

SENATE BILL NO. 250

INTRODUCED BY GOODOVER, FABREGA, LEE, KEATING,
KITSELMAN, MILLER, VINGER, WALDRON, ADDY, GAGE

BY REQUEST OF THE BOARD OF HOUSING

IN THE SENATE

January 21, 1983	Introduced and referred to Committee on Business and Industry.
February 11, 1983	Committee recommend bill do pass. Report adopted.
February 12, 1983	Bill printed and placed on members' desks.
February 14, 1983	Second reading, do pass.
February 15, 1983	Correctly engrossed.
February 16, 1983	Third reading, passed. Ayes, 50; Noes, 0. Transmitted to House.

IN THE HOUSE

March 1, 1983	Introduced and referred to Select Committee on Economic Development.
March 3, 1983	Rereferred to Committee on Taxation.
March 5, 1983	Rereferred to Committee on Business and Industry.
March 22, 1983	Committee recommend bill be concurred in. Report adopted. Second reading, concurred in.
March 23, 1983	Third reading, concurred in.

IN THE SENATE

March 24, 1983

Returned to Senate. Sent to
enrolling.

Reported correctly enrolled.

1 Senate BILL NO. 250
2 INTRODUCED BY Senator William C. Sullivan
3 Kitelson BY REQUEST OF THE BOARD OF HOUSING
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
6 LAWS RELATING TO THE BOARD OF HOUSING; AUTHORIZING THE
7 ISSUANCE OF TAXABLE OR TAX EXEMPT BONDS; REMOVING THE LIMIT
8 ON INTEREST RATES AT WHICH BONDS MAY BE SOLD; PROVIDING FOR
9 A PUBLIC HEARING PRIOR TO FINANCING DEVELOPMENTS FOR RENTAL
10 UNITS FOR A FOR-PROFIT SPONSOR; AMENDING SECTIONS 90-6-103,
11 90-6-109, AND 90-6-111, MCA."

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

Section 1. Section 90-6-103, MCA, is amended to read:

"90-6-103. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Board" means the board of housing created in 2-15-1814.

(2) "Bond" means any bonds, notes, debentures, interim certificates, or other evidences of financial indebtedness issued by the board pursuant to this part, including those on which interest payments are taxable and those on which interest payments are tax exempt.

(3) "Capital reserve account" means the capital

1 reserve account provided for in 90-6-107.

2 (4) "Department" means the department of commerce
3 provided for in Title 2, chapter 15, part 18.

4 (5) "Federally insured mortgage" means a mortgage loan
5 for land development or residential housing insured or
6 guaranteed by the United States or a governmental agency or
7 instrumentality thereof or a commitment by the United States
8 or a governmental agency or instrumentalities thereof to
9 insure such a mortgage.

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

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

19 (8) "Housing development" means any work or
20 undertaking financed in whole or in part under this part for
21 the primary purpose of acquiring, constructing, or
22 rehabilitating dwelling accommodations for persons or
23 families of lower income in need of housing. An undertaking
24 may include any buildings, land, equipment, facilities, or
25 other real or personal properties which are necessary,

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1 convenient, or desirable in connection therewith, including
 2 but not limited to streets, sewers, utilities, parks, site
 3 preparation, landscaping, and other nonhousing facilities as
 4 the board determines to be necessary, convenient, or
 5 desirable.

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

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

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

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

21 (d) cost of necessary studies, surveys, plans, and
 22 permits;

23 (e) insurance, interest, financing, tax and assessment
 24 costs and other operating and carrying costs during
 25 construction;

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

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

8 (h) necessary expenses in connection with initial
 9 occupancy of the housing development;

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

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

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

23 (10) "Housing sponsor" means individuals, joint
 24 ventures, partnerships, limited partnerships, trusts, firms,
 25 associations, corporations, governmental agencies,

1 limited-profit housing sponsors, nonprofit corporations, or
2 other legal entities or any combination thereof that are:

3 (a) approved by the board;

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

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

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

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

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

1 the mortgage established by the board as necessary to
2 protect its interest as mortgagee.

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

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

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

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

22 (c) the organization is in no manner controlled or
23 under the direction or acting in the substantial interest of
24 any private individual, firm, partnership, or association
25 seeking to derive profit or gain therefrom or seeking to

1 eliminate or minimize losses in any transactions therewith;
2 except that the limitations shall apply to members of a
3 cooperative only to the extent provided by rules of the
4 board;

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

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

16 (a) the amount of the total personal and family
17 income, assets, and other financial resources available for
18 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 (e) the availability and cost of housing in particular
3 areas; and

4 (f) needs of particular persons or families due to age
5 or physical handicaps.

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

11 Section 2. Section 90-6-109, MCA, is amended to read:

12 "90-6-109. Procedure prior to financing of housing
13 developments. (1) The board may finance housing
14 developments under this part only when the board finds that:

15 ~~(1)(a)~~ there exists a shortage of decent, safe, and
16 sanitary housing at rentals or prices which persons and
17 families of lower income can afford within the general
18 housing market area to be served by the proposed housing
19 development;

20 ~~(2)(b)~~ private enterprise has not provided an
21 adequate supply of decent, safe, and sanitary housing in the
22 housing market area at rentals or prices which persons or
23 families of lower income can afford or provided sufficient
24 mortgage financing for housing developments for occupancy by
25 persons or families of lower income;

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

~~(4)(d)~~ the housing development to be assisted under this part will be of public use and will provide a public benefit, taking into account the existence of local government comprehensive plans, housing and land use plans and regulations, areawide plans, and other public desires;

~~(5)(e)~~ the housing development does not involve the construction of second homes (for purposes of this paragraph, "second home" means a home which would not qualify as the primary residence of the taxpayer for federal income tax purposes relating to capital gains on the sale or exchange of residential property); and

~~(6)(f)~~ as to direct loans it is necessary to qualify for federal funds.

(2) The findings required under subsection (1) must be made after a public hearing whenever the financing of housing relates to a development for rental units owned by a for-profit housing sponsor. The board shall conduct the hearing unless it directs the governing body of the local government in which the proposed housing development is to be located to conduct the hearing."

Section 3. Section 90-6-111, MCA, is amended to read:

"90-6-111. Bonds and notes. (1) The board may by resolution, from time to time, issue negotiable notes and bonds in a principal amount as the board determines necessary to provide sufficient funds for achieving any of its purposes, including the payment of interest on notes and bonds of the board, establishment of reserves to secure the notes and bonds, including the reserve funds created under 90-6-119, and all other expenditures of the board incident to and necessary or convenient to carry out this part.

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

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

(4) The notes and bonds shall be authorized by resolutions of the board, shall bear a date and shall mature at times as the resolutions provide. A note shall not

1 mature more than 10 years and a bond shall not mature more
 2 than 50 years from the date of its issue. The bonds may be
 3 issued as serial bonds payable in annual installments or as
 4 term bonds or as a combination thereof. The notes and bonds
 5 shall bear interest at a rate, or rates, be in
 6 denominations, be in a form, either coupon or registered,
 7 carry registration privileges, be executed in a manner, be
 8 payable in a medium of payment, at places within or without
 9 the state, and be subject to terms of redemption as provided
 10 in resolutions. The board shall designate whether interest
 11 payments on the bonds are taxable or tax exempt. The notes
 12 and bonds of the board may be sold at public or private sale
 13 at such prices, which may be above or below par, as are
 14 determined by the board.

15 (5) The total amount of notes and bonds outstanding at
 16 any one time, except notes or bonds as to which the board's
 17 obligation has been satisfied and discharged by refunding or
 18 for which reserve for payment or other means of payment have
 19 been otherwise provided, may not exceed \$675 million. ~~The~~
 20 ~~rate--of--interest-on-bonds-or-notes-issued-by-the-board-may~~
 21 ~~not-exceed-an-interest-rate-equal-to--1%--less-than--the~~
 22 ~~interest-rate-established-from-time-to-time-by-the-U.S.~~
 23 ~~department-of-housing-and-urban-development--(HUD),--federal~~
 24 ~~housing-administration--(FHA).--The-interest-rate-shall-be~~
 25 ~~determined-for-each-issue-of-bonds-or-notes-according-to-the~~

1 ~~HUD/FHA-rate-in-effect-30-days-prior--to--the--sale--of--the~~
 2 ~~bonds-or-notes."~~

-End-

Approved by Committee
on Business and Industry

INTRODUCED BY *Kitsehlmann* *Beating*
BY REQUEST OF THE BOARD OF HOUSING

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE LAWS RELATING TO THE BOARD OF HOUSING; AUTHORIZING THE ISSUANCE OF TAXABLE OR TAX EXEMPT BONDS; REMOVING THE LIMIT ON INTEREST RATES AT WHICH BONDS MAY BE SOLD; PROVIDING FOR A PUBLIC HEARING PRIOR TO FINANCING DEVELOPMENTS FOR RENTAL UNITS FOR A FOR-PROFIT SPONSOR; AMENDING SECTIONS 90-6-103, 90-6-109, AND 90-6-111, MCA."

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

Section 1. Section 90-6-103, MCA, is amended to read:

"90-6-103. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Board" means the board of housing created in 2-15-1814.

(2) "Bond" means any bonds, notes, debentures, interim certificates, or other evidences of financial indebtedness issued by the board pursuant to this part, including those on which interest payments are taxable and those on which interest payments are tax exempt.

(3) "Capital reserve account" means the capital

reserve account provided for in 90-6-107.

(4) "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.

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

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

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

(8) "Housing development" means any work or undertaking financed in whole or in part under this part for the primary purpose of acquiring, constructing, or rehabilitating dwelling accommodations for persons or families of lower income in need of housing. An undertaking may include any buildings, land, equipment, facilities, or other real or personal properties which are necessary,

convenient, or desirable in connection therewith, including but not limited to streets, sewers, utilities, parks, site preparation, landscaping, and other nonhousing facilities as the board determines to be necessary, convenient, or desirable.

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

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

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

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

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

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

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

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

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

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

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

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

(10) "Housing sponsor" means individuals, joint ventures, partnerships, limited partnerships, trusts, firms, associations, corporations, governmental agencies,

1 limited-profit housing sponsors, nonprofit corporations, or
2 other legal entities or any combination thereof that are:

3 (a) approved by the board;

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

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

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

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

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

1 the mortgage established by the board as necessary to
2 protect its interest as mortgagee.

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

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

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

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

22 (c) the organization is in no manner controlled or
23 under the direction or acting in the substantial interest of
24 any private individual, firm, partnership, or association
25 seeking to derive profit or gain therefrom or seeking to

1 eliminate or minimize losses in any transactions therewith,
2 except that the limitations shall apply to members of a
3 cooperative only to the extent provided by rules of the
4 board;

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

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

16 (a) the amount of the total personal and family
17 income, assets, and other financial resources available for
18 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 (e) the availability and cost of housing in particular
3 areas; and

4 (f) needs of particular persons or families due to age
5 or physical handicaps.

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

11 Section 2. Section 90-6-109, MCA, is amended to read:

12 "90-6-109. Procedure prior to financing of housing
13 developments. (1) The board may finance housing
14 developments under this part only when the board finds that:

15 ~~(1)~~(a) there exists a shortage of decent, safe, and
16 sanitary housing at rentals or prices which persons and
17 families of lower income can afford within the general
18 housing market area to be served by the proposed housing
19 development;

20 ~~(2)~~(b) private enterprise has not provided an
21 adequate supply of decent, safe, and sanitary housing in the
22 housing market area at rentals or prices which persons or
23 families of lower income can afford or provided sufficient
24 mortgage financing for housing developments for occupancy by
25 persons or families of lower income;

1 ~~{3}~~(c) the housing sponsor undertaking the proposed
2 housing development in this state will supply well planned,
3 well designed housing, and such sponsors are financially
4 responsible;

5 ~~{4}~~(d) the housing development to be assisted under
6 this part will be of public use and will provide a public
7 benefit, taking into account the existence of local
8 government comprehensive plans, housing and land use plans
9 and regulations, areawide plans, and other public desires;

10 ~~{5}~~(e) the housing development does not involve the
11 construction of second homes (for purposes of this
12 paragraph, "second home" means a home which would not
13 qualify as the primary residence of the taxpayer for federal
14 income tax purposes relating to capital gains on the sale or
15 exchange of residential property); and

16 ~~{6}~~(f) as to direct loans it is necessary to qualify
17 for federal funds.

18 (2) The findings required under subsection (1) must be
19 made after a public hearing whenever the financing of
20 housing relates to a development for rental units owned by a
21 for-profit housing sponsor. The board shall conduct the
22 hearing unless it directs the governing body of the local
23 government in which the proposed housing development is to
24 be located to conduct the hearing."

25 Section 3. Section 90-6-111, MCA, is amended to read:

1 "90-6-111. Bonds and notes. (1) The board may by
2 resolution, from time to time, issue negotiable notes and
3 bonds in a principal amount as the board determines
4 necessary to provide sufficient funds for achieving any of
5 its purposes, including the payment of interest on notes and
6 bonds of the board, establishment of reserves to secure the
7 notes and bonds, including the reserve funds created under
8 90-6-119, and all other expenditures of the board incident
9 to and necessary or convenient to carry out this part.

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

17 (3) Except as otherwise expressly provided by
18 resolution of the board, every issue of its notes and bonds
19 shall be obligations of the board payable out of any
20 revenues, assets, or moneys of the board, subject only to
21 agreements with the holders of particular notes or bonds
22 pledging particular revenues, assets, or moneys.

23 (4) The notes and bonds shall be authorized by
24 resolutions of the board, shall bear a date and shall mature
25 at times as the resolutions provide. A note shall not

1 mature more than 10 years and a bond shall not mature more
 2 than 50 years from the date of its issue. The bonds may be
 3 issued as serial bonds payable in annual installments or as
 4 term bonds or as a combination thereof. The notes and bonds
 5 shall bear interest at a rate, or rates, be in
 6 denominations, be in a form, either coupon or registered,
 7 carry registration privileges, be executed in a manner, be
 8 payable in a medium of payment, at places within or without
 9 the state, and be subject to terms of redemption as provided
 10 in resolutions. The board shall designate whether interest
 11 payments on the bonds are taxable or tax exempt. The notes
 12 and bonds of the board may be sold at public or private sale
 13 at such prices, which may be above or below par, as are
 14 determined by the board.

15 (5) The total amount of notes and bonds outstanding at
 16 any one time, except notes or bonds as to which the board's
 17 obligation has been satisfied and discharged by refunding or
 18 for which reserve for payment or other means of payment have
 19 been otherwise provided, may not exceed \$675 million. The
 20 ~~rate of interest on bonds or notes issued by the board may~~
 21 ~~not exceed an interest rate equal to 1% less than the~~
 22 ~~interest rate established from time to time by the U.S.~~
 23 ~~department of housing and urban development (HUD), federal~~
 24 ~~housing administration (FHA). The interest rate shall be~~
 25 ~~determined for each issue of bonds or notes according to the~~

1 ~~HUB/FHA rate in effect 30 days prior to the sale of the~~
 2 ~~bonds or notes."~~

-End-

1 *Amended* BILL NO. *250*

2 INTRODUCED BY *Barbara Feltz* *Kenney*

3 *Kitselmann* BY REQUEST OF THE BOARD OF HOUSING *Mike Vinger* *Walton* *Fuller*

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
6 LAWS RELATING TO THE BOARD OF HOUSING; AUTHORIZING THE
7 ISSUANCE OF TAXABLE OR TAX EXEMPT BONDS; REMOVING THE LIMIT
8 ON INTEREST RATES AT WHICH BONDS MAY BE SOLD; PROVIDING FOR
9 A PUBLIC HEARING PRIOR TO FINANCING DEVELOPMENTS FOR RENTAL
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18 any two or more thereof.

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24 may include any buildings, land, equipment, facilities, or
25 other real or personal properties which are necessary,

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2 but not limited to streets, sewers, utilities, parks, site
3 preparation, landscaping, and other nonhousing facilities as
4 the board determines to be necessary, convenient, or
5 desirable.

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

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

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

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

21 (d) cost of necessary studies, surveys, plans, and
22 permits;

23 (e) insurance, interest, financing, tax and assessment
24 costs and other operating and carrying costs during
25 construction;

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

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

8 (h) necessary expenses in connection with initial
9 occupancy of the housing development;

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

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

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

23 (10) "Housing sponsor" means individuals, joint
24 ventures, partnerships, limited partnerships, trusts, firms,
25 associations, corporations, governmental agencies,

1 limited-profit housing sponsors, nonprofit corporations, or
2 other legal entities or any combination thereof that are:

3 (a) approved by the board;

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

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

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

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

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

1 the mortgage established by the board as necessary to
2 protect its interest as mortgagee.

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

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

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

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

22 (c) the organization is in no manner controlled or
23 under the direction or acting in the substantial interest of
24 any private individual, firm, partnership, or association
25 seeking to derive profit or gain therefrom or seeking to

1 eliminate or minimize losses in any transactions therewith;
 2 except that the limitations shall apply to members of a
 3 cooperative only to the extent provided by rules of the
 4 board;

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

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

16 (a) the amount of the total personal and family
 17 income, assets, and other financial resources available for
 18 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 (e) the availability and cost of housing in particular
 3 areas; and

4 (f) needs of particular persons or families due to a,
 5 or physical handicaps.

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

11 Section 2. Section 90-6-109, MCA, is amended to read:

12 "90-6-109. Procedure prior to financing of housing
 13 developments. (1) The board may finance housing
 14 developments under this part only when the board finds that:

15 (1)(a) there exists a shortage of decent, safe, and
 16 sanitary housing at rentals or prices which persons and
 17 families of lower income can afford within the general
 18 housing market area to be served by the proposed housing
 19 development;

20 (2)(b) private enterprise has not provided an
 21 adequate supply of decent, safe, and sanitary housing in the
 22 housing market area at rentals or prices which persons or
 23 families of lower income can afford or provided sufficient
 24 mortgage financing for housing developments for occupancy by
 25 persons or families of lower income;

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

~~(4)(d)~~ the housing development to be assisted under this part will be of public use and will provide a public benefit, taking into account the existence of local government comprehensive plans, housing and land use plans and regulations, areawide plans, and other public desires;

~~(5)(e)~~ the housing development does not involve the construction of second homes (for purposes of this paragraph, "second home" means a home which would not qualify as the primary residence of the taxpayer for federal income tax purposes relating to capital gains on the sale or exchange of residential property); and

~~(6)(f)~~ as to direct loans it is necessary to qualify for federal funds.

(2) The findings required under subsection (1) must be made after a public hearing whenever the financing of housing relates to a development for rental units owned by a for-profit housing sponsor. The board shall conduct the hearing unless it directs the governing body of the local government in which the proposed housing development is to be located to conduct the hearing.

Section 3. Section 90-6-111, MCA, is amended to read:

"90-6-111. Bonds and notes. (1) The board may by resolution, from time to time, issue negotiable notes and bonds in a principal amount as the board determines necessary to provide sufficient funds for achieving any of its purposes, including the payment of interest on notes and bonds of the board, establishment of reserves to secure the notes and bonds, including the reserve funds created under 90-6-119, and all other expenditures of the board incident to and necessary or convenient to carry out this part.

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

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

(4) The notes and bonds shall be authorized by resolutions of the board, shall bear a date and shall mature at times as the resolutions provide. A note shall not

1 mature more than 10 years and a bond shall not mature more
 2 than 50 years from the date of its issue. The bonds may be
 3 issued as serial bonds payable in annual installments or as
 4 term bonds or as a combination thereof. The notes and bonds
 5 shall bear interest at a rate, or rates, be in
 6 denominations, be in a form, either coupon or registered,
 7 carry registration privileges, be executed in a manner, be
 8 payable in a medium of payment, at places within or without
 9 the state, and be subject to terms of redemption as provided
 10 in resolutions. The board shall designate whether interest
 11 payments on the bonds are taxable or tax exempt. The notes
 12 and bonds of the board may be sold at public or private sale
 13 at such prices, which may be above or below par, as are
 14 determined by the board.

15 (5) The total amount of notes and bonds outstanding at
 16 any one time, except notes or bonds as to which the board's
 17 obligation has been satisfied and discharged by refunding or
 18 for which reserve for payment or other means of payment have
 19 been otherwise provided, may not exceed \$675 million. The
 20 ~~rate of interest on bonds or notes issued by the board may~~
 21 ~~not exceed an interest rate equal to 1% less than the~~
 22 ~~interest rate established from time to time by the U.S.~~
 23 ~~department of housing and urban development (HUD), federal~~
 24 ~~housing administration (FHA).~~ The interest rate shall be
 25 determined for each issue of bonds or notes according to the

1 ~~HUD/FHA rate in effect 30 days prior to the sale of the~~
 2 ~~bonds or notes.~~"

-End-

SENATE BILL NO. 250

INTRODUCED BY GOODOVER, FABREGA, LEE, KEATING,

KITSELMAN, MILLER, VINGER, WALDRON, ADDY, GAGE

BY REQUEST OF THE BOARD OF HOUSING

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE LAWS RELATING TO THE BOARD OF HOUSING; AUTHORIZING THE ISSUANCE OF TAXABLE OR TAX EXEMPT BONDS; REMOVING THE LIMIT ON INTEREST RATES AT WHICH BONDS MAY BE SOLD; PROVIDING FOR A PUBLIC HEARING PRIOR TO FINANCING DEVELOPMENTS FOR RENTAL UNITS FOR A FOR-PROFIT SPONSOR; AMENDING SECTIONS 90-6-103, 90-6-109, AND 90-6-111, MCA."

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

Section 1. Section 90-6-103, MCA, is amended to read:

"90-6-103. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Board" means the board of housing created in 2-15-1814.

(2) "Bond" means any bonds, notes, debentures, interim certificates, or other evidences of financial indebtedness issued by the board pursuant to this part, including those on which interest payments are taxable and those on which interest payments are tax exempt.

(3) "Capital reserve account" means the capital reserve account provided for in 90-6-107.

(4) "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.

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

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

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

(8) "Housing development" means any work or undertaking financed in whole or in part under this part for the primary purpose of acquiring, constructing, or rehabilitating dwelling accommodations for persons or families of lower income in need of housing. An undertaking may include any buildings, land, equipment, facilities, or

1 other real or personal properties which are necessary,
2 convenient, or desirable in connection therewith, including
3 but not limited to streets, sewers, utilities, parks, site
4 preparation, landscaping, and other nonhousing facilities as
5 the board determines to be necessary, convenient, or
6 desirable.

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

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

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

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

22 (d) cost of necessary studies, surveys, plans, and
23 permits;

24 (e) insurance, interest, financing, tax and assessment
25 costs and other operating and carrying costs during

1 construction;

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

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

9 (h) necessary expenses in connection with initial
10 occupancy of the housing development;

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

14 (j) an allowance established by the board for working
15 capital and contingency reserves and reserves for any
16 anticipated operating deficits during construction and
17 initial occupancy;

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

24 (10) "Housing sponsor" means individuals, joint
25 ventures, partnerships, limited partnerships, trusts, firms,

associations, corporations, governmental agencies, limited-profit housing sponsors, nonprofit corporations, or other legal entities or any combination thereof that are:

(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

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

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

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

17 (a) the amount of the total personal and family
18 income, assets, and other financial resources available for
19 housing needs;

20 (b) the size of the family;

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

24 (d) the ability of persons and families to compete
25 successfully in the normal housing market and to pay the

1 amount at which private enterprise is providing decent,
2 safe, and sanitary housing;

3 (e) the availability and cost of housing in particular
4 areas; and

5 (f) needs of particular persons or families due to age
6 or physical handicaps.

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

12 Section 2. Section 90-6-109, MCA, is amended to read:

13 "90-6-109. Procedure prior to financing of housing
14 developments. (1) The board may finance housing
15 developments under this part only when the board finds that:

16 (1)(a) there exists a shortage of decent, safe, and
17 sanitary housing at rentals or prices which persons and
18 families of lower income can afford within the general
19 housing market area to be served by the proposed housing
20 development;

21 (2)(b) private enterprise 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 provided sufficient
25 mortgage financing for housing developments for occupancy by

1 persons or families of lower income;

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

6 ~~(4)(d)~~ the housing development to be assisted under
7 this part 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)(e)~~ 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); and

17 ~~(6)(f)~~ as to direct loans it is necessary to qualify
18 for federal funds.

19 ~~(2) The findings required under subsection (1) must be~~
20 ~~made after a public hearing whenever the financing of~~
21 ~~housing relates to a development for rental units owned by a~~
22 ~~for-profit housing sponsor. The board shall conduct the~~
23 ~~hearing unless it directs the governing body of the local~~
24 ~~government in which the proposed housing development is to~~
25 ~~be located to conduct the hearing."~~

1 Section 3. Section 90-6-111, MCA, is amended to read:

2 "90-6-111. Bonds and notes. (1) The board may by
3 resolution, from time to time, issue negotiable notes and
4 bonds in a principal amount as the board determines
5 necessary to provide sufficient funds for achieving any of
6 its purposes, including the payment of interest on notes and
7 bonds of the board, establishment of reserves to secure the
8 notes and bonds, including the reserve funds created under
9 90-6-119, and all other expenditures of the board incident
10 to and necessary or convenient to carry out this part.

11 (2) The board may by resolution, from time to time,
12 issue notes to renew notes and bonds to pay notes, including
13 interest, and whenever it deems refunding expedient, refund
14 any bonds by the issuance of new bonds, whether the bonds to
15 be refunded have or have not matured, and issue bonds partly
16 to refund bonds outstanding and partly for any of its other
17 purposes.

18 (3) Except as otherwise expressly provided by
19 resolution of the board, every issue of its notes and bonds
20 shall be obligations of the board payable out of any
21 revenues, assets, or moneys of the board, subject only to
22 agreements with the holders of particular notes or bonds
23 pledging particular revenues, assets, or moneys.

24 (4) The notes and bonds shall be authorized by
25 resolutions of the board, shall bear a date and shall mature

1 at times as the resolutions provide. A note shall not
 2 mature more than 10 years and a bond shall not mature more
 3 than 50 years from the date of its issue. The bonds may be
 4 issued as serial bonds payable in annual installments or as
 5 term bonds or as a combination thereof. The notes and bonds
 6 shall bear interest at a rate, or rates, be in
 7 denominations, be in a form, either coupon or registered,
 8 carry registration privileges, be executed in a manner, be
 9 payable in a medium of payment, at places within or without
 10 the state, and be subject to terms of redemption as provided
 11 in resolutions. ~~The board shall designate whether interest~~
 12 ~~payments on the bonds are taxable or tax exempt.~~ The notes
 13 and bonds of the board may be sold at public or private sale
 14 at such prices, which may be above or below par, as are
 15 determined by the board.

16 (5) The total amount of notes and bonds outstanding at
 17 any one time, except notes or bonds as to which the board's
 18 obligation has been satisfied and discharged by refunding or
 19 for which reserve for payment or other means of payment have
 20 been otherwise provided, may not exceed \$675 million. The
 21 ~~rate of interest on bonds or notes issued by the board may~~
 22 ~~not exceed an interest rate equal to or less than the~~
 23 ~~interest rate established from time to time by the U.S.~~
 24 ~~department of housing and urban development (HUD), federal~~
 25 ~~housing administration (FHA). The interest rate shall be~~

1 ~~determined for each issue of bonds or notes according to the~~
 2 ~~HUD/FHA rate in effect 30 days prior to the sale of the~~
 3 ~~bonds or notes."~~

-End-