In a contract with the federal government for annual contributions, the authority may obligate itself to convey to the federal government possession of or title to the project upon the occurrence of a substantial default, as defined in the contract, with respect to the covenants and conditions to which the authority is subject.
- (2) This obligation is specifically enforceable and does not constitute a mortgage, notwithstanding any other laws.
- (3) In case of conveyance, the federal government may complete, operate, manage, lease, convey, or otherwise deal with the project and funds in accordance with the terms of the contract if the contract by its terms requires the federal government, as soon as practicable after it is satisfied that all defaults have been cured and that the project will be operated in accordance with the contract, to reconvey the project to the authority.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-425 Powers of public body aiding in project.

- (1) For the purpose of aiding and cooperating in the planning, undertaking, construction, or operation of projects located within its jurisdiction, a public body may, with or without consideration:
 - (a) dedicate, sell, convey, or lease any of its interest in property, or grant easements, licenses, or other rights or privileges to a housing authority or the federal government;
 - (b) cause parks, playgrounds, recreational, community, educational, water, sewer, or drainage facilities, or other works that it is otherwise empowered to undertake to be furnished adjacent to or in connection with these projects;
 - (c) furnish, dedicate, close, pave, install, grade, regrade, plan or replan streets, roads, roadways, alleys, sidewalks, or other places that it is otherwise empowered to undertake;
 - (d) plan or replan, zone or rezone any parts of the public body, make exceptions from building regulations and ordinances, and make changes in its map;
 - (e) cause the same services to be furnished to a housing authority that the public body may furnish, and provide facilities and services, including feeding facilities and services for tenants, in connection with housing projects;

- (f) enter into agreements with respect to the exercise by the public body of its powers relating to the repair, improvement, condemnation, closing, or demolition of unsafe, insanitary, or unfit buildings;
 - (g) notwithstanding the provisions of any other law, use any money belonging to or within the control of the public body, including money derived from the sale or furnishing of property or facilities to a housing authority, in the purchase of the bonds or other obligations of a housing authority and exercise any related rights;
 - (h) do any and all things necessary or convenient to aid and cooperate in the planning, undertaking, construction, or operation of any projects;
 - (i) incur the entire expense of public improvements made by a public body in exercising the powers granted in this part; and
 - (j) enter into agreements, that may extend over any period notwithstanding any provision or rule of law to the contrary, with a housing authority respecting action to be taken by a public body under any of the powers granted by this part.
- (2) If title to or possession of a project is held by a public governmental agency authorized by law to engage in the development or administration of low-rent housing or slum clearance projects, including an agency or instrumentality of the United States, the provisions of the agreements entered into under Subsection (1)(j) inure to the benefit of and may be enforced by that public body or governmental agency.
- (3) A sale, conveyance, lease, or agreement provided for in this section may be made by a public body without appraisal, public notice, advertisement, or public bidding, notwithstanding any other laws to the contrary.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-426 Agreement by public body to accept payment from authority in lieu of taxes.

In connection with a project of a housing authority located wholly or partly within the area in which a public body is authorized to act, the public body may agree with the housing authority with respect to the payment by the authority of sums in lieu of taxes for any year or period of years that are determined by the authority to be consistent with the maintenance of the low-rent character of housing projects or the achievement of the purposes of this part.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-427 Public body may provide financial aid.

In addition to other aids provided, a public body may provide financial aid to a housing authority by:

- (1) loan, donation, grant, contribution, and appropriation of money;
- (2) abatement or remission of taxes;
- (3) payments in lieu of taxes;
- (4) other charges; or
- (5) other means.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-428 Investment in authority authorized.

- (1) The state, public officers, political subdivisions, public bodies, banks, bankers, trust companies, savings banks and institutions, building and loan associations, savings and loan associations,

investment companies, insurance companies, insurance associations, other persons carrying on a banking or insurance business, executors, administrators, guardians, trustees, and other fiduciaries may legally invest money or funds belonging to them or within their control in any bonds or other obligations issued by a housing authority created under this part or issued by a public housing authority or agency in the United States, a United States Territory, the District of Columbia, Puerto Rico, Guam, or the Virgin Islands.

- (2) These bonds or other obligations shall be secured by a pledge of annual contributions or other financial assistance to be paid by the United States government or any of its agencies, or by an agreement between the United States government or any of its agencies and the public housing authority or agency in which the United States government or its agency agrees to lend to the public housing authority or agency, prior to the maturity of the bonds or other obligations, money in an amount which, together with any other money irrevocably committed to the payment of interest on the bonds or other obligations, will suffice to pay the principal of the bonds or other obligations with interest to maturity.
- (3) The money, under the terms of the agreement, is required to be used for this purpose, and the bonds and other obligations are authorized security for all public deposits and are fully negotiable in this state.
- (4) Nothing contained in this section relieves a person, firm, or corporation from any duty of exercising reasonable care in selecting securities.
- (5) The provisions of this section apply notwithstanding any restrictions on investments contained in other laws.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-429 Annual report -- Budget -- Minutes.

- (1) At least once a year, an authority shall file with the clerk, with a copy given to the governing body, a report containing:
 - (a) its activities for the preceding year;
 - (b) its approved annual budget; and
 - (c) recommendations for legislation or other action considered necessary to carry out the purposes of this part.
- (2) An authority shall post electronically for public review its:
 - (a) annual approved budget; and
 - (b) minutes of all open meetings held by its board of commissioners.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-430 Provisions controlling -- Acts of governmental bodies deemed administrative.

- (1) The provisions of this part are controlling, notwithstanding anything to the contrary in any other law of this state, city charter, or local ordinance.
- (2) An action of a city, county, or governing body in carrying out the purposes of this part, whether by resolution, ordinance, or otherwise, is considered administrative in character, and no public notice or publication is required with respect to that action.

Renumbered and Amended by Chapter 212, 2012 General Session