

1 H BILL NO. 230
2 INTRODUCED BY Terki LaSage
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO TRANSFER THE
5 ADMINISTRATION OF THE BOARD OF HOUSING FROM THE DEPARTMENT
6 OF COMMUNITY AFFAIRS TO THE DEPARTMENT OF ADMINISTRATION;
7 AMENDING SECTION 35-503 AND RENUMBERING SECTION 82A-907,
8 R.C.M. 1947."
9

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 35-503, R.C.M. 1947, is amended to
12 read as follows:

13 "35-503. Definitions. As used in this act, unless the
14 context requires otherwise:

15 (1) "Board" means the board of housing created in
16 section-82A-907 ~~82A-224v-RvEvMv-1947.~~

17 (2) "Bond" means any bonds, notes, debentures, interim
18 certificates, or other evidences of financial indebtedness
19 issued by the board pursuant to this act.

20 (3) "Capital reserve account" means the capital
21 reserve account provided for in section 35-523.

22 (4) "Department" means the department of community
23 ~~affairs administration~~ provided for in Title 82A, chapter 9
24 ~~2v-RvEvMv-1947.~~

25 (5) "Federally insured mortgage" means a mortgage loan

1 for land development or residential housing insured or
2 guaranteed by the United States or a governmental agency or
3 instrumentality thereof, or a commitment by the United
4 States or a governmental agency or instrumentalities thereof
5 to insure such a mortgage.

6 (6) "Federally insured security" means an evidence of
7 indebtedness insured or guaranteed as to repayment of
8 principal and interest by the United States or an
9 instrumentality thereof.

10 (7) "Governmental agency" means any department,
11 division, public corporation, public agency, political
12 subdivision, or other public instrumentality of the state,
13 the federal government, any other state or public agency, or
14 any two or more thereof.

15 (8) "Housing development" means any work or
16 undertaking financed, in whole or in part, under this act
17 for the primary purpose of acquiring, constructing or
18 rehabilitating dwelling accommodations for persons or
19 families of lower income in need of housing. An undertaking
20 may include any buildings, land, equipment, facilities, or
21 other real or personal properties which are necessary,
22 convenient, or desirable in connection therewith, including
23 but not limited to streets, sewers, utilities, parks, site
24 preparation, landscaping, and other nonhousing facilities as
25 the board determines to be necessary, convenient, or

1 desirable.

2 (9) "Housing development costs" means the sum total of
3 all costs incurred in a housing development approved by the
4 board as reasonable and necessary, including, but not
5 limited to:

6 (a) cost of land acquisition and any buildings
7 thereon, including payments for options, deposits, or
8 contracts to purchase properties on the proposed housing
9 development site or payments for the purchase of properties;

10 (b) cost of site preparation, demolition and clearing;

11 (c) architectural, engineering, legal, accounting,
12 corporation, and other fees paid or payable in connection
13 with the planning, execution and financing of the housing
14 development and the finding of an eligible mortgagee or
15 mortgagees for the housing development;

16 (d) cost of necessary studies, surveys, plans, and
17 permits;

18 (e) insurance, interest, financing, tax and assessment
19 costs and other operating and carrying costs during
20 construction;

21 (f) cost of construction, rehabilitation,
22 reconstruction, fixtures, furnishings, equipment, machinery,
23 apparatus and similar facilities related to the real
24 property;

25 (g) cost of land improvements including landscaping

1 and offsite improvements, whether or not the costs have been
2 paid in cash or in a form other than cash;

3 (h) necessary expenses in connection with initial
4 occupancy of the housing development;

5 (i) a reasonable profit and risk fee in addition to
6 job overhead to the general contractor and if applicable, a
7 limited profit housing sponsor;

8 (j) an allowance established by the board for working
9 capital and contingency reserves, and reserves for any
10 anticipated operating deficits during construction and
11 initial occupancy;

12 (k) costs of other items, including tenant relocation,
13 as the board determines to be reasonable and necessary for
14 the housing development, less any and all net rents and
15 other net revenues received from the operation of the real
16 and personal property on the development site during the
17 construction.

18 (10) "Housing sponsor" means individuals, joint
19 ventures, partnerships, limited partnerships, trusts, firms,
20 associations, corporations, governmental agencies,
21 limited-profit housing sponsor, nonprofit corporation, or
22 other legal entities or any combination thereof, that are:

23 (a) approved by the board;

24 (b) qualified either to own, construct, acquire,
25 rehabilitate, operate, manage, or maintain a housing

1 development;

2 (c) subject to the rules of the board and other terms
3 and conditions set forth in this act.

4 (11) "Lending institution" means any public or private
5 entity or governmental agency, approved by the board,
6 maintaining an office in this state and authorized by law to
7 make or participate in making residential mortgages in the
8 state.

9 (12) "Limited-profit housing sponsor" means a
10 corporation, trust, partnership, association, other entity,
11 or an individual restricted as to distribution of income and
12 regulated as to rents, charges, rate of return, and methods
13 of operation as the board determines necessary to carry out
14 this act.

15 (13) "Mortgage" means a mortgage deed, deed of trust,
16 or other instrument which shall constitute a valid lien on
17 real property in fee simple or on a leasehold under a lease
18 having a remaining term at the time the mortgage is
19 acquired, which does not expire for at least that number of
20 years beyond the maturity date of the obligation secured by
21 the mortgage established by the board as necessary to
22 protect its interest as mortgagee.

23 (14) "Mortgage loan" means an interest bearing
24 obligation secured by a mortgage on land and improvements in
25 the state.

1 (15) "Nonprofit housing sponsor" means a housing
2 cooperative formed under Title 14, chapter 2, ~~Revised--1947,~~
3 or a nonprofit corporation formed under Title 15, chapter
4 23, ~~Revised--1947,~~ restricted as to distribution of income and
5 regulated as to rents, charges, rate of return and methods
6 of operation as the board determines necessary, and whose
7 articles of incorporation provide, in addition that:

8 (a) the organization has been organized exclusively to
9 provide housing developments for persons and families of
10 lower income;

11 (b) all the income and earnings of the organization
12 shall be used exclusively for housing development purposes
13 and no part of the net income or net earnings of the
14 organization shall inure to the benefit or profit of any
15 private individual, firm, corporation, partnership, or
16 association;

17 (c) the organization is in no manner controlled or
18 under the direction or acting in the substantial interest of
19 any private individual, firm, partnership, or association
20 seeking to derive profit or gain therefrom, or seeking to
21 eliminate or minimize losses in any transactions therewith,
22 except that the limitations shall apply to members of a
23 cooperative only to the extent provided by rules of the
24 board;

25 (d) the operations of the organization may be

1 supervised by the board and the organization will enter into
 2 agreements with the board to regulate planning, development,
 3 and management of any housing development undertaken by the
 4 organization and the disposition of the property or other
 5 interests of the organization.

6 (16) "Persons and families of lower income" means
 7 persons and families, with insufficient personal or family
 8 income who require assistance under this act, as determined
 9 by the board, taking into consideration:

10 (a) the amount of the total personal and family income
 11 available for housing needs;

12 (b) the size of the family;

13 (c) the eligibility of persons and families under
 14 federal housing assistance of any type based on lower income
 15 or a functional or physical disability;

16 (d) the ability of persons and families to compete
 17 successfully in the normal housing market and to pay the
 18 amount at which private enterprise is providing decent,
 19 safe, and sanitary housing;

20 (e) the availability and cost of housing in particular
 21 areas; and

22 (f) needs of particular persons or families due to age
 23 or physical handicaps.

24 (17) "Rehabilitation" means the repair, reconstruction,
 25 or improvement of an existing structure to provide decent,

1 safe and sanitary housing or to conform housing with state
 2 or local health, building, fire prevention, and safety codes
 3 as determined by the board."

4 Section 2. Section 82A-907, R.C.M. 1947, is
 5 renumbered 82A-224.

-End-

Approved by Committee
on State Administration

HOUSE BILL NO. 230

INTRODUCED BY GERKE, FABREGA

A BILL FOR AN ACT ENTITLED: "AN ACT TO TRANSFER THE
ADMINISTRATION OF THE BOARD OF HOUSING FROM THE DEPARTMENT
OF COMMUNITY AFFAIRS TO THE DEPARTMENT OF ADMINISTRATION;
AMENDING SEVERAL SECTIONS 35-503 AND 35-526; AND RENUMBERING
REPEALING SECTION 82A-907, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 35-503, R.C.M. 1947, is amended to
read as follows:

"35-503. Definitions. As used in this act, unless the
context requires otherwise:

(1) "Board" means the board of housing created in
section ~~82A-907~~ 82A-224, ~~R.C.M. 1947~~.

(2) "Bond" means any bonds, notes, debentures, interim
certificates, or other evidences of financial indebtedness
issued by the board pursuant to this act.

(3) "Capital reserve account" means the capital
reserve account provided for in section 35-523.

(4) "Department" means the department of ~~community
affairs~~ administration provided for in Title 82A, chapter 9
~~27-R.C.M. 1947~~.

(5) "Federally insured mortgage" means a mortgage loan

for land development or residential housing insured or
guaranteed by the United States or a governmental agency or
instrumentality thereof, or a commitment by the United
States or a governmental agency or instrumentalities thereof
to insure such a mortgage.

(6) "Federally insured security" means an evidence of
indebtedness insured or guaranteed as to repayment of
principal and interest by the United States or an
instrumentality thereof.

(7) "Governmental agency" means any department,
division, public corporation, public agency, political
subdivision, or other public instrumentality of the state,
the federal government, any other state or public agency, or
any two or more thereof.

(8) "Housing development" means any work or
undertaking financed, in whole or in part, under this act
for the primary purpose of acquiring, constructing or
rehabilitating dwelling accommodations for persons or
families of lower income in need of housing. An undertaking
may include any buildings, land, equipment, facilities, or
other real or personal properties which are necessary,
convenient, or desirable in connection therewith, including
but not limited to streets, sewers, utilities, parks, site
preparation, landscaping, and other nonhousing facilities as
the board determines to be necessary, convenient, or

SECOND READING

1 desirable.

2 (9) "Housing development costs" means the sum total of
3 all costs incurred in a housing development approved by the
4 board as reasonable and necessary, including, but not
5 limited to:

6 (a) cost of land acquisition and any buildings
7 thereon, including payments for options, deposits, or
8 contracts to purchase properties on the proposed housing
9 development site or payments for the purchase of properties;

10 (b) cost of site preparation, demolition and clearing;

11 (c) architectural, engineering, legal, accounting,
12 corporation, and other fees paid or payable in connection
13 with the planning, execution and financing of the housing
14 development and the finding of an eligible mortgagee or
15 mortgagees for the housing development;

16 (d) cost of necessary studies, surveys, plans, and
17 permits;

18 (e) insurance, interest, financing, tax and assessment
19 costs and other operating and carrying costs during
20 construction;

21 (f) cost of construction, rehabilitation,
22 reconstruction, fixtures, furnishings, equipment, machinery,
23 apparatus and similar facilities related to the real
24 property;

25 (g) cost of land improvements including landscaping

1 and offsite improvements, whether or not the costs have been
2 paid in cash or in a form other than cash;

3 (h) necessary expenses in connection with initial
4 occupancy of the housing development;

5 (i) a reasonable profit and risk fee in addition to
6 job overhead to the general contractor and if applicable, a
7 limited profit housing sponsor;

8 (j) an allowance established by the board for working
9 capital and contingency reserves, and reserves for any
10 anticipated operating deficits during construction and
11 initial occupancy;

12 (k) costs of other items, including tenant relocation,
13 as the board determines to be reasonable and necessary for
14 the housing development, less any and all net rents and
15 other net revenues received from the operation of the real
16 and personal property on the development site during the
17 construction.

18 (10) "Housing sponsor" means individuals, joint
19 ventures, partnerships, limited partnerships, trusts, firms,
20 associations, corporations, governmental agencies,
21 limited-profit housing sponsor, nonprofit corporation, or
22 other legal entities or any combination thereof, that are:

23 (a) approved by the board;

24 (b) qualified either to own, construct, acquire,
25 rehabilitate, operate, manage, or maintain a housing

1 development;

2 (c) subject to the rules of the board and other terms
3 and conditions set forth in this act.

4 (11) "Lending institution" means any public or private
5 entity or governmental agency, approved by the board,
6 maintaining an office in this state and authorized by law to
7 make or participate in making residential mortgages in the
8 state.

9 (12) "Limited-profit housing sponsor" means a
10 corporation, trust, partnership, association, other entity,
11 or an individual restricted as to distribution of income and
12 regulated as to rents, charges, rate of return, and methods
13 of operation as the board determines necessary to carry out
14 this act.

15 (13) "Mortgage" means a mortgage deed, deed of trust,
16 or other instrument which shall constitute a valid lien on
17 real property in fee simple or on a leasehold under a lease
18 having a remaining term at the time the mortgage is
19 acquired, which does not expire for at least that number of
20 years beyond the maturity date of the obligation secured by
21 the mortgage established by the board as necessary to
22 protect its interest as mortgagee.

23 (14) "Mortgage loan" means an interest bearing
24 obligation secured by a mortgage on land and improvements in
25 the state.

1 (15) "Nonprofit housing sponsor" means a housing
2 cooperative formed under Title 14, chapter 2, ~~RFCM-1947,~~
3 or a nonprofit corporation formed under Title 15, chapter
4 23, ~~RFCM-1947,~~ restricted as to distribution of income and
5 regulated as to rents, charges, rate of return and methods
6 of operation as the board determines necessary, and whose
7 articles of incorporation provide, in addition that:

8 (a) the organization has been organized exclusively to
9 provide housing developments for persons and families of
10 lower income;

11 (b) all the income and earnings of the organization
12 shall be used exclusively for housing development purposes
13 and no part of the net income or net earnings of the
14 organization shall inure to the benefit or profit of any
15 private individual, firm, corporation, partnership, or
16 association;

17 (c) the organization is in no manner controlled or
18 under the direction or acting in the substantial interest of
19 any private individual, firm, partnership, or association
20 seeking to derive profit or gain therefrom, or seeking to
21 eliminate or minimize losses in any transactions therewith,
22 except that the limitations shall apply to members of a
23 cooperative only to the extent provided by rules of the
24 board;

25 (d) the operations of the organization may be

1 supervised by the board and the organization will enter into
 2 agreements with the board to regulate planning, development,
 3 and management of any housing development undertaken by the
 4 organization and the disposition of the property or other
 5 interests of the organization.

6 (16) "Persons and families of lower income" means
 7 persons and families, with insufficient personal or family
 8 income who require assistance under this act, as determined
 9 by the board, taking into consideration:

10 (a) the amount of the total personal and family income
 11 available for housing needs;

12 (b) the size of the family;

13 (c) the eligibility of persons and families under
 14 federal housing assistance of any type based on lower income
 15 or a functional or physical disability;

16 (d) the ability of persons and families to compete
 17 successfully in the normal housing market and to pay the
 18 amount at which private enterprise is providing decent,
 19 safe, and sanitary housing;

20 (e) the availability and cost of housing in particular
 21 areas; and

22 (f) needs of particular persons or families due to age
 23 or physical handicaps.

24 (17) "Rehabilitation" means the repair, reconstruction,
 25 or improvement of an existing structure to provide decent,

1 safe and sanitary housing or to conform housing with state
 2 or local health, building, fire prevention, and safety codes
 3 as determined by the board."

4 SECTION 2. THERE IS A NEW R.C.M. SECTION NUMBERED
 5 82A-224 THAT READS AS FOLLOWS:

6 82A-224. Board of housing. (1) There is a board of
 7 housing.

8 (2) The board consists of seven members appointed by
 9 the governor as provided in 82A-112. The members shall be
 10 informed and experienced in housing, economics, or finance.

11 (3) The board shall elect a chairman and other
 12 necessary officers.

13 (4) The board is designated a quasi-judicial board for
 14 purposes of 82A-112.

15 (5) The board is allocated to the department of
 16 administration for administrative purposes only as provided
 17 in 82A-108.

18 (6) The department shall provide all necessary staff
 19 and services to the board and shall assess the board for
 20 reasonable costs.

21 SECTION 3. SECTION 35-526, R.C.M., 1947, IS AMENDED TO
 22 READ AS FOLLOWS:

23 "35-526. Powers of the department of community
 24 affairs. The department may:

25 (1) survey and investigate housing needs throughout

1 the state and publish the results, and make recommendations
2 to the governor and the legislature as to legislation and
3 other measures necessary, desirable, or advisable to
4 alleviate housing problems;

5 (2) maintain and disseminate information on available
6 governmental housing assistance programs, eligibility and
7 development requirements, and other similar information; and

8 (3) promote research and development in housing
9 planning design, production, conservation, rehabilitation,
10 and other matters relating to, or affecting the provision of
11 decent, safe and sanitary housing in a suitable living
12 environment."

13 Section 4. Section 82A-907, R.C.M. 1947, is
14 ~~renumbered 82A-224~~ REPEALED.

-End-

1 HOUSE BILL NO. 230

2 INTRODUCED BY GERKE, FABREGA

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO TRANSFER THE
5 ADMINISTRATION OF THE BOARD OF HOUSING FROM THE DEPARTMENT
6 OF COMMUNITY AFFAIRS TO THE DEPARTMENT OF ADMINISTRATION;
7 AMENDING ~~SECTION SECTIONS~~ 35-503 ~~AND 35-526~~; AND RENUMBERING
8 ~~REPEALING~~ SECTION 82A-907, R.C.M. 1947."
9

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 35-503, R.C.M. 1947, is amended to
12 read as follows:

13 "35-503. Definitions. As used in this act, unless the
14 context requires otherwise:

15 (1) "Board" means the board of housing created in
16 ~~section 82A-907 82A-2247-R.C.M.-1947.~~

17 (2) "Bond" means any bonds, notes, debentures, interim
18 certificates, or other evidences of financial indebtedness
19 issued by the board pursuant to this act.

20 (3) "Capital reserve account" means the capital
21 reserve account provided for in ~~section~~ 35-523.

22 (4) "Department" means the department of ~~community~~
23 ~~affairs~~ administration provided for in Title 82A, chapter 9
24 ~~27-R.C.M.-1947.~~

25 (5) "Federally insured mortgage" means a mortgage loan

1 for land development or residential housing insured or
2 guaranteed by the United States or a governmental agency or
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4 States or a governmental agency or instrumentalities thereof
5 to insure such a mortgage.

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7 indebtedness insured or guaranteed as to repayment of
8 principal and interest by the United States or an
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17 for the primary purpose of acquiring, constructing or
18 rehabilitating dwelling accommodations for persons or
19 families of lower income in need of housing. An undertaking
20 may include any buildings, land, equipment, facilities, or
21 other real or personal properties which are necessary,
22 convenient, or desirable in connection therewith, including
23 but not limited to streets, sewers, utilities, parks, site
24 preparation, landscaping, and other nonhousing facilities as
25 the board determines to be necessary, convenient, or

1 desirable.

2 (9) "Housing development costs" means the sum total of
3 all costs incurred in a housing development approved by the
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5 limited to:

6 (a) cost of land acquisition and any buildings
7 thereon, including payments for options, deposits, or
8 contracts to purchase properties on the proposed housing
9 development site or payments for the purchase of properties;

10 (b) cost of site preparation, demolition and clearing;

11 (c) architectural, engineering, legal, accounting,
12 corporation, and other fees paid or payable in connection
13 with the planning, execution and financing of the housing
14 development and the finding of an eligible mortgagee or
15 mortgagees for the housing development;

16 (d) cost of necessary studies, surveys, plans, and
17 permits;

18 (e) insurance, interest, financing, tax and assessment
19 costs and other operating and carrying costs during
20 construction;

21 (f) cost of construction, rehabilitation,
22 reconstruction, fixtures, furnishings, equipment, machinery,
23 apparatus and similar facilities related to the real
24 property;

25 (g) cost of land improvements including landscaping

1 and offsite improvements, whether or not the costs have been
2 paid in cash or in a form other than cash;

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4 occupancy of the housing development;

5 (i) a reasonable profit and risk fee in addition to
6 job overhead to the general contractor and if applicable, a
7 limited profit housing sponsor;

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11 initial occupancy;

12 (k) costs of other items, including tenant relocation,
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15 other net revenues received from the operation of the real
16 and personal property on the development site during the
17 construction.

18 (10) "Housing sponsor" means individuals, joint
19 ventures, partnerships, limited partnerships, trusts, firms,
20 associations, corporations, governmental agencies,
21 limited-profit housing sponsor, nonprofit corporation, or
22 other legal entities or any combination thereof, that are:

23 (a) approved by the board;

24 (b) qualified either to own, construct, acquire,
25 rehabilitate, operate, manage, or maintain a housing

1 development;

2 (c) subject to the rules of the board and other terms
3 and conditions set forth in this act.

4 (11) "Lending institution" means any public or private
5 entity or governmental agency, approved by the board,
6 maintaining an office in this state and authorized by law to
7 make or participate in making residential mortgages in the
8 state.

9 (12) "Limited-profit housing sponsor" means a
10 corporation, trust, partnership, association, other entity,
11 or an individual restricted as to distribution of income and
12 regulated as to rents, charges, rate of return, and methods
13 of operation as the board determines necessary to carry out
14 this act.

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16 or other instrument which shall constitute a valid lien on
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18 having a remaining term at the time the mortgage is
19 acquired, which does not expire for at least that number of
20 years beyond the maturity date of the obligation secured by
21 the mortgage established by the board as necessary to
22 protect its interest as mortgagee.

23 (14) "Mortgage loan" means an interest bearing
24 obligation secured by a mortgage on land and improvements in
25 the state.

1 (15) "Nonprofit housing sponsor" means a housing
2 cooperative formed under Title 14, Chapter 2, ~~RvCvM-1947,~~
3 or a nonprofit corporation formed under Title 15, chapter
4 23, ~~RvCvM-1947,~~ restricted as to distribution of income and
5 regulated as to rents, charges, rate of return and methods
6 of operation as the board determines necessary, and whose
7 articles of incorporation provide, in addition that:

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9 provide housing developments for persons and families of
10 lower income;

11 (b) all the income and earnings of the organization
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13 and no part of the net income or net earnings of the
14 organization shall inure to the benefit or profit of any
15 private individual, firm, corporation, partnership, or
16 association;

17 (c) the organization is in no manner controlled or
18 under the direction or acting in the substantial interest of
19 any private individual, firm, partnership, or association
20 seeking to derive profit or gain therefrom, or seeking to
21 eliminate or minimize losses in any transactions therewith,
22 except that the limitations shall apply to members of a
23 cooperative only to the extent provided by rules of the
24 board;

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1 supervised by the board and the organization will enter into
2 agreements with the board to regulate planning, development,
3 and management of any housing development undertaken by the
4 organization and the disposition of the property or other
5 interests of the organization.

6 (16) "Persons and families of lower income" means
7 persons and families, with insufficient personal or family
8 income who require assistance under this act, as determined
9 by the board, taking into consideration:

10 (a) the amount of the total personal and family income
11 available for housing needs;

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14 federal housing assistance of any type based on lower income
15 or a functional or physical disability;

16 (d) the ability of persons and families to compete
17 successfully in the normal housing market and to pay the
18 amount at which private enterprise is providing decent,
19 safe, and sanitary housing;

20 (e) the availability and cost of housing in particular
21 areas; and

22 (f) needs of particular persons or families due to age
23 or physical handicaps.

24 (17) "Rehabilitation" means the repair, reconstruction,
25 or improvement of an existing structure to provide decent,

1 safe and sanitary housing or to conform housing with state
2 or local health, building, fire prevention, and safety codes
3 as determined by the board."

4 SECTION 2. THERE IS A NEW R.C.M. SECTION NUMBERED
5 82A-224 THAT READS AS FOLLOWS:

6 82A-224. Board of housing. (1) There is a board of
7 housing.

8 (2) The board consists of seven members appointed by
9 the governor as provided in 82A-112. The members shall be
10 informed and experienced in housing, economics, or finance.

11 (3) The board shall elect a chairman and other
12 necessary officers.

13 (4) The board is designated a quasi-judicial board for
14 purposes of 82A-112.

15 (5) The board is allocated to the department of
16 administration for administrative purposes only as provided
17 in 82A-108.

18 (6) The department shall provide all necessary staff
19 and services to the board and shall assess the board for
20 reasonable costs.

21 (7) A MEMBER OF THE BOARD SHALL NOT BE DEEMED TO HAVE
22 A CONFLICT OF INTEREST UNDER THE PROVISIONS OF 59-501 MERELY
23 BECAUSE THE MEMBER IS A STOCKHOLDER, OFFICER, OR EMPLOYEE OF
24 A LENDING INSTITUTION WHO MAY PARTICIPATE IN THE BOARD'S
25 PROGRAMS.

1 SECTION 3. SECTION 35-526, R.C.M. 1947, IS AMENDED TO

2 READ AS FOLLOWS:

3 "35-526. Powers of the department of community
4 affairs. The department may:

5 (1) survey and investigate housing needs throughout
6 the state and publish the results, and make recommendations
7 to the governor and the legislature as to legislation and
8 other measures necessary, desirable, or advisable to
9 alleviate housing problems;

10 (2) maintain and disseminate information on available
11 governmental housing assistance programs, eligibility and
12 development requirements, and other similar information; and

13 (3) promote research and development in housing
14 planning design, production, conservation, rehabilitation,
15 and other matters relating to, or affecting the provision of
16 decent, safe and sanitary housing in a suitable living
17 environment."

18 Section 4. Section 82A-907, R.C.M. 1947, is
19 ~~renumbered 82A-224~~ **REPEALED.**

-End-

HOUSE BILL NO. 230

INTRODUCED BY GERKE, FABREGA

A BILL FOR AN ACT ENTITLED: "AN ACT TO TRANSFER THE ADMINISTRATION OF THE BOARD OF HOUSING FROM THE DEPARTMENT OF COMMUNITY AFFAIRS TO THE DEPARTMENT OF ADMINISTRATION; AMENDING SECTION ~~SECTIONS~~ 35-503 AND 35-523; AND RENUMBERING ~~REPEALING~~ SECTION 82A-907, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 35-503, R.C.M. 1947, is amended to read as follows:

"35-503. Definitions. As used in this act, unless the context requires otherwise:

(1) "Board" means the board of housing created in ~~section-82A-907~~ ~~82A-224v-R.C.M.-1947.~~

(2) "Bond" means any bonds, notes, debentures, interim certificates, or other evidences of financial indebtedness issued by the board pursuant to this act.

(3) "Capital reserve account" means the capital reserve account provided for in ~~section~~ 35-523.

(4) "Department" means the department of ~~community affairs~~ ~~administration~~ provided for in Title 82A, chapter 9 ~~2v-kwv-M-1947.~~

(5) "Federally insured mortgage" means a mortgage loan

for land development or residential housing insured or guaranteed by the United States or a governmental agency or instrumentality thereof, or a commitment by the United States or a governmental agency or instrumentalities thereof to insure such a mortgage.

(6) "Federally insured security" means an evidence of indebtedness insured or guaranteed as to repayment of principal and interest by the United States or an instrumentality thereof.

(7) "Governmental agency" means any department, division, public corporation, public agency, political subdivision, or other public instrumentality of the state, the federal government, any other state or public agency, or any two or more thereof.

(8) "Housing development" means any work or undertaking financed, in whole or in part, under this act for the primary purpose of acquiring, constructing or rehabilitating dwelling accommodations for persons or families of lower income in need of housing. An undertaking may include any buildings, land, equipment, facilities, or other real or personal properties which are necessary, convenient, or desirable in connection therewith, including but not limited to streets, sewers, utilities, parks, site preparation, landscaping, and other nonhousing facilities as the board determines to be necessary, convenient, or

1 desirable.

2 (9) "Housing development costs" means the sum total of
 3 all costs incurred in a housing development approved by the
 4 board as reasonable and necessary, including, but not
 5 limited to:

6 (a) cost of land acquisition and any buildings
 7 thereon, including payments for options, deposits, or
 8 contracts to purchase properties on the proposed housing
 9 development site or payments for the purchase of properties;

10 (b) cost of site preparation, demolition and clearing;

11 (c) architectural, engineering, legal, accounting,
 12 corporation, and other fees paid or payable in connection
 13 with the planning, execution and financing of the housing
 14 development and the finding of an eligible mortgagee or
 15 mortgagees for the housing development;

16 (d) cost of necessary studies, surveys, plans, and
 17 permits;

18 (e) insurance, interest, financing, tax and assessment
 19 costs and other operating and carrying costs during
 20 construction;

21 (f) cost of construction, rehabilitation,
 22 reconstruction, fixtures, furnishings, equipment, machinery,
 23 apparatus and similar facilities related to the real
 24 property;

25 (g) cost of land improvements including landscaping

1 and offsite improvements, whether or not the costs have been
 2 paid in cash or in a form other than cash;

3 (h) necessary expenses in connection with initial
 4 occupancy of the housing development;

5 (i) a reasonable profit and risk fee in addition to
 6 job overhead to the general contractor and if applicable, a
 7 limited profit housing sponsor;

8 (j) an allowance established by the board for working
 9 capital and contingency reserves, and reserves for any
 10 anticipated operating deficits during construction and
 11 initial occupancy;

12 (k) costs of other items, including tenant relocation,
 13 as the board determines to be reasonable and necessary for
 14 the housing development, less any and all net rents and
 15 other net revenues received from the operation of the real
 16 and personal property on the development site during the
 17 construction.

18 (10) "Housing sponsor" means individuals, joint
 19 ventures, partnerships, limited partnerships, trusts, firms,
 20 associations, corporations, governmental agencies,
 21 limited-profit housing sponsor, nonprofit corporation, or
 22 other legal entities or any combination thereof, that are:

23 (a) approved by the board;

24 (b) qualified either to own, construct, acquire,
 25 rehabilitate, operate, manage, or maintain a housing

1 development;

2 (c) subject to the rules of the board and other terms
3 and conditions set forth in this act.

4 (11) "Lending institution" means any public or private
5 entity or governmental agency, approved by the board,
6 maintaining an office in this state and authorized by law to
7 make or participate in making residential mortgages in the
8 state.

9 (12) "Limited-profit housing sponsor" means a
10 corporation, trust, partnership, association, other entity,
11 or an individual restricted as to distribution of income and
12 regulated as to rents, charges, rate of return, and methods
13 of operation as the board determines necessary to carry out
14 this act.

15 (13) "Mortgage" means a mortgage deed, deed of trust,
16 or other instrument which shall constitute a valid lien on
17 real property in fee simple or on a leasehold under a lease
18 having a remaining term at the time the mortgage is
19 acquired, which does not expire for at least that number of
20 years beyond the maturity date of the obligation secured by
21 the mortgage established by the board as necessary to
22 protect its interest as mortgagee.

23 (14) "Mortgage loan" means an interest bearing
24 obligation secured by a mortgage on land and improvements in
25 the state.

1 (15) "Nonprofit housing sponsor" means a housing
2 cooperative formed under Title 14, chapter 2, ~~Revised 1947,~~
3 or a nonprofit corporation formed under Title 15, chapter
4 23, ~~Revised 1947,~~ restricted as to distribution of income and
5 regulated as to rents, charges, rate of return and methods
6 of operation as the board determines necessary, and whose
7 articles of incorporation provide, in addition that:

8 (a) the organization has been organized exclusively to
9 provide housing developments for persons and families of
10 lower income;

11 (b) all the income and earnings of the organization
12 shall be used exclusively for housing development purposes
13 and no part of the net income or net earnings of the
14 organization shall inure to the benefit or profit of any
15 private individual, firm, corporation, partnership, or
16 association;

17 (c) the organization is in no manner controlled or
18 under the direction or acting in the substantial interest of
19 any private individual, firm, partnership, or association
20 seeking to derive profit or gain therefrom, or seeking to
21 eliminate or minimize losses in any transactions therewith,
22 except that the limitations shall apply to members of a
23 cooperative only to the extent provided by rules of the
24 board;

25 (d) the operations of the organization may be

1 supervised by the board and the organization will enter into
2 agreements with the board to regulate planning, development,
3 and management of any housing development undertaken by the
4 organization and the disposition of the property or other
5 interests of the organization.

6 (16) "Persons and families of lower income" means
7 persons and families, with insufficient personal or family
8 income who require assistance under this act, as determined
9 by the board, taking into consideration:

10 (a) the amount of the total personal and family income
11 available for housing needs;

12 (b) the size of the family;

13 (c) the eligibility of persons and families under
14 federal housing assistance of any type based on lower income
15 or a functional or physical disability;

16 (d) the ability of persons and families to compete
17 successfully in the normal housing market and to pay the
18 amount at which private enterprise is providing decent,
19 safe, and sanitary housing;

20 (e) the availability and cost of housing in particular
21 areas; and

22 (f) needs of particular persons or families due to age
23 or physical handicaps.

24 (17) "Rehabilitation" means the repair, reconstruction,
25 or improvement of an existing structure to provide decent,

1 safe and sanitary housing or to conform housing with state
2 or local health, building, fire prevention, and safety codes
3 as determined by the board."

4 SECTION 2. THERE IS A NEW R.C.M. SECTION NUMBERED
5 82A-224 THAT READS AS FOLLOWS:

6 82A-224. Board of housing. (1) There is a board of
7 housing.

8 (2) The board consists of seven members appointed by
9 the governor as provided in 82A-112. The members shall be
10 informed and experienced in housing, economics, or finance.

11 (3) The board shall elect a chairman and other
12 necessary officers.

13 (4) The board is designated a quasi-judicial board for
14 purposes of 82A-112.

15 (5) The board is allocated to the department of
16 administration for administrative purposes only as provided
17 in 82A-108.

18 (6) The department shall provide all necessary staff
19 and services to the board and shall assess the board for
20 reasonable costs.

21 (7) A MEMBER OF THE BOARD SHALL NOT BE DEEMED TO HAVE
22 A CONFLICT OF INTEREST UNDER THE PROVISIONS OF 59-501 MERELY
23 BECAUSE THE MEMBER IS A STOCKHOLDER, OFFICER, OR EMPLOYEE OF
24 A LENDING INSTITUTION WHO MAY PARTICIPATE IN THE BOARD'S
25 PROGRAMS.

1 SECTION 3. SECTION 35-526, R.C.M. 1947, IS AMENDED TO

2 READ AS FOLLOWS:

3 *35-526. Powers of the department of community
4 affairs. The department may:

5 (1) survey and investigate housing needs throughout
6 the state and publish the results, and make recommendations
7 to the governor and the legislature as to legislation and
8 other measures necessary, desirable, or advisable to
9 alleviate housing problems;

10 (2) maintain and disseminate information on available
11 governmental housing assistance programs, eligibility and
12 development requirements, and other similar information; and

13 (3) promote research and development in housing
14 planning design, production, conservation, rehabilitation,
15 and other matters relating to, or affecting the provision of
16 decent, safe and sanitary housing in a suitable living
17 environment."

18 Section 4. Section 82A-907, R.C.M. 1947, is
19 ~~renumbered-82A-224~~ REPEALED.

-End-