

SENATE BILL NO. 128

INTRODUCED BY HAZELBAKER, BLAYLOCK, MENAHAN, FULLER,  
DONALDSON, KEYSER

IN THE SENATE

January 13, 1983	Introduced and referred to Committee on Business and Industry.
January 21, 1983	Committee recommend bill do pass. Report adopted.
January 22, 1983	Bill printed and placed on members' desks.
January 24, 1983	Second reading, do pass.
January 25, 1983	Correctly engrossed.
January 26, 1983	Third reading, passed. Ayes, 49; Noes, 0. Transmitted to House.

IN THE HOUSE

January 27, 1983	Introduced and referred to Committee on Human Services.
March 7, 1983	Committee recommend bill be concurred in. Report adopted.
March 8, 1983	Second reading, concurred in.
March 9, 1983	Third reading, concurred in.

IN THE SENATE

March 10, 1983	Returned to Senate. Sent to enrolling.  Reported correctly enrolled.
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1 *Senate* BILL NO. *128*  
 2 INTRODUCED BY *Senator Blaylock Menahan Fuller*  
*Donelan Heyser*  
 3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO EXPAND THE  
 5 DEFINITION OF "HOUSING DEVELOPMENT" FOR PURPOSES OF PROGRAMS  
 6 ADMINISTERED BY THE BOARD OF HOUSING; AMENDING SECTION  
 7 90-6-103, MCA."  
 8  
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 10 Section 1. Section 90-6-103, MCA, is amended to read:  
 11 "90-6-103. Definitions. As used in this part, unless  
 12 the context requires otherwise, the following definitions  
 13 apply:  
 14 (1) "Board" means the board of housing created in  
 15 2-15-1814.  
 16 (2) "Bond" means any bonds, notes, debentures, interim  
 17 certificates, or other evidences of financial indebtedness  
 18 issued by the board pursuant to this part.  
 19 (3) "Capital reserve account" means the capital  
 20 reserve account provided for in 90-6-107.  
 21 (4) "Department" means the department of commerce  
 22 provided for in Title 2, chapter 15, part 18.  
 23 (5) "Federally insured mortgage" means a mortgage loan  
 24 for land development or residential housing insured or  
 25 guaranteed by the United States or a governmental agency or

1 instrumentality thereof or a commitment by the United States  
 2 or a governmental agency or instrumentalities thereof to  
 3 insure such a mortgage.  
 4 (6) "Federally insured security" means an evidence of  
 5 indebtedness insured or guaranteed as to repayment of  
 6 principal and interest by the United States or an  
 7 instrumentality thereof.  
 8 (7) "Governmental agency" means any department,  
 9 division, public corporation, public agency, political  
 10 subdivision, or other public instrumentality of the state,  
 11 the federal government, any other state or public agency, or  
 12 any two or more thereof.  
 13 (8) "Housing development" means single-family homes,  
 14 multifamily projects, housing for the elderly projects,  
 15 nursing home projects, personal care projects, and any work  
 16 or undertaking financed in whole or in part under this part  
 17 for the primary purpose of acquiring, constructing, or  
 18 rehabilitating dwelling such 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."

-End-

Approved by Committee  
on Business and Industry

SENATE BILL NO. 128

INTRODUCED BY Senator Blaylock  
Donella Keyser

A BILL FOR AN ACT ENTITLED: "AN ACT TO EXPAND THE  
DEFINITION OF "HOUSING DEVELOPMENT" FOR PURPOSES OF PROGRAMS  
ADMINISTERED BY THE BOARD OF HOUSING; AMENDING SECTION  
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(3) "Capital reserve account" means the capital  
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other real or personal properties which are necessary,  
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-End-

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 2 INTRODUCED BY *William Blaylock Menahan Fuller*  
*Donna Heyser*

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MENAHAN, FULLER, DONALDSON, KEYSER

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but not limited to streets, sewers, utilities, parks, site  
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;

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

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

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

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

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

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

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

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

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

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

(c) the organization is in no manner controlled or under the direction or acting in the substantial interest of any private individual, firm, partnership, or association seeking to derive profit or gain therefrom or seeking to eliminate or minimize losses in any transactions therewith, except that the limitations shall apply to members of a 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."

-End-