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Report to the Colorado General Assembly **RECEIVED**

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# LOW AND MODERATE INCOME HOUSING



COLORADO LEGISLATIVE COUNCIL

RESEARCH PUBLICATION NO. 193

December, 1972

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OF THE  
COLORADO GENERAL ASSEMBLY

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During the sessions, the emphasis is on supplying legislators, on individual request, with personal memoranda, providing them with information needed to handle their own legislative problems. Reports and memoranda both give pertinent data in the form of facts, figures, arguments, and alternatives.

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Legislative Council  
Report to the  
Colorado General Assembly

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December, 1972

# COLORADO GENERAL ASSEMBLY

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DAVID F. MORRISSEY  
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STANLEY ELOFSON  
*Principal Analyst*

JANET WILSON  
*Principal Analyst*

DAVID HITE  
*Senior Analyst*

RICHARD LEVENGOOD  
*Senior Analyst*

MITCHEL BEVILLE  
*Research Associate*

KAY MILLER  
*Research Associate*

WALLACE PULLIAM  
*Research Associate*



## LEGISLATIVE COUNCIL

ROOM 46 STATE CAPITOL  
DENVER, COLORADO 80203  
892-2285  
AREA CODE 303

December 11, 1972

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REP. HIRAM A. McNEIL  
REP. PHILLIP MASSARI  
REP. CLARENCE QUINLAN

To Members of the First Regular Session of the  
Forty-ninth General Assembly:

In accordance with the provisions of Senate Joint Resolution No. 11, 1972 Session, the Legislative Council herewith transmits the accompanying report and recommendations of its interim Committee on Local Government.

The report of the Committee on Local Government appointed to carry out this study was accepted, without recommendation, by the Legislative Council for transmittal to the Governor and the First Regular Session of the Forty-ninth General Assembly.

Respectfully submitted,

Representative C. P. (Doc) Lamb  
Chairman

CPL/pm

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MITCHEL BEVILLE  
*Research Associate*

KAY MILLER  
*Research Associate*

WALLACE PULLIAM  
*Research Associate*

Representative C. P. (Doc) Lamb  
Chairman  
Colorado Legislative Council  
Room 46, State Capitol  
Denver, Colorado 80203

Dear Mr. Chairman:

Pursuant to the provisions of Senate Joint Resolution No. 11, 1972 Session, the Committee on Local Government submits the following report for consideration by the Legislative Council. The Committee's findings and recommendations are based on testimony and other information presented to the Committee during the course of this interim's study.

Two bills are recommended by the Committee. One amends the Intergovernmental Contracting Act, Article 2, Chapter 88, C.R.S. 1963, as amended, to include housing authorities within the definition of a "political subdivision" to remove any question regarding the ability of a local housing authority to jointly contract with an adjoining authority for the construction and management of low and moderate income housing. The other is a bill to establish a Housing Finance Authority which could supplement present funding sources for low and moderate income housing.

Respectfully submitted,

Representative Edward I. Newman  
Chairman  
Committee on Local Government

EIN/pm

## FOREWORD

Pursuant to S.J.R. No. 11, 1972 Session, a Committee on Local Government was appointed by the Legislative Council to undertake a study of low and moderate income housing in Colorado. The following members of the General Assembly were appointed to serve as members of the Committee:

Rep. Edward Newman Chairman	Rep. Jean Bain
Sen. Leslie Fowler Vice Chairman	Rep. Charles DeMoulin
Sen. George Brown	Rep. Betty Ann Dittemore
Sen. Raymond Kogovsek	Rep. Robert Johnson
Sen. Joseph Schieffelin	Rep. Robert Kirscht
Sen. Joe Shoemaker	Rep. Laura Miller
Sen. Ted Strickland	Rep. Kay Munson
Sen. Carl Williams	Rep. Hubert Safran
	Rep. Carl Showalter
	Rep. Phil Stonebraker

The Committee devoted its first meetings primarily to the hearing of testimony from persons representing various agencies and organizations involved in housing matters. Later meetings were devoted to analyzing and discussing the information and recommendations presented.

Many persons offered information, aid, and advice to the Committee during the course of its study. Included among them were: Thomas Grimshaw and Charles Henning, Colorado State Housing Board; Harold Knott and William Timmermeyer, Colorado Division of Housing; Eugene Fournier, Fred Kahane, and Rick Bell, Denver Regional Council of Governments; Linden Blue, Denver City Councilman and Chairman of the Denver-Mayor Council Task Force on Housing; Jack Clifford, Denver Urban Renewal Authority; John Babbs, Colorado Housing Inc.; Sister Anna Koop, Concerned Housing Coalition; Nonie Ragsdale, League of Women Voters; John Nix, Summit County Commissioner; Joseph Blake, U.S. Department of Housing and Urban Development; Jack Quinn, Pueblo Housing Authority; John Hooyer, Boulder Housing Authority; Dan Luna, Denver Housing Administration; Leonard Chadwick, Denver Housing Authority; Jack Johnson, Van Schaack and Company; David Fletcher, Capitol Hill Tenants Union; Glen Lancaster, Adams County Commissioner; Harvey Deutsch, American Civil Liberties Union; George Westerbury, Northern Colorado Building Trades Council; J. Frank Mannix, Colorado Association of Real Estate Boards; Joe Lucero and Tom Rotole, Migrant Rural Coalition; Bill Godwin and Norman Lamb, Godwin-Bevers Company, Inc.; Michael Gilbert, Legal Aid Society of Metropolitan Denver; John Van Vranken, Colorado League for Consumer Protection; and J. D. Arehart, Division of Local Government. The

Committee expresses its appreciation to those persons and all of those who contributed to the study.

Vince Hogan, Legislative Drafting Office, provided bill drafting and legal assistance to the Committee. Preparation of the Committee's final report and other staff services were provided by Wallace Pulliam, and Brent Slatten, Legislative Council staff.

December, 1972

Lyle C. Kyle  
Director

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## INTRODUCTION

### Committee Directives

#### Senate Joint Resolution No. 11

Senate Joint Resolution No. 11, directed the Committee on Local Government to undertake a two-year study of low and moderate income housing in Colorado.

The resolution asked the Committee to survey rental and owned housing for low and moderate income families and to identify the major problems and circumstances which prevent or hinder the availability of adequate housing at a reasonable cost.

The Committee was also directed to make recommendations for state legislation which would help resolve such problems and alleviate such circumstances, either through increased action by local governments and private industry, or through direct state action, if appropriate, or both.

Specific matters which the Committee was asked to examine included: the effect, adequacy and enforcement of building codes; the types and impact of zoning ordinances and resolutions; the effects of property tax laws and assessments; the extent and adequacy of federal housing programs; the development, and implementation of regional planning; the state's responsibilities and its need for any additional duties or powers to fulfill its role in providing low-cost housing state-wide; the need to regularize the relations between landlord and tenant to preserve adequate housing and upgrade substandard housing; and to review the need for a state housing finance agency empowered to issue tax exempt revenue bonds or otherwise help finance low and moderate income housing.

### Committee Procedure

The Committee did not have time during this interim to fulfill and complete all of the above-outlined directives. It did review portions of all of the issues raised but focused its attention on the issues most consistently voiced by various organizations and individuals which appeared before it -- the questions of low and moderate income housing needs; the questions of landlord-tenant relationships; and the need for a state housing finance agency.

During the study, the Committee held six meetings to hear testimony and discuss the problems regarding low-moderate income housing in order that it might make recommendations for their alleviation. The Committee devoted three of these meetings to hearing testimony from persons representing various agencies, organizations and businesses concerned with housing matters. Three other meetings were held to discuss Committee findings and to review specific legislative proposals.

## COMMITTEE FINDINGS

### Colorado's Low-Income Housing Needs

#### Urban Needs

Testimony and other information presented to the Committee indicated that Colorado does have a shortage of adequate housing for low income families. For example, in the Denver Metropolitan area, a 1972 study by the Denver Regional Council of Governments concluded that the area is short some 19,000 low-income housing units. Approximately 20,000 or more units are substandard. A substandard unit would be one which lacked some or all plumbing facilities. However, because these data represent overlap, the two figures are not addable.<sup>1/</sup>

The Pueblo Housing Authority estimates that there is a need for 2,000 units to replace substandard units in the Pueblo area. In addition, the Pueblo Housing Authority has roughly 830 families on its waiting list for low-moderate income housing, and many have not applied simply because of the length of the waiting list.<sup>2/</sup>

#### Statewide Needs Estimates

Statewide, the Colorado State Housing Board and the Division of Housing estimate that about five percent (approximately 32,720 units) of all year-round housing units were substandard in 1970. Approximately one-half of these units were located in the front range planning districts 2, 3, and 4 -- over 12,600 units in the Denver metro area alone. The percentage was even higher in outlying (non-urban) areas. For example, in the San Luis Valley, almost twenty percent -- 2,400+ units -- were classed as substandard.<sup>3/</sup>

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<sup>1/</sup> Housing in the Denver Region, A Summary Report, Denver Regional Council of Governments (May 31, 1972), p. 49.

<sup>2/</sup> Minutes of Meeting, July 31, 1972, Colorado Legislative Council Committee on Local Government, p. 2.

<sup>3/</sup> Colorado Housing: Current Inventory and Needs, January 1, 1972, Colorado Division of Housing, State Housing Board, pp. 37 and 38.

In terms of income, the above cited Division of Housing report also estimated that in 1971 as many as 61,000 Colorado families may have had annual gross incomes below \$3,950. If one accepts the Federal FHA and HUD guidelines that a maximum of 25 percent of a family's gross income is an equitable portion of a total income to go for housing expenditure, these families should spend no more than \$82 per month for shelter. The 1970 census data indicate that there were approximately only 58,000 occupied rental units for which a gross rent (which includes utilities except telephone) of less than \$80 monthly was paid. Of course, because an unknown number of such units may be occupied by individuals, less than 58,000 units are probably available for these 61,000 low-income families. On the basis of these data, it would appear that a significant number of the estimated 61,000 families could not find rental housing within their means.

In 1970 some 122,000 families -- approximately 20 percent of the state's population -- had annual incomes at or below \$6,220. Again, accepting the 25 percent guideline, such families should spend no more than \$130 monthly. Yet, in terms of accepted units, there were only an estimated 81,240+ units renting from \$100 to \$149. In the above discussion, data on rental units is, of course, not directly comparable to income data because of the use of two different years -- the units built between 1970 and 1971 renting for such amounts are not included in the data. Nevertheless, the figures are probably indicative of, and generally informed opinion apparently agrees with, the conclusion that a significant number of families with income in this range cannot find housing within their means.<sup>4/</sup>

The following information developed by the Denver Regional Council of Governments in 1972 perhaps indicates the extent to which low-income groups generally, and minority groups particularly, pay more than the standard 25 percent of gross income for rent in the Denver standard metropolitan statistical area.<sup>5/</sup>

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4/ Ibid., pp. 40-44.

5/ Housing in the Denver Region, A Summary Report, Loc. cit., p. 22.

Gross Rent as a Percent of Income\*  
Percent of Families Paying More than 25% of Income  
on Rent by Income Class<sup>6/</sup>

<u>Income Group</u>	<u>Total SMSA</u>		<u>Black</u>	<u>Spanish Surname</u>
	<u>1970</u>	<u>1960**</u>		
\$0-4,000	82%	68%	78%	76%
\$4,000-\$7,000	48%	20%	34%	29%
\$7,000-\$10,000	17%	3%	9%	9%
\$10,000-\$15,000	5%	1%	1%	2%
\$15,000 or More	1%	--	0%	0%

Moderate Income Home Ownership

Testimony and materials presented to the Committee indicated that the existing housing market effectively excludes all but minimal participation by families with monthly incomes below \$1,000. That is, an officer of Van Schaack and Company estimated that only thirty-four percent of the houses sold in the Denver metropolitan area are sold for less than \$25,000. Generally, persons earning less than \$1,000 monthly would not qualify for FHA regulations for a \$25,000 home loan.<sup>7/</sup> Somewhat similar conclusions were noted by the Colorado Division of Housing. The Division reports that in late 1971 the average price of new homes sold in the state under the standard FHA mortgage insurance program was about \$23,560. In that same year (1971), however, approximately 380,000 or 63 percent of all families in the state received incomes of less than that needed to purchase such a home.<sup>8/</sup>

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<sup>6/</sup> Ibid.

\*Specified renter occupied.

\*\*Indicates 1960 totals. Comparable figures for Blacks and Spanish-Surname not available.

Source: 1960 Census of Housing; 1970 Census of Housing, "Metro Housing Characteristics," DRCOG.

<sup>7/</sup> Minutes of Meeting, July 31, 1972, Colorado Legislative Council Committee on Local Government, p. 7.

<sup>8/</sup> Colorado Housing: Current Inventory and Needs, Loc. Cit., p. x.

## Housing Costs

The Committee found that housing costs within Colorado have, in recent years, been increasing dramatically. For example, the Bureau of Census reported that in 1970 the median value of all owner-occupied (single family) units in the Denver metropolitan area was \$19,100; in contrast the 1960 median value was \$13,700.<sup>9/</sup> Average FHA housing costs (using data for the average house in Denver based upon a 1970 purchase price of approximately \$24,500) for principal and interest increased 57.6 percent between 1966 and 1970. (See table below)

### AVERAGE FHA HOUSING COST TRENDS<sup>10/</sup>

(on the same house purchased in the listed years --  
1970 selling price of approximately \$24,500)

	<u>Principal &amp; Interest Costs</u>	<u>% Change</u>	<u>Total Housing Expense</u>	<u>% Change</u>
1966	\$106.52		\$189.26	
		2.7%		2.5%
1967	109.46		194.09	
		15.2		12.1
1968	126.11		217.59	
		10.3		8.7
1969	139.21		236.70	
		20.6		15.7
1970	167.95		274.04	

Change 1966-1970 -- 57.6%

Change 1966-1970 -- 44.7%

Source: FHA Area Trends, DRCOG.

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<sup>9/</sup> Housing in Denver, Region, Loc. Cit., p. 4.

<sup>10/</sup> Housing in Denver, Report of Mayor-Council Task Force on Housing, 1972, p. 82.

## Housing Cost Data and Components

In general, the Committee found that the cost of housing is influenced by a number of specific components. For example, a 1972 study suggests that the five basic long term housing cost components and their respective percentages can be itemized as follows: 11/

Structural Costs*	25%
Financial Costs	37%
Insurance Costs	6.4%
Maintenance Costs	12.8%
Tax Costs	20%

Labor Costs. The cost of labor is a big factor in increasing housing costs, because according to one source, there has been no significant breakthrough in "usable" housing construction technology.

That is, Mr. Godwin of Godwin-Bevers, Inc., testified that the housing industry spends a great deal less on capital investment per worker than other industries. He stated that the average capital investment per worker for all industries was found to be about \$25,000; the average for the housing construction industry was only about \$300.

There are several reasons for this disparity. The major one is that various factors tend to prevent the utilization of mass production technology in housing construction, including local building codes, which, because they vary among local jurisdictions, limit the size of the market for many types of standardized housing modules, which could be mass produced. 12/

As indicated by this testimony, the Committee found that modular, or factory built, housing offers a possible potential of eventually reducing labor costs, but, to date, efforts to utilize industrialized housing mechanisms have been disappointing. Furthermore, the Committee notes that in 1971 Colorado enacted an amendment to the 1970 Housing Act designed

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\* Included within structural costs would be labor, land, etc.

11/ The data is taken directly from the previous report, p. 76.

12/ Minutes of Meeting, August 28, 1972, Colorado Legislative Council Committee on Local Government, p. 5.

to encourage the use of modular homes by directing the establishment of uniform state-wide standards for the certification of factory-built housing. These standards have only recently been finalized and the effect of their implementation cannot be gauged.

Land Costs. The significance of rising land costs was noted in a recent Denver Regional Council of Governments study, a portion of which is quoted below.

The price of urban land has increased at a faster rate than any of the other costs associated with housing. In the Kaiser Commission Report on Urban Housing, they stated 'land costs have risen 377% over the past 15 years.' Of this rise, 52% was due to the rising cost of land, 28% was due to higher development costs, and 20% was due to larger lot sizes being purchased. Land planning can contribute greatly to a lowering of the rate of increase in land costs. By using more innovative land planning concepts, a frequent example being the use of Planned Unit Developments (PUDs), we can lower land and development costs by the economical use of land, utilities, more usable open spaces, pedestrian walkways, and so on...13/

The Committee is well aware that land costs in Colorado, particularly in populous or growing areas of the state, have been increasing rapidly and are expected to continue their ascent.

One suggested solution considered by the Committee to help reduce the spiraling costs of land was to develop legislation allowing state and local entities to acquire land in advance of development -- establish a "land bank" -- such land bank legislation could (a) assure the continuing availability of sites needed for development; (b) control the timing, location, type and scale of development; (c) prevent urban sprawl; and (d) reserve to the public, gains in land values resulting from the action of government in promoting and servicing development.

A county commissioner suggested that counties be allowed to reserve property taken over in tax liens for public housing. Apparently, while such land can be held for public

purposes such as parks, some doubt exists over whether low-income housing would qualify; most tax lien property is sold to the highest bidder.

The Committee reviewed these suggestions but did not believe that it could, in view of time limitations, assess the full impact these suggestions might have on low and modest income housing and on the state's land policies. For this reason, it suggests these areas be considered in the next interim.

Building Codes. The Committee heard much testimony to the effect that building codes often present real obstructions to lowering the costs of housing. Some testimony suggested that the codes themselves are often excessively restrictive. The question of building codes may involve three major issues: standardization of codes; introduction of new materials; and building inspection. Several alternative solutions to these problems were suggested, e.g., the creation of an independent building materials testing agency to make judgments regarding new building materials; enactment of a state-wide building code; the licensing of building inspectors; and the establishment of training centers to provide training for inspectors.

After examining each proposal, the Committee agreed this is another area that needs further examination and study. The Committee did believe that a major part of the problem lies not so much with building code restrictions but with the implementation and interpretation of the codes themselves by building inspectors.

### Property Taxes

The Committee heard testimony from a number of persons and groups regarding the effect of property taxes on low and moderate income housing. One person testified that:

In most counties of the state, the mill levy approaches, if not exceeds 100 mills per thousand dollars of assessed valuation. Thus, on a \$15,000 home the real estate taxes will come to approximately \$450 per year. This is true in Montrose, Fremont, Larimer, Mesa, Otero, Morgan and most counties and amounts to approximately \$37.50 per month for taxes.

The Farmers Home Administration has a potentially excellent home ownership program called 502. A family who qualifies within certain guidelines set by Farm Home can purchase a

home with no down payment for an interest rate as low as 1% for a term of 33 years. Farm Home will not qualify families who have to pay more than 20% for their total house payment. A family who wishes to purchase the \$15,000 home in our example above will pay \$535.95 principal and interest per year if he can qualify for a 1% loan.

The principal and interest payment per month will be \$44.67 per month with an additional \$7.00 or so per month for insurance. Thus his total payment per month will be approximately \$89.71 with \$37.50 per month going for taxes. In addition, of course, are the utilities and a reserve for repairs which should be maintained.

Since Farm Home will not qualify a family if they have to pay more than 20% of their income for housing, the family in our example will need an effective gross income of \$5,350.20 per year. Many employees of small towns and counties are not qualified for home ownership. In addition, many of the underemployed or working poor are effectively eliminated from consideration for home purchase. 14/

To alleviate this problem, it was suggested that the state aid in reducing property taxes by reducing the levy for persons purchasing and renting subsidized housing.

Other individuals suggested that property taxes tend to discourage maintenance of low income housing. Much low income housing is rental housing, and often it is older housing in a blighted area. Landlords are often unwilling to make property improvements because improvement of their property would not bring rental increases sufficient to cover the expense of the increase in property taxes resulting from the improvement.

The Committee agreed that property taxes were perhaps a major housing cost factor and that means to reduce them for

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14/ "Recommendations presented by Colorado Housing Inc.", in a letter of July 7, 1972, to Edward I. Newman, Chairman, Committee on Local Government, p. 2.

all taxpayers and particularly for low and fixed income families were needed. However, the Committee believed that it should not recommend a reduction or alteration on only one portion of the entire tax structure. The entire question of tax reductions for low and fixed income families should, in the Committee's opinion, be referred to the Committee on State and Local Finance to be included as part of its overall review of Colorado's tax structure.

### Educational Programs

Management Training. The Committee noted that inadequate management can also be a cause for low-moderate income housing deterioration. Well qualified low-moderate income housing managers are apparently in short supply, and inadequate management or total lack of management can cause the low-moderate income housing environment and housing itself to deteriorate. One suggested solution, which the Committee believes needs further study, would be to develop management training programs within the state's junior colleges and vocational schools.

Home-owner Training. Similar suggestions were made to provide training for low-income homeowners and tenants. Testimony suggested that often very low-income families who move into a new home or apartment, simply have never been given an opportunity (or had a need) to develop routine maintenance, and minor repair skills; thus, housing units deteriorate more rapidly. This is another area which the Committee believes merits further study.

### Dispersal of Low and Moderate Income Housing

The Committee found that the long established approach to low-income housing -- the building of large low-income housing projects -- appears to be failing.

One often cited example is the award winning 2,800-unit public housing project (Pruitt-Igoe) in St. Louis, Missouri, constructed in 1954-55 at a cost of \$36 million which is being torn down. Among the reasons given for its failure are: a declining central city population resulting in an excessive concentration of poor and minority families in the project; a need for the housing authority to levy higher rents than tenants can afford to meet the project's debt payments on the

buildings; and an over-concentration of those lacking specific labor skills in areas of declining employment. St. Louis, like Denver and other cities is experiencing the location of new -- and in some instances the movement of older -- industries to the suburbs.

Most testimony presented to the Committee suggested the development of smaller projects and more dispersed single and multi-family dwellings for the low and moderate income family. That is, testimony before the Committee suggested that scattered site low-income housing, while it is initially more costly, may offer social and economic advantages which in the long run off-set the extra initial cost differences.

Several members of the Committee questioned the advisability and practicability of placing single, duplex or small apartment complexes for low-income families (as the scattered site housing concept seems to suggest) in so-called high cost or rather exclusive suburban areas.

The Committee concluded that it lacked sufficient data to make any recommendation as to the development of a state policy on the concept of dispersed housing at this time. The entire concept is in need of further study.

### Zoning

The Committee recognizes that some local governments have, in fact, zoned to specifically exclude low and moderate income housing. It is the consensus of the Committee that such practices should be altered and such zoning codes be re-examined and amended to encourage the construction of low and moderate income housing.

### Uniform Landlord Tenant Act

At one of its last meetings, the Committee briefly reviewed the Uniform Residential Landlord Tenant Act (URLTA) promulgated by the National Conference of Commissioners on Uniform State Laws. After reviewing a summary of the Uniform Acts' provisions, the Committee agreed that (because the act contained several sections which significantly alter Colorado's existing legal philosophy toward the rights of landlords and tenants) the amount of time remaining in this interim would not allow the Committee an opportunity to conduct an adequate review of the act.

The Committee was particularly concerned that further study be conducted to clarify how the Uniform Act would affect Colorado's Forceable Entry and Detainer Act. This is an area that seems to need further study.

The Committee makes no recommendation concerning the Uniform Landlord Tenant Act.

## COMMITTEE RECOMMENDATIONS

### Recommendation No. 1 -- Amendment to The Intergovernmental Contracting Act

As of July 1, 1972, the Division of Housing estimated that there were 7,468 units of low-rent public housing either under development or management in Colorado. These units can only be developed and managed by local housing authorities -- either county or municipal. There are (again as of July 1, 1972) forty-six such housing authorities -- four county and forty-two municipal. 15/

While the Committee supports and wishes to continue to encourage this emphasis on local initiative and control of public housing development, it is aware that such a system does have some disadvantages. For example, Housing Authorities formed within municipalities or counties with small populations, often have a need for only a small number of low-rent housing units. The U.S. Department of Housing and Urban Development (HUD) indicated that areas with a need for only a few low or moderate income housing units are often unable to qualify for federal housing moneys because of the increased expenses generated by small programs and particularly because such programs do not generate enough income to provide adequate management and maintenance. 16/

To alleviate this problem, without diluting the ability of local housing authorities to make their own decisions, and without requiring formation of regional or consolidated authorities, the Committee recommends that the General Assembly consider enacting Bill A, the text of which is included as Appendix A. Bill A amends the Intergovernmental Contracting Act -- Article 2, Chapter 88, Colorado Revised Statutes 1963, (1971 Supp.), to include Housing Authorities within the definition of a "political subdivision". This amendment would simply remove any question regarding the ability of a local housing authority to jointly contract with another adjoining authority for the construction and management of low and moderate income housing. At the present time, housing authorities may have this power under existing law, but some local officials and others believe it needs clarification.

15/ Inventory of Housing Authorities and Federally-Subsidized Housing Units, by Program, by Jurisdiction, July 1, 1972, Colorado Division of Housing.

16/ Minutes of Meeting, July 10, 1972. Colorado Legislative Council Committee on Local Government, pp. 8 and 13.

That is, in 1940, the Colorado Supreme Court, in People ex rel. Stokes v. Newton (106 C. 61, 101 P 2d 21) ruled that the Denver Housing Authority was a separately created quasi-municipal corporation. As such a corporation it probably would have the contractual powers granted in the Intergovernmental Contracting Act. Nevertheless, some question the extent of powers housing authorities would have under the Contracting Act, e.g., are all contractual powers granted in the contracting act applicable?

### Recommendation No. 2 -- Establishment of A State Housing Finance Authority

One point repeatedly made before the Committee was that there are presently insufficient funding sources available for low and moderate income housing. For the most part, local housing agencies are now dependent almost entirely on federal housing programs to obtain long-term, low-interest financing.

In the decade of the 1970's, a large portion of Colorado's housing needs will be for subsidized housing to meet the needs of lower income or elderly households. The establishment of a State Housing Finance Authority, empowered to issue low-interest, tax-free, revenue bonds would allow the State to assume a more aggressive role in fostering cooperation, coordination, and initiative between Federal, State, local and private housing officials.

To meet these needs, the Committee determined that to alleviate the problem of high construction loans and home mortgage interest costs, the state should create a Housing Finance Authority to utilize the tax exempt status of its obligations and its good credit rating to issue revenue bonds in order to enable a State Housing Finance Authority to make housing construction and mortgage loans for low and moderate income housing at below market interest rates.

Bill B, the text of which is included as Appendix B, is based upon the engrossed bill introduced in the Colorado General Assembly in 1971 by Senator Carl Williams -- S.B. 401, 1971 Session. This bill passed the Senate rather late in the session but was postponed indefinitely in the House. Because this bill had previously been examined by one House, the Committee agreed it should be used as a model and starting point for the Committee's recommended legislation. However, the Committee revised the engrossed version to remove powers granting the state housing board the authority to own or operate such housing.

With one exception, (discussed further in this report under a later section entitled "Additional Authorizations to the Housing Board"), the Committee's proposed bill simply provides a mechanism to generate additional funding for low and moderate income housing.

### Summary of the Housing Finance Agency Proposal

The bill as drafted would create a State Housing Finance Authority which could issue tax exempt bonds and notes, secured by property revenues and assets of the Division of Housing, to finance projects proposed by the State Housing Board.

The State Housing Board could deal with approved private developers of facilities and services, as well as with government agencies and nonprofit groups. The housing finance activities of the Finance Authority (established under Section 69-11-3 of the draft) and Housing Board would be limited solely to generating additional funds for low and moderate income housing by the issue of bonds amortized by housing facility revenues.

The bonds and notes authorized under the proposal are limited. Any Finance Authority bonds or notes shall not constitute a debt of the State or any of its subdivisions. Any obligations issued by the Finance Authority will be free from state and local taxation.

The Housing Finance Authority (within Department of Local Affairs), would be comprised of: The State Treasurer (Chairman), the State Controller, the Executive Directors of the Departments of Health, Social Services, and Local Affairs, the State Bank Commissioner, and the State Commissioner of Savings and Loan Associations.

The duties of the Finance Authority would include the responsibilities to:

(1) Pass on financial feasibility of housing facilities proposed by Housing Board, which require its financing; and

(2) Through the Division of Housing, carry out financing arrangements for approved projects.

The State Housing Board through the Division of Housing and the Finance Authority would be empowered to:

(1) Issue bonds and notes secured by revenues of projects;

(2) Invest funds held in reserve as the State Treasurer may direct;

(3) Provide financing for housing facilities and services through approved corporations or organizations. To be considered for approval, the corporation or organization must be organized under the laws of Colorado and furnish services for all low-income households which qualify for locally or state-owned public housing in Colorado. Costs of approved organization, facilities and services will be audited by the State Auditor to ensure comparability with similar local and state facilities and services;

(4) To solicit and receive plans for the development of housing facilities from any person or organizations.

(5) To assist in the preparation and operation of housing facility programs; and to assist in planning for the construction of any such housing facility or any part thereof;

(6) To set construction standards for housing facilities financed by the Finance Authority;

(7) To foreclose, purchase, and possess property foreclosed upon, to protect the security of any obligations issued;

(8) To insure or require the insuring of the property or operations of the housing facilities; and

(9) To procure insurance of any secured debts or parts thereof made or held by the board on any property included in any housing facility.

#### Additional Authorization to the State Housing Board

Section 4, page 20 of the Committee Housing Finance Authority Bill, generated considerable controversy within the Committee and it asks that Section 4 be further reviewed by the General Assembly. This somewhat controversial section was reinserted after considerable discussion from an earlier staff redraft of S.B. 401. Under its provisions the State Housing Board would be granted the authority to challenge local zoning decisions, in court, if it appeared that the local government had altered the zoning of the land to specifically exclude low or moderate income housing, or if it had refused to rezone land for such purposes.

The Committee's general consensus was that local housing authorities and low or moderate income housing sponsors now have this right. Presumably, this additional authorization would allow such action to be instituted by the State Board only in regard to housing facilities in which the board was involved under the planning and financial assistance responsibilities of the Housing Finance bill.

Proponents argued that the original deletion of this provision should not have been made. That is, earlier the Committee had agreed that the state should not have the power to unilaterally override local zoning decisions by administrative action; they believed that allowing a court challenge was not contrary to the Committee's decision. The State Housing Board could probably join in a suit challenging the zoning of a parcel of land, as a real party in interest, if it was directly participating in the financing of the project scheduled to be placed upon the land in question. They also argued that because local entities do use zoning as a tool to arbitrarily exclude low and moderate income housing, some form of state review of local decisions on low and moderate income housing locations is necessary to enhance the chances of actually generating housing under the act.

Opponents on the other hand, expressed the opinion that the state should not be placed in a position that would allow it to intervene in such local matters. Furthermore, local housing authorities and housing sponsors can, under existing law, challenge local zoning decisions in court. Such challenges, in the opinion of some Committee members should be left to the housing sponsor. The opponents also argued that, contrary to the above opinion, the deletion of the provision was, in fact, clearly a part of an earlier Committee decision. That decision was to simply present a bill creating a lending agency capable of providing low-cost housing loans. All expanded powers of the State Housing Board were to be deleted.

### Recommendation No. 3 -- Continuation of Study

The Committee reviewed a number of areas which it believes are in need of further study. Among these are: educational programs, including programs providing training in management, homeownership, and upkeep; building inspection and code enforcement; land bank; building code reform; dispersed housing; modular housing; etc. For this reason the Committee recommends that the General Assembly continue the study of Housing during its 1973 interim.

However, the Local Government Committee, noting that there are numerous problems in the area of Local Government which it believes need immediate attention -- problems posed by Colorado's municipal annexation and incorporation statutes; special district law codification; new planned communities (new towns); and county functional home rule are all examples -- asks that the General Assembly consider relieving the Local Government Committee from the responsibility of continuing the housing study. Instead, the housing study should be assigned to a separate committee formed solely for that purpose.

## MINORITY REPORT

Representatives Betty Ann Dittmore,  
Robert Johnson and Carl Showalter

We, the undersigned members of the Committee on Local Government, submit the following dissenting opinion regarding the Committee's draft bill authorizing the creation of a State Housing Finance Agency. We wish to emphasize that we are in support of the draft legislation in principle but believe that the following items should be deleted or revised prior to the adoption of the final legislation.

First our major objection concerns the inclusion of Section 4, (page 20) of the draft legislation. Section 4 grants the State Housing Board the authority to challenge a local government's zoning decision in court if it believes that the local government altered its zoning plan specifically to exclude low or moderate income housing, or if it refused to rezone the land for such purposes.

We are of the opinion that the state should not be allowed to use its superior taxing ability (by allowing an agency it creates to use state appropriated dollars) to finance challenges to decisions made by duly elected local officials. We, also, believe that challenges to local decisions should be left, as they are under current law, in the hands of the sponsors of low and moderate income housing.

We also must point out that Section 4 was reinserted in the Committee's draft by a four to three decision at the Committee's final meeting (several other Committee members had left the meeting to fulfill other commitments). At the November 20, 1972, meeting, the expressed consensus of the Committee was that the only powers which would be granted to the State Housing Board would be those necessary to allow the Board to implement and regulate the financing of low and moderate income housing under the act. At that meeting, the Committee asked the Division of Housing through the State Housing Board to suggest and comment upon draft legislation. The draft they presented -- which was essentially the draft subsequently adopted by the Committee -- did not contain the above-outlined section. We believe this reflected, and was a recognition of the position held by a majority of the Committee.

Secondly, we are concerned about the advisability of the inclusion of subsection (c) (iii) of Section 69-11-5 (also inserted at the final meeting). This subsection allows

the use of housing finance agency funds for second mortgages. Testimony presented to the Committee by representatives of the mortgage lending industry indicated that such an authorization could be a useful tool to encourage rehabilitation projects. They also testified, however, that the authorization should be carefully worded and thoroughly examined before it is finally included. We believe that this subsection also needs close review and examination by the General Assembly.

Respectfully submitted,

/s/ Representative Betty Ann Dittimore

/s/ Representative Robert Johnson

/s/ Representative Carl Showalter

APPENDIX A

BILL A

1 INCLUDING HOUSING AUTHORITIES TO THE LIST OF POLITICAL SUBDI-  
2 VISIONS ELIGIBLE TO PARTICIPATE IN INTERGOVERNMENTAL CON-  
3 TRACTS UNDER ARTICLE 2 OF CHAPTER 88, C.R.S. 1963, 1971  
4 SUPP.

5 Be it enacted by the General Assembly of the state of Colorado:

6 SECTION 1. Section 88-2-2 (3), C.R.S. 1963, 1971 Supp.,  
7 is amended to read:

8 (3) "Political subdivision" means a county, city and  
9 county, city, town, service authority, school district, local  
10 improvement district, law enforcement authority, HOUSING AUTHOR-  
11 ITY, water, sanitation, fire protection, metropolitan, irriga-  
12 tion, drainage, or other special district, or any other kind of  
13 municipal, quasi-municipal, or public corporation organized pur-  
14 suant to law.

15 SECTION 2. Safety clause. The general assembly hereby  
16 finds, determines, and declares that this act is necessary for  
17 the immediate preservation of the public peace, health, and  
18 safety.

19

TEXT

A BILL FOR AN ACT

CONCERNING HOUSING, AND PROVIDING METHODS FOR THE DEVELOPMENT  
AND FINANCING THEREOF.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Chapter 69, Colorado Revised Statutes 1963,

as amended, is amended BY THE ADDITION OF A NEW ARTICLE, to

read:

ARTICLE 11

HOUSING DEVELOPMENT AND FINANCING

69-11-1. Legislative declaration. The general assembly  
finds and declares that there exists in this state a need to  
make available financial assistance to encourage and assist  
both private enterprise and public entities in increasing the  
supply of housing within the reach of persons of low and mod-  
erate income. To such ends a state housing finance authority  
is established with the powers and duties specified by this  
article. To further the purposes of article 9 of this chap-  
ter, the state housing board and the division of housing are  
assigned the additional duties specified in this article.

TEXT

69-11-2. Definitions. (1) As used in this article, the following terms will have the following meanings unless a different meaning clearly appears from the context:

(2) "Authority" means the housing finance authority created by this article.

(3) "Board" means the state housing board created by article 9 of this chapter.

(4) "Bond" means any revenue bond, note, or other obligation of the division authorized to be issued under the provisions of this article and which evidences financial obligation of the division.

(5) "Division" means the division of housing created by article 9 of this chapter.

(6) "Family" means two or more persons related by blood, marriage, or adoption who live or expect to live together as a single household in the same home, or a single person who is either at least sixty-two years of age or who is handicapped.

(7) "Lower income family" means a family of low or moderate income whose gross aggregate family income and assets

EXPLANATION

Some concern was expressed over the inclusion of the term "handicapped" without adding specifically defined limitations. Should specific degrees of disabilities be included, by definition, to prevent abuses?

This definition is intended to allow some flexibility by, for instance, permitting the division to change its requirements to

TEXT

are insufficient, in accordance with regulations prescribed by the division, to secure decent, safe, and sanitary housing provided by private industry without loans made by the board or federal mortgage interest subsidies.

(8) "Housing facility" means any single family unit or multiple dwelling unit.

69-11-3. Housing finance authority. There is hereby established within the department of local affairs a housing finance authority, to be comprised of the state treasurer, who shall be the chairman of the authority; the state controller; the executive directors of the departments of health, social services, and local affairs; the state bank commissioner; and the state commissioner of savings and loan associations. Members of the authority shall receive no compensation for such services, but shall be reimbursed for their necessary expenses incurred while serving as members of the authority. The authority shall meet on the call of the chairman, four members constituting a quorum, to consider housing development and rehabilitation proposals submitted to the authority by the

EXPLANATION

coordinate any changes in Department of Housing and Urban Development (DHUD) standards, without the necessity of amending the act.

This section establishes a Housing Finance Authority (HFA) within, but independent of the department of local affairs. The Authority would be composed of the State Treasurer (Chairman), the State Controller; the Executive Directors of the Departments of Health, Social Services, and Local Affairs; the State Bank Commissioner, and the State Commissioner of Savings and Loan Associations.

TEXT

EXPLANATION

state housing board, and, when necessary, to direct the activities of the division with respect to arranging financing for housing projects under this article.

69-11-4. Duties of authority. (1) The authority has the duty of passing on the financial feasibility of any plan for the development of housing facilities which contemplates the issuance of housing finance authority notes or bonds payable out of revenues to be derived from the proposed housing facility.

(2) The authority shall give consideration to all relevant factors relating to financing any such proposed facility, but shall not make any determination of the feasibility of the plan from aspects other than financial feasibility.

(3) If the authority ascertains that such plan is financially feasible, and that the necessary means of financing such plan is available, the authority shall signify its approval of such plan.

69-11-5. Powers of authority - financing - investments.

(1) Upon a determination by the authority that a housing

The Housing Finance Authority is charged with passing upon the financial feasibility of any plan for housing facilities which would be financed by notes or bonds issued by the authority.

TEXT

development plan submitted to it by the board is financially feasible, the authority shall instruct the division to take the necessary steps on behalf of the authority to arrange financing for such project, under the powers specified in this section, with respect to the financing of an approved housing plan.

(2) (a) The authority, acting through the division, shall for such purposes have the power with respect to financing approved housing facilities:

(b) (i) To borrow money upon its bonds, debentures, or other evidences of obligation, and to secure the same by pledges of revenues upon property or in any other manner,

(ii) In connection with any such loan, to agree to limitations upon the right to dispose of any housing facility or part thereof, or to undertake additional housing programs,

(iii) In connection with any such loan by a government entity, to agree to limitations upon the exercise of any powers conferred upon the authority by this article;

EXPLANATION

Administrative matters are to be handled by the Division.

This subsection authorizes the Authority to incur indebtedness payable out of the revenues generated by the housing facilities it finances.

TEXT

(c) (i) To invest any funds held in reserve, or sinking funds, or any funds not required for immediate disbursement, in property or securities in which the state treasurer may legally invest funds subject to his control;

(ii) To invest any funds in any notes secured by first mortgages or any privately or publicly sponsored housing facility intended for the use of lower income families and to take such additional security and covenants as the authority may deem appropriate to secure the investment.

(iii) To invest any funds in any notes secured by second mortgages for the rehabilitation of any privately or publicly sponsored housing project intended for the use of low income families and to take such additional security and covenants as the authority may deem appropriate to secure the investment.

(3) The authority shall not have outstanding, at any one time, bonds and notes in an aggregate principal amount exceeding fifty million dollars.

EXPLANATION

Subsection (c) permits the Authority to make investments in first and second mortgages and other securities; the Authority has primary responsibility for assuring payment of principal and interest on its bonds.

The Housing Finance Authority may not issue bonds or notes in excess of \$50 million.

TEXT

69-11-6. Powers of board - lending - assistance in facility development. (1) (a) The board, through the division of housing and the director thereof, shall have the following powers upon approval by the authority pursuant to section 69-11-4 for housing facilities which contemplate the issuance of notes or bonds:

(b) To lend money to qualified organizations, or corporations subject to the provisions of sections 69-11-4 and 69-11-8, except that such loans shall be made only upon the determination by the authority that such loans are not otherwise available from private lenders upon reasonable equivalent terms and conditions;

(c) To solicit and receive plans for the development of housing facilities from any person or organization. Any such plans which include proposals for the use of funds from the housing finance authority under this article and which are approved by the board, shall be submitted to the housing finance authority;

EXPLANATION

This section spells out the lending and development assistance powers granted to the state Housing Board acting through the Division of Housing. The state is not empowered to own or operate any housing; its powers are limited to those necessary to provide financial assistance; to set construction standards; and to assist low and moderate housing sponsors in their planning development and operation of housing facilities provided under the act.

TEXT

- (d) To assist in the preparation and operation of housing facility programs, and to assist in planning for the construction of any such housing facility or any part thereof;
- (e) To set construction standards for housing facilities financed under this article;
- (f) With respect to property secured by mortgages or other security interest, the board may foreclose, purchase, and possess property foreclosed upon, and deal with such property as required to protect the security of any obligations issued under this article;
- (g) To insure or require the insuring of the property or operations of the housing facilities against such risks as the board may deem advisable;
- (h) To procure insurance of any secured debts or parts thereof made or held by the board on any property included in any housing facility.

69-11-7. Powers of board - housing - relation to other governmental authority. The board, through the division of housing and the director thereof, shall have the power to act

EXPLANATION

Subsection (f) permits the Board to foreclose and dispose of properties as necessary to protect the security of Authority obligations.

This section allows the State Housing Board, through the Division of Housing to receive federal allocations of public housing and interest-subsidy funds. This language is intended to clearly indicate that the Board

TEXT

as agent for the federal government in behalf of qualified organizations or corporations in connection with the acquisition, construction, operation, or management of a housing facility or any part thereof.

69-11-8. Standards for approval of organizations. (1)

(a) No corporation or other organization offering to furnish housing facilities or services pursuant to this article shall be considered eligible to furnish such services unless it shall show to the board's satisfaction the following:

(b) The organization is incorporated or organized as required by the laws of the state of Colorado;

(c) The housing facilities or services to be built or acquired by the corporation or organization will be for the housing of lower income persons and families;

(d) (i) Such facilities or services will be available for persons meeting the following requirements:

(ii) Single persons sixty-two years of age or older, or families, the head of which or whose spouse is sixty-two years of age or older, whose income and assets are within the limits

EXPLANATION

would be a conduit, and not a repository of the Federal allocations. Perhaps, this procedure could facilitate the coordination of Authority and Federal funds for production of more units or achieving lower costs to individual households.

This section sets forth the requirements for HFA project approval. To be considered for approval, the corporation or organization must be organized under the laws of Colorado and furnish services for all low-income households which qualify for locally or state-owned public housing in Colorado. Costs of approved facilities and services will be audited by the State Auditor to ensure comparability with similar local and state facilities and services. Any housing facility built would have to be available to persons specified in subsections (c) and (d) of this section or those meeting the definition of lower income in section 69-11-2 (7) -- see pages 2 and 3.

TEXT

EXPLANATION

prescribed for similar individuals and families who occupy low rent housing owned and operated by local housing authorities in Colorado; or

(iii) Families who would otherwise qualify for low rent housing owned and operated by a housing authority in Colorado; or

(iv) Lower income families who otherwise qualify under section 69-11-2 (7).

(e) No restrictions are imposed as to sex, race, creed, national origin, ancestry, or color of occupants.

(f) Such facilities or services will be furnished in an efficient manner at costs which are comparable to any similar housing facilities or services operated by a local housing authority in Colorado;

(2) The corporation or other organization shall submit full details of its organizational documents, articles, and bylaws to the board, and shall permit and pay for an annual audit by the state auditor and such audits shall be used as the basis for cost comparison in renewing contracts.

TEXT

69-11-9. Bonds and notes. (1) The housing finance authority acting through the division as authorized under section 69-11-5, shall by resolution provide for the issuance of revenue bonds to carry out and effectuate housing development plans originated by or submitted to the board and approved by the authority. In anticipation of the issuance of such bonds, the authority also is hereby authorized to provide by resolution for the issuance of bond anticipation notes.

(2) The principal of and the interest on such bonds or notes shall be payable only from the revenues of the authority. Any such notes may be made payable from the proceeds of bonds or renewal notes or, in the event bond or renewal note proceeds are not available, such notes may be paid from any available revenues or assets of the authority. Any such bonds or notes may be additionally secured by a pledge of any grant or contribution from the federal government, or any corporation, association, institution, or person, or a pledge of any moneys, income, or revenues of the division from any source. The bonds or notes of each issue may, in the discretion of the

EXPLANATION

This subsection makes it clear that the Authority is to be self-supporting; the principal and interest on bonds and notes of the Authority are to be payable from revenues of the Authority.

TEXT

EXPLANATION

authority, be made redeemable before maturity at such price or prices and under such terms and conditions as may be determined by the authority. Notes shall mature at such time or times as may be determined by the authority and bonds shall mature at such time or times not exceeding forty years from their date or dates, as may be determined by the authority. The authority shall determine the form and manner of execution of the bonds or notes, including any interest coupons to be attached thereto, and shall fix the denomination or denominations and the place or places of payment of principal and interest, which may be any bank or trust company within or without the state. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or notes or coupons attached thereto shall cease to be such officer before the delivery thereof, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. The authority may also provide for the authentication of the bonds or notes by a trustee or fiscal agent. The bonds or notes may be

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issued in coupon or in registered form, or both, as the authority may determine and provision may be made for the registration of any coupon bonds or notes as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds or notes of any bonds or notes registered as to both principal and interest, and for the interchange and registered and coupon bonds or notes.

(3) Prior to the preparation of definitive bonds, the authority may, under like restrictions, issue interim receipts or temporary bonds when such bonds shall have been executed and are available for delivery. The authority may also provide for the replacement of any bonds or notes which shall become mutilated or shall be destroyed or lost.

69-11-10. Validity of any pledge. The pledge of any assets or revenues of the authority to the payment of the principal of or interest on any obligations of the authority shall be valid and binding from the time when the pledge is made and any such assets or revenues shall immediately be subject to the lien of such pledge without any physical delivery

EXPLANATION

TEXT

thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the authority, irrespective of whether such parties have notice thereof.

Nothing herein shall be construed to prohibit the authority from selling any assets subject to any such pledge except to the extent that any such sale may be restricted by a trust agreement or resolution providing for the issuance of such obligations.

69-11-11. Remedies. Any holder of obligations issued under the provisions of this article or any coupons appertaining thereto, and the trustee under any trust agreement or resolution authorizing the issuance of such obligations, except to the extent the rights herein may be restricted by such trust agreement or resolution, may either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights under the laws of the state or granted hereunder or under such agreement or resolution, or under any other contract executed by the authority pursuant to this ar-

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ticle, and may enforce and compel the performance of all duties required by this article or by such trust agreement or resolution to be performed by the authority or by an officer thereof.

69-11-12. Negotiable instruments. Notwithstanding any of the foregoing provisions of this article or any recitals in any obligations issued under the provisions of this article, all such obligations and interest coupons appertaining thereto shall be and are hereby made negotiable instruments under the laws of this state, subject only to any applicable provisions for registration.

69-11-13. Obligations eligible for investment. Obligations issued under the provisions of this article are hereby made securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such obligations are hereby made securities which may properly and legally be

TEXT

EXPLANATION

deposited with and received by any state or municipal officer or any agency or political subdivision of the state for any purpose for which the deposit of bonds, notes or obligations of the state is now or may hereafter be authorized by law.

69-11-14. Refunding obligations. (1) The authority is hereby authorized to provide for the issuance of refunding obligations for the purpose of refunding any obligations then outstanding which shall have been issued under the provisions of this article, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such obligations and, if deemed advisable by the authority, for any corporate purpose of the authority. The issuance of such obligations, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the authority in respect of the same shall be governed by the provisions of this article which relate to the issuance of obligations, insofar as such provisions may be appropriate therefor.

TEXT

EXPLANATION

Refunding obligations may be sold or exchanged for outstanding obligations issued under this article and, if sold, the proceeds thereof may be applied, in addition to any other authorized purposes, to the purchase, redemption or payment of such outstanding obligations. Pending the application of the proceeds of any such refunding obligations, with any other available funds, to the payment of the principal, accrued interest and any redemption premium on the obligations being refunded, and, if so provided or permitted in the resolution authorizing the issuance of such refunding obligations or in the trust agreement securing the same, to the payment of any interest on such refunding obligations or in the trust agreement securing the same, to the payment of any interest on such refunding obligations and any expenses in connection with such refunding, such proceeds may be invested in direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by, the United States of America which shall mature or which shall be subject to redemption by the holders thereof, at the option of such holders,

TEXT

not later than the respective dates when the proceeds, together with the interest accruing thereon, will be required for the purposes intended.

69-11-15. Nonliability of state for bonds. The state or any of its political subdivisions shall not be liable on notes or bonds of the authority and such notes and bonds shall not constitute a debt of the state or any of its political subdivisions. The notes and bonds shall contain on the face thereof a statement to such effect.

69-11-16. Members of authority not personally liable on bonds. Neither the members of the authority nor any authorized person executing bonds issued pursuant to this article shall be personally liable on such bonds by reason of the execution or issuance thereof.

69-11-17. Property taxation - exemption of obligations from taxation. (1) Any property or an improvement constructed thereon pursuant to the provisions of this article shall be exempt from property taxation pursuant to section 4 of article X of the state constitution in the case of public property,

EXPLANATION

This section assures that the state and its taxpayers will not be held liable if the Authority fails to meet its obligations.

This section allows property tax exemptions for housing facilities which can meet the constitutional and statutory qualifications for property tax exemptions under existing law. In addition, the sponsors of Housing facilities qualifying for a tax exemption and local taxing authorities may agree upon payments in lieu of taxes of up to 10 percent of rental revenues.

TEXT

EXPLANATION

and exemption from taxation in other cases shall be in accordance with the provisions of article 2 of chapter 137, C.R.S. 1963. Any such property exempt from taxation, whether owned by a public agency or otherwise, may be made subject to agreement between the taxing authorities and such agency or other owner for payment of a portion of rentals, not to exceed ten percent of such rentals, in lieu of taxes.

(2) Any obligations issued by the authority under the provisions of this article, their transfer and the income therefrom (including any profit made on the sale thereof), shall at all times be free from taxation by the state or any local unit or political subdivision or other instrumentality of the state.

SECTION 2. 69-9-5, Colorado Revised Statutes 1963 (1971 Supp.), is amended BY THE ADDITION OF A NEW SUBSECTION to read:

69-9-5. Functions of division. (2) The division, through the director thereof, shall have the additional powers and duties specified in article 11 of this chapter as to

TEXT

the financing and development of housing facilities proposed by the board and determined to be financially feasible by the housing finance authority pursuant to the provisions of said article 11.

SECTION 3. 69-9-7, Colorado Revised Statutes 1963 (1971 Supp.), is amended BY THE ADDITION OF A NEW SUBSECTION to read:

69-9-7. Powers of board. (2) The board shall have the additional powers and duties specified in article 11 of this chapter as to the financing and development of housing facilities proposed by the board and determined to be financially feasible by the housing finance authority pursuant to the provisions of said article 11.

SECTION 4. Article 9 of chapter 69, Colorado Revised Statutes 1963, 1971 Supp., is amended BY THE ADDITION OF A NEW SECTION, to read:

69-9-15. Challenges to zoning. (1) If a board of county commissioners or the governing body of a municipality alters the zoning plan solely to prevent the construction of said

EXPLANATION

This section grants the Board the authority to challenge a local government's zoning decision in court if it believes that the local government altered its zoning plan specifically to exclude low or moderate in-

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housing, or denies a petition by the board for the rezoning of a specified parcel of land to a classification applicable for the proposed low income housing, the board may, within thirty days of such decision, commence an action in the appropriate district court for review of the decision on the grounds that such action was arbitrary or capricious. Upon such review, the transcript of the proceedings shall be furnished at the expense of the board. The court may dismiss the action, may recommit the controversy and remand the record in the case to the appropriate local governing body for further hearing, or, if it determines that the action taken was arbitrary and capricious, may order that the land be rezoned to the required classification.

SECTION 5. 3-28-25, Colorado Revised Statutes 1963, as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

3-28-25. Department of local affairs - creation. (4)

The housing finance authority, created by article 11 of chapter 69, C.R.S. 1963, shall constitute a part of the department

come housing, or if it refused to rezone the land for such purposes.

TEXT

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of local affairs, and said authority is transferred by a type 1 transfer to the department of local affairs.

SECTION 6. Article 22 of chapter 3, Colorado Revised Statutes 1963, as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

3-22-11. Housing - duties of division - director. The division and the director thereof shall have the powers and duties assigned to each pursuant to articles 9 and 11 of chapter 69, C.R.S. 1963, and shall carry out such powers and duties in conjunction with the state housing board and the housing finance authority as prescribed in said articles 9 and 11.

SECTION 7. Effective date. This act shall take effect on July 1, 1973.

SECTION 8. Appropriation. There is hereby appropriated out of any moneys in the state treasury not otherwise appropriated, to the department of local affairs for allocation to the division of housing, for the fiscal year beginning July 1,

This provision is included in draft to indicate a preliminary estimate of "start-up" personnel and contract costs of the Finance Authority activity. Provision is contained in 69-11-9 (1) for the Authority to issue bond anticipation notes which might be used for "start-up" expenses.

"TEXT"

EXPLANATION

1973, the sum of ten thousand dollars (\$10,000), or so much thereof as may be necessary, for the purposes of this act.

SECTION 9. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.