

CHAPTER NO. 357.

HOUSE BILL NO. 241

INTRODUCED BY MENAHAN, HARRINGTON, PAVLOVICH,
KANDUCH, COONEY

BY REQUEST OF THE BOARD OF HOUSING

IN THE HOUSE

January 18, 1979	Introduced and referred to Committee on Business and Industry.
February 1, 1979	Committee recommend bill do pass. Report adopted.
February 2, 1979	Printed and placed on members' desks.
February 3, 1979	Second reading, do pass.
February 5, 1979	Considered correctly engrossed.
February 6, 1979	Third reading, passed. Transmitted to second house.

IN THE SENATE

February 7, 1979	Introduced and referred to Committee on Business and Industry.
March 14, 1979	Committee recommend bill be concurrent in. Report adopted.
March 15, 1979	Second reading, concurred in.
March 17, 1979	Third reading, concurred in.

IN THE HOUSE

March 19, 1979	Returned from second house. Concurrent in. Sent to enrolling. Reported correctly enrolled.
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1 HOUSE BILL NO. 241
 2 INTRODUCED BY Marsha Harington Carjacks
 3 Kanduck BY REQUEST OF THE BOARD OF HOUSING Cooney
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THE MEANING
 6 OF PERSONS AND FAMILIES OF LOWER INCOME UNDER THE HOUSING
 7 ACT OF 1975 AND TO PROVIDE FOR THE CONSIDERATION OF
 8 AVAILABLE FINANCIAL RESOURCES; AMENDING SECTION 90-6-103,
 9 MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

12 Section 1. Section 90-6-103, MCA, is amended to read:
 13 "90-6-103. Definitions. As used in this part, unless
 14 the context requires otherwise, the following definitions
 15 apply:

- 16 (1) "Board" means the board of housing created in
 17 2-15-1008.
- 18 (2) "Bond" means any bonds, notes, debentures, interim
 19 certificates, or other evidences of financial indebtedness
 20 issued by the board pursuant to this part.
- 21 (3) "Capital reserve account" means the capital
 22 reserve account provided for in 90-6-107.
- 23 (4) "Department" means the department of
 24 administration provided for in Title 2, chapter 15, part 10.
- 25 (5) "Federally insured mortgage" means a mortgage loan

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

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

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

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

1 desirable.

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (a) approved by the board;

25 (b) qualified either to own, construct, acquire,

1 rehabilitate, operate, manage, or maintain a housing
2 development;

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

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

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

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

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

1 the state.

2 (15) "Nonprofit housing sponsor" means a housing
3 cooperative formed under Title 35, chapter 15, or a
4 nonprofit corporation formed under Title 35, chapter 2,
5 restricted as to distribution of income and regulated as to
6 rents, charges, rate of return, and methods of operation as
7 the board determines necessary, and whose articles of
8 incorporation provide in addition that:

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

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

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

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

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

12 (a) the amount of the total personal and family
 13 income, assets, and other financial resources available for
 14 housing needs;

15 (b) the size of the family;

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

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

23 (e) the availability and cost of housing in particular
 24 areas; and

25 (f) needs of particular persons or families due to age

1 or physical handicaps.

2 (17) "Rehabilitation" means the repair, reconstruction,
 3 or improvement of an existing structure to provide decent,
 4 safe, and sanitary housing or to conform housing with state
 5 or local health, building, fire prevention, and safety codes
 6 as determined by the board.*

7 Section 2. Prior transactions not impaired. Nothing
 8 herein affects or impairs any provision of resolutions,
 9 indentures, loans, contracts, bonds, or notes adopted,
 10 entered into or issued before the effective date of this
 11 act.

12 Section 3. Effective date. This act is effective on
 13 passage and approval.

-End-

STATE OF MONTANA

Request No. 61-79

FISCAL NOTE

Form BD-15

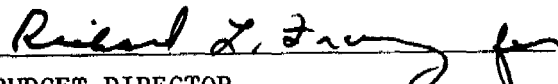
In compliance with a written request received January 24, 1979, there is hereby submitted a Fiscal Note for House Bill 241 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to clarify the meaning of persons and families of lower income under the Housing Act of 1975 and to provide for the consideration of available financial resources.

FISCAL IMPACT:

None.


BUDGET DIRECTOR
Office of Budget and Program Planning
Date: 1/24/79

Approved by Committee
on Business and Industry

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2 INTRODUCED BY Merrilee Harrington Carls
3 Kendrick BY REQUEST OF THE BOARD OF HOUSING Cooney
4

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HB 241

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-End-

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 2 INTRODUCED BY *Margaret Hamilton*
 3 *Randolph* BY REQUEST OF THE BOARD OF HOUSING *Cooney*
 4

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8 indebtedness insured or guaranteed as to repayment of
9 principal and interest by the United States or an
10 instrumentality thereof.

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

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

1 the board determines to be necessary, convenient, or
2 desirable.

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

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

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

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

18 (d) cost of necessary studies, surveys, plans, and
19 permits;

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

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

1 property;

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

5 (h) necessary expenses in connection with initial
6 occupancy of the housing development;

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

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

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

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

25 (a) approved by the board;

1 (b) qualified either to own, construct, acquire,
 2 rehabilitate, operate, manage, or maintain a housing
 3 development;

4 (c) subject to the rules of the board and other terms
 5 and conditions set forth in this part.

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

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

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

25 (14) "Mortgage loan" means an interest bearing

1 obligation secured by a mortgage on land and improvements in
 2 the state.

3 (15) "Nonprofit housing sponsor" means a housing
 4 cooperative formed under Title 35, chapter 15, or a
 5 nonprofit corporation formed under Title 35, chapter 2,
 6 restricted as to distribution of income and regulated as to
 7 rents, charges, rate of return, and methods of operation as
 8 the board determines necessary, and whose articles of
 9 incorporation provide in addition that:

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

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

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

1 board;

2 (d) the operations of the organization may be
3 supervised by the board and the organization will enter into
4 agreements with the board to regulate planning, development,
5 and management of any housing development undertaken by the
6 organization and the disposition of the property or other
7 interests of the organization.

8 (16) "Persons and families of lower income" means
9 persons and families with insufficient personal or family
10 income or other financial resources who require assistance
11 under this part, as determined by the board, taking into
12 consideration:

13 (a) the amount of the total personal and family
14 income, assets, and other financial resources available for
15 housing needs;

16 (b) the size of the family;

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

20 (d) the ability of persons and families to compete
21 successfully in the normal housing market and to pay the
22 amount at which private enterprise is providing decent,
23 safe, and sanitary housing;

24 (e) the availability and cost of housing in particular
25 areas; and

1 (f) needs of particular persons or families due to age
2 or physical handicaps.

3 (17) "Rehabilitation" means the repair, reconstruction,
4 or improvement of an existing structure to provide decent,
5 safe, and sanitary housing or to conform housing with state
6 or local health, building, fire prevention, and safety codes
7 as determined by the board."

8 Section 2. Prior transactions not impaired. Nothing
9 herein affects or impairs any provision of resolutions,
10 indentures, loans, contracts, bonds, or notes adopted,
11 entered into or issued before the effective date of this
12 act.

13 Section 3. Effective date. This act is effective on
14 passage and approval.

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