

October 2001

HISTORY OF THE HOUSING DEVELOPMENT FUND

HOUSING NEEDS - PREVIOUS LEGISLATIVE COUNCIL STUDIES

The 1995-96 interim Budget Committee on Government Services studied the feasibility of a long-term funding initiative to make available housing for families who are low-income, homeless, or disabled, or who require transitional housing to assist them toward independent living. The committee received testimony from the Housing Finance Agency regarding an assessment conducted in 1992 on North Dakota housing needs. The assessment addressed current and projected market demand and supply for housing in North Dakota, structural conditions of North Dakota housing, financing and affordability, and the effectiveness of existing federal, state, and local programs. The report identified a number of areas of needed improvement in North Dakota housing, including increasing the quality and condition of housing in selected areas of the state and "jump starting" housing in economically developing communities.

The committee received testimony from the Office of Intergovernmental Assistance on a comprehensive housing affordability strategy update for North Dakota for fiscal years 1994 through 1998 as required by the federal National Affordable Housing Act of 1990. The report included regional needs identified at meetings held across North Dakota and established priorities to meet housing and supportive service needs in North Dakota for the years 1994 through 1998. The committee also received reports on housing-related programs offered by the Office of Intergovernmental Assistance and the Housing Finance Agency.

The Office of Intergovernmental Assistance presented a report to the committee on the role manufactured housing can play in providing affordable housing. Many communities in North Dakota zone manufactured housing to limited areas, such as mobile home parks, even though these homes can be placed on a foundation on a residential lot similar to site-built homes. The Budget Committee on Government Services recommended 1997 Senate Bill No. 2026, which was not approved by the Legislative Assembly, which would have provided that a city, township, or county may not prohibit the use of land for a proposed residential structure solely because the proposed structure is a manufactured home.

The 1997-98 interim Commerce and Agriculture Committee studied the availability of affordable housing for middle-income households, for the elderly, and in rural areas of North Dakota. By directive of the Legislative Council, the study was expanded to include the availability of housing for all income levels. The

committee received testimony from the Office of Intergovernmental Assistance on the updated state consolidated housing plan for 1995 through 1999 as required by the federal National Affordable Housing Act of 1990. The plan established the following goals:

1. Provide decent housing.
2. Establish and maintain a suitable living environment.
3. Expand economic opportunities for each citizen of North Dakota.

The Commerce and Agriculture Committee also reviewed the *1992 Housing Needs Assessment* prepared by the Housing Finance Agency and various housing finance programs available from the Office of Intergovernmental Assistance and the Housing Finance Agency. The Commerce and Agriculture Committee made no recommendations regarding its study of affordable housing.

LEGISLATION ESTABLISHING THE HOUSING DEVELOPMENT FUND

House Bill No. 1383 (1999) created Chapter 6-12 of the North Dakota Century Code, allowing a financial institution or group of financial institutions to establish a corporation or limited liability company to operate a housing development fund. The primary purpose of the housing development fund was to provide funding for multifamily housing projects in rural areas that are experiencing or expecting to experience a shortage of housing as a result of economic development. Financial institutions were to establish a fund at the Bank of North Dakota to be available for loans for housing projects, with the focus on multifamily units in rural areas. A credit against an institution's financial institutions taxes is allowed for the difference between interest earned and what would have been earned at the treasury rate plus 300 basis points.

The statutory provisions allowing for the creation of a housing development fund are effective only for the taxable years January 1, 1999, through December 31, 2002, and are summarized as follows:

1. **Section 6-12-01** - Defines fund administrator as a certified development corporation and defines governing board as the board of directors of the corporation or board of governors of the limited liability company owning or operating the housing development fund.
2. **Section 6-12-02** - Allows a financial institution or group of financial institutions to establish a corporation or limited liability company to operate a housing development fund. The fund administrator must maintain the fund as an

account at the Bank of North Dakota. The governing board, which must include a representative of the Bank of North Dakota and a representative of the Division of Economic Development and Finance, Department of Commerce, is responsible for adopting policies and procedures for the fund.

3. **Section 6-12-03** - Provides that the loans may be used for any housing project in the state, but the primary focus for the loans from the fund must be to provide funding for multifamily housing projects in rural areas that are experiencing or expecting to experience a shortage of housing as a result of economic development. "Rural areas" is defined in this section as areas of the state not within the corporate city limits of a city with a population of 8,000 or more.
4. **Section 6-12-04** - Provides for the loan application process. The fund administrator is responsible for reviewing each loan application; reporting to the governing board whether the applicant represents a housing project, whether the housing project is for a multifamily housing project, and whether the housing project is located in a rural area; and make a recommendation to the governing board on whether to approve the loan application.
5. **Section 6-12-05** - The governing board is responsible for contracting annually with a certified public accountant for the preparation of audited financial statements of the fund. The governing board shall provide the audited financial statements and report to the Governor and the Legislative Council, and be available to the public upon request.
6. **Section 6-12-06** - A credit is allowed against a financial institution's taxes **equal to the difference between the participating financial institution's share of interest earned on the loan from the fund and the amount the institution would have earned by applying an interest rate of 300 basis points more than a comparable treasury security rate.** The credit may not exceed the total amount of the financial institution's tax liability and any unused credit may not be carried forward. Credits under this section may not exceed an aggregate amount of \$750,000 in a calendar year.
7. **Section 6-12-07** - The aggregate amount of loans made by a financial institution under the housing development fund may not exceed at any time 5 percent of the financial institution's admitted assets or the amount equal to the company's capital and surplus in excess of the minimum capital and surplus required by law, whichever is less.

TESTIMONY REGARDING 1999 HOUSE BILL NO. 1383

Testimony provided indicates that:

- Traditional financing programs generally provide financing based on the appraised value of the housing unit. In rural areas of North Dakota, the cost of new housing construction generally exceeds the appraised value, creating a "gap" in the amount available for financing.
- In metropolitan areas, downpayments generally range from 10 to 20 percent; whereas, in rural areas, the required downpayment is normally in the 40 to 60 percent range.
- In communities under 15,000 of population, the market rents are not adequate to provide the needed cash flow for principal and interest payments.
- In rural North Dakota communities, there is often no comparable residential units sold which can be a basis for measuring the property value.
- The housing development fund program is intended to provide the financing for the cost of construction that exceeds the appraised value, which will make housing construction more feasible in rural areas of the state.
- Providing incentives for the private sector to leverage the construction of housing projects will result in not only rural communities addressing housing needs but also providing additional revenue to North Dakota through additional sales and income taxes on developments and additional revenues for counties.
- The December 31, 2002, sunset provision was added to provide a test period for the program and to allow the Legislative Assembly to see if the legislation is successful in stimulating housing in rural North Dakota.

House and Senate committee minutes relating to House Bill No. 1383 are attached as an appendix.

BUDGET COMMITTEE ON GOVERNMENT SERVICES RESPONSIBILITY

The Budget Committee on Government Services has been assigned the responsibility of receiving the annual financial statements and a report from the governing board of the housing development fund analyzing the impact of the fund on the state's economy, business and employment activity generated by loans from the fund, and the effects of that activity on state and local tax revenues. The 1999-2000 interim Budget Committee on Government Services was also assigned this responsibility; however, no housing development funds have been established and, therefore, no reports have been provided.

ATTACH:1