

1 *House* BILL NO. *342*
 2 INTRODUCED BY *Deke Duiver* *Barlow*
 3 *William* *Santa* *O'Connell* *TERRE* *McCallum*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO BE KNOWN AS THE
 5 HOUSING ACT OF 1975; CREATING A BOARD OF HOUSING AND
 6 PROVIDING FOR ITS POWERS AND DUTIES RELATING TO FINANCING TO
 7 ASSIST PRIVATE ENTERPRISE AND GOVERNMENTAL AGENCIES TO MEET
 8 HOUSING NEEDS."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Title. This act shall be known and may be
12 cited as the "Housing Act of 1975".

13 Section 2. Legislative declaration. The legislature
14 finds and declares that there is a shortage in Montana of
15 decent, safe, and sanitary housing which is within the
16 financial capabilities of the lower income persons and
17 families. In order to alleviate the high cost of housing
18 for these persons, the legislature believes that it is
19 essential that additional public moneys be made available,
20 through the issuance of revenue bonds, to assist both
21 private enterprise and governmental agencies in meeting
22 critical housing needs.

23 Section 3. Definitions. As used in this act, unless
24 the context requires otherwise: (1) "Board" means the
25 board of housing created in section 82A-907, R.C.M. 1947.

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

4 (3) "Capital reserve account" means the capital
5 reserve account provided for in section 24 of this act.

6 (4) "Department" means the department of
7 intergovernmental relations provided for in Title 82A,
8 chapter 9, R.C.M. 1947.

9 (5) "Federally insured mortgage" means a mortgage loan
10 for land development or residential housing insured or
11 guaranteed by the United States or a governmental agency or
12 instrumentality thereof, or a commitment by the United
13 States or a governmental agency or instrumentalities thereof
14 to insure such a mortgage.

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

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

24 (8) "Housing development" means any work or
25 undertaking financed, in whole or in part, under this act

1 for the primary purpose of constructing or rehabilitating
 2 dwelling accommodations for persons or families of lower
 3 income in need of housing. An undertaking may include any
 4 buildings, land, equipment, facilities, or other real or
 5 personal properties which are necessary, convenient, or
 6 desirable in connection therewith, including but not limited
 7 to streets, sewers, utilities, parks, site preparation,
 8 landscaping, and other nonhousing facilities as the board
 9 determines to be necessary, convenient, or desirable.

10 (9) "Housing development costs" means the sum total of
 11 all costs incurred in a housing development approved by the
 12 board as reasonable and necessary, including, but not
 13 limited to:

14 (a) cost of land acquisition and any buildings
 15 thereon, including payments for options, deposits, or
 16 contracts to purchase properties on the proposed housing
 17 development site or payments for the purchase of properties;

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

19 (c) architectural, engineering, legal, accounting,
 20 corporation, and other fees paid or payable in connection
 21 with the planning, execution and financing of the housing
 22 development and the finding of an eligible mortgagee or
 23 mortgagees for the housing development;

24 (d) cost of necessary studies, surveys, plans, and
 25 permits;

1 (e) insurance, interest, financing, tax and assessment
 2 costs and other operating and carrying costs during
 3 construction;

4 (f) cost of construction, rehabilitation,
 5 reconstruction, fixtures, furnishings, equipment, machinery,
 6 apparatus and similar facilities related to the real
 7 property;

8 (g) cost of land improvements including landscaping
 9 and offsite improvements, whether or not the costs have been
 10 paid in cash or in a form other than cash;

11 (h) necessary expenses in connection with initial
 12 occupancy of the housing development;

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

16 (j) an allowance established by the board for working
 17 capital and contingency reserves, and reserves for any
 18 anticipated operating deficits during construction and for
 19 the first two years of occupancy;

20 (k) costs of other items, including tenant relocation,
 21 as the board determines to be reasonable and necessary for
 22 the housing development, less any and all net rents and
 23 other net revenues received from the operation of the real
 24 and personal property on the development site during the
 25 construction.

1 (10) "Housing sponsor" means individuals, joint
2 ventures, partnerships, limited partnerships, trusts, firms,
3 associations, corporations, governmental agencies, or other
4 legal entities or any combination thereof, that are:

5 (a) approved by the board;

6 (b) qualified either to own, construct, acquire,
7 rehabilitate, operate, manage, or maintain a housing
8 development;

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

11 (11) "Lending institution" means any public or private
12 entity or governmental agency, approved by the board,
13 maintaining an office in this state and authorized by law to
14 make or participate in making residential mortgages in the
15 state.

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

22 (13) "Mortgage" means a mortgage deed, deed of trust,
23 or other instrument which shall constitute a first lien on
24 real property in fee simple or on a leasehold under a lease
25 having a remaining term at the time the mortgage is

1 acquired, which does not expire for at least that number of
2 years beyond the maturity date of the obligation secured by
3 the mortgage established by the board as necessary to
4 protect its interest as mortgagee.

5 (14) "Mortgage loan" means an interest bearing
6 obligation secured by a mortgage on land and improvements in
7 the state.

8 (15) "Nonprofit housing sponsor" means a housing
9 cooperative formed under Title 14, chapter 2, R.C.M. 1947,
10 or a nonprofit corporation formed under Title 15, chapter
11 23, R.C.M. 1947, 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, and whose
14 articles of incorporation provide, in addition that:

15 (a) the organization has been organized exclusively to
16 provide housing developments for persons and families of
17 lower income;

18 (b) all the income and earnings of the organization
19 shall be used exclusively for housing development purposes
20 and no part of the net income or net earnings of the
21 organization shall inure to the benefit or profit of any
22 private individual, firm, corporation, partnership, or
23 association;

24 (c) the organization is in no manner controlled or
25 under the direction or acting in the substantial interest of

1 any private individual, firm, partnership, or association
 2 seeking to derive profit or gain therefrom, or seeking to
 3 eliminate or minimize losses in any transactions therewith,
 4 except that the limitations shall apply to members of a
 5 cooperative only to the extent provided by rules of the
 6 board;

7 (d) the operations of the organization may be
 8 supervised by the board and the organization will enter into
 9 agreements with the board to regulate planning, development,
 10 and management of any housing development undertaken by the
 11 organization and the disposition of the property or other
 12 interests of the organization.

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

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

19 (b) the size of the family;

20 (c) the eligibility of persons and families under
 21 federal housing assistance of any type based on lower income
 22 or a functional or physical disability.

23 (d) the ability of persons and families to compete
 24 successfully in the normal housing market and to pay the
 25 amount at which private enterprise is providing decent,

1 safe, and sanitary housing.

2 Section 4. There is a new R.C.M. section numbered
 3 32A-907, that reads as follows:

4 32A-907. Board of housing -- composition -- allocation
 5 -- designation. (1) There is a board of housing.

6 (2) The board consists of:

7 (a) ex officio, the director of intergovernmental
 8 relations;

9 (b) ex officio, the director of social and
 10 rehabilitation services;

11 (c) ex officio, the director of revenue; and

12 (d) four (4) members appointed by the governor as
 13 provided in section 82A-112, informed and experienced in
 14 housing development and finance. These members shall serve
 15 four (4) year terms concurrent with the gubernatorial term.

16 (3) The board shall elect a chairman and other
 17 necessary officers.

18 (4) The board is designated a quasi-judicial board for
 19 purpose of section 82A-112.

20 (5) The board is allocated to the department of
 21 intergovernmental relations for administrative purposes only
 22 as provided in section 82A-108.

23 (6) The department shall provide all necessary staff
 24 and services to the board and shall assess the board for
 25 reasonable costs.

1 Section 5. General powers of the board. The board
 2 may: (1) sue and be sued;
 3 (2) have a seal;
 4 (3) adopt all procedural and substantive rules
 5 necessary for the administration of this act, including
 6 rules concerning its mortgage, construction, and temporary
 7 lending programs;
 8 (4) make contracts, agreements and other instruments
 9 necessary or convenient for the exercise of its powers under
 10 this act;
 11 (5) enter into agreements or other transactions with
 12 any federal, state, or local governmental agency, any
 13 persons and any domestic or foreign partnership,
 14 corporation, association, or organization in carrying out
 15 this act;
 16 (6) enter into agreements under its rules with
 17 sponsors, mortgagors, or lending institutions for the
 18 purpose of regulating the analysis, planning, development
 19 and management of housing developments, financed in whole or
 20 in part, by the proceeds of its loans or securities and
 21 mortgage purchase programs;
 22 (7) enter into agreements or other transactions with,
 23 and accept grants and the cooperation of, any governmental
 24 agency in furtherance of this act, including but not limited
 25 to the development, leasing, maintenance, operation, and

1 financing of any housing development;
 2 (8) accept services, appropriations, gifts, grants,
 3 requests, and devises, and utilize or dispose of them in
 4 carrying out this act;
 5 (9) make or participate in the making of loans or
 6 mortgage loans to lending institutions, housing sponsors,
 7 and persons and families of lower income, to provide for the
 8 construction, rehabilitation, or permanent financing of
 9 housing developments; undertake commitments to make
 10 residential mortgage loans; purchase and sell residential
 11 mortgage loans at public or private sales; modify or alter
 12 mortgages; foreclose on any mortgage or security agreement,
 13 contract or other agreement, or to bid for and purchase
 14 property that is subject to mortgage or security interest at
 15 any foreclosure or other sale; acquire or take possession of
 16 the property and complete, administer, pay the principal and
 17 interest on any obligations incurred in connection with the
 18 property and dispose of the property in a manner as the
 19 board determines necessary to protect its interest under
 20 this act;
 21 (10) purchase, service, sell and make commitments to
 22 purchase, service and sell mortgage loans or securities, to
 23 the extent permitted by this act;
 24 (11) provide general technical services in the
 25 analysis, planning, design, processing, construction,

1 rehabilitation, and management of housing developments for
2 persons and families of lower income, where these services
3 are not otherwise available;

4 (12) provide general consultative services to housing
5 developments for persons and families of lower income and
6 the residents thereof with respect to counseling and
7 training in management, home ownership and maintenance,
8 where these services are not otherwise available;

9 (13) invest any funds not required for immediate use,
10 subject to any agreements with its bondholders and
11 noteholders, as provided in Title 79, chapter 3, R.C.M.
12 1947;

13 (14) sell its loans or securities to the federal
14 national mortgage association or any other agency or
15 instrumentality of the United States, and may invest in the
16 capital stock issued by the association or other agency or
17 instrumentality to the extent, if any, required as a
18 condition of such sale;

19 (15) consent, whenever it deems it necessary or
20 desirable in fulfilling its purposes to the modification of
21 the rate of interest, time and payment of any installment of
22 principal or interest, security, or any other term of any
23 contract, mortgage, mortgage loan, mortgage loan commitment,
24 construction loan, advance contract or agreement of any
25 kind, subject to any agreement with bondholders and

1 noteholders;

2 (16) collect reasonable interest, fees and charges in
3 connection with making and servicing its loans, notes,
4 bonds, commitments, and other evidences of indebtedness, and
5 in connection with providing technical, consultative and
6 project assistance services. Interest fees and charges
7 shall be limited to the amounts required to pay the costs of
8 the board, including operating and administrative expenses
9 and reasonable allowances for losses which may be incurred;

10 (17) procure insurance against any loss in connection
11 with its mortgages and mortgage loans, and other assets or
12 property in amounts and from insurers as the board considers
13 desirable or necessary;

14 (18) act as agent for governmental agencies concerning
15 acquisition, construction, leasing, operation, or management
16 of a housing development; and

17 (19) issue notes and bonds, and replace lost, destroyed
18 or mutilated notes and bonds.

19 Section 6. Financing programs of the board. (1) The
20 board may:

21 (a) make loans to lending institutions under terms and
22 conditions adopted by the board requiring the proceeds to be
23 used by the lending institution for the making of mortgage
24 loans for housing developments in the state for persons and
25 families of lower income;

1 (b) invest in, purchase or make commitments to
 2 purchase, and take assignments from lending institutions, of
 3 notes, mortgages and other securities evidencing loans for
 4 the construction, rehabilitation, purchase, leasing or
 5 refinancing of housing developments for persons and families
 6 of lower income in this state, under terms and conditions
 7 adopted by the board;

8 (c) make, undertake commitments to make, and
 9 participate in the making of mortgage loans, including
 10 federally insured mortgage loans, and to make temporary
 11 loans and advances in anticipation of permanent mortgage
 12 loans to housing sponsors to finance the construction or
 13 rehabilitation of housing developments designed and planned
 14 for occupancy by persons and families of lower income in
 15 this state, under terms and conditions adopted by the board;

16 (d) make, undertake commitments to make, and
 17 participate in the making of first mortgage loans to persons
 18 and families of lower income for housing development,
 19 including without limitation persons and families of lower
 20 income who are eligible or potentially eligible for
 21 federally insured mortgage loans, federal mortgages or other
 22 federal housing assistance, when the board determines that
 23 mortgage loans are not otherwise available, wholly or in
 24 part, from private lenders upon reasonable equivalent terms
 25 and conditions, and under terms and conditions adopted by

1 the board.

2 (2) The board shall adopt rules respecting its
 3 mortgage, construction, and temporary lending programs and
 4 their terms and conditions, the regulation of borrowers, the
 5 admission of occupants in housing developments, the
 6 construction of ancillary facilities, and requirements or
 7 restrictions necessary to implement this act.

8 (3) The board shall adopt rules for the:

9 (a) organization, approval, standards, and regulation
 10 of housing sponsors and eligible recipients;

11 (b) approval, standards and regulation of lending
 12 institutions under this act;

13 (c) assessment, collection and payment of all fees and
 14 charges in connection with making, purchasing, and servicing
 15 of its bonds and notes, mortgage lending, construction
 16 lending, temporary lending, and security purchase programs;

17 (d) assessment and collection of fees and charges in
 18 connection with its technical, consultative, and project
 19 assistance activities;

20 (e) determination and regulation of mortgagor and
 21 lending institution and their use of funds under this
 22 chapter, sponsor and mortgagor equity definitions and
 23 limitations, and housing development costs;

24 (f) percentage of housing units or housing
 25 developments assisted under this act that are reserved for

1 lower income persons and families, and which allows for an
2 economic mixture of residents.

3 Section 7. Procedure prior to financing of housing
4 developments. The board may finance housing developments
5 under this act only when the board finds: (1) that there
6 exists a shortage of decent, safe, and sanitary housing at
7 rentals or prices which persons and families of lower income
8 can afford within the general housing market area to be
9 served by the proposed housing development;

10 (2) that private enterprise and investment have been
11 unable, without assistance, to provide an adequate supply of
12 decent, safe, and sanitary housing in the housing market
13 area at rentals or prices which persons or families of lower
14 income can afford, or to provide sufficient mortgage
15 financing for housing developments for occupancy by persons
16 or families of lower income;

17 (3) that the housing sponsor undertaking the proposed
18 housing development in this state will supply well planned,
19 well designed housing and that such sponsors are financially
20 responsible, and;

21 (4) that the housing development to be assisted under
22 this act will be of public use and will provide a public
23 benefit, taking into account the existence of local
24 government comprehensive plans, housing and land use plans
25 and regulations, areawide plans, and other public desires.

1 Section 8. Supervision of housing sponsors. (1) The
2 board may supervise housing sponsors of housing developments
3 financed under this act as follows:

4 (a) prescribe uniform systems of accounts and records
5 for housing sponsors and require them to make reports and
6 give answers to specific questions on forms and at times
7 specified by the board;

8 (b) enter upon and inspect the housing development,
9 and examine all books and records of the housing sponsor
10 with respect to capitalization, income and other matters as
11 specified by the board;

12 (c) supervise the operation and maintenance of any
13 housing development and order repairs necessary to protect
14 the public and the board's interest or the health, welfare,
15 or safety of the occupants;

16 (d) determine standards for, and control resident
17 selection by a housing sponsor;

18 (e) require any housing sponsor to pay to the board
19 fees as it prescribes in connection with the examination,
20 inspection, supervision, auditing, or other regulation of
21 the housing sponsor;

22 (f) order any housing sponsor to do, or to refrain
23 from doing, things necessary to comply with the provisions
24 of law, the rules of the board, and the terms of any
25 contract or agreement to which the housing sponsor is a

1 party;

2 (g) regulate the retirement of any capital investment
3 or the redemption of stock where any such retirement or
4 redemption when added to any dividend or other distribution
5 shall exceed in any one fiscal year ten percent (10%), or a
6 lesser amount of the original face amount of any investment
7 or equity of any housing sponsor, as determined by the
8 board; and

9 (h) adopt rules specifying the categories of cost
10 which shall be allowable in the construction or
11 rehabilitation of a housing development.

12 (2) The board shall require any housing sponsor to
13 certify the actual housing development costs upon completion
14 of the housing development, subject to audit and
15 determination by the board. The board may accept, in lieu
16 of any certification of housing development costs, other
17 assurances of the housing development costs, in any form or
18 manner whatsoever, as will enable the board to determine
19 with reasonable accuracy the amount of housing development
20 costs.

21 Section 9. Bonds and notes. (1) The board may by
22 resolution, from time to time, issue negotiable notes and
23 bonds in a principal amount as the board determines
24 necessary to provide sufficient funds for achieving any of
25 its purposes, including the payment of interest on notes and

1 bonds of the board, establishment of reserves to secure the
2 notes and bonds, including the reserve funds created under
3 section 17 and all other expenditures of the board incident
4 to, and necessary or convenient to carry out this act.

5 (2) The board may by resolution, from time to time,
6 issue notes to renew notes and bonds to pay notes, including
7 interest, and whenever it deems refunding expedient, to
8 refund any bonds by the issuance of new bonds, whether the
9 bonds to be refunded have or have not matured, and to issue
10 bonds partly to refund bonds outstanding and partly for any
11 of its other purposes.

12 (3) Except as otherwise expressly provided by
13 resolution of the board, every issue of its notes and bonds
14 shall be obligations of the board payable out of any
15 revenues or moneys of the board, subject only to agreements
16 with the holders of particular notes or bonds pledging
17 particular revenues.

18 (4) The notes and bonds shall be authorized by
19 resolutions of the board, shall bear a date and shall mature
20 at times as the resolutions provide. A note shall not
21 mature more than ten (10) years and a bond shall not mature
22 more than fifty (50) years from the date of its issue. The
23 bonds may be issued as serial bonds payable in annual
24 installments or as term bonds or as a combination thereof.
25 The notes and bonds shall bear interest at a rate, or rates,

1 be in denominations, be in a form, either coupon or
 2 registered, carry registration privileges, be executed in a
 3 manner, be payable in a medium of payment, at places within
 4 or without the state, and be subject to terms of redemption
 5 as provided in resolutions. The notes and bonds of the
 6 board may be sold at public or private sale, at prices
 7 determined by the board.

8 Section 10. Provision of bond resolutions. A
 9 resolution authorizing any notes, or bonds, or any issue
 10 thereof, may contain provisions, which shall be a part of
 11 the contract or contracts with the holders thereof, as to:

12 (1) pledging all or any part of the revenues of the board
 13 to secure the payment of the notes or bonds, or of any issue
 14 thereof, subject to existing agreements with noteholders or
 15 bondholders;

16 (2) pledging all or any part of the assets of the
 17 board, including mortgages and obligations securing them, to
 18 secure the payment of the notes or bonds, or of any issue
 19 thereof, subject to existing agreements with noteholders or
 20 bondholders;

21 (3) the use and disposition of the gross income from
 22 mortgages owned by the board and payment of principal of
 23 mortgages owned by the board;

24 (4) the setting aside of reserves of sinking funds in
 25 the hands of trustees, paying agents, and other

1 depositories, and the regulation and disposition thereof;

2 (5) limitations on the purpose to which the proceeds
 3 of sale of notes or bonds may be applied and the pledge of
 4 the proceeds to secure the payment of the notes or bonds or
 5 of any issue thereof;

6 (6) limitations on the issuance of additional notes or
 7 bonds, the terms upon which additional notes or bonds may be
 8 issued and secured, and the refunding of outstanding notes
 9 or bonds;

10 (7) the procedure, if any, by which the terms of any
 11 contract with noteholders or bondholders may be amended or
 12 abrogated, the amount of notes or bonds the holders of which
 13 must consent thereto, and the manner in which such consent
 14 may be given;

15 (8) limitations on the amount of moneys to be expended
 16 by the board for operating expenses of the board;

17 (9) vesting in a trustee property, rights, powers, and
 18 duties in trust as the board determines;

19 (10) defining the acts or omissions to act which shall
 20 constitute a default in the obligations and duties of the
 21 board to the holders of the notes or bonds, and providing
 22 for the rights and remedies of the holders of the notes or
 23 bonds in the event of such default, including as a matter of
 24 right the appointment of a receiver. Rights and remedies
 25 shall not be inconsistent with the laws of the state and the

other provisions of this act; and

(11) any other matters, of like or different character, which in any way affect the security or protection of the holders of the notes or bonds.

Section 11. Validity of pledge. Any pledge made by the board shall be valid and binding from the time the pledge is made. The revenues, moneys or property pledged and thereafter received by the board shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of any pledge shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise against the board, irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

Section 12. Personal liability. The board members and employees of the department are not personally liable or accountable on any bond or note issued by the board.

Section 13. Purchase of notes and bonds -- cancellation. The board, subject to existing agreements with noteholders or bondholders, may, out of any funds available for that reason, purchase notes or bonds of the board, which shall thereupon be cancelled, at a price not exceeding:

(a) the current redemption price plus accrued interest

to the next interest payment thereon, if the notes or bonds are then redeemable; or

(b) the redemption price applicable on the first date after the purchase upon which the notes or bonds become subject to redemption plus accrued interest to that date, of the notes or bonds are not then redeemable.

Section 14. Trust indenture. In the discretion of the board, the bonds may be secured by a trust indenture between the board and a corporate trustee, which may be a trust company or bank having the power of a trust company within or without the state. A trust indenture may contain provisions for protecting and enforcing the rights and remedies of the bondholders as are reasonable and proper and not in violation of law, including covenants setting forth the duties of the board in relation to the exercise of its powers, the custody, safeguarding and application of all moneys. The board may provide by a trust indenture for the payment of the proceeds of the bonds and the revenues to the trustee under the trust indenture of another depository, and for the method of disbursement, with safeguards and restrictions as it determines. All expenditures incurred in carrying out a trust indenture may be treated as part of the operating expenditures of the board.

Section 15. Negotiability of bonds. Notes and bonds issued by the board are negotiable instruments under the

1 Uniform Commercial Code, subject only to the provisions for
2 registration of notes and bonds.

3 Section 16. Signatures of board members. In case any
4 of the board members, whose signatures appear on notes or
5 bonds or coupons, cease to be members before the delivery of
6 the notes or bonds, their signatures shall, nevertheless, be
7 valid and sufficient for all purposes, the same as if the
8 members had remained in office until delivery.

9 Section 17. Reserve funds and appropriations.

10 (1) The board shall pay into the capital reserve account:

11 (a) any funds appropriated and made available by the
12 state for the purpose of the account;

13 (b) any proceeds of sale of notes or bonds to the
14 extent provided in the resolutions or indentures of the
15 board authorizing their issuance; and

16 (c) any other funds which may be available to the
17 board for the purpose of the account from any other source.

18 (2) All funds held in the capital reserve account
19 shall be used solely for the payment of the principal of
20 bonds secured in whole or in part by the account or of the
21 sinking fund payments with respect to the bonds, the
22 purchase or redemption of the bonds, the payment of interest
23 on the bonds or the payment of any redemption premium
24 required to be paid when the bonds are redeemed prior to
25 maturity. Funds in the account shall not be withdrawn at

1 any time in an amount which reduces the amount of the
2 account to less than the sum of minimum capital reserve
3 requirements established for the account, except for the
4 purpose of making, with respect to bonds secured in whole or
5 in part by the account, payment, when due, of principal,
6 interest, redemption premiums, and sinking fund payments for
7 the payment of which other moneys pledged are not available.
8 Any income or interest earned by, or incremental to, the
9 capital reserve account due to its investment may be
10 transferred to other accounts of the board to the extent it
11 does not reduce the amount of the capital reserve account
12 below the sum of minimum capital reserve requirements for
13 the account.

14 (3) The board may not issue bonds secured in whole or
15 in part by the capital reserve account, unless the board
16 deposits in the account, from the proceeds of the bonds
17 issued or from any other sources, an amount not less than
18 the minimum capital reserve requirement for these bonds.
19 For the purposes of this section, the term "minimum capital
20 reserve requirement" means, as of any particular date of
21 computation, an amount of money, as provided in the
22 resolution or indenture of the board authorizing the bonds
23 or notes, equal to not more than the greatest of the
24 respective amounts for the current or any future fiscal year
25 of the board of annual debt service on the bonds of the

1 board secured in whole or in part by the account. The
 2 annual debt service for any fiscal year is the amount of
 3 money equal to the aggregate of all interest and principal
 4 payable on the bonds during the fiscal year, calculated on
 5 the assumption that all the bonds are paid at maturity. If
 6 any amount of the bonds is required to be redeemed on an
 7 earlier date by the operation of a sinking fund, then that
 8 amount is considered payable on those bonds during the year
 9 they are to be redeemed for the purposes of this
 10 calculation.

11 (4) In computing the amount of the capital reserve
 12 account, securities in which all or a portion of the account
 13 shall be invested shall be valued at par, or if purchased at
 14 less than par, at their cost to the board.

15 Section 18. Maintenance of capital reserve account.

16 (1) In order to assure the maintenance of the capital
 17 reserve account, the chairman of the board shall on or
 18 before September 1 in the year preceding the convening
 19 legislature, deliver to the governor a certificate stating
 20 the sum, if any, required to restore the capital reserve
 21 account to the minimum capital reserve requirement. The
 22 governor shall include in the executive budget submitted to
 23 the legislature, the sum required to restore the capital
 24 reserve account to the sum of minimum capital reserve
 25 requirements. All sums appropriated by the legislature

1 shall be deposited in the capital reserve account.

2 (2) All amounts appropriated to the board by the
 3 legislature under this section constitute advances to the
 4 board and, subject to the rights of the holders of any bonds
 5 or notes of the board, shall be repaid to the state's
 6 general fund without interest from available operating
 7 revenues of the board in excess of amounts required for the
 8 payment of bonds, notes or other obligations of the board,
 9 for maintenance of the capital reserve account and for
 10 operating expenses.

11 Section 19. Refunding obligations -- issuance. The
 12 board may provide for the issuance of refunding obligations
 13 for refunding any obligations then outstanding which have
 14 been issued under this chapter, including the payment of any
 15 redemption premium and any interest accrued or to accrue to
 16 the date of redemption of the obligations and for purposes
 17 of the board. The issuance of obligations, the maturities
 18 and other details, the rights of the holders, and the
 19 rights, duties and obligations of the board are governed by
 20 the appropriate provisions of this act which relate to the
 21 issuance of obligations.

22 Section 20. Refunding obligations -- sale. Refunding
 23 obligations issued as provided in section 19 may be sold or
 24 exchanged for outstanding obligations issued under this
 25 chapter. The proceeds may be applied, in addition to other

1 authorized purposes, to the purchase, redemption, or payment
 2 of outstanding obligations. Pending the application of the
 3 proceeds of refunding obligations, with other available
 4 funds, to the payment of principal, accrued interest and any
 5 redemption premium on the obligations being refunded, and,
 6 if permitted in the resolution authorizing the issuance of
 7 the refunding obligations or in the trust agreement securing
 8 them, to the payment of interest on refunding obligations
 9 and expenses in connection with refunding, the proceeds may
 10 be invested as provided in Title 79, chapter 3, R.C.M. 1947.

11 Section 21. Credit of state not pledged. Obligations
 12 issued under the provisions of this act do not constitute a
 13 debt or liability or obligation or a pledge of the faith and
 14 credit of the state but are payable solely from the revenues
 15 or assets of the board. An obligation issued under this act
 16 shall contain on the face thereof a statement to the effect
 17 that neither the faith and credit nor the taxing power of
 18 the state is pledged to the payment of the principal of, or
 19 the interest on, the obligation.

20 Section 22. Annual audit. There shall be an audit of
 21 the board's books and records at least once each fiscal
 22 year.

23 Section 23. Tax exemption of bonds. Bonds, notes or
 24 other obligations issued by the board under this act, their
 25 transfer, and their income (including any profits made on

1 their sale), shall be free from taxation by the state or any
 2 political subdivision or other instrumentality of the state,
 3 excepting inheritance, estate and gift taxes.

4 Section 24. Accounts of the board. (1) Housing
 5 finance account:

6 (a) there is a housing finance account in the bonds
 7 proceeds and insurance clearance fund provided for in
 8 section 79-410(6), R.C.M. 1947;

9 (b) all funds from the proceeds of bonds issued under
 10 this act, fees, and other moneys received by the board,
 11 moneys appropriated by the legislature for the use of the
 12 board in carrying out this act, and moneys made available
 13 from any other source for the use of the board shall be
 14 deposited in the housing finance account except where
 15 otherwise provided by law;

16 (c) all funds deposited in the housing finance account
 17 are continuously appropriated to and may be expended by the
 18 board for the purposes authorized in this act.

19 (2) Capital reserve account:

20 (a) there is a capital reserve account in the sinking
 21 fund provided for in section 79-410(3), R.C.M. 1947;

22 (b) the capital reserve account consists of the
 23 aggregate of moneys retained by the board, under existing
 24 agreements with bondholders, as the minimum capital reserve
 25 requirement described in section 17 of this act for each

1 bond issue sold by the board.

2 (3) Revolving account:

3 (a) there is a revolving account in the revolving fund
4 provided for in section 79-410(7), R.C.M. 1947;

5 (b) funds appropriated by the legislature for use of
6 the board in payment of expenses incurred in carrying out
7 this act shall be deposited in the revolving account;

8 (c) funds expended by the board under this subsection
9 shall be repaid by the board into the revolving account from
10 the fees and charges collected under this act and from any
11 other moneys available for such repayment in accordance with
12 this act.

13 Section 25. Meetings and acts of the board. (1) All
14 meetings of the board are open to the public.

15 (2) All official acts of the board shall be in a
16 regular or special meeting and by a majority of the board.

17 (3) All rules adopted by the board shall be in
18 accordance with the Administrative Procedures Act.

19 Section 26. Powers of the department. The department
20 may: (1) survey and investigate housing needs throughout
21 the state and publish the results, and make recommendations
22 to the governor and the legislature as to legislation and
23 other measures necessary, desirable, or advisable to
24 alleviate housing problems;

25 (2) maintain and disseminate information on available

1 governmental housing assistance programs, eligibility and
2 development requirements, and other similar information; and

3 (3) promote research and development in housing
4 planning design, production, conservation, rehabilitation,
5 and other matters relating to, or affecting the provision of
6 decent, safe and sanitary housing in a suitable living
7 environment.

8 Section 27. Severability. If a part of this act is
9 invalid, all valid parts that are severable from the invalid
10 part remain in effect. If a part of this act is invalid in
11 one or more of its applications, the part remains in effect
12 in all valid applications that are severable from the
13 invalid applications.

-End-

Approved by Committee
on State Administration

HOUSE BILL NO. 342

INTRODUCED BY GERKE, DRISCOLL, BARDANOUVE, GWYNN, SOUTH,
O'CONNELL, TEAGUE, MCKITTRICK, WILLIAMS

A BILL FOR AN ACT ENTITLED: "AN ACT TO BE KNOWN AS THE
HOUSING ACT OF 1975; CREATING A BOARD OF HOUSING AND
PROVIDING FOR ITS POWERS AND DUTIES RELATING TO FINANCING TO
ASSIST PRIVATE ENTERPRISE AND GOVERNMENTAL AGENCIES TO MEET
HOUSING NEEDS."

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

Section 1. Title. This act shall be known and may be
cited as the "Housing Act of 1975".

Section 2. Legislative declaration. The legislature
finds and declares that there is a shortage in Montana of
decent, safe, and sanitary housing which is within the
financial capabilities of the lower income persons and
families. In order to alleviate the high cost of housing
for these persons, the legislature believes that it is
essential that additional public moneys be made available,
through the issuance of revenue bonds, to assist both
private enterprise and governmental agencies in meeting
critical housing needs.

Section 3. Definitions. As used in this act, unless
the context requires otherwise: (1) "Board" means the

board of housing created in section 82A-907, 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 24 of this act.

(4) "Department" means the department of
~~intergovernmental-relations~~ COMMUNITY AFFAIRS provided for
in Title 82A, chapter 9, 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

1 undertaking financed, in whole or in part, under this act
 2 for the primary purpose of ACQUIRING, constructing or
 3 rehabilitating dwelling accommodations for persons or
 4 families of lower income in need of housing. An undertaking
 5 may include any buildings, land, equipment, facilities, or
 6 other real or personal properties which are necessary,
 7 convenient, or desirable in connection therewith, including
 8 but not limited to streets, sewers, utilities, parks, site
 9 preparation, landscaping, and other nonhousing facilities as
 10 the board determines to be necessary, convenient, or
 11 desirable.

12 (9) "Housing development costs" means the sum total of
 13 all costs incurred in a housing development approved by the
 14 board as reasonable and necessary, including, but not
 15 limited to:

16 (a) cost of land acquisition and any buildings
 17 thereon, including payments for options, deposits, or
 18 contracts to purchase properties on the proposed housing
 19 development site or payments for the purchase of properties;

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

21 (c) architectural, engineering, legal, accounting,
 22 corporation, and other fees paid or payable in connection
 23 with the planning, execution and financing of the housing
 24 development and the finding of an eligible mortgagee or
 25 mortgagees for the housing development;

1 (d) cost of necessary studies, surveys, plans, and
 2 permits;

3 (e) insurance, interest, financing, tax and assessment
 4 costs and other operating and carrying costs during
 5 construction;

6 (f) cost of construction, rehabilitation,
 7 reconstruction, fixtures, furnishings, equipment, machinery,
 8 apparatus and similar facilities related to the real
 9 property;

10 (g) cost of land improvements including landscaping
 11 and offsite improvements, whether or not the costs have been
 12 paid in cash or in a form other than cash;

13 (h) necessary expenses in connection with initial
 14 occupancy of the housing development;

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

18 (j) an allowance established by the board for working
 19 capital and contingency reserves, and reserves for any
 20 anticipated operating deficits during construction and ~~for~~
 21 ~~the first two years of~~ INITIAL occupancy;

22 (k) costs of other items, including tenant relocation,
 23 as the board determines to be reasonable and necessary for
 24 the housing development, less any and all net rents and
 25 other net revenues received from the operation of the real

1 and personal property on the development site during the
2 construction.

3 (10) "Housing sponsor" means individuals, joint
4 ventures, partnerships, limited partnerships, trusts, firms,
5 associations, corporations, governmental agencies,
6 LIMITED-PROFIT HOUSING SPONSOR, NONPROFIT CORPORATION, or
7 other legal entities or any combination thereof, that are:

- 8 (a) approved by the board;
- 9 (b) qualified either to own, construct, acquire,
10 rehabilitate, operate, manage, or maintain a housing
11 development;
- 12 (c) subject to the rules of the board, and other terms
13 and conditions set forth in this act.

14 (11) "Lending institution" means any public or private
15 entity or governmental agency, approved by the board,
16 maintaining an office in this state and authorized by law to
17 make or participate in making residential mortgages in the
18 state.

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

25 (13) "Mortgage" means a mortgage deed, deed of trust,

1 or other instrument which shall constitute a **first** VALID
2 lien on real property in fee simple or on a leasehold under
3 a lease having a remaining term at the time the mortgage is
4 acquired, which does not expire for at least that number of
5 years beyond the maturity date of the obligation secured by
6 the mortgage established by the board as necessary to
7 protect its interest as mortgagee.

8 (14) "Mortgage loan" means an interest bearing
9 obligation secured by a mortgage on land and improvements in
10 the state.

11 (15) "Nonprofit housing sponsor" means a housing
12 cooperative formed under Title 14, chapter 2, R.C.M. 1947,
13 or a nonprofit corporation formed under Title 15, chapter
14 23, R.C.M. 1947, restricted as to distribution of income and
15 regulated as to rents, charges, rate of return and methods
16 of operation as the board determines necessary, and whose
17 articles of incorporation provide, in addition that:

18 (a) the organization has been organized exclusively to
19 provide housing developments for persons and families of
20 lower income;

21 (b) all the income and earnings of the organization
22 shall be used exclusively for housing development purposes
23 and no part of the net income or net earnings of the
24 organization shall inure to the benefit or profit of any
25 private individual, firm, corporation, partnership, or

1 association;

2 (c) the organization is in no manner controlled or
3 under the direction or acting in the substantial interest of
4 any private individual, firm, partnership, or association
5 seeking to derive profit or gain therefrom, or seeking to
6 eliminate or minimize losses in any transactions therewith,
7 except that the limitations shall apply to members of a
8 cooperative only to the extent provided by rules of the
9 board;

10 (d) the operations of the organization may be
11 supervised by the board and the organization will enter into
12 agreements with the board to regulate planning, development,
13 and management of any housing development undertaken by the
14 organization and the disposition of the property or other
15 interests of the organization.

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

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

22 (b) the size of the family;

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

1 (d) the ability of persons and families to compete
2 successfully in the normal housing market and to pay the
3 amount at which private enterprise is providing decent,
4 safe, and sanitary housing;

5 (E) THE AVAILABILITY AND COST OF HOUSING IN PARTICULAR
6 AREAS; AND

7 (F) NEEDS OF PARTICULAR PERSONS OR FAMILIES DUE TO AGE
8 OR PHYSICAL HANDICAPS.

9 (17) "REHABILITATION" MEANS THE REPAIR,
10 RECONSTRUCTION, OR IMPROVEMENT OF AN EXISTING STRUCTURE TO
11 PROVIDE DECENT, SAFE AND SANITARY HOUSING OR TO CONFORM
12 HOUSING WITH STATE OR LOCAL HEALTH, BUILDING, FIRE
13 PREVENTION, AND SAFETY CODES AS DETERMINED BY THE BOARD.

14 Section 4. There is a new R.C.M. section numbered
15 82A-907, that reads as follows:

16 82A-907. Board of housing -- composition -- allocation
17 -- designation. (1) There is a board of housing.

18 (2) The board consists of:

19 ~~(a) ex-officio, the director of intergovernmental~~
20 ~~relations;~~

21 ~~(b) ex-officio, the director of social and~~
22 ~~rehabilitation services;~~

23 ~~(c) ex-officio, the director of revenue; and~~

24 ~~(d) four~~ **(4) SEVEN (7)** members appointed by the
25 governor as provided in section 82A-112, informed and

1 experienced in housing ~~development--and--financer---~~These
2 ~~members--shall--serve--four--(4)--year--terms--concurrent--with--the~~
3 ~~gubernatorial--term,~~ ECONOMICS OR FINANCE.

4 (3) The board shall elect a chairman and other
5 necessary officers.

6 (4) The board is designated a quasi-judicial board for
7 purpose of section 82A-112.

8 (5) The board is allocated to the department of
9 ~~intergovernmental---relations~~ COMMUNITY AFFAIRS for
10 administrative purposes only as provided in section 82A-108.

11 (6) The department shall provide all necessary staff
12 and services to the board and shall assess the board for
13 reasonable costs.

14 Section 5. General powers of the board. The board
15 may: (1) sue and be sued;

16 (2) have a seal;

17 (3) adopt all procedural and substantive rules
18 necessary for the administration of this act, including
19 rules concerning its mortgage, construction, and temporary
20 lending programs;

21 (4) make contracts, agreements and other instruments
22 necessary or convenient for the exercise of its powers under
23 this act;

24 (5) enter into agreements or other transactions with
25 any federal, state, or local governmental agency, any

1 persons and any domestic or foreign partnership,
2 corporation, association, or organization in carrying out
3 this act;

4 (6) enter into agreements under its rules with
5 sponsors, mortgagors, or lending institutions for the
6 purpose of regulating the analysis, planning, development
7 and management of housing developments, financed in whole or
8 in part, by the proceeds of its loans or securities and
9 mortgage purchase programs;

10 (7) enter into agreements or other transactions with,
11 and accept grants and the cooperation of, any governmental
12 agency in furtherance of this act, including but not limited
13 to the development, leasing, maintenance, operation, and
14 financing of any housing development;

15 (8) accept services, appropriations, gifts, grants,
16 ~~requests~~ BEQUESTS, and devise, and utilize or dispose of
17 them in carrying out this act;

18 (9) ~~make--or--participate--in--the--making--of--loans--or~~
19 ~~mortgage--loans--to--lending--institutions,~~ ~~housing--sponsors,~~
20 ~~and--persons--and--families--of--lower--income--to--provide--for--the~~
21 ~~construction,~~ ~~rehabilitation--or--permanent--financing--of~~
22 ~~housing--developments,~~ ~~undertake--commitments--to--make~~
23 ~~residential--mortgage--loans,~~ ~~purchase--and--sell--residential~~
24 ~~mortgage--loans--at--public--or--private--sales,~~ ~~modify--or--alter~~
25 ~~mortgages,~~ ~~foreclose--on--any--mortgage--or--security--agreement,~~

1 ~~contract or other agreement, or to bid for and purchase~~
 2 ~~property that is subject to mortgage or security interest at~~
 3 ~~any foreclosure or other sale, acquire or take possession of~~
 4 ~~the property and complete, administer, pay the principal and~~
 5 ~~interest on any obligations incurred in connection with the~~
 6 ~~property and dispose of the property in a manner as the~~
 7 ~~board determines necessary to protect its interest under~~
 8 ~~this act;~~

9 ~~(10) purchase, service, sell and make commitments to~~
 10 ~~purchase, service and sell mortgage loans or securities, to~~
 11 ~~the extent permitted by this act; ACQUIRE REAL OR PERSONAL~~
 12 ~~PROPERTY OR ANY RIGHT, INTEREST OR EASEMENT THEREIN, BY~~
 13 ~~GIFT, PURCHASE, TRANSFER, FORECLOSURE, LEASE OR OTHERWISE;~~
 14 ~~HOLD, SELL, ASSIGN, LEASE, ENCUMBER, MORTGAGE OR OTHERWISE~~
 15 ~~DISPOSE THEREOF; HOLD, SELL, ASSIGN OR OTHERWISE DISPOSE OF~~
 16 ~~ANY MORTGAGE OR LOAN OWNED BY IT OR IN ITS CONTROL OR~~
 17 ~~CUSTODY; RELEASE OR RELINQUISH ANY RIGHT, TITLE, CLAIM,~~
 18 ~~INTEREST, EASEMENT, OR DEMAND, HOWEVER ACQUIRED, INCLUDING~~
 19 ~~ANY EQUITY OR RIGHT OF REDEMPTION; DO ANY OF THE FOREGOING~~
 20 ~~BY PUBLIC OR PRIVATE SALE, WITH OR WITHOUT PUBLIC BIDDING;~~
 21 ~~COMMENCE ANY ACTION TO PROTECT OR ENFORCE ANY RIGHT~~
 22 ~~CONFERRED UPON IT BY ANY LAW, MORTGAGE, CONTRACT OR OTHER~~
 23 ~~AGREEMENT; BID FOR AND PURCHASE PROPERTY AT ANY FORECLOSURE~~
 24 ~~OR OTHER SALE, OR ACQUIRE OR TAKE POSSESSION OF IT IN LIEU~~
 25 ~~OF FORECLOSURE; AND OPERATE, MANAGE, LEASE, DISPOSE OF, AND~~

1 OTHERWISE DEAL WITH SUCH PROPERTY, IN ANY MANNER NECESSARY
 2 OR DESIRABLE TO PROTECT ITS INTERESTS AND THE HOLDERS OF ITS
 3 BONDS OR NOTES, AND CONSISTENT WITH ANY AGREEMENT WITH SUCH
 4 HOLDERS;

5 (10) SERVICE AND CONTRACT AND PAY FOR THE SERVICING OF
 6 LOANS;

7 (11) provide general technical services in the
 8 analysis, planning, design, processing, construction,
 9 rehabilitation, and management of housing developments for
 10 persons and families of lower income, where these services
 11 are not otherwise available;

12 (12) provide general consultative services to housing
 13 developments for persons and families of lower income and
 14 the residents thereof with respect to counseling and
 15 training in management, home ownership and maintenance,
 16 where these services are not otherwise available;

17 (13) invest any funds not required for immediate use,
 18 subject to any agreements with its bondholders and
 19 noteholders, as provided in Title 79, chapter 3, R.C.M.
 20 1947, EXCEPT ALL INVESTMENT INCOME FROM FUNDS OF THE BOARD,
 21 LESS THE COST FOR INVESTMENT AS PRESCRIBED BY LAW, SHALL BE
 22 DEPOSITED IN THE HOUSING FINANCE ACCOUNT;

23 (14) sell its loans or securities to the federal
 24 national mortgage association or any other agency or
 25 instrumentality of the United States, and may invest in the

1 capital stock issued by the association or other agency or
2 instrumentality to the extent, if any, required as a
3 condition of such sale;

4 (15) consent, whenever it deems it necessary or
5 desirable in fulfilling its purposes to the modification of
6 the rate of interest, time and payment of any installment of
7 principal or interest, security, or any other term of any
8 contract, mortgage, mortgage loan, mortgage loan commitment,
9 construction loan, advance contract or agreement of any
10 kind, subject to any agreement with bondholders and
11 noteholders;

12 (16) collect reasonable interest, fees and charges in
13 connection with making and servicing its loans, notes,
14 bonds, commitments, and other evidences of indebtedness, and
15 in connection with providing technical, consultative and
16 project assistance services. Interest fees and charges
17 shall be limited to the amounts required to pay the costs of
18 the board, including operating and administrative expenses
19 and reasonable allowances for losses which may be incurred;

20 (17) procure insurance against any loss in connection
21 with its mortgages and mortgage loans, and other assets or
22 property in amounts and from insurers as the board considers
23 desirable or necessary;

24 (18) act as agent for governmental agencies concerning
25 acquisition, construction, leasing, operation, or management

1 of a housing development; and

2 (19) issue notes and bonds, and replace lost, destroyed
3 or mutilated notes and bonds; AND

4 (20) DEVELOP SPECIAL PROGRAMS FOR HOUSING DEVELOPMENTS
5 FOR VETERANS OF THE ARMED FORCES OF THE UNITED STATES WHO
6 ARE UNABLE TO ACQUIRE SAFE AND SANITARY HOUSING THROUGH
7 LENDING INSTITUTIONS BY CONVENTIONAL MEANS.

8 Section 6. Financing programs of the board. (1) The
9 board may:

10 (a) make loans to lending institutions under terms and
11 conditions adopted by the board requiring the proceeds to be
12 used by the lending institution for the making of mortgage
13 loans for housing developments in the state for persons and
14 families of lower income;

15 (b) invest in, purchase or make commitments to
16 purchase, and take assignments from lending institutions, of
17 notes, mortgages and other securities evidencing loans for
18 the construction, rehabilitation, purchase, leasing or
19 refinancing of housing developments for persons and families
20 of lower income in this state, under terms and conditions
21 adopted by the board;

22 (c) make, undertake commitments to make, and
23 participate in the making of mortgage loans, including
24 federally insured mortgage loans, and to make temporary
25 loans and advances in anticipation of permanent mortgage

1 loans to housing sponsors to finance the construction or
 2 rehabilitation of housing developments designed and planned
 3 for occupancy by persons and families of lower income in
 4 this state, under terms and conditions adopted by the board;

5 (d) make, undertake commitments to make, and
 6 participate in the making of ~~first-mortgage~~ loans to persons
 7 and families of lower income for housing development,
 8 including without limitation persons and families of lower
 9 income who are eligible or potentially eligible for
 10 federally insured mortgage loans, federal mortgages or other
 11 federal housing assistance, when the board determines that
 12 mortgage loans are not otherwise available, wholly or in
 13 part, from private lenders upon ~~reasonable~~ REASONABLY
 14 equivalent terms and conditions, and under terms and
 15 conditions adopted by the board.

16 (2) The board shall adopt rules respecting ~~its~~
 17 ~~mortgage,--construction,--and-temporary-lending-programs-and~~
 18 ~~their-terms-and-conditions,~~ the regulation of borrowers, the
 19 admission of occupants in housing developments, the
 20 construction of ancillary facilities, and requirements or
 21 restrictions necessary to implement this act.

22 (3) The board shall adopt rules for the:

23 (a) organization, approval, standards, and regulation
 24 of housing sponsors and eligible recipients;

25 (b) approval, standards and regulation of lending

1 institutions under this act;

2 (c) assessment, collection and payment of all fees and
 3 charges in connection with making, purchasing, and servicing
 4 of its bonds and notes, mortgage lending, construction
 5 lending, temporary lending, and security purchase programs;

6 (d) assessment and collection of fees and charges in
 7 connection with its technical, consultative, and project
 8 assistance activities;

9 (e) determination and regulation of mortgagor and
 10 lending institution and their use of funds under this
 11 chapter, sponsor and mortgagor equity definitions and
 12 limitations, and housing development costs;

13 (f) percentage of housing units or housing
 14 developments assisted under this act that are reserved for
 15 lower income persons and families, and which allows for an
 16 economic mixture of residents.

17 (4) THE BOARD MAY REQUIRE THAT LOANS MADE TO OR
 18 SECURITIES ISSUED BY LENDING INSTITUTIONS SHALL BE
 19 ADDITIONALLY SECURED AS TO PAYMENT OF PRINCIPAL AND INTEREST
 20 BY A PLEDGE OF AND A LIEN UPON COLLATERAL SECURITY IN
 21 AMOUNTS AND CONSISTING OF OBLIGATIONS AND SECURITIES AS THE
 22 BOARD DETERMINES NECESSARY TO ASSURE PROMPT PAYMENT OF LOANS
 23 AND INTEREST. COLLATERAL MAY BE REQUIRED TO BE LODGED WITH
 24 A BANK OR TRUST COMPANY DESIGNATED BY THE BOARD AS
 25 CUSTODIAN, OR THE BOARD MAY ENTER INTO AN AGREEMENT WITH THE

1 LENDING INSTITUTION REQUIRING IT TO IDENTIFY AND MAINTAIN
 2 AND SERVICE THE COLLATERAL AND THE INCOME THEREFROM SOLELY
 3 IN ACCORDANCE WITH THE AGREEMENT. A COPY OF EACH AGREEMENT
 4 AND ANY REVISIONS OR SUPPLEMENTS THERETO SHALL BE FILED WITH
 5 THE SECRETARY OF STATE, AND NO FURTHER FILING OR OTHER
 6 ACTION UNDER THE UNIFORM COMMERCIAL CODE OR ANY OTHER LAW
 7 SHALL BE REQUIRED TO PERFECT THE SECURITY INTEREST OF THE
 8 BOARD IN THE COLLATERAL OR IN ANY ADDITIONS OR
 9 SUBSTITUTIONS. THE LIEN AND TRUST IS BINDING FROM THE TIME
 10 IT IS MADE, AGAINST ALL PARTIES HAVING CLAIMS OF ANY KIND IN
 11 TORT, CONTRACT, OR OTHERWISE AGAINST THE LENDING
 12 INSTITUTION.

13 Section 7. Procedure prior to financing of housing
 14 developments. The board may finance housing developments
 15 under this act only when the board finds: (1) that there
 16 exists a shortage of decent, safe, and sanitary housing at
 17 rentals or prices which persons and families of lower income
 18 can afford within the general housing market area to be
 19 served by the proposed housing development;

20 (2) that private enterprise ~~and investment--have--been~~
 21 ~~unable--without--assistance, to provide~~ HAS NOT PROVIDED an
 22 adequate supply of decent, safe, and sanitary housing in the
 23 housing market area at rentals or prices which persons or
 24 families of lower income can afford, or ~~to provide~~ PROVIDED
 25 sufficient mortgage financing for housing developments for

1 occupancy by persons or families of lower income;

2 (3) that the housing sponsor undertaking the proposed
 3 housing development in this state will supply well planned,
 4 well designed housing and that such sponsors are financially
 5 responsible, and;

6 (4) that the housing development to be assisted under
 7 this act will be of public use and will provide a public
 8 benefit, taking into account the existence of local
 9 government comprehensive plans, housing and land use plans
 10 and regulations, areawide plans, and other public desires.

11 (5) THAT THE HOUSING DEVELOPMENT DOES NOT INVOLVE THE
 12 CONSTRUCTION OF SECOND HOMES. FOR PURPOSES OF THIS
 13 PARAGRAPH, "SECOND HOME" MEANS A HOME WHICH WOULD NOT
 14 QUALIFY AS THE PRIMARY RESIDENCE OF THE TAXPAYER FOR FEDERAL
 15 INCOME TAX PURPOSES RELATING TO CAPITAL GAINS ON THE SALE OR
 16 EXCHANGE OF RESIDENTIAL PROPERTY.

17 Section 8. Supervision of housing sponsors. (1) The
 18 board may supervise housing sponsors of housing developments
 19 financed under this act as follows:

20 (a) prescribe uniform systems of accounts and records
 21 for housing sponsors and require them to make reports and
 22 give answers to specific questions on forms and at times
 23 specified by the board;

24 (b) enter upon and inspect the housing development,
 25 and examine all books and records of the housing sponsor

1 with respect to capitalization, income and other matters as
2 specified by the board;

3 (c) supervise the operation and maintenance of any
4 housing development and order repairs necessary to protect
5 the public and the board's interest or the health, welfare,
6 or safety of the occupants;

7 (d) determine standards for, and control resident
8 selection by a housing sponsor;

9 (e) require any housing sponsor to pay to the board
10 fees as it prescribes in connection with the examination,
11 inspection, supervision, auditing, or other regulation of
12 the housing sponsor;

13 (f) order any housing sponsor to do, or to refrain
14 from doing, things necessary to comply with the provisions
15 of law, the rules of the board, and the terms of any
16 contract or agreement to which the housing sponsor is a
17 party;

18 (g) regulate the retirement of any capital investment
19 or the redemption of stock where any such retirement or
20 redemption when added to any dividend or other distribution
21 shall exceed in any one fiscal year ten percent (10%), or a
22 lesser amount of the original face amount of any investment
23 or equity of any housing sponsor, as determined by the
24 board; and

25 (h) adopt rules specifying the categories of cost

1 which shall be allowable in the construction or
2 rehabilitation of a housing development.

3 (2) The board shall require any housing sponsor to
4 certify the actual housing development costs PRIOR TO
5 PERIODIC PAYMENTS OR upon completion of the housing
6 development, subject to audit and determination by the
7 board. The board may accept, in lieu of any certification
8 of housing development costs, other assurances of the
9 housing development costs, in any form or manner whatsoever,
10 as will enable the board to determine with reasonable
11 accuracy the amount of housing development costs.

12 Section 9. Bonds and notes. (1) The board may by
13 resolution, from time to time, issue negotiable notes and
14 bonds in a principal amount as the board determines
15 necessary to provide sufficient funds for achieving any of
16 its purposes, including the payment of interest on notes and
17 bonds of the board, establishment of reserves to secure the
18 notes and bonds, including the reserve funds created under
19 section 17 and all other expenditures of the board incident
20 to, and necessary or convenient to carry out this act.

21 (2) The board may by resolution, from time to time,
22 issue notes to renew notes and bonds to pay notes, including
23 interest, and whenever it deems refunding expedient, to
24 refund any bonds by the issuance of new bonds, whether the
25 bonds to be refunded have or have not matured, and to issue

1 bonds partly to refund bonds outstanding and partly for any
2 of its other purposes.

3 (3) Except as otherwise expressly provided by
4 resolution of the board, every issue of its notes and bonds
5 shall be obligations of the board payable out of any
6 revenues, ASSETS, or moneys of the board, subject only to
7 agreements with the holders of particular notes or bonds
8 pledging particular revenues, ASSETS OR MONEYS.

9 (4) The notes and bonds shall be authorized by
10 resolutions of the board, shall bear a date and shall mature
11 at times as the resolutions provide. A note shall not
12 mature more than ten (10) years and a bond shall not mature
13 more than fifty (50) years from the date of its issue. The
14 bonds may be issued as serial bonds payable in annual
15 installments or as term bonds or as a combination thereof.
16 The notes and bonds shall bear interest at a rate, or rates,
17 be in denominations, be in a form, either coupon or
18 registered, carry registration privileges, be executed in a
19 manner, be payable in a medium of payment, at places within
20 or without the state, and be subject to terms of redemption
21 as provided in resolutions. The notes and bonds of the
22 board may be sold at public or private sale, at prices
23 determined by the board.

24 Section 10. Provision of bond resolutions. A
25 resolution authorizing any notes, or bonds, or any issue

1 thereof, may contain provisions, which shall be a part of
2 the contract or contracts with the holders thereof, as to:
3 (1) pledging all or any part of the revenues OR PROPERTY of
4 the board to secure the payment of the notes or bonds, or of
5 any issue thereof, subject to existing agreements with
6 noteholders or bondholders;

7 (2) pledging all or any part of the assets of the
8 board, including mortgages and obligations securing them, to
9 secure the payment of the notes or bonds, or of any issue
10 thereof, subject to existing agreements with noteholders or
11 bondholders;

12 (3) the use and disposition of the gross income from
13 mortgages owned by the board and payment of principal of
14 mortgages owned by the board;

15 (4) the setting aside of reserves of sinking funds in
16 the hands of trustees, paying agents, and other
17 depositories, and the regulation and disposition thereof;

18 (5) limitations on the purpose to which the proceeds
19 of sale of notes or bonds may be applied and the pledge of
20 the proceeds to secure the payment of the notes or bonds or
21 of any issue thereof;

22 (6) limitations on the issuance of additional notes or
23 bonds, the terms upon which additional notes or bonds may be
24 issued and secured, and the refunding of outstanding notes
25 or bonds;

1 (7) the procedure, if any, by which the terms of any
2 contract with noteholders or bondholders may be amended or
3 abrogated, the amount of notes or bonds the holders of which
4 must consent thereto, and the manner in which such consent
5 may be given;

6 (8) limitations on the amount of moneys to be expended
7 by the board for operating expenses of the board;

8 (9) vesting in a trustee property, rights, powers, and
9 duties in trust as the board determines;

10 (10) defining the acts or omissions to act which shall
11 constitute a default in the obligations and duties of the
12 board to the holders of the notes or bonds, and providing
13 for the rights and remedies of the holders of the notes or
14 bonds in the event of such default, including as a matter of
15 right the appointment of a receiver. Rights and remedies
16 shall not be inconsistent with the laws of the state and the
17 other provisions of this act; and

18 (11) any other matters, of like or different character,
19 which in any way affect the security or protection of the
20 holders of the notes or bonds.

21 Section 11. Validity of pledge. Any pledge made by
22 the board shall be valid and binding from the time the
23 pledge is made. The revenues, moneys or property pledged
24 and thereafter received by the board shall immediately be
25 subject to the lien of the pledge without any physical

1 delivery thereof or further act, and the lien of any pledge
2 shall be valid and binding against all parties having claims
3 of any kind in tort, contract or otherwise against the
4 board, irrespective of whether such parties have notice
5 thereof. Neither the resolution nor any other instrument by
6 which a pledge is created need be recorded.

7 Section 12. Personal liability. The board members and
8 employees of the department are not personally liable or
9 accountable BY REASON OF THE ISSUANCE OF, OR on any bond or
10 note issued by the board.

11 Section 13. Purchase of notes and bonds --
12 cancellation. The board, subject to existing agreements
13 with noteholders or bondholders, may, out of any funds
14 available for that reason, purchase notes or bonds of the
15 board, which shall thereupon be cancelled, at a price not
16 exceeding:

17 (a) the current redemption price plus accrued interest
18 to the next interest payment thereon, if the notes or bonds
19 are then redeemable; or

20 (b) the redemption price applicable on the first date
21 after the purchase upon which the notes or bonds become
22 subject to redemption plus accrued interest to that date, of
23 the notes or bonds are not then redeemable.

24 Section 14. Trust indenture. In the discretion of the
25 board, the bonds may be secured by a trust indenture between

1 the board and a corporate trustee, which may be a trust
 2 company or bank having the power of a trust company within
 3 or without the state. A trust indenture may contain
 4 provisions for protecting and enforcing the rights and
 5 remedies of the bondholders as are reasonable and proper and
 6 not in violation of law, including covenants setting forth
 7 the duties of the board in relation to the exercise of its
 8 powers, the custody, safeguarding and application of all
 9 moneys. The board may provide by a trust indenture for the
 10 payment of the proceeds of the bonds and the revenues to the
 11 trustee under the trust indenture of another depository, and
 12 for the method of disbursement, with safeguards and
 13 restrictions as it determines. All expenditures incurred in
 14 carrying out a trust indenture may be treated as part of the
 15 operating expenditures of the board.

16 Section 15. Negotiability of bonds. Notes and bonds
 17 issued by the board are negotiable instruments under the
 18 Uniform Commercial Code, subject only to the provisions for
 19 registration of notes and bonds.

20 Section 16. Signatures of board members. In case any
 21 of the board members, whose signatures appear on notes or
 22 bonds or coupons, cease to be members before the delivery of
 23 the notes or bonds, their signatures shall, nevertheless, be
 24 valid and sufficient for all purposes, the same as if the
 25 members had remained in office until delivery.

1 Section 17. Reserve funds and appropriations.
 2 (1) The board shall pay into the capital reserve account:
 3 (a) any funds appropriated and made available by the
 4 state for the purpose of the account;
 5 (b) any proceeds of sale of notes or bonds to the
 6 extent provided in the resolutions or indentures of the
 7 board authorizing their issuance; and
 8 (c) any other funds which may be available to the
 9 board for the purpose of the account from any other source.
 10 (2) All funds held in the capital reserve account
 11 shall be used solely for the payment of the principal of
 12 bonds secured in whole or in part by the account or of the
 13 sinking fund payments with respect to the bonds, the
 14 purchase or redemption of the bonds, the payment of interest
 15 on the bonds or the payment of any redemption premium
 16 required to be paid when the bonds are redeemed prior to
 17 maturity. Funds in the account shall not be withdrawn at
 18 any time in an amount which reduces the amount of the
 19 account to less than the sum of minimum capital reserve
 20 requirements established for the account, except for the
 21 purpose of making, with respect to bonds secured in whole or
 22 in part by the account, payment, when due, of principal,
 23 interest, redemption premiums, and sinking fund payments for
 24 the payment of which other moneys pledged are not available.
 25 Any income or interest earned by, or incremental to, the

1 capital reserve account due to its investment may be
 2 transferred to other accounts of the board to the extent it
 3 does not reduce the amount of the capital reserve account
 4 below the sum of minimum capital reserve requirements for
 5 the account.

6 (3) The board may not issue bonds secured in whole or
 7 in part by the capital reserve account, unless the board
 8 deposits in the account, from the proceeds of the bonds
 9 issued or from any other sources, an amount not less than
 10 the minimum capital reserve requirement for these bonds.
 11 For the purposes of this section, the term "minimum capital
 12 reserve requirement" means, as of any particular date of
 13 computation, an amount of money, as provided in the
 14 resolution or indenture of the board authorizing the bonds
 15 or notes, equal to not more than the greatest of the
 16 respective amounts for the current or any future fiscal year
 17 of the board of annual debt service on the bonds of the
 18 board secured in whole or in part by the account. The
 19 annual debt service for any fiscal year is the amount of
 20 money equal to the aggregate of all interest and principal
 21 payable on the bonds during the fiscal year, calculated on
 22 the assumption that all the bonds are paid at maturity. If
 23 any amount of the bonds is required to be redeemed on an
 24 earlier date by the operation of a sinking fund, then that
 25 amount is considered payable on those bonds during the year

1 they are to be redeemed for the purposes of this
 2 calculation.

3 (4) In computing the amount of the capital reserve
 4 account, securities in which all or a portion of the account
 5 shall be invested shall be valued at par, or if purchased at
 6 less than par, at their cost to the board.

7 Section 18. Maintenance of capital reserve account.

8 (1) In order to assure the maintenance of the capital
 9 reserve account, the chairman of the board shall on or
 10 before September 1 in the year preceding the convening OF
 11 THE legislature, deliver to the governor a certificate
 12 stating the sum, if any, required to restore the capital
 13 reserve account to the minimum capital reserve requirement.
 14 The governor shall include in the executive budget submitted
 15 to the legislature, the sum required to restore the capital
 16 reserve account to the sum of minimum capital reserve
 17 requirements. All sums appropriated by the legislature
 18 shall be deposited in the capital reserve account.

19 (2) All amounts appropriated to the board by the
 20 legislature under this section constitute advances to the
 21 board and, subject to the rights of the holders of any bonds
 22 or notes of the board, shall be repaid to the state's
 23 general fund without interest from available operating
 24 revenues of the board in excess of amounts required for the
 25 payment of bonds, notes or other obligations of the board,

1 for maintenance of the capital reserve account and for
2 operating expenses.

3 Section 19. Refunding obligations -- issuance. The
4 board may provide for the issuance of refunding obligations
5 for refunding any obligations then outstanding which have
6 been issued under this chapter, including the payment of any
7 redemption premium and any interest accrued or to accrue to
8 the date of redemption of the obligations ~~and-for-purposes~~
9 ~~of-the-board~~. The issuance of obligations, the maturities
10 and other details, the rights of the holders, and the
11 rights, duties and obligations of the board are governed by
12 the appropriate provisions of this act which relate to the
13 issuance of obligations.

14 Section 20. Refunding obligations -- sale. Refunding
15 obligations issued as provided in section 19 may be sold or
16 exchanged for outstanding obligations issued under this
17 chapter. The proceeds may be applied, ~~in-addition-to-other~~
18 ~~authorized-purposes~~, to the purchase, redemption, or payment
19 of outstanding obligations. Pending the application of the
20 proceeds of refunding obligations, with other available
21 funds, to the payment of principal, accrued interest and any
22 redemption premium on the obligations being refunded, and,
23 if permitted in the resolution authorizing the issuance of
24 the refunding obligations or in the trust agreement securing
25 them, to the payment of interest on refunding obligations

1 and expenses in connection with refunding, the proceeds may
2 be invested as provided in Title 79, chapter 3, R.C.M. 1947.

3 Section 21. Credit of state not pledged. Obligations
4 issued under the provisions of this act do not constitute a
5 debt or liability or obligation or a pledge of the faith and
6 credit of the state but are payable solely from the revenues
7 or assets of the board. An obligation issued under this act
8 shall contain on the face thereof a statement to the effect
9 that THE STATE OF MONTANA IS NOT LIABLE ON THE OBLIGATION
10 AND THE OBLIGATION IS NOT A DEBT OF THE STATE AND neither
11 the faith and credit nor the taxing power of the state is
12 pledged to the payment of the principal of, or the interest
13 on, the obligation.

14 Section 22. Annual audit. There shall be an audit of
15 the board's books and records at least once each fiscal
16 year.

17 Section 23. Tax exemption of bonds. Bonds, notes or
18 other obligations issued by the board under this act, OR BY
19 LOCAL HOUSING AUTHORITIES UNDER TITLE 35, CHAPTER 1, their
20 transfer, and their income (including any profits made on
21 their sale), shall be free from taxation by the state or any
22 political subdivision or other instrumentality of the state,
23 excepting inheritance, estate and gift taxes. THE BOARD IS
24 NOT REQUIRED TO PAY RECORDING OR TRANSFER FEES OR TAXES ON
25 INSTRUMENTS RECORDED BY IT.

1 Section 24. Accounts of the board. (1) Housing
2 finance account:

3 (a) there is a housing finance account in the bonds
4 proceeds and insurance clearance fund provided for in
5 section 79-410(6), R.C.M. 1947;

6 (b) all funds from the proceeds of bonds issued under
7 this act, fees, and other moneys received by the board,
8 moneys appropriated by the legislature for the use of the
9 board in carrying out this act, and moneys made available
10 from any other source for the use of the board shall be
11 deposited in the housing finance account except where
12 otherwise provided by law AND EXCEPT AS NECESSARY TO
13 MAINTAIN THE CAPITAL RESERVE AND REVOLVING ACCOUNTS;

14 (c) all funds deposited in the housing finance account
15 are continuously appropriated to and may be expended by the
16 board for the purposes authorized in this act.

17 (2) Capital reserve account:

18 (a) there is a capital reserve account in the sinking
19 fund provided for in section 79-410(3), R.C.M. 1947;

20 (b) the capital reserve account consists of the
21 aggregate of moneys retained by the board, under existing
22 agreements with bondholders, as the minimum capital reserve
23 requirement described in section 17 of this act for each
24 bond issue sold by the board.

25 (3) Revolving account:

1 (a) there is a revolving account in the revolving fund
2 provided for in section 79-410(7), R.C.M. 1947;

3 (b) funds appropriated by the legislature for use of
4 the board in payment of expenses incurred in carrying out
5 this act shall be deposited in the revolving account;

6 (c) funds expended by the board under this subsection
7 shall be repaid by the board into the revolving account from
8 the fees and charges collected under this act and from any
9 other moneys available for such repayment in accordance with
10 this act.

11 SECTION 25. PLEDGE AGAINST IMPAIRMENT OF CONTRACTS.
12 IN ACCORDANCE WITH THE CONSTITUTIONS OF THE UNITED STATES
13 AND THE STATE OF MONTANA THE STATE PLEDGES THAT IT WILL NOT,
14 IN ANY WAY, IMPAIR THE OBLIGATIONS OF ANY AGREEMENT BETWEEN
15 THE BOARD AND THE HOLDERS OF NOTES AND BONDS ISSUED BY THE
16 BOARD.

17 Section 26. Meetings and acts of the board. (1) All
18 meetings of the board are open to the public.

19 (2) All official acts of the board shall be in a
20 regular or special meeting and by a majority of the board.

21 (3) All rules adopted by the board shall be in
22 accordance with the Administrative Procedure Act.

23 Section 27. Powers of the department. The department
24 may: (1) survey and investigate housing needs throughout
25 the state and publish the results, and make recommendations

1 to the governor and the legislature as to legislation and
2 other measures necessary, desirable, or advisable to
3 alleviate housing problems;

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

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

12 Section 28. Severability. If a part of this act is
13 invalid, all valid parts that are severable from the invalid
14 part remain in effect. If a part of this act is invalid in
15 one or more of its applications, the part remains in effect
16 in all valid applications that are severable from the
17 invalid applications.

-End-

1 HOUSE BILL NO. 342

2 INTRODUCED BY GERKE, DRISCOLL, BARDANOUVE, GWYNN, SOUTH,
3 O'CONNELL, TEAGUE, MCKITTRICK, WILLIAMS

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO BE KNOWN AS THE
6 HOUSING ACT OF 1975; CREATING A BOARD OF HOUSING AND
7 PROVIDING FOR ITS POWERS AND DUTIES RELATING TO FINANCING TO
8 ASSIST PRIVATE ENTERPRISE AND GOVERNMENTAL AGENCIES TO MEET
9 HOUSING NEEDS."

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

12 Section 1. Title. This act shall be known and may be
13 cited as the "Housing Act of 1975".

14 Section 2. Legislative declaration. The legislature
15 finds and declares that there is a shortage in Montana of
16 decent, safe, and sanitary housing which is within the
17 financial capabilities of the lower income persons and
18 families. In order to alleviate the high cost of housing
19 for these persons, the legislature believes that it is
20 essential that additional public moneys be made available,
21 through the issuance of revenue bonds, to assist both
22 private enterprise and governmental agencies in meeting
23 critical housing needs.

24 Section 3. Definitions. As used in this act, unless
25 the context requires otherwise: (1) "Board" means the

1 board of housing created in section 82A-907, R.C.M. 1947.

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

5 (3) "Capital reserve account" means the capital
6 reserve account provided for in section 24 of this act.

7 (4) "Department" means the department of
8 ~~intergovernmental relations~~ COMMUNITY AFFAIRS provided for
9 in Title 82A, chapter 9, R.C.M. 1947.

10 (5) "Federally insured mortgage" means a mortgage loan
11 for land development or residential housing insured or
12 guaranteed by the United States or a governmental agency or
13 instrumentality thereof, or a commitment by the United
14 States or a governmental agency or instrumentalities thereof
15 to insure such a mortgage.

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

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

25 (8) "Housing development" means any work or

1 undertaking financed, in whole or in part, under this act
 2 for the primary purpose of ACQUIRING, constructing or
 3 rehabilitating dwelling accommodations for persons or
 4 families of lower income in need of housing. An undertaking
 5 may include any buildings, land, equipment, facilities, or
 6 other real or personal properties which are necessary,
 7 convenient, or desirable in connection therewith, including
 8 but not limited to streets, sewers, utilities, parks, site
 9 preparation, landscaping, and other nonhousing facilities as
 10 the board determines to be necessary, convenient, or
 11 desirable.

12 (9) "Housing development costs" means the sum total of
 13 all costs incurred in a housing development approved by the
 14 board as reasonable and necessary, including, but not
 15 limited to:

16 (a) cost of land acquisition and any buildings
 17 thereon, including payments for options, deposits, or
 18 contracts to purchase properties on the proposed housing
 19 development site or payments for the purchase of properties;

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

21 (c) architectural, engineering, legal, accounting,
 22 corporation, and other fees paid or payable in connection
 23 with the planning, execution and financing of the housing
 24 development and the finding of an eligible mortgagee or
 25 mortgagees for the housing development;

1 (d) cost of necessary studies, surveys, plans, and
 2 permits;

3 (e) insurance, interest, financing, tax and assessment
 4 costs and other operating and carrying costs during
 5 construction;

6 (f) cost of construction, rehabilitation,
 7 reconstruction, fixtures, furnishings, equipment, machinery,
 8 apparatus and similar facilities related to the real
 9 property;

10 (g) cost of land improvements including landscaping
 11 and offsite improvements, whether or not the costs have been
 12 paid in cash or in a form other than cash;

13 (h) necessary expenses in connection with initial
 14 occupancy of the housing development;

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

18 (j) an allowance established by the board for working
 19 capital and contingency reserves, and reserves for any
 20 anticipated operating deficits during construction and ~~for~~
 21 ~~the-first-two-years-of~~ INITIAL occupancy;

22 (k) costs of other items, including tenant relocation,
 23 as the board determines to be reasonable and necessary for
 24 the housing development, less any and all net rents and
 25 other net revenues received from the operation of the real

1 and personal property on the development site during the
2 construction.

3 (10) "Housing sponsor" means individuals, joint
4 ventures, partnerships, limited partnerships, trusts, firms,
5 associations, corporations, governmental agencies,
6 LIMITED-PROFIT HOUSING SPONSOR, NONPROFIT CORPORATION, or
7 other legal entities or any combination thereof, that are:

- 8 (a) approved by the board;
- 9 (b) qualified either to own, construct, acquire,
10 rehabilitate, operate, manage, or maintain a housing
11 development;
- 12 (c) subject to the rules of the board and other terms
13 and conditions set forth in this act.

14 (11) "Lending institution" means any public or private
15 entity or governmental agency, approved by the board,
16 maintaining an office in this state and authorized by law to
17 make or participate in making residential mortgages in the
18 state.

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

25 (13) "Mortgage" means a mortgage deed, deed of trust,

1 or other instrument which shall constitute a first VALID
2 lien on real property in fee simple or on a leasehold under
3 a lease having a remaining term at the time the mortgage is
4 acquired, which does not expire for at least that number of
5 years beyond the maturity date of the obligation secured by
6 the mortgage established by the board as necessary to
7 protect its interest as mortgagee.

8 (14) "Mortgage loan" means an interest bearing
9 obligation secured by a mortgage on land and improvements in
10 the state.

11 (15) "Nonprofit housing sponsor" means a housing
12 cooperative formed under Title 14, chapter 2, R.C.M. 1947,
13 or a nonprofit corporation formed under Title 15, chapter
14 23, R.C.M. 1947, restricted as to distribution of income and
15 regulated as to rents, charges, rate of return and methods
16 of operation as the board determines necessary, and whose
17 articles of incorporation provide, in addition that:

18 (a) the organization has been organized exclusively to
19 provide housing developments for persons and families of
20 lower income;

21 (b) all the income and earnings of the organization
22 shall be used exclusively for housing development purposes
23 and no part of the net income or net earnings of the
24 organization shall inure to the benefit or profit of any
25 private individual, firm, corporation, partnership, or

1 association;

2 (c) the organization is in no manner controlled or
3 under the direction or acting in the substantial interest of
4 any private individual, firm, partnership, or association
5 seeking to derive profit or gain therefrom, or seeking to
6 eliminate or minimize losses in any transactions therewith,
7 except that the limitations shall apply to members of a
8 cooperative only to the extent provided by rules of the
9 board;

10 (d) the operations of the organization may be
11 supervised by the board and the organization will enter into
12 agreements with the board to regulate planning, development,
13 and management of any housing development undertaken by the
14 organization and the disposition of the property or other
15 interests of the organization.

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

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

22 (b) the size of the family;

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

1 (d) the ability of persons and families to compete
2 successfully in the normal housing market and to pay the
3 amount at which private enterprise is providing decent,
4 safe, and sanitary housing;

5 (E) THE AVAILABILITY AND COST OF HOUSING IN PARTICULAR
6 AREAS; AND

7 (F) NEEDS OF PARTICULAR PERSONS OR FAMILIES DUE TO AGE
8 OR PHYSICAL HANDICAPS.

9 (17) "REHABILITATION" MEANS THE REPAIR,
10 RECONSTRUCTION, OR IMPROVEMENT OF AN EXISTING STRUCTURE TO
11 PROVIDE DECENT, SAFE AND SANITARY HOUSING OR TO CONFORM
12 HOUSING WITH STATE OR LOCAL HEALTH, BUILDING, FIRE
13 PREVENTION, AND SAFETY CODES AS DETERMINED BY THE BOARD.

14 Section 4. There is a new R.C.M. section numbered
15 82A-907, that reads as follows:

16 82A-907. Board of housing -- composition -- allocation
17 -- designation. (1) There is a board of housing.

18 (2) The board consists of:

19 ~~(a) ex-officio, the director of intergovernmental~~
20 ~~relations;~~

21 ~~(b) ex-officio, the director of social and~~
22 ~~rehabilitation services;~~

23 ~~(c) ex-officio, the director of revenue; and~~

24 ~~(d) four (4)~~ SEVEN (7) members appointed by the
25 governor as provided in section 82A-112, informed and

1 experienced in housing development--and--finance.---These
2 members--shall-serve-four-(4)-year-terms-concurrent-with-the
3 gubernatorial-term, ECONOMICS OR FINANCE.

4 (3) The board shall elect a chairman and other
5 necessary officers.

6 (4) The board is designated a quasi-judicial board for
7 purpose of section 82A-112.

8 (5) The board is allocated to the department of
9 ~~intergovernmental---relations~~ COMMUNITY AFFAIRS for
10 administrative purposes only as provided in section 82A-108.

11 (6) The department shall provide all necessary staff
12 and services to the board and shall assess the board for
13 reasonable costs.

14 Section 5. General powers of the board. The board
15 may: (1) sue and be sued;

16 (2) have a seal;

17 (3) adopt all procedural and substantive rules
18 necessary for the administration of this act, including
19 rules concerning its mortgage, construction, and temporary
20 lending programs;

21 (4) make contracts, agreements and other instruments
22 necessary or convenient for the exercise of its powers under
23 this act;

24 (5) enter into agreements or other transactions with
25 any federal, state, or local governmental agency, any

1 persons and any domestic or foreign partnership,
2 corporation, association, or organization in carrying out
3 this act;

4 (6) enter into agreements under its rules with
5 sponsors, mortgagors, or lending institutions for the
6 purpose of regulating the analysis, planning, development
7 and management of housing developments, financed in whole or
8 in part, by the proceeds of its loans or securities and
9 mortgage purchase programs;

10 (7) enter into agreements or other transactions with,
11 and accept grants and the cooperation of, any governmental
12 agency in furtherance of this act, including but not limited
13 to the development, leasing, maintenance, operation, and
14 financing of any housing development;

15 (8) accept services, appropriations, gifts, grants,
16 ~~requests~~ BEQUESTS, and devise, and utilize or dispose of
17 them in carrying out this act;

18 (9) ~~make--or--participate--in--the--making--of--loans--or~~
19 ~~mortgage-loans-to-lending--institutions,--housing--sponsors,~~
20 ~~and-persons-and-families-of-lower-income,-to-provide-for-the~~
21 ~~construction,--rehabilitation,--or--permanent--financing--of~~
22 ~~housing--developments,---undertake---commitments---to---make~~
23 ~~residential--mortgage--loans,--purchase-and-sell-residential~~
24 ~~mortgage-loans-at-public-or-private-sales,--modify--or--alter~~
25 ~~mortgages,--foreclose-on-any-mortgage-or-security-agreement,~~

1 ~~contract or other agreement, or to bid for and purchase~~
 2 ~~property that is subject to mortgage or security interest at~~
 3 ~~any foreclosure or other sale, acquire or take possession of~~
 4 ~~the property and complete, administer, pay the principal and~~
 5 ~~interest on any obligations incurred in connection with the~~
 6 ~~property and dispose of the property in a manner as the~~
 7 ~~board determines necessary to protect its interest under~~
 8 ~~this act;~~

9 ~~(10) purchase, service, sell and make commitments to~~
 10 ~~purchase, service and sell mortgage loans or securities, to~~
 11 ~~the extent permitted by this act; ACQUIRE REAL OR PERSONAL~~
 12 ~~PROPERTY OR ANY RIGHT, INTEREST OR EASEMENT THEREIN, BY~~
 13 ~~GIFT, PURCHASE, TRANSFER, FORECLOSURE, LEASE OR OTHERWISE;~~
 14 ~~HOLD, SELL, ASSIGN, LEASE, ENCUMBER, MORTGAGE OR OTHERWISE~~
 15 ~~DISPOSE THEREOF; HOLD, SELL, ASSIGN OR OTHERWISE DISPOSE OF~~
 16 ~~ANY MORTGAGE OR LOAN OWNED BY IT OR IN ITS CONTROL OR~~
 17 ~~CUSTODY; RELEASE OR RELINQUISH ANY RIGHT, TITLE, CLAIM,~~
 18 ~~INTEREST, EASEMENT, OR DEMAND, HOWEVER ACQUIRED, INCLUDING~~
 19 ~~ANY EQUITY OR RIGHT OF REDEMPTION; DO ANY OF THE FOREGOING~~
 20 ~~BY PUBLIC OR PRIVATE SALE, WITH OR WITHOUT PUBLIC BIDDING;~~
 21 ~~COMMENCE ANY ACTION TO PROTECT OR ENFORCE ANY RIGHT~~
 22 ~~CONFERRED UPON IT BY ANY LAW, MORTGAGE, CONTRACT OR OTHER~~
 23 ~~AGREEMENT; BID FOR AND PURCHASE PROPERTY AT ANY FORECLOSURE~~
 24 ~~OR OTHER SALE, OR ACQUIRE OR TAKE POSSESSION OF IT IN LIEU~~
 25 ~~OF FORECLOSURE; AND OPERATE, MANAGE, LEASE, DISPOSE OF, AND~~

1 OTHERWISE DEAL WITH SUCH PROPERTY, IN ANY MANNER NECESSARY
 2 OR DESIRABLE TO PROTECT ITS INTERESTS AND THE HOLDERS OF ITS
 3 BONDS OR NOTES, AND CONSISTENT WITH ANY AGREEMENT WITH SUCH
 4 HOLDERS;

5 (10) SERVICE AND CONTRACT AND PAY FOR THE SERVICING OF
 6 LOANS;

7 (11) provide general technical services in the
 8 analysis, planning, design, processing, construction,
 9 rehabilitation, and management of housing developments for
 10 persons and families of lower income, where these services
 11 are not otherwise available;

12 (12) provide general consultative services to housing
 13 developments for persons and families of lower income and
 14 the residents thereof with respect to counseling and
 15 training in management, home ownership and maintenance,
 16 where these services are not otherwise available;

17 (13) invest any funds not required for immediate use,
 18 subject to any agreements with its bondholders and
 19 noteholders, as provided in Title 79, chapter 3, R.C.M.
 20 1947, EXCEPT ALL INVESTMENT INCOME FROM FUNDS OF THE BOARD,
 21 LESS THE COST FOR INVESTMENT AS PRESCRIBED BY LAW, SHALL BE
 22 DEPOSITED IN THE HOUSING FINANCE ACCOUNT;

23 (14) sell its loans or securities to the federal
 24 national mortgage association or any other agency or
 25 instrumentality of the United States, and may invest in the

1 capital stock issued by the association or other agency or
 2 instrumentality to the extent, if any, required as a
 3 condition of such sale;

4 (15) consent, whenever it deems it necessary or
 5 desirable in fulfilling its purposes to the modification of
 6 the rate of interest, time and payment of any installment of
 7 principal or interest, security, or any other term of any
 8 contract, mortgage, mortgage loan, mortgage loan commitment,
 9 construction loan, advance contract or agreement of any
 10 kind, subject to any agreement with bondholders and
 11 noteholders;

12 (16) collect reasonable interest, fees and charges in
 13 connection with making and servicing its loans, notes,
 14 bonds, commitments, and other evidences of indebtedness, and
 15 in connection with providing technical, consultative and
 16 project assistance services. Interest fees and charges
 17 shall be limited to the amounts required to pay the costs of
 18 the board, including operating and administrative expenses
 19 and reasonable allowances for losses which may be incurred;

20 (17) procure insurance against any loss in connection
 21 with its mortgages and mortgage loans, and other assets or
 22 property in amounts and from insurers as the board considers
 23 desirable or necessary;

24 (18) act as agent for governmental agencies concerning
 25 acquisition, construction, leasing, operation, or management

1 of a housing development; and

2 (19) issue notes and bonds, and replace lost, destroyed
 3 or mutilated notes and bonds; AND

4 (20) DEVELOP SPECIAL PROGRAMS FOR HOUSING DEVELOPMENTS
 5 FOR VETERANS OF THE ARMED FORCES OF THE UNITED STATES WHO
 6 ARE UNABLE TO ACQUIRE SAFE AND SANITARY HOUSING THROUGH
 7 LENDING INSTITUTIONS BY CONVENTIONAL MEANS.

8 Section 6. Financing programs of the board. (1) The
 9 board may:

10 (a) make loans to lending institutions under terms and
 11 conditions adopted by the board requiring the proceeds to be
 12 used by the lending institution for the making of mortgage
 13 loans for housing developments in the state for persons and
 14 families of lower income;

15 (b) invest in, purchase or make commitments to
 16 purchase, and take assignments from lending institutions, of
 17 notes, mortgages and other securities evidencing loans for
 18 the construction, rehabilitation, purchase, leasing or
 19 refinancing of housing developments for persons and families
 20 of lower income in this state, under terms and conditions
 21 adopted by the board;

22 (c) make, undertake commitments to make, and
 23 participate in the making of mortgage loans, including
 24 federally insured mortgage loans, and to make temporary
 25 loans and advances in anticipation of permanent mortgage

1 loans to housing sponsors to finance the construction or
2 rehabilitation of housing developments designed and planned
3 for occupancy by persons and families of lower income in
4 this state, under terms and conditions adopted by the board;

5 (d) make, undertake commitments to make, and
6 participate in the making of ~~first-mortgage~~ loans to persons
7 and families of lower income for housing development,
8 including without limitation persons and families of lower
9 income who are eligible or potentially eligible for
10 federally insured mortgage loans, federal mortgages or other
11 federal housing assistance, when the board determines that
12 mortgage loans are not otherwise available, wholly or in
13 part, from private lenders upon ~~reasonable~~ REASONABLY
14 equivalent terms and conditions, and under terms and
15 conditions adopted by the board.

16 (2) The board shall adopt rules respecting ~~its~~
17 ~~mortgage,--construction--and-temporary-lending-programs-and~~
18 ~~their-terms-and-conditions,~~ the regulation of borrowers, the
19 admission of occupants in housing developments, the
20 construction of ancillary facilities, and requirements or
21 restrictions necessary to implement this act.

22 (3) The board shall adopt rules for the:
23 (a) organization, approval, standards, and regulation
24 of housing sponsors and eligible recipients;
25 (b) approval, standards and regulation of lending

1 institutions under this act;

2 (c) assessment, collection and payment of all fees and
3 charges in connection with making, purchasing, and servicing
4 of its bonds and notes, mortgage lending, construction
5 lending, temporary lending, and security purchase programs;

6 (d) assessment and collection of fees and charges in
7 connection with its technical, consultative, and project
8 assistance activities;

9 (e) determination and regulation of mortgagor and
10 lending institution and their use of funds under this
11 chapter, sponsor and mortgagor equity definitions and
12 limitations, and housing development costs;

13 (f) percentage of housing units or housing
14 developments assisted under this act that are reserved for
15 lower income persons and families, and which allows for an
16 economic mixture of residents.

17 (4) THE BOARD MAY REQUIRE THAT LOANS MADE TO OR
18 SECURITIES ISSUED BY LENDING INSTITUTIONS SHALL BE
19 ADDITIONALLY SECURED AS TO PAYMENT OF PRINCIPAL AND INTEREST
20 BY A PLEDGE OF AND A LIEN UPON COLLATERAL SECURITY IN
21 AMOUNTS AND CONSISTING OF OBLIGATIONS AND SECURITIES AS THE
22 BOARD DETERMINES NECESSARY TO ASSURE PROMPT PAYMENT OF LOANS
23 AND INTEREST. COLLATERAL MAY BE REQUIRED TO BE LODGED WITH
24 A BANK OR TRUST COMPANY DESIGNATED BY THE BOARD AS
25 CUSTODIAN, OR THE BOARD MAY ENTER INTO AN AGREEMENT WITH THE

1 LENDING INSTITUTION REQUIRING IT TO IDENTIFY AND MAINTAIN
 2 AND SERVICE THE COLLATERAL AND THE INCOME THEREFROM SOLELY
 3 IN ACCORDANCE WITH THE AGREEMENT. A COPY OF EACH AGREEMENT
 4 AND ANY REVISIONS OR SUPPLEMENTS THERETO SHALL BE FILED WITH
 5 THE SECRETARY OF STATE, AND NO FURTHER FILING OR OTHER
 6 ACTION UNDER THE UNIFORM COMMERCIAL CODE OR ANY OTHER LAW
 7 SHALL BE REQUIRED TO PERFECT THE SECURITY INTEREST OF THE
 8 BOARD IN THE COLLATERAL OR IN ANY ADDITIONS OR
 9 SUBSTITUTIONS. THE LIEN AND TRUST IS BINDING FROM THE TIME
 10 IT IS MADE, AGAINST ALL PARTIES HAVING CLAIMS OF ANY KIND IN
 11 TORT, CONTRACT, OR OTHERWISE AGAINST THE LENDING
 12 INSTITUTION.

13 Section 7. Procedure prior to financing of housing
 14 developments. The board may finance housing developments
 15 under this act only when the board finds: (1) that there
 16 exists a shortage of decent, safe, and sanitary housing at
 17 rentals or prices which persons and families of lower income
 18 can afford within the general housing market area to be
 19 served by the proposed housing development;

20 (2) that private enterprise ~~and investment--have--been~~
 21 ~~unable--without--assistance--to-provide~~ HAS NOT PROVIDED an
 22 adequate supply of decent, safe, and sanitary housing in the
 23 housing market area at rentals or prices which persons or
 24 families of lower income can afford, or ~~to-provide~~ PROVIDED
 25 sufficient mortgage financing for housing developments for

1 occupancy by persons or families of lower income;

2 (3) that the housing sponsor undertaking the proposed
 3 housing development in this state will supply well planned,
 4 well designed housing and that such sponsors are financially
 5 responsible, and;

6 (4) that the housing development to be assisted under
 7 this act will be of public use and will provide a public
 8 benefit, taking into account the existence of local
 9 government comprehensive plans, housing and land use plans
 10 and regulations, areawide plans, and other public desires.

11 (5) THAT THE HOUSING DEVELOPMENT DOES NOT INVOLVE THE
 12 CONSTRUCTION OF SECOND HOMES. FOR PURPOSES OF THIS
 13 PARAGRAPH, "SECOND HOME" MEANS A HOME WHICH WOULD NOT
 14 QUALIFY AS THE PRIMARY RESIDENCE OF THE TAXPAYER FOR FEDERAL
 15 INCOME TAX PURPOSES RELATING TO CAPITAL GAINS ON THE SALE OR
 16 EXCHANGE OF RESIDENTIAL PROPERTY.

17 Section 8. Supervision of housing sponsors. (1) The
 18 board may supervise housing sponsors of housing developments
 19 financed under this act as follows:

20 (a) prescribe uniform systems of accounts and records
 21 for housing sponsors and require them to make reports and
 22 give answers to specific questions on forms and at times
 23 specified by the board;

24 (b) enter upon and inspect the housing development,
 25 and examine all books and records of the housing sponsor

1 with respect to capitalization, income and other matters as
2 specified by the board;

3 (c) supervise the operation and maintenance of any
4 housing development and order repairs necessary to protect
5 the public and the board's interest or the health, welfare,
6 or safety of the occupants;

7 (d) determine standards for, and control resident
8 selection by a housing sponsor;

9 (e) require any housing sponsor to pay to the board
10 fees as it prescribes in connection with the examination,
11 inspection, supervision, auditing, or other regulation of
12 the housing sponsor;

13 (f) order any housing sponsor to do, or to refrain
14 from doing, things necessary to comply with the provisions
15 of law, the rules of the board, and the terms of any
16 contract or agreement to which the housing sponsor is a
17 party;

18 (g) regulate the retirement of any capital investment
19 or the redemption of stock where any such retirement or
20 redemption when added to any dividend or other distribution
21 shall exceed in any one fiscal year ten percent (10%), or a
22 lesser amount of the original face amount of any investment
23 or equity of any housing sponsor, as determined by the
24 board; and

25 (h) adopt rules specifying the categories of cost

1 which shall be allowable in the construction or
2 rehabilitation of a housing development.

3 (2) The board shall require any housing sponsor to
4 certify the actual housing development costs PRIOR TO
5 PERIODIC PAYMENTS OR upon completion of the housing
6 development, subject to audit and determination by the
7 board. The board may accept, in lieu of any certification
8 of housing development costs, other assurances of the
9 housing development costs, in any form or manner whatsoever,
10 as will enable the board to determine with reasonable
11 accuracy the amount of housing development costs.

12 Section 9. Bonds and notes. (1) The board may by
13 resolution, from time to time, issue negotiable notes and
14 bonds in a principal amount as the board determines
15 necessary to provide sufficient funds for achieving any of
16 its purposes, including the payment of interest on notes and
17 bonds of the board, establishment of reserves to secure the
18 notes and bonds, including the reserve funds created under
19 section 17 and all other expenditures of the board incident
20 to, and necessary or convenient to carry out this act.

21 (2) The board may by resolution, from time to time,
22 issue notes to renew notes and bonds to pay notes, including
23 interest, and whenever it deems refunding expedient, to
24 refund any bonds by the issuance of new bonds, whether the
25 bonds to be refunded have or have not matured, and to issue

1 bonds partly to refund bonds outstanding and partly for any
2 of its other purposes.

3 (3) Except as otherwise expressly provided by
4 resolution of the board, every issue of its notes and bonds
5 shall be obligations of the board payable out of any
6 revenues, ASSETS, or moneys of the board, subject only to
7 agreements with the holders of particular notes or bonds
8 pledging particular revenues, ASSETS OR MONEYS.

9 (4) The notes and bonds shall be authorized by
10 resolutions of the board, shall bear a date and shall mature
11 at times as the resolutions provide. A note shall not
12 mature more than ten (10) years and a bond shall not mature
13 more than fifty (50) years from the date of its issue. The
14 bonds may be issued as serial bonds payable in annual
15 installments or as term bonds or as a combination thereof.
16 The notes and bonds shall bear interest at a rate, or rates,
17 be in denominations, be in a form, either coupon or
18 registered, carry registration privileges, be executed in a
19 manner, be payable in a medium of payment, at places within
20 or without the state, and be subject to terms of redemption
21 as provided in resolutions. The notes and bonds of the
22 board may be sold at public or private sale, at prices
23 determined by the board.

24 Section 10. Provision of bond resolutions. A
25 resolution authorizing any notes, or bonds, or any issue

1 thereof, may contain provisions, which shall be a part of
2 the contract or contracts with the holders thereof, as to:
3 (1) pledging all or any part of the revenues OR PROPERTY of
4 the board to secure the payment of the notes or bonds, or of
5 any issue thereof, subject to existing agreements with
6 noteholders or bondholders;

7 (2) pledging all or any part of the assets of the
8 board, including mortgages and obligations securing them, to
9 secure the payment of the notes or bonds, or of any issue
10 thereof, subject to existing agreements with noteholders or
11 bondholders;

12 (3) the use and disposition of the gross income from
13 mortgages owned by the board and payment of principal of
14 mortgages owned by the board;

15 (4) the setting aside of reserves of sinking funds in
16 the hands of trustees, paying agents, and other
17 depositories, and the regulation and disposition thereof;

18 (5) limitations on the purpose to which the proceeds
19 of sale of notes or bonds may be applied and the pledge of
20 the proceeds to secure the payment of the notes or bonds or
21 of any issue thereof;

22 (6) limitations on the issuance of additional notes or
23 bonds, the terms upon which additional notes or bonds may be
24 issued and secured, and the refunding of outstanding notes
25 or bonds;

1 (7) the procedure, if any, by which the terms of any
2 contract with noteholders or bondholders may be amended or
3 abrogated, the amount of notes or bonds the holders of which
4 must consent thereto, and the manner in which such consent
5 may be given;

6 (8) limitations on the amount of moneys to be expended
7 by the board for operating expenses of the board;

8 (9) vesting in a trustee property, rights, powers, and
9 duties in trust as the board determines;

10 (10) defining the acts or omissions to act which shall
11 constitute a default in the obligations and duties of the
12 board to the holders of the notes or bonds, and providing
13 for the rights and remedies of the holders of the notes or
14 bonds in the event of such default, including as a matter of
15 right the appointment of a receiver. Rights and remedies
16 shall not be inconsistent with the laws of the state and the
17 other provisions of this act; and

18 (11) any other matters, of like or different character,
19 which in any way affect the security or protection of the
20 holders of the notes or bonds.

21 Section 11. Validity of pledge. Any pledge made by
22 the board shall be valid and binding from the time the
23 pledge is made. The revenues, moneys or property pledged
24 and thereafter received by the board shall immediately be
25 subject to the lien of the pledge without any physical

1 delivery thereof or further act, and the lien of any pledge
2 shall be valid and binding against all parties having claims
3 of any kind in tort, contract or otherwise against the
4 board, irrespective of whether such parties have notice
5 thereof. Neither the resolution nor any other instrument by
6 which a pledge is created need be recorded.

7 Section 12. Personal liability. The board members and
8 employees of the department are not personally liable or
9 accountable BY REASON OF THE ISSUANCE OF, OR on any bond or
10 note issued by the board.

11 Section 13. Purchase of notes and bonds --
12 cancellation. The board, subject to existing agreements
13 with noteholders or bondholders, may, out of any funds
14 available for that reason, purchase notes or bonds of the
15 board, which shall thereupon be cancelled, at a price not
16 exceeding:

17 (a) the current redemption price plus accrued interest
18 to the next interest payment thereon, if the notes or bonds
19 are then redeemable; or

20 (b) the redemption price applicable on the first date
21 after the purchase upon which the notes or bonds become
22 subject to redemption plus accrued interest to that date, if
23 the notes or bonds are not then redeemable.

24 Section 14. Trust indenture. In the discretion of the
25 board, the bonds may be secured by a trust indenture between

1 the board and a corporate trustee, which may be a trust
 2 company or bank having the power of a trust company within
 3 or without the state. A trust indenture may contain
 4 provisions for protecting and enforcing the rights and
 5 remedies of the bondholders as are reasonable and proper and
 6 not in violation of law, including covenants setting forth
 7 the duties of the board in relation to the exercise of its
 8 powers, the custody, safeguarding and application of all
 9 moneys. The board may provide by a trust indenture for the
 10 payment of the proceeds of the bonds and the revenues to the
 11 trustee under the trust indenture of another depository, and
 12 for the method of disbursement, with safeguards and
 13 restrictions as it determines. All expenditures incurred in
 14 carrying out a trust indenture may be treated as part of the
 15 operating expenditures of the board.

16 Section 15. Negotiability of bonds. Notes and bonds
 17 issued by the board are negotiable instruments under the
 18 Uniform Commercial Code, subject only to the provisions for
 19 registration of notes and bonds.

20 Section 16. Signatures of board members. In case any
 21 of the board members, whose signatures appear on notes or
 22 bonds or coupons, cease to be members before the delivery of
 23 the notes or bonds, their signatures shall, nevertheless, be
 24 valid and sufficient for all purposes, the same as if the
 25 members had remained in office until delivery.

1 Section 17. Reserve funds and appropriations.
 2 (1) The board shall pay into the capital reserve account:
 3 (a) any funds appropriated and made available by the
 4 state for the purpose of the account;
 5 (b) any proceeds of sale of notes or bonds to the
 6 extent provided in the resolutions or indentures of the
 7 board authorizing their issuance; and
 8 (c) any other funds which may be available to the
 9 board for the purpose of the account from any other source.
 10 (2) All funds held in the capital reserve account
 11 shall be used solely for the payment of the principal of
 12 bonds secured in whole or in part by the account or of the
 13 sinking fund payments with respect to the bonds, the
 14 purchase or redemption of the bonds, the payment of interest
 15 on the bonds or the payment of any redemption premium
 16 required to be paid when the bonds are redeemed prior to
 17 maturity. Funds in the account shall not be withdrawn at
 18 any time in an amount which reduces the amount of the
 19 account to less than the sum of minimum capital reserve
 20 requirements established for the account, except for the
 21 purpose of making, with respect to bonds secured in whole or
 22 in part by the account, payment, when due, of principal,
 23 interest, redemption premiums, and sinking fund payments for
 24 the payment of which other moneys pledged are not available.
 25 Any income or interest earned by, or incremental to, the

1 capital reserve account due to its investment may be
 2 transferred to other accounts of the board to the extent it
 3 does not reduce the amount of the capital reserve account
 4 below the sum of minimum capital reserve requirements for
 5 the account.

6 (3) The board may not issue bonds secured in whole or
 7 in part by the capital reserve account, unless the board
 8 deposits in the account, from the proceeds of the bonds
 9 issued or from any other sources, an amount not less than
 10 the minimum capital reserve requirement for these bonds.
 11 For the purposes of this section, the term "minimum capital
 12 reserve requirement" means, as of any particular date of
 13 computation, an amount of money, as provided in the
 14 resolution or indenture of the board authorizing the bonds
 15 or notes, equal to not more than the greatest of the
 16 respective amounts for the current or any future fiscal year
 17 of the board of annual debt service on the bonds of the
 18 board secured in whole or in part by the account. The
 19 annual debt service for any fiscal year is the amount of
 20 money equal to the aggregate of all interest and principal
 21 payable on the bonds during the fiscal year, calculated on
 22 the assumption that all the bonds are paid at maturity. If
 23 any amount of the bonds is required to be redeemed on an
 24 earlier date by the operation of a sinking fund, then that
 25 amount is considered payable on those bonds during the year

1 they are to be redeemed for the purposes of this
 2 calculation.

3 (4) In computing the amount of the capital reserve
 4 account, securities in which all or a portion of the account
 5 shall be invested shall be valued at par, or if purchased at
 6 less than par, at their cost to the board.

7 Section 18. Maintenance of capital reserve account.
 8 (1) In order to assure the maintenance of the capital
 9 reserve account, the chairman of the board shall on or
 10 before September 1 in the year preceding the convening OF
 11 THE legislature, deliver to the governor a certificate
 12 stating the sum, if any, required to restore the capital
 13 reserve account to the minimum capital reserve requirement.
 14 The governor shall include in the executive budget submitted
 15 to the legislature, the sum required to restore the capital
 16 reserve account to the sum of minimum capital reserve
 17 requirements. All sums appropriated by the legislature
 18 shall be deposited in the capital reserve account.

19 (2) All amounts appropriated to the board by the
 20 legislature under this section constitute advances to the
 21 board and, subject to the rights of the holders of any bonds
 22 or notes of the board, shall be repaid to the state's
 23 general fund without interest from available operating
 24 revenues of the board in excess of amounts required for the
 25 payment of bonds, notes or other obligations of the board,

1 for maintenance of the capital reserve account and for
2 operating expenses.

3 Section 19. Refunding obligations -- issuance. The
4 board may provide for the issuance of refunding obligations
5 for refunding any obligations then outstanding which have
6 been issued under this chapter, including the payment of any
7 redemption premium and any interest accrued or to accrue to
8 the date of redemption of the obligations ~~and-for-purposes~~
9 ~~of-the-board~~. The issuance of obligations, the maturities
10 and other details, the rights of the holders, and the
11 rights, duties and obligations of the board are governed by
12 the appropriate provisions of this act which relate to the
13 issuance of obligations.

14 Section 20. Refunding obligations -- sale. Refunding
15 obligations issued as provided in section 19 may be sold or
16 exchanged for outstanding obligations issued under this
17 chapter. The proceeds may be applied, ~~in-addition-to-other~~
18 ~~authorized-purposes~~, to the purchase, redemption, or payment
19 of outstanding obligations. Pending the application of the
20 proceeds of refunding obligations, with other available
21 funds, to the payment of principal, accrued interest and any
22 redemption premium on the obligations being refunded, and,
23 if permitted in the resolution authorizing the issuance of
24 the refunding obligations or in the trust agreement securing
25 them, to the payment of interest on refunding obligations

1 and expenses in connection with refunding, the proceeds may
2 be invested as provided in Title 79, chapter 3, R.C.M. 1947.

3 Section 21. Credit of state not pledged. Obligations
4 issued under the provisions of this act do not constitute a
5 debt or liability or obligation or a pledge of the faith and
6 credit of the state but are payable solely from the revenues
7 or assets of the board. An obligation issued under this act
8 shall contain on the face thereof a statement to the effect
9 that THE STATE OF MONTANA IS NOT LIABLE ON THE OBLIGATION
10 AND THE OBLIGATION IS NOT A DEBT OF THE STATE AND neither
11 the faith and credit nor the taxing power of the state is
12 pledged to the payment of the principal of, or the interest
13 on, the obligation.

14 Section 22. Annual audit. There shall be an audit of
15 the board's books and records at least once each fiscal
16 year.

17 Section 23. Tax exemption of bonds. Bonds, notes or
18 other obligations issued by the board under this act, OR BY
19 LOCAL HOUSING AUTHORITIES UNDER TITLE 35, CHAPTER 1, their
20 transfer, and their income (including any profits made on
21 their sale), shall be free from taxation by the state or any
22 political subdivision or other instrumentality of the state,
23 excepting inheritance, estate and gift taxes. THE BOARD IS
24 NOT REQUIRED TO PAY RECORDING OR TRANSFER FEES OR TAXES ON
25 INSTRUMENTS RECORDED BY IT.

1 Section 24. Accounts of the board. (1) Housing
2 finance account:

3 (a) there is a housing finance account in the bonds
4 proceeds and insurance clearance fund provided for in
5 section 79-410(6), R.C.M. 1947;

6 (b) all funds from the proceeds of bonds issued under
7 this act, fees, and other moneys received by the board,
8 moneys appropriated by the legislature for the use of the
9 board in carrying out this act, and moneys made available
10 from any other source for the use of the board shall be
11 deposited in the housing finance account except where
12 otherwise provided by law AND EXCEPT AS NECESSARY TO
13 MAINTAIN THE CAPITAL RESERVE AND REVOLVING ACCOUNTS;

14 (c) all funds deposited in the housing finance account
15 are continuously appropriated to and may be expended by the
16 board for the purposes authorized in this act.

17 (2) Capital reserve account:

18 (a) there is a capital reserve account in the sinking
19 fund provided for in section 79-410(3), R.C.M. 1947;

20 (b) the capital reserve account consists of the
21 aggregate of moneys retained by the board, under existing
22 agreements with bondholders, as the minimum capital reserve
23 requirement described in section 17 of this act for each
24 bond issue sold by the board.

25 (3) Revolving account:

1 (a) there is a revolving account in the revolving fund
2 provided for in section 79-410(7), R.C.M. 1947;

3 (b) funds appropriated by the legislature for use of
4 the board in payment of expenses incurred in carrying out
5 this act shall be deposited in the revolving account;

6 (c) funds expended by the board under this subsection
7 shall be repaid by the board into the revolving account from
8 the fees and charges collected under this act and from any
9 other moneys available for such repayment in accordance with
10 this act.

11 SECTION 25. PLEDGE AGAINST IMPAIRMENT OF CONTRACTS.
12 IN ACCORDANCE WITH THE CONSTITUTIONS OF THE UNITED STATES
13 AND THE STATE OF MONTANA THE STATE PLEDGES THAT IT WILL NOT,
14 IN ANY WAY, IMPAIR THE OBLIGATIONS OF ANY AGREEMENT BETWEEN
15 THE BOARD AND THE HOLDERS OF NOTES AND BONDS ISSUED BY THE
16 BOARD.

17 Section 26. Meetings and acts of the board. (1) All
18 meetings of the board are open to the public.

19 (2) All official acts of the board shall be in a
20 regular or special meeting and by a majority of the board.

21 (3) All rules adopted by the board shall be in
22 accordance with the Administrative Procedure Act.

23 Section 27. Powers of the department. The department
24 may: (1) survey and investigate housing needs throughout
25 the state and publish the results, and make recommendations

1 to the governor and the legislature as to legislation and
2 other measures necessary, desirable, or advisable to
3 alleviate housing problems;

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

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

12 Section 28. Severability. If a part of this act is
13 invalid, all valid parts that are severable from the invalid
14 part remain in effect. If a part of this act is invalid in
15 one or more of its applications, the part remains in effect
16 in all valid applications that are severable from the
17 invalid applications.

-End-

March 18, 1975

SENATE COMMITTEE ON STATE ADMINISTRATION

AMENDMENTS TO HOUSE BILL NO. 342

That House Bill No. 342, third reading, be amended as follows:

1. Amend page 18, section 7, line 5.
Following: "responsible"
Strike: ", and"
2. Amend page 18, section 7, line 10.
Following: "desires"
Strike: "."
Insert: "; and"

Corrected 3/26/75

March 18, 1975

SENATE COMMITTEE ON STATE ADMINISTRATION

AMENDMENTS TO HOUSE BILL NO. 342

That House Bill No. 342, third reading, be amended as follows:

1. Amend page 18, section 7, line 5.
Following: "responsible"
Strike: ", and"
2. Amend page 18, section 7, line 10.
Following: "desires"
Strike: "."
Insert: ";
3. Amend page 18, section 7, line 16.
Following: "PROPERTY"
Strike: "."
Insert: "; and"

Corrected 3/26/75

March 21, 1975

SENATE COMMITTEE OF THE WHOLE
AMENDMENTS TO HOUSE BILL NO. 342

That House Bill No. 342, third reading, be amended as follows:

1. Amend page 15, section 6, line 4.
Following: "board;"
Insert: "but, only when necessary to qualify for federal funds;"
2. Amend page 15, section 6, line 15.
Following: "board"
Insert: "; but, only when necessary to qualify for federal funds"
3. Amend page 18, section 7, line 16.
Following: line 16
Insert: "(6) that as to direct loans it is necessary to qualify for federal funds."
4. Amend page 21, section 9, line 23.
Following: line 23
Insert: "(5) The total amount of notes and bonds outstanding at any one time may not exceed seventy-five million dollars (\$75,000,000). The maximum rate of interest on bonds issued by the board may not exceed the maximum rate for revenue bonds issued by political subdivisions as provided in section 79-2602. The notes and bonds may not be sold for less than par."
5. Amend page 30, section 22, line 16.
Following: "year."
Insert: "The legislative auditor shall conduct this audit."

HOUSE BILL NO. 342

INTRODUCED BY GERKE, DRISCOLL, BARDANOUVE, GWYNN, SOUTH,
O'CONNELL, TEAGUE, MCKITTRICK, WILLIAMS

A BILL FOR AN ACT ENTITLED: "AN ACT TO BE KNOWN AS THE
HOUSING ACT OF 1975; CREATING A BOARD OF HOUSING AND
PROVIDING FOR ITS POWERS AND DUTIES RELATING TO FINANCING TO
ASSIST PRIVATE ENTERPRISE AND GOVERNMENTAL AGENCIES TO MEET
HOUSING NEEDS."

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

Section 1. Title. This act shall be known and may be
cited as the "Housing Act of 1975".

Section 2. Legislative declaration. The legislature
finds and declares that there is a shortage in Montana of
decent, safe, and sanitary housing which is within the
financial capabilities of the lower income persons and
families. In order to alleviate the high cost of housing
for these persons, the legislature believes that it is
essential that additional public moneys be made available,
through the issuance of revenue bonds, to assist both
private enterprise and governmental agencies in meeting
critical housing needs.

Section 3. Definitions. As used in this act, unless
the context requires otherwise: (1) "board" means the

board of housing created in section 82A-907, 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 24 of this act.

(4) "Department" means the department of
~~intergovernmental relations~~ COMMUNITY AFFAIRS provided for
in Title 82A, chapter 9, 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

1 undertaking financed, in whole or in part, under this act
 2 for the primary purpose of ACQUIRING, constructing or
 3 rehabilitating dwelling accommodations for persons or
 4 families of lower income in need of housing. An undertaking
 5 may include any buildings, land, equipment, facilities, or
 6 other real or personal properties which are necessary,
 7 convenient, or desirable in connection therewith, including
 8 but not limited to streets, sewers, utilities, parks, site
 9 preparation, landscaping, and other nonhousing facilities as
 10 the board determines to be necessary, convenient, or
 11 desirable.

12 (9) "Housing development costs" means the sum total of
 13 all costs incurred in a housing development approved by the
 14 board as reasonable and necessary, including, but not
 15 limited to:

16 (a) cost of land acquisition and any buildings
 17 thereon, including payments for options, deposits, or
 18 contracts to purchase properties on the proposed housing
 19 development site or payments for the purchase of properties;

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

21 (c) architectural, engineering, legal, accounting,
 22 corporation, and other fees paid or payable in connection
 23 with the planning, execution and financing of the housing
 24 development and the finding of an eligible mortgagee or
 25 mortgagees for the housing development;

1 (d) cost of necessary studies, surveys, plans, and
 2 permits;

3 (e) insurance, interest, financing, tax and assessment
 4 costs and other operating and carrying costs during
 5 construction;

6 (f) cost of construction, rehabilitation,
 7 reconstruction, fixtures, furnishings, equipment, machinery,
 8 apparatus and similar facilities related to the real
 9 property;

10 (g) cost of land improvements including landscaping
 11 and offsite improvements, whether or not the costs have been
 12 paid in cash or in a form other than cash;

13 (h) necessary expenses in connection with initial
 14 occupancy of the housing development;

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

18 (j) an allowance established by the board for working
 19 capital and contingency reserves, and reserves for any
 20 anticipated operating deficits during construction and ~~for~~
 21 ~~the first two years of~~ INITIAL occupancy;

22 (k) costs of other items, including tenant relocation,
 23 as the board determines to be reasonable and necessary for
 24 the housing development, less any and all net rents and
 25 other net revenues received from the operation of the real

1 and personal property on the development site during the
2 construction.

3 (10) "Housing sponsor" means individuals, joint
4 ventures, partnerships, limited partnerships, trusts, firms,
5 associations, corporations, governmental agencies,
6 LIMITED-PROFIT HOUSING SPONSOR, NONPROFIT CORPORATION, or
7 other legal entities or any combination thereof, that are:

8 (a) approved by the board;

9 (b) qualified either to own, construct, acquire,
10 rehabilitate, operate, manage, or maintain a housing
11 development;

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

14 (11) "Lending institution" means any public or private
15 entity or governmental agency, approved by the board,
16 maintaining an office in this state and authorized by law to
17 make or participate in making residential mortgages in the
18 state.

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

25 (13) "Mortgage" means a mortgage deed, deed of trust,

1 or other instrument which shall constitute a ~~first~~ VALID
2 lien on real property in fee simple or on a leasehold under
3 a lease having a remaining term at the time the mortgage is
4 acquired, which does not expire for at least that number of
5 years beyond the maturity date of the obligation secured by
6 the mortgage established by the board as necessary to
7 protect its interest as mortgagee.

8 (14) "Mortgage loan" means an interest bearing
9 obligation secured by a mortgage on land and improvements in
10 the state.

11 (15) "Nonprofit housing sponsor" means a housing
12 cooperative formed under Title 14, chapter 2, R.C.M. 1947,
13 or a nonprofit corporation formed under Title 15, chapter
14 23, R.C.M. 1947, restricted as to distribution of income and
15 regulated as to rents, charges, rate of return and methods
16 of operation as the board determines necessary, and whose
17 articles of incorporation provide, in addition that:

18 (a) the organization has been organized exclusively to
19 provide housing developments for persons and families of
20 lower income;

21 (b) all the income and earnings of the organization
22 shall be used exclusively for housing development purposes
23 and no part of the net income or net earnings of the
24 organization shall inure to the benefit or profit of any
25 private individual, firm, corporation, partnership, or

1 association;

2 (c) the organization is in no manner controlled or
 3 under the direction or acting in the substantial interest of
 4 any private individual, firm, partnership, or association
 5 seeking to derive profit or gain therefrom, or seeking to
 6 eliminate or minimize losses in any transactions therewith,
 7 except that the limitations shall apply to members of a
 8 cooperative only to the extent provided by rules of the
 9 board;

10 (d) the operations of the organization may be
 11 supervised by the board and the organization will enter into
 12 agreements with the board to regulate planning, development,
 13 and management of any housing development undertaken by the
 14 organization and the disposition of the property or other
 15 interests of the organization.

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

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

22 (b) the size of the family;

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

1 (d) the ability of persons and families to compete
 2 successfully in the normal housing market and to pay the
 3 amount at which private enterprise is providing decent,
 4 safe, and sanitary housing;

5 (E) THE AVAILABILITY AND COST OF HOUSING IN PARTICULAR
 6 AREAS; AND

7 (F) NEEDS OF PARTICULAR PERSONS OR FAMILIES DUE TO AGE
 8 OR PHYSICAL HANDICAPS.

9 (17) "REHABILITATION" MEANS THE REPAIR,
 10 RECONSTRUCTION, OR IMPROVEMENT OF AN EXISTING STRUCTURE TO
 11 PROVIDE DECENT, SAFE AND SANITARY HOUSING OR TO CORRECT
 12 HOUSING WITH STATE OR LOCAL HEALTH, BUILDING, FIRE
 13 PREVENTION, AND SAFETY CODES AS DETERMINED BY THE BOARD.

14 Section 4. There is a new B.C.M. section numbered
 15 82A-907, that reads as follows:

16 82A-907. Board of housing — composition — allocation
 17 — designation. (1) There is a board of housing.

18 (2) The board consists of:

19 ~~(a) ex officio, the director of intergovernmental~~
 20 ~~relations;~~

21 ~~(b) ex officio, the director of social and~~
 22 ~~rehabilitation services;~~

23 ~~(c) ex officio, the director of revenue; and~~

24 ~~(d) four (4) SEVEN (7) members appointed by the~~
 25 governor as provided in section 82A-112, informed and

1 experienced in housing development and finance. ~~These~~
 2 ~~members shall serve four (4) year terms concurrent with the~~
 3 ~~gubernatorial term, ECONOMICS OF FINANCE.~~

4 (3) The board shall elect a chairman and other
 5 necessary officers.

6 (4) The board is designated a quasi-judicial board for
 7 purpose of section 82A-112.

8 (5) The board is allocated to the department of
 9 ~~intergovernmental relations~~ COMMUNITY AFFAIRS for
 10 administrative purposes only as provided in section 82A-108.

11 (6) The department shall provide all necessary staff
 12 and services to the board and shall assess the board for
 13 reasonable costs.

14 Section 5. General powers of the board. The board
 15 may: (1) sue and be sued;

16 (2) have a seal;

17 (3) adopt all procedural and substantive rules
 18 necessary for the administration of this act, including
 19 rules concerning its mortgage, construction, and temporary
 20 lending programs;

21 (4) make contracts, agreements and other instruments
 22 necessary or convenient for the exercise of its powers under
 23 this act;

24 (5) enter into agreements or other transactions with
 25 any federal, state, or local governmental agency, any

1 persons and any domestic or foreign partnership,
 2 corporation, association, or organization in carrying out
 3 this act;

4 (6) enter into agreements under its rules with
 5 sponsors, mortgagors, or lending institutions for the
 6 purpose of regulating the analysis, planning, development
 7 and management of housing developments, financed in whole or
 8 in part, by the proceeds of its loans or securities and
 9 mortgage purchase programs;

10 (7) enter into agreements or other transactions with,
 11 and accept grants and the cooperation of, any governmental
 12 agency in furtherance of this act, including but not limited
 13 to the development, leasing, maintenance, operation, and
 14 financing of any housing development;

15 (8) accept services, appropriations, gifts, grants,
 16 ~~requests~~ REQUESTS, and devise, and utilize or dispose of
 17 them in carrying out this act;

18 (9) ~~make or participate in the making of loans or~~
 19 ~~mortgage loans to lending institutions, housing sponsors,~~
 20 ~~and persons and families of lower income, to provide for the~~
 21 ~~construction, rehabilitation, or permanent financing of~~
 22 ~~housing developments; undertake commitments to make~~
 23 ~~residential mortgage loans; purchase and sell residential~~
 24 ~~mortgage loans at public or private sales; modify or alter~~
 25 ~~mortgages; foreclose on any mortgage or security agreement,~~

1 ~~contract or other agreement, or to bid for and purchase~~
 2 ~~property that is subject to mortgage or security interest at~~
 3 ~~any foreclosure or other sale; acquire or take possession of~~
 4 ~~the property and complete, administer, pay the principal and~~
 5 ~~interest on any obligations incurred in connection with the~~
 6 ~~property and dispose of the property in a manner as the~~
 7 ~~board determines necessary to protect its interest under~~
 8 ~~this act;~~

9 ~~(10) purchase, service, sell and make commitments to~~
 10 ~~purchase, service and sell mortgage loans or securities, to~~
 11 ~~the extent permitted by this act; ACQUIRE REAL OR PERSONAL~~
 12 ~~PROPERTY OR ANY RIGHT, INTEREST OR EASEMENT THEREIN, BY~~
 13 ~~GIFT, PURCHASE, TRANSFER, FORECLOSURE, LEASE OR OTHERWISE;~~
 14 ~~HOLD, SELL, ASSIGN, LEASE, ENCUMBER, MORTGAGE OR OTHERWISE~~
 15 ~~DISPOSE THEREOF; HOLD, SELL, ASSIGN OR OTHERWISE DISPOSE OF~~
 16 ~~ANY MORTGAGE OR LOAN OWNED BY IT OR IN ITS CONTROL OR~~
 17 ~~CUSTODY; RELEASE OR RELINQUISH ANY RIGHT, TITLE, CLAIM,~~
 18 ~~INTEREST, EASEMENT, OR DEMAND, HOWEVER ACQUIRED, INCLUDING~~
 19 ~~ANY EQUITY OR RIGHT OF REDEMPTION; DO ANY OF THE FOREGOING~~
 20 ~~BY PUBLIC OR PRIVATE SALE, WITH OR WITHOUT PUBLIC BIDDING;~~
 21 ~~COMMENCE ANY ACTION TO PROTECT OR ENFORCE ANY RIGHT~~
 22 ~~CONFERRED UPON IT BY ANY LAW, MORTGAGE, CONTRACT OR OTHER~~
 23 ~~AGREEMENT; BID FOR AND PURCHASE PROPERTY AT ANY FORECLOSURE~~
 24 ~~OR OTHER SALE, OR ACQUIRE OR TAKE POSSESSION OF IT IN LIEU~~
 25 ~~OF FORECLOSURE; AND OPERATE, MANAGE, LEASE, DISPOSE OF, AND~~

1 OTHERWISE DEAL WITH SUCH PROPERTY, IN ANY MANNER NECESSARY
 2 OR DESIRABLE TO PROTECT ITS INTERESTS AND THE HOLDERS OF ITS
 3 BONDS OR NOTES, AND CONSISTENT WITH ANY AGREEMENT WITH SUCH
 4 HOLDERS;

5 (10) SERVICE AND CONTRACT AND PAY FOR THE SERVICING OF
 6 LOANS;

7 (11) provide general technical services in the
 8 analysis, planning, design, processing, construction,
 9 rehabilitation, and management of housing developments for
 10 persons and families of lower income, where these services
 11 are not otherwise available;

12 (12) provide general consultative services to housing
 13 developments for persons and families of lower income and
 14 the residents thereof with respect to counseling and
 15 training in management, home ownership and maintenance,
 16 where these services are not otherwise available;

17 (13) invest any funds not required for immediate use,
 18 subject to any agreements with its bondholders and
 19 noteholders, as provided in Title 79, chapter 3, R.C.M.
 20 1947, EXCEPT ALL INVESTMENT INCOME FROM FUNDS OF THE BOARD,
 21 LESS THE COST FOR INVESTMENT AS PRESCRIBED BY LAW, SHALL BE
 22 DEPOSITED IN THE HOUSING FINANCE ACCOUNT;

23 (14) sell its loans or securities to the federal
 24 national mortgage association or any other agency or
 25 instrumentality of the United States, and may invest in the

1 capital stock issued by the association or other agency or
 2 instrumentality to the extent, if any, required as a
 3 condition of such sale;

4 (15) consent, whenever it deems it necessary or
 5 desirable in fulfilling its purposes to the modification of
 6 the rate of interest, time and payment of any installment of
 7 principal or interest, security, or any other term of any
 8 contract, mortgage, mortgage loan, mortgage loan commitment,
 9 construction loan, advance contract or agreement of any
 10 kind, subject to any agreement with bondholders and
 11 noteholders;

12 (16) collect reasonable interest, fees and charges in
 13 connection with making and servicing its loans, notes,
 14 bonds, commitments, and other evidences of indebtedness, and
 15 in connection with providing technical, consultative and
 16 project assistance services. Interest fees and charges
 17 shall be limited to the amounts required to pay the costs of
 18 the board, including operating and administrative expenses
 19 and reasonable allowances for losses which may be incurred;

20 (17) procure insurance against any loss in connection
 21 with its mortgages and mortgage loans, and other assets or
 22 property in amounts and from insurers as the board considers
 23 desirable or necessary;

24 (18) act as agent for governmental agencies concerning
 25 acquisition, construction, leasing, operation, or management

1 of a housing development; and

2 (19) issue notes and bonds, and replace lost, destroyed
 3 or mutilated notes and bonds-; AND

4 (20) DEVELOP SPECIAL PROGRAMS FOR HOUSING DEVELOPMENTS
 5 FOR VETERANS OF THE ARMED FORCES OF THE UNITED STATES WHO
 6 ARE UNABLE TO ACQUIRE SAFE AND SANITARY HOUSING THROUGH
 7 LENDING INSTITUTIONS BY CONVENTIONAL MEANS.

8 Section 6. Financing programs of the board. (1) The
 9 board may:

10 (a) make loans to lending institutions under terms and
 11 conditions adopted by the board requiring the proceeds to be
 12 used by the lending institution for the making of mortgage
 13 loans for housing developments in the state for persons and
 14 families of lower income;

15 (b) invest in, purchase or make commitments to
 16 purchase, and take assignments from lending institutions, of
 17 notes, mortgages and other securities evidencing loans for
 18 the construction, rehabilitation, purchase, leasing or
 19 refinancing of housing developments for persons and families
 20 of lower income in this state, under terms and conditions
 21 adopted by the board;

22 (c) make, undertake commitments to make, and
 23 participate in the making of mortgage loans, including
 24 federally insured mortgage loans, and to make temporary
 25 loans and advances in anticipation of permanent mortgage

1 loans to housing sponsors to finance the construction or
 2 rehabilitation of housing developments designed and planned
 3 for occupancy by persons and families of lower income in
 4 this state, under terms and conditions adopted by the board;

5 BUT, ONLY WHEN NECESSARY TO QUALIFY FOR FEDERAL FUNDS:

6 (d) make, undertake commitments to make, and
 7 participate in the making of ~~first mortgage~~ loans to persons
 8 and families of lower income for housing development,
 9 including without limitation persons and families of lower
 10 income who are eligible or potentially eligible for
 11 federally insured ~~mortgage~~ loans, federal mortgages or other
 12 federal housing assistance, when the board determines that
 13 mortgage loans are not otherwise available, wholly or in
 14 part, from private lenders upon ~~reasonable~~ REASONABLY
 15 equivalent terms and conditions, and under terms and
 16 conditions adopted by the board; BUT, ONLY WHEN NECESSARY TO
 17 QUALIFY FOR FEDERAL FUNDS.

18 (2) The board shall adopt rules respecting ~~its~~
 19 ~~mortgage, construction, and temporary lending programs and~~
 20 ~~their terms and conditions,~~ the regulation of borrowers, the
 21 admission of occupants in housing developments, the
 22 construction of ancillary facilities, and requirements or
 23 restrictions necessary to implement this act.

24 (3) The board shall adopt rules for the:

25 (a) organization, approval, standards, and regulation

1 of housing sponsors and eligible recipients;

2 (b) approval, standards and regulation of lending
 3 institutions under this act;

4 (c) assessment, collection and payment of all fees and
 5 charges in connection with making, purchasing, and servicing
 6 of its bonds and notes, mortgage lending, construction
 7 lending, temporary lending, and security purchase programs;

8 (d) assessment and collection of fees and charges in
 9 connection with its technical, consultative, and project
 10 assistance activities;

11 (e) determination and regulation of mortgagor and
 12 lending institution and their use of funds under this
 13 chapter, sponsor and mortgagor equity definitions and
 14 limitations, and housing development costs;

15 (f) percentage of housing units or housing
 16 developments assisted under this act that are reserved for
 17 lower income persons and families, and which allows for an
 18 economic mixture of residents.

19 (4) THE BOARD MAY REQUIRE THAT LOANS MADE TO OR
 20 SECURITIES ISSUED BY LENDING INSTITUTIONS SHALL BE
 21 ADDITIONALLY SECURED AS TO PAYMENT OF PRINCIPAL AND INTEREST
 22 BY A PLEDGE OF AND A LIEN UPON COLLATERAL SECURITY IN
 23 AMOUNTS AND CONSISTING OF OBLIGATIONS AND SECURITIES AS THE
 24 BOARD DETERMINES NECESSARY TO ASSURE PROMPT PAYMENT OF LOANS
 25 AND INTEREST. COLLATERAL MAY BE REQUIRED TO BE LODGED WITH

1 A BANK OR TRUST COMPANY DESIGNATED BY THE BOARD AS
 2 CUSTODIAN, OR THE BOARD MAY ENTER INTO AN AGREEMENT WITH THE
 3 LENDING INSTITUTION REQUIRING IT TO IDENTIFY AND MAINTAIN
 4 AND SERVICE THE COLLATERAL AND THE INCOME THEREFROM SOLELY
 5 IN ACCORDANCE WITH THE AGREEMENT. A COPY OF EACH AGREEMENT
 6 AND ANY REVISIONS OR SUPPLEMENTS THERETO SHALL BE FILED WITH
 7 THE SECRETARY OF STATE, AND NO FURTHER FILING OR OTHER
 8 ACTION UNDER THE UNIFORM COMMERCIAL CODE OR ANY OTHER LAW
 9 SHALL BE REQUIRED TO PERFECT THE SECURITY INTEREST OF THE
 10 BOARD IN THE COLLATERAL OR IN ANY ADDITIONS OR
 11 SUBSTITUTIONS. THE LIEN AND TRUST IS BINDING FROM THE TIME
 12 IT IS MADE, AGAINST ALL PARTIES HAVING CLAIMS OF ANY KIND IN
 13 TORT, CONTRACT, OR OTHERWISE AGAINST THE LENDING
 14 INSTITUTION.

15 Section 7. Procedure prior to financing of housing
 16 developments. The board may finance housing developments
 17 under this act only when the board finds: (1) that there
 18 exists a shortage of decent, safe, and sanitary housing at
 19 rentals or prices which persons and families of lower income
 20 can afford within the general housing market area to be
 21 served by the proposed housing development;

22 (2) that private enterprise ~~and investment have been~~
 23 ~~unable, without assistance, to provide~~ HAS NOT PROVIDED an
 24 adequate supply of decent, safe, and sanitary housing in the
 25 housing market area at rentals or prices which persons or

1 families of lower income can afford, or ~~to provide~~ PROVIDED
 2 sufficient mortgage financing for housing developments for
 3 occupancy by persons or families of lower income;

4 (3) that the housing sponsor undertaking the proposed
 5 housing development in this state will supply well planned,
 6 well designed housing and that such sponsors are financially
 7 responsible; and;

8 (4) that the housing development to be assisted under
 9 this act will be of public use and will provide a public
 10 benefit, taking into account the existence of local
 11 government comprehensive plans, housing and land use plans
 12 and regulations, areawide plans, and other public desires;

13 (5) THAT THE HOUSING DEVELOPMENT DOES NOT INVOLVE THE
 14 CONSTRUCTION OF SECOND HOMES. FOR PURPOSES OF THIS
 15 PARAGRAPH, "SECOND HOME" MEANS A HOME WHICH WOULD NOT
 16 QUALIFY AS THE PRIMARY RESIDENCE OF THE TAXPAYER FOR FEDERAL
 17 INCOME TAX PURPOSES RELATING TO CAPITAL GAINS ON THE SALE OR
 18 EXCHANGE OF RESIDENTIAL PROPERTY; AND

19 (b) THAT AS TO DIRECT LOANS IT IS NECESSARY TO
 20 QUALIFY FOR FEDERAL FUNDS.

21 Section 8. Supervision of housing sponsors. (1) The
 22 board may supervise housing sponsors of housing developments
 23 financed under this act as follows:

24 (a) prescribe uniform systems of accounts and records
 25 for housing sponsors and require them to make reports and

1 give answers to specific questions on forms and at times
2 specified by the board;

3 (b) enter upon and inspect the housing development,
4 and examine all books and records of the housing sponsor
5 with respect to capitalization, income and other matters as
6 specified by the board;

7 (c) supervise the operation and maintenance of any
8 housing development and order repairs necessary to protect
9 the public and the board's interest or the health, welfare,
10 or safety of the occupants;

11 (d) determine standards for, and control resident
12 selection by a housing sponsor;

13 (e) require any housing sponsor to pay to the board
14 fees as it proscribes in connection with the examination,
15 inspection, supervision, auditing, or other regulation of
16 the housing sponsor;

17 (f) order any housing sponsor to do, or to refrain
18 from doing, things necessary to comply with the provisions
19 of law, the rules of the board, and the terms of any
20 contract or agreement to which the housing sponsor is a
21 party;

22 (g) regulate the retirement of any capital investment
23 or the redemption of stock where any such retirement or
24 redemption when added to any dividend or other distribution
25 shall exceed in any one fiscal year ten percent (10%), or a

1 lesser amount of the original face amount of any investment
2 or equity of any housing sponsor, as determined by the
3 board; and

4 (h) adopt rules specifying the categories of cost
5 which shall be allowable in the construction or
6 rehabilitation of a housing development.

7 (2) The board shall require any housing sponsor to
8 certify the actual housing development costs PRIOR TO
9 PERIODIC PAYMENTS OR upon completion of the housing
10 development, subject to audit and determination by the
11 board. The board may accept, in lieu of any certification
12 of housing development costs, other assurances of the
13 housing development costs, in any form or manner whatsoever,
14 as will enable the board to determine with reasonable
15 accuracy the amount of housing development costs.

16 Section 9. Bonds and notes. (1) The board may by
17 resolution, from time to time, issue negotiable notes and
18 bonds in a principal amount as the board determines
19 necessary to provide sufficient funds for achieving any of
20 its purposes, including the payment of interest on notes and
21 bonds of the board, establishment of reserves to secure the
22 notes and bonds, including the reserve funds created under
23 section 17 and all other expenditures of the board incident
24 to, and necessary or convenient to carry out this act.

25 (2) The board may by resolution, from time to time,

1 issue notes to renew notes and bonds to pay notes, including
 2 interest, and whenever it deems refunding expedient, to
 3 refund any bonds by the issuance of new bonds, whether the
 4 bonds to be refunded have or have not matured, and to issue
 5 bonds partly to refund bonds outstanding and partly for any
 6 of its other purposes.

7 (3) Except as otherwise expressly provided by
 8 resolution of the board, every issue of its notes and bonds
 9 shall be obligations of the board payable out of any
 10 revenues, ASSETS, or moneys of the board, subject only to
 11 agreements with the holders of particular notes or bonds
 12 pledging particular revenues, ASSETS OR MONEYS.

13 (4) The notes and bonds shall be authorized by
 14 resolutions of the board, shall bear a date and shall mature
 15 at times as the resolutions provide. A note shall not
 16 mature more than ten (10) years and a bond shall not mature
 17 more than fifty (50) years from the date of its issue. The
 18 bonds may be issued as serial bonds payable in annual
 19 installments or as term bonds or as a combination thereof.
 20 The notes and bonds shall bear interest at a rate, or rates,
 21 in denominations, be in a form, either coupon or
 22 registered, carry registration privileges, be executed in a
 23 manner, be payable in a medium of payment, at places within
 24 or without the state, and be subject to terms of redemption
 25 as provided in resolutions. The notes and bonds of the

1 board may be sold at public or private sale, at prices
 2 determined by the board.

3 (5) THE TOTAL AMOUNT OF NOTES AND BONDS OUTSTANDING AT
 4 ANY ONE TIME MAY NOT EXCEED SEVENTY-FIVE MILLION DOLLARS
 5 (\$75,000,000). THE MAXIMUM RATE OF INTEREST ON BONDS ISSUED
 6 BY THE BOARD MAY NOT EXCEED THE MAXIMUM RATE FOR REVENUE
 7 BONDS ISSUED BY POLITICAL SUBDIVISIONS AS PROVIDED IN
 8 SECTION 79-2602. THE NOTES AND BONDS MAY NOT BE SOLD FOR
 9 LESS THAN PAR.

10 Section 10. Provision of bond resolutions. A
 11 resolution authorizing any notes, or bonds, or any issue
 12 thereof, may contain provisions, which shall be a part of
 13 the contract or contracts with the holders thereof, as to:
 14 (1) pledging all or any part of the revenues OR PROPERTY of
 15 the board to secure the payment of the notes or bonds, or of
 16 any issue thereof, subject to existing agreements with
 17 noteholders or bondholders;

18 (2) pledging all or any part of the assets of the
 19 board, including mortgages and obligations securing them, to
 20 secure the payment of the notes or bonds, or of any issue
 21 thereof, subject to existing agreements with noteholders or
 22 bondholders;

23 (3) the use and disposition of the gross income from
 24 mortgages owned by the board and payment of principal of
 25 mortgages owned by the board;

1 (4) the setting aside of reserves of sinking funds in
 2 the hands of trustees, paying agents, and other
 3 depositories, and the regulation and disposition thereof;

4 (5) limitations on the purpose to which the proceeds
 5 of sale of notes or bonds may be applied and the pledge of
 6 the proceeds to secure the payment of the notes or bonds or
 7 of any issue thereof;

8 (6) limitations on the issuance of additional notes or
 9 bonds, the terms upon which additional notes or bonds may be
 10 issued and secured, and the refunding of outstanding notes
 11 or bonds;

12 (7) the procedure, if any, by which the terms of any
 13 contract with noteholders or bondholders may be amended or
 14 abrogated, the amount of notes or bonds the holders of which
 15 must consent thereto, and the manner in which such consent
 16 may be given;

17 (8) limitations on the amount of moneys to be expended
 18 by the board for operating expenses of the board;

19 (9) vesting in a trustee property, rights, powers, and
 20 duties in trust as the board determines;

21 (10) defining the acts or omissions to act which shall
 22 constitute a default in the obligations and duties of the
 23 board to the holders of the notes or bonds, and providing
 24 for the rights and remedies of the holders of the notes or
 25 bonds in the event of such default, including as a matter of

1 right the appointment of a receiver. Rights and remedies
 2 shall not be inconsistent with the laws of the state and the
 3 other provisions of this act; and

4 (11) any other matters, of like or different character,
 5 which in any way affect the security or protection of the
 6 holders of the notes or bonds.

7 Section 11. Validity of pledge. Any pledge made by
 8 the board shall be valid and binding from the time the
 9 pledge is made. The revenues, moneys or property pledged
 10 and thereafter received by the board shall immediately be
 11 subject to the lien of the pledge without any physical
 12 delivery thereof or further act, and the lien of any pledge
 13 shall be valid and binding against all parties having claims
 14 of any kind in tort, contract or otherwise against the
 15 board, irrespective of whether such parties have notice
 16 thereof. Neither the resolution nor any other instrument by
 17 which a pledge is created need be recorded.

18 Section 12. Personal liability. The board members and
 19 employees of the department are not personally liable or
 20 accountable BY REASON OF THE ISSUANCE OF, OR on any bond or
 21 note issued by the board.

22 Section 13. Purchase of notes and bonds —
 23 cancellation. The board, subject to existing agreements
 24 with noteholders or bondholders, may, out of any funds
 25 available for that reason, purchase notes or bonds of the

1 board, which shall thereupon be cancelled, at a price not
2 exceeding:

3 (a) the current redemption price plus accrued interest
4 to the next interest payment thereon, if the notes or bonds
5 are then redeemable; or

6 (b) the redemption price applicable on the first date
7 after the purchase upon which the notes or bonds become
8 subject to redemption plus accrued interest to that date, of
9 the notes or bonds are not then redeemable.

10 Section 14. Trust indenture. In the discretion of the
11 board, the bonds may be secured by a trust indenture between
12 the board and a corporate trustee, which may be a trust
13 company or bank having the power of a trust company within
14 or without the state. A trust indenture may contain
15 provisions for protecting and enforcing the rights and
16 remedies of the bondholders as are reasonable and proper and
17 not in violation of law, including covenants setting forth
18 the duties of the board in relation to the exercise of its
19 powers, the custody, safeguarding and application of all
20 moneys. The board may provide by a trust indenture for the
21 payment of the proceeds of the bonds and the revenues to the
22 trustee under the trust indenture of another depository, and
23 for the method of disbursement, with safeguards and
24 restrictions as it determines. All expenditures incurred in
25 carrying out a trust indenture may be treated as part of the

1 operating expenditures of the board.

2 Section 15. Negotiability of bonds. Notes and bonds
3 issued by the board are negotiable instruments under the
4 Uniform Commercial Code, subject only to the provisions for
5 registration of notes and bonds.

6 Section 16. Signatures of board members. In case any
7 of the board members, whose signatures appear on notes or
8 bonds or coupons, cease to be members before the delivery of
9 the notes or bonds, their signatures shall, nevertheless, be
10 valid and sufficient for all purposes, the same as if the
11 members had remained in office until delivery.

12 Section 17. Reserve funds and appropriations.

13 (1) The board shall pay into the capital reserve account:

14 (a) any funds appropriated and made available by the
15 state for the purpose of the account;

16 (b) any proceeds of sale of notes or bonds to the
17 extent provided in the resolutions or indentures of the
18 board authorizing their issuance; and

19 (c) any other funds which may be available to the
20 board for the purpose of the account from any other source.

21 (2) All funds held in the capital reserve account
22 shall be used solely for the payment of the principal of
23 bonds secured in whole or in part by the account or of the
24 sinking fund payments with respect to the bonds, the
25 purchase or redemption of the bonds, the payment of interest

1 on the bonds or the payment of any redemption premium
 2 required to be paid when the bonds are redeemed prior to
 3 maturity. Funds in the account shall not be withdrawn at
 4 any time in an amount which reduces the amount of the
 5 account to less than the sum of minimum capital reserve
 6 requirements established for the account, except for the
 7 purpose of making, with respect to bonds secured in whole or
 8 in part by the account, payment, when due, of principal,
 9 interest, redemption premiums, and sinking fund payments for
 10 the payment of which other moneys pledged are not available.
 11 Any income or interest earned by, or incremental to, the
 12 capital reserve account due to its investment may be
 13 transferred to other accounts of the board to the extent it
 14 does not reduce the amount of the capital reserve account
 15 below the sum of minimum capital reserve requirements for
 16 the account.

17 (3) The board may not issue bonds secured in whole or
 18 in part by the capital reserve account, unless the board
 19 deposits in the account, from the proceeds of the bonds
 20 issued or from any other sources, an amount not less than
 21 the minimum capital reserve requirement for these bonds.
 22 For the purposes of this section, the term "minimum capital
 23 reserve requirement" means, as of any particular date of
 24 computation, an amount of money, as provided in the
 25 resolution or indenture of the board authorizing the bonds

1 or notes, equal to not more than the greatest of the
 2 respective amounts for the current or any future fiscal year
 3 of the board of annual debt service on the bonds of the
 4 board secured in whole or in part by the account. The
 5 annual debt service for any fiscal year is the amount of
 6 money equal to the aggregate of all interest and principal
 7 payable on the bonds during the fiscal year, calculated on
 8 the assumption that all the bonds are paid at maturity. If
 9 any amount of the bonds is required to be redeemed on an
 10 earlier date by the operation of a sinking fund, then that
 11 amount is considered payable on those bonds during the year
 12 they are to be redeemed for the purposes of this
 13 calculation.

14 (4) In computing the amount of the capital reserve
 15 account, securities in which all or a portion of the account
 16 shall be invested shall be valued at par, or if purchased at
 17 less than par, at their cost to the board.

18 Section 18. Maintenance of capital reserve account.
 19 (1) In order to assure the maintenance of the capital
 20 reserve account, the chairman of the board shall on or
 21 before September 1 in the year preceding the convening of
 22 THE legislature, deliver to the governor a certificate
 23 stating the sum, if any, required to restore the capital
 24 reserve account to the minimum capital reserve requirement.
 25 The governor shall include in the executive budget submitted

1 to the legislature, the sum required to restore the capital
 2 reserve account to the sum of minimum capital reserve
 3 requirements. All sums appropriated by the legislature
 4 shall be deposited in the capital reserve account.

5 (2) All amounts appropriated to the board by the
 6 legislature under this section constitute advances to the
 7 board and, subject to the rights of the holders of any bonds
 8 or notes of the board, shall be repaid to the state's
 9 general fund without interest from available operating
 10 revenues of the board in excess of amounts required for the
 11 payment of bonds, notes or other obligations of the board,
 12 for maintenance of the capital reserve account and for
 13 operating expenses.

14 Section 19. Refunding obligations — issuance. The
 15 board may provide for the issuance of refunding obligations
 16 for refunding any obligations then outstanding which have
 17 been issued under this chapter, including the payment of any
 18 redemption premium and any interest accrued or to accrue to
 19 the date of redemption of the obligations ~~and for purposes~~
 20 ~~of the board.~~ The issuance of obligations, the maturities
 21 and other details, the rights of the holders, and the
 22 rights, duties and obligations of the board are governed by
 23 the appropriate provisions of this act which relate to the
 24 issuance of obligations.

25 Section 20. Refunding obligations — sale. Refunding

1 obligations issued as provided in section 19 may be sold or
 2 exchanged for outstanding obligations issued under this
 3 chapter. The proceeds may be applied, ~~in addition to other~~
 4 ~~authorized purposes,~~ to the purchase, redemption, or payment
 5 of outstanding obligations. Pending the application of the
 6 proceeds of refunding obligations, with other available
 7 funds, to the payment of principal, accrued interest and any
 8 redemption premium on the obligations being refunded, and,
 9 if permitted in the resolution authorizing the issuance of
 10 the refunding obligations or in the trust agreement securing
 11 them, to the payment of interest on refunding obligations
 12 and expenses in connection with refunding, the proceeds may
 13 be invested as provided in Title 79, chapter 3, R.C.M. 1947.

14 Section 21. Credit of state not pledged. Obligations
 15 issued under the provisions of this act do not constitute a
 16 debt or liability or obligation or a pledge of the faith and
 17 credit of the state but are payable solely from the revenues
 18 or assets of the board. An obligation issued under this act
 19 shall contain on the face thereof a statement to the effect
 20 that THE STATE OF MONTANA IS NOT LIABLE ON THE OBLIGATION
 21 AND THE OBLIGATION IS NOT A DEBT OF THE STATE AND neither
 22 the faith and credit nor the taxing power of the state is
 23 pledged to the payment of the principal of, or the interest
 24 on, the obligation.

25 Section 22. Annual audit. There shall be an audit of

1 the board's books and records at least once each fiscal
2 year. THE LEGISLATIVE AUDITOR SHALL CONDUCT THIS ADDIT.

3 Section 23. Tax exemption of bonds. bonds, notes or
4 other obligations issued by the board under this act, OR BY
5 LOCAL HOUSING AUTHORITIES UNDER TITLE 35, CHAPTER 1, their
6 transfer, and their income (including any profits made on
7 their sale), shall be free from taxation by the state or any
8 political subdivision or other instrumentality of the state,
9 excepting inheritance, estate and gift taxes. THE BOARD IS
10 NOT REQUIRED TO PAY RECORDING OR TRANSFER FEES OR TAXES ON
11 INSTRUMENTS RECORDED BY IT.

12 Section 24. Accounts of the board. (1) Housing
13 finance account:

14 (a) there is a housing finance account in the bonds
15 proceeds and insurance clearance fund provided for in
16 section 79-410(6), R.C.M. 1947;

17 (b) all funds from the proceeds of bonds issued under
18 this act, fees, and other moneys received by the board,
19 moneys appropriated by the legislature for the use of the
20 board in carrying out this act, and moneys made available
21 from any other source for the use of the board shall be
22 deposited in the housing finance account except where
23 otherwise provided by law AND EXCEPT AS NECESSARY TO
24 MAINTAIN THE CAPITAL RESERVE AND REVOLVING ACCOONTS;

25 (c) all funds deposited in the housing finance account

1 are continuously appropriated to and may be expended by the
2 board for the purposes authorized in this act.

3 (2) Capital reserve account:

4 (a) there is a capital reserve account in the sinking
5 fund provided for in section 79-410(3), R.C.M. 1947;

6 (b) the capital reserve account consists of the
7 aggregate of moneys retained by the board, under existing
8 agreements with bondholders, as the minimum capital reserve
9 requirement described in section 17 of this act for each
10 bond issue sold by the board.

11 (3) Revolving account:

12 (a) there is a revolving account in the revolving fund
13 provided for in section 79-410(7), R.C.M. 1947;

14 (b) funds appropriated by the legislature for use of
15 the board in payment of expenses incurred in carrying out
16 this act shall be deposited in the revolving account;

17 (c) funds expended by the board under this subsection
18 shall be repaid by the board into the revolving account from
19 the fees and charges collected under this act and from any
20 other moneys available for such repayment in accordance with
21 this act.

22 SECTION 25. PLEDGE AGAINST IMPAIRMENT OF CONTRACTS.
23 IN ACCORDANCE WITH THE CONSTITUTIONS OF THE UNITED STATES
24 AND THE STATE OF MONTANA THE STATE PLEDGES THAT IT WILL NOT,
25 IN ANY WAY, IMPAIR THE OBLIGATIONS OF ANY AGREEMENT BETWEEN

1 THE BOARD AND THE HOLDERS OF NOTES AND BONDS ISSUED BY THE
 2 BOARD.

3 Section 26. Meetings and acts of the board. (1) All
 4 meetings of the board are open to the public.

5 (2) All official acts of the board shall be in a
 6 regular or special meeting and by a majority of the board.

7 (3) All rules adopted by the board shall be in
 8 accordance with the Administrative Procedure Act.

9 Section 27. Powers of the department. The department
 10 may: (1) survey and investigate housing needs throughout
 11 the state and publish the results, and make recommendations
 12 to the governor and the legislature as to legislation and
 13 other measures necessary, desirable, or advisable to
 14 alleviate housing problems;

15 (2) maintain and disseminate information on available
 16 governmental housing assistance programs, eligibility and
 17 development requirements, and other similar information; and

18 (3) promote research and development in housing
 19 planning design, production, conservation, rehabilitation,
 20 and other matters relating to, or affecting the provision of
 21 decent, safe and sanitary housing in a suitable living
 22 environment.

23 Section 28. Severability. If a part of this act is
 24 invalid, all valid parts that are severable from the invalid
 25 part remain in effect. If a part of this act is invalid in

1 one or more of its applications, the part remains in effect
 2 in all valid applications that are severable from the
 3 invalid applications.

-End-