

SENATE FILE 113
BY VILSACK, HANSEN, BISIGNANO,
and HALVORSON

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to establishing a local housing development
2 program under the Iowa finance authority, authorizing the
3 issuance of bonds to fund the program, and authorizing a city,
4 county, or municipal housing agency to develop, own, and
5 manage a local housing project.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 113

1 Section 1. NEW SECTION. 16.191 LEGISLATIVE FINDINGS --
2 PURPOSE.

3 The general assembly finds and declares as follows:

4 1. The economic health and development of Iowa communities
5 is tied to opportunities for jobs in and near those
6 communities and the availability of jobs is in part tied to
7 the availability of affordable, decent single-family and
8 multi-family housing in those communities.

9 2. A need exists for single-family and multi-family
10 housing in Iowa communities which is not being met by existing
11 state programs or the housing market.

12 3. A shortage of opportunities and means for developing
13 local housing exists. It is in the best interest of the state
14 and its citizens for cities, counties, and municipal housing
15 agencies to develop projects which will increase the stock of
16 local housing and to own and manage the housing constructed
17 through the project until the housing can be sold.

18 4. The expansion of local housing is dependent upon the
19 availability of financing at a sufficiently low cost to make
20 the construction and occupation or purchase of the housing
21 feasible. The local housing development program is a public
22 purpose for which the state may encourage the investment of
23 private capital in local housing development projects through
24 the use of public financial assistance.

25 Sec. 2. NEW SECTION. 16.192 LOCAL HOUSING DEVELOPMENT
26 PROGRAM -- ESTABLISHED -- DEFINITIONS.

27 1. A local housing development program is established in
28 the authority to provide loans to a city, a county, or a
29 municipal housing agency for projects to increase the housing
30 stock in the community. The authority may issue its bonds or
31 notes in accordance with section 16.26 for the purpose of
32 funding the loans and may make secured loans to a city, a
33 county, or a municipal housing agency.

34 2. For the purposes of this program:

35 a. "Municipality" means a city, county, municipal housing

1 agency, or other public entity authorized to undertake a
2 housing project and any entity organized pursuant to an
3 agreement under chapter 28E, consisting of a combination of
4 cities, counties, municipal housing agencies, or other public
5 entities.

6 b. "Pledged receipt" means with respect to any project:

7 (1) The income and receipts or other money derived from
8 the project financed with the proceeds of the bonds or notes,
9 including interest and principal repayments from loan
10 agreements.

11 (2) Funds, revenues, and other assets pledged by the
12 municipality pursuant to a loan agreement regardless of the
13 source of the fund or revenues.

14 (3) Other income and receipts of the authority determined
15 by the authority to be made available for the project.

16 c. "Program" means the local housing development program
17 established in this section.

18 d. "Project" means a local housing development project
19 under the program, consisting of single-unit or multi-unit
20 housing, for persons for whom housing is not otherwise
21 available in the community.

22 Sec. 3. NEW SECTION. 16.193 LOAN AGREEMENTS -- BONDS AND
23 NOTES.

24 1. The authority may issue its bonds and notes, the
25 proceeds of which shall be used to make program loans to a
26 municipality. The authority may enter into loan agreements
27 with a municipality to finance in whole or in part one or more
28 projects. The repayment obligation of the municipality may be
29 unsecured, secured by a mortgage or security agreement, or
30 secured by other security. The repayment obligation may be
31 evidenced by one or more notes of the municipality. The loan
32 agreement may contain terms and conditions the authority and
33 municipality deem advisable, including an operating deficit
34 agreement authorized by section 16.196.

35 2. The authority may issue its bonds and notes for

1 projects and may enter into a lending agreement or purchase
2 agreement with bondholders or noteholders containing the terms
3 and conditions of the repayment of and the security for the
4 bonds or notes. The authority may issue its bonds for one or
5 more projects secured by loan agreements related to those
6 projects. The authority and the bondholders or noteholders or
7 trustee agent designated by the authority may enter into an
8 agreement to provide for any of the following:

9 a. That the proceeds of the bonds and notes and the
10 investments of the proceeds may be received, held, and
11 disbursed by the authority or by a trustee or agent designated
12 by the authority.

13 b. That the bondholders or noteholders or a trustee or
14 agent designated by the authority may collect, invest, and
15 apply the amount payable under the loan agreements or any
16 other instruments securing the debt obligations under the loan
17 agreements.

18 c. That the bondholders or noteholders may enforce the
19 remedies provided in the loan agreements or other instruments
20 on their own behalf. If there is a default in the principal
21 of or interest on the bonds or notes or in the performance of
22 an agreement contained in the loan agreements or other
23 instruments, the payment or performance may be enforced in
24 accordance with the loan agreements or other instruments.

25 d. Other terms and conditions as deemed necessary or
26 appropriate by the authority.

27 3. The powers granted the authority under this program are
28 in addition to other powers contained in this chapter. All
29 other provisions of this chapter, except section 16.28,
30 subsection 4, apply to bonds or notes issued and power granted
31 to the authority under this program except to the extent they
32 are inconsistent with this section.

33 4. All bonds or notes issued by the authority in
34 connection with the program are exempt from taxation by this
35 state and the interest on the bonds or notes is exempt from

1 state income tax.

2 Sec. 4. NEW SECTION. 16.194 SECURITY -- RESERVE FUNDS --
3 PLEDGES -- NONLIABILITY -- IRREVOCABLE CONTRACTS.

4 1. The authority may provide in the resolution, trust
5 agreement, or other instrument authorizing the issuance of its
6 bonds or notes pursuant to this program that the principal of,
7 premium, and interest on the bonds or notes are payable solely
8 out of the pledged receipts as designated in the resolution,
9 trust agreement, or other instrument authorizing the issuance
10 of the bonds or notes.

11 2. The authority may establish reserve funds to secure one
12 or more issues of its bonds or notes. The authority may
13 deposit in a reserve fund established under this section the
14 proceeds of the sale of its bonds or notes and other moneys
15 which are made available from any other source.

16 3. A pledge made in respect of bonds or notes shall be
17 valid and binding from the time the pledge is made, and the
18 money or property so pledged and received after the pledge by
19 the authority shall immediately be subject to a lien or the
20 pledge without physical delivery or further act, and that the
21 lien or the pledge shall be valid and binding as against all
22 parties having claims of any kind in tort, contract, or
23 otherwise against the authority whether or not the parties
24 have notice of the lien or pledge. The resolution, trust
25 agreement, or other instrument by which a pledge is created
26 need not be recorded or filed in accordance with chapter 554
27 to be valid, binding, or effective against any parties.

28 4. The members of the authority and a person executing the
29 bonds or notes are not liable personally on the bonds or notes
30 and are not subject to personal liability or accountability by
31 reason of the issuance of the bonds or notes.

32 5. The bonds or notes issued by the authority are not an
33 indebtedness or other liability of the state or of a political
34 subdivision of the state within the meaning of any
35 constitutional or statutory debt limitations but are special

1 obligations of the authority, and are payable solely out of
2 the pledged receipts to the extent that the pledged receipts
3 are designated in the resolution, trust agreement, or other
4 instrument of the authority authorizing the issuance of the
5 bonds or notes as being available as security for such bonds
6 or notes. The authority shall not pledge the faith or credit
7 of the state to the payment of any bonds or notes. The
8 authority shall not pledge the faith or credit of a
9 municipality to the payment of any bonds or notes except as
10 agreed to by the municipality in its loan agreement. The
11 issuance of any bonds or notes by the authority does not
12 directly, indirectly, or contingently obligate the state to
13 apply moneys from, or levy or pledge any form of taxation
14 whatever to the payment of the bonds or notes. The issuance
15 of any bonds or notes by the authority does not directly,
16 indirectly, or contingently obligate a municipality to apply
17 moneys from, or levy or pledge any form of taxation whatever
18 to the payment of the bonds or notes, except as agreed to by
19 the municipality in the loan agreement.

20 6. The state pledges to and agrees with the holders of
21 bonds or notes issued under the program, that the state will
22 not limit or alter the rights and powers vested in the
23 authority to fulfill the terms of a contract made by the
24 authority with respect to the bonds or notes, or in any way
25 impair the rights and remedies of the holders until the bonds
26 and notes, together with the interest on them including
27 interest on unpaid installments of interest, and all costs and
28 expenses in connection with an action or proceeding by or on
29 behalf of the holders, are fully met and discharged. The
30 authority may include this pledge and agreement of the state,
31 as it refers to holders of bonds or notes of the authority, in
32 a contract with the holders.

33 Sec. 5. NEW SECTION. 16.195 POWERS OF THE MUNICIPALITY.

34 1. For purposes of the program, a municipality may enter
35 into loan agreements and issue any type of obligations payable

1 from any security which it is authorized by law to issue. For
2 the purpose of this program, the development, ownership and
3 managing of a project constitutes an essential county purpose
4 and a county enterprise under chapter 331 and an essential
5 corporate purpose and a city enterprise under chapter 384.

6 2. To approve a loan agreement under this chapter for a
7 project, a municipality shall follow the authorization
8 procedures for the issuance of revenue bonds by cities as set
9 out in section 384.83. Chapter 75 shall not apply. No other
10 law governing the authorization and issuance of obligations by
11 a municipality shall apply to loan agreements entered into by
12 a municipality with the authority for purposes of the program.

13 3. A municipality may negotiate development agreements,
14 construction agreements and management agreements for the
15 project and shall not be subject to the provisions of any
16 other law relating to public hearings or public bidding
17 including, without limitation, section 331.341 and sections
18 384.95 through 384.103.

19 4. A municipality may enter into loan agreements
20 containing any terms with respect to the project the
21 municipality and authority determine, including the granting
22 of a mortgage on the project and a security interest in any
23 other properties, rights, funds, or revenues with respect to
24 the project, notwithstanding the provisions of any other law
25 to the contrary. Any provisions of chapters 331 and 384 which
26 limit the powers of cities and counties with respect to
27 revenue financing of city and county enterprises shall not
28 restrict the powers of a municipality to finance a project
29 under this program.

30 Sec. 6. NEW SECTION. 16.196 OPERATING DEFICIT AGREEMENT.

31 1. A municipality may enter into an operating deficit
32 agreement, as a part of or separately from the loan agreement,
33 in which the municipality may agree that, when requested to
34 pay an operating deficit reimbursement with respect to a
35 project, the municipality shall timely include in its budget

1 request, and use all reasonable and lawful means to obtain, an
2 appropriation from the governing body of the municipality for
3 each fiscal year of moneys sufficient to pay operating deficit
4 reimbursements defined in the operating deficit agreement for
5 a project for the prior fiscal year, or a projected operating
6 deficit for the project for the current fiscal year or
7 succeeding fiscal year. A municipality may also represent at
8 the time of execution of the operating deficit agreement that
9 it reasonably expects to budget and appropriate for all
10 operating deficit reimbursements and that the municipality
11 will take any action necessary to provide moneys for the
12 payment of such reimbursements from sources of the
13 municipality lawfully available for such purposes.

14 2. Notwithstanding subsection 1, the municipality shall
15 not be obligated to appropriate or otherwise provide moneys
16 for the payment of operating deficit reimbursements, and in
17 the event of nonappropriation by the municipality, the
18 municipality shall not be liable for general, special,
19 incidental, consequential, or other damage resulting from the
20 nonappropriation. The operating deficit agreement may provide
21 that in the event a municipality shall fail to pay an
22 operating deficit reimbursement, the municipality shall be in
23 default under the operating deficit agreement and such default
24 will constitute a default by the municipality under the loan
25 agreement with respect to the project.

26 3. If a project has an operating deficit for the prior
27 fiscal year for which the municipality is obligated to make an
28 operating deficit reimbursement pursuant to the terms of the
29 operating deficit agreement or loan agreement, the
30 municipality may reduce the amount of payment in lieu of taxes
31 provided in section 16.197 by the amount of the operating
32 deficit reimbursement and apply the savings to the payment of
33 the operating deficit reimbursement if the municipality
34 determines that there are no other uncommitted funds legally
35 available to pay the operating deficit reimbursement.

1 Sec. 7. NEW SECTION. 16.197 PAYMENTS IN LIEU OF TAXES.

2 1. A municipality owning housing pursuant to a project
3 shall annually pay out of the revenues from the project to the
4 state of Iowa and to the city, school district, and any other
5 political subdivision authorized to levy taxes against
6 property in the jurisdiction in which the project is located,
7 twenty-five percent of the amount of tax determined by
8 applying the tax rate of the taxing district to the assessed
9 value of the project, which the state, county, school district
10 or other political subdivision would receive if the project
11 were owned by a private person, any other provision of this
12 Code to the contrary notwithstanding. For purposes of
13 arriving at this tax equivalent, the property of the project
14 shall be valued and assessed by the assessor in whose
15 jurisdiction the project is located, in accordance with
16 chapter 441, but the municipality, the lessee on behalf of the
17 municipality with the municipality's consent, and other
18 persons authorized by chapter 441 shall be entitled to protest
19 any assessment in the same manner as any taxpayer. The
20 valuations of the project shall be included in any summation
21 of valuations in the taxing district for all lawful purposes.
22 Income from this source shall be considered under the
23 provision of section 384.16, subsection 1, paragraph "b".

24 2. Notwithstanding subsection 1, the payment in lieu of
25 taxes may be reduced in accordance with section 16.196 by
26 reason of a requirement to pay an operating deficit
27 reimbursement.

28 Sec. 8. NEW SECTION. 16.198 AVAILABILITY OF HOUSING
29 UNITS FOR PURCHASE BY RESIDENTS.

30 A municipality shall make provisions to facilitate the
31 eventual purchase of housing units in projects by residents,
32 including ultimately transferring multi-unit housing into
33 condominiums. The authority shall assist a municipality in
34 achieving this objective.

35 Sec. 9. Section 331.461, subsection 2, Code 1995, is

1 amended by adding the following new paragraph:

2 NEW PARAGRAPH. g. Local housing development projects
3 under section 16.192.

4 Sec. 10. Section 384.24, subsection 2, paragraph k, Code
5 1995, is amended to read as follows:

6 k. Housing for the elderly or physically handicapped and
7 local housing development projects under section 16.192.

8 EXPLANATION

9 This bill establishes the local housing development program
10 in the Iowa finance authority. The program shall provide
11 loans to cities, counties, municipal housing agencies, other
12 public housing entities or entities formed under chapter 28E
13 for the purposes of expanding the stock of affordable single-
14 and multi-family housing in a community as a means to enhance
15 the economic development of the community.

16 In addition, the bill provides for the manner in which a
17 municipality may receive loans under the program and provides
18 for the issuance of bonds and notes by the Iowa finance
19 authority to fund the loans. Municipalities may develop the
20 housing units under a project and may own and manage the
21 property. The bill provides that the objective of developing
22 the housing will ultimately be to transfer it to private
23 ownership, including turning multi-family units into
24 condominiums.

25 Further, the bill provides that projects under the local
26 housing development program are corporate purposes for a city
27 or county. Property developed through a project is subject to
28 a payment in lieu of taxes of 25 percent of the amount of
29 taxes which would have been assessed against the property by
30 each taxing entity.

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