

RELATING TO HOUSING AND TAXATION; CREATING A NEW ARTICLE IN CHAPTER 6 NMSA 1978; AUTHORIZING THE NEW MEXICO MORTGAGE FINANCE AUTHORITY, ALSO KNOWN AS HOUSING NEW MEXICO, TO ACQUIRE AND HOLD TITLE TO PROPERTY FOR AFFORDABLE HOUSING PURPOSES; PROVIDING A PROPERTY TAX EXEMPTION FOR SUCH PROPERTY; AUTHORIZING PAYMENTS IN LIEU OF PROPERTY TAXES; REQUIRING AFFORDABLE HOUSING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new Article 36 is enacted in Chapter 6 NMSA 1978 to read:

ARTICLE 36 PAYMENTS IN LIEU OF TAXES FOR AFFORDABLE HOUSING

6-36-1. SHORT TITLE.

This article may be cited as the "Payments in Lieu of Taxes for Affordable Housing Act."

6-36-2. DEFINITIONS.

As used in this article:

- A. "Authority" means Housing New Mexico, the New Mexico mortgage finance authority, or its successor.
- B. "Area median income" or "AMI" means the median household income for the applicable area as determined annually by the United States department of housing and urban development.
- C. "Eligible housing development" means a residential rental development containing three or more dwelling units including at least twenty percent of the units as affordable at or below eighty percent of AMI.
- D. "Local jurisdiction" means a municipality or county of this state.
- E. "Payment in lieu of property taxes" or "PILOT" means a voluntary payment made pursuant to an agreement approved by a local jurisdiction for property that is exempt from ad valorem property taxation.
- F. "Qualifying grantee" means an entity eligible for housing grants or donations under the Affordable Housing Act.

6-36-3. AUTHORITY TO ACQUIRE PROPERTY.

- A. The authority may acquire fee title to land for the purpose of facilitating the development and operation of eligible housing developments.
- B. A local jurisdiction may authorize the transfer of land underlying an eligible housing development to the authority.

C. Property acquired pursuant to this section shall be held by the authority for a public purpose.

6-36-4. LEASE OF PROPERTY.

A. The authority may lease property acquired pursuant to this article to a qualifying grantee through a long-term ground lease for the purpose of developing and operating affordable residential rental housing.

B. A lease entered into pursuant to this section shall require compliance with the affordability requirements set forth in Section 6-36-7 NMSA 1978.

6-36-5. HOUSING NEW MEXICO PROJECT PROPERTY—TAX EXEMPTION.

A. Property acquired or held by the authority pursuant to this article is public property used for essential public and governmental purposes.

B. While title to the property remains vested in the authority, the property shall be exempt from ad valorem property taxation and from special assessments.

C. The exemption provided by this section applies only during the period that the property is owned by the authority.

D. The leasing or operation of the property by a qualifying grantee pursuant to a lease or other agreement with the authority shall not affect the tax-exempt status of the property.

E. At the end of the lease period, eligible housing development shall be valued at its current and correct value in accordance with the provisions of the Property Tax Code provided that any increase in value over the lease period shall be limited as provided in Section 7-36-21.2 NMSA and shall not exceed an amount equal to the total property value at the end of the lease period multiplied by forty percent.

6-44-6. PAYMENTS IN LIEU OF PROPERTY TAXES.

A. If interests in project property are exempt from property taxation and assessments under Section 6-36-5 NMSA 1978, a local jurisdiction may require the lessee or operator of the property to make annual payments in lieu of property taxes.

B. Payments in lieu of property taxes shall be made to the county treasurer and distributed in the same manner as ad valorem property taxes.

C. The amount, duration, and method of payment shall be established by agreement approved by the governing body of the local jurisdiction and the authority.

D. A payment made pursuant to this section is not an ad valorem property tax.

E. Nothing in this section requires a local jurisdiction to approve a payment in lieu of property taxes.

6-36-7. AFFORDABILITY REQUIREMENTS.

A. An eligible housing development utilizing property owned by the authority pursuant to this article shall reserve not less than twenty percent of the total dwelling units for occupancy by households earning no more than eighty percent of area median income.

B. The affordability requirement shall be maintained for a period of not less than fifteen and not more than twenty years from the date the units are first occupied.

C. The authority shall require the affordability restrictions to be enforced through a recorded instrument or lease provision and a land use restriction agreement.

6-44-8. COMPLIANCE AND ENFORCEMENT.

A. The authority shall monitor compliance with the affordability requirements of this article and the Affordable Housing Act.

B. Failure to comply with the requirements of this article may result in termination of the lease, termination of eligibility under this article, or other remedies provided by agreement including full payment of property taxes that would have been imposed under the Property Tax Code [Chapter 7, Articles 35 to 38 NMSA 1978] during the period of the lease.

6-44-17. RULEMAKING.

The authority may adopt rules necessary to implement the provisions of this article.

6-44-17. SEVERABILITY.

If any part or application of this article is held invalid, the remainder shall not be affected.

SECTION 2. EFFECTIVE DATE.

The effective date of the provisions of this act is July 1, 2027.