

SENATE BILL NO. 2227

Introduced by

Senators Erbele, Heitkamp, Wardner

Representatives Brandenburg, Gulleason, Kretschmar

1 A BILL for an Act to amend and reenact sections 23-11-01, 23-11-03, 23-11-11, 23-11-14,
2 23-11-20, 23-11-21, 23-11-23, and 23-11-24 of the North Dakota Century Code, relating to
3 housing authority jurisdiction.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 23-11-01 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **23-11-01. Definitions.** In this chapter, unless the context or subject matter otherwise
8 requires:

9 1. "Area of operation" includes:

10 a. In the case of a housing authority of a city having a population of less than
11 fifteen thousand inhabitants, ~~such~~ the city and the area within five miles [8.05
12 kilometers] of the territorial boundaries ~~thereof~~ of the city, but does not include
13 any area ~~which lies~~ that is within the territorial boundaries of another city.

14 b. In the case of a housing authority of a city having a population of fifteen
15 thousand inhabitants or more, ~~such~~ the city and an area within ten miles
16 [16.10 kilometers] of ~~such~~ the territorial boundaries ~~thereof~~ of the city, but
17 does not include any area ~~which lies~~ that is within the territorial boundaries of
18 another city.

19 c. In the case of a housing authority of a county, all of the county except that
20 portion ~~which lies~~ that is within the territorial boundaries of any city.

21 2. "Auditor" means the city auditor or the county auditor, as ~~the case may be~~
22 appropriate.

23 3. "Authority" or "housing authority" means any of the public corporations created by
24 section 23-11-02.

- 1 4. "Bonds" means any bonds, notes, certificates, debentures, or other obligations
2 issued by an authority ~~pursuant to any provision of~~ under this chapter.
- 3 5. "City" means any city having a population of more than five thousand inhabitants
4 according to the last federal census and "the city" means the particular city for
5 which a particular housing authority is created, except that it does not mean a city
6 ~~which~~ that has agreed to or will so elect to participate in a county housing authority
7 pursuant to section 54-40-08, provided that any city with less than five thousand
8 population which has an activated city housing authority prior to July 1, 1971, or a
9 city with less than five thousand population which has determined a shortage of
10 safe or sanitary dwelling accommodations in the city pursuant to section 23-11-03,
11 must be included within this definition.
- 12 6. "County" means any county in this state and "the county" means the particular
13 county for which a particular housing authority is created.
- 14 7. "Federal government" includes the United States of America and any agency or
15 instrumentality, corporate or otherwise, of the United States of America.
- 16 8. "Governing body" means, in the case of a city, the city council; or the board of city
17 commissioners, ~~as the case may be~~ appropriate, and in the case of a county, the
18 board of county commissioners.
- 19 9. "Housing project" may be applied to the planning of the buildings and
20 improvements, the acquisition of property, the demolition of existing structures, the
21 construction, reconstruction, alteration, and repair of the improvements, and all
22 other work in connection ~~therewith~~ with the same and means any work or
23 undertaking:
- 24 a. To demolish, clear, or remove buildings from any slum area, and ~~such~~ the
25 work or undertaking may embrace the adaption of ~~such~~ the area to public
26 purposes, including parks or other recreational or community purposes;
- 27 b. To provide or assist in providing decent, safe, and sanitary urban or rural
28 housing dwellings, apartments, or other living accommodations and related
29 facilities for persons of low or moderate income, ~~and~~ in need of housing,
30 including single-family and multifamily residential units designed and financed
31 under this chapter. This work or undertaking may include the planning of

- 1 buildings and improvements, land, equipment, facilities, and ~~other~~ the
2 acquisition of real or personal property that may be needed immediately or in
3 the future for housing purposes, the construction, reconstruction, alteration
4 and repair of new or existing buildings, and the provisions of all equipment,
5 facilities, and other real or personal property for necessary, convenient, or
6 desirable appurtenances, streets, sewers, water service, parks, site
7 preparations, landscaping, gardening, administrative, community, health,
8 recreational, educational, welfare, or other purposes; or
9 c. To accomplish a combination of any of the foregoing projects.
- 10 10. "Mayor" means the mayor of the city or the president of the board of city
11 commissioners, as ~~the case may be~~ appropriate.
- 12 11. "Obligee of the authority" or "obligee" includes any bondholder, trustee for any
13 bondholders, or lessor demising to the authority property used in connection with a
14 housing project, or any assignee of ~~such a~~ lessor's interest, or of any part ~~thereof~~
15 of an interest, and the federal government when it is a party to any contract with
16 the authority.
- 17 12. "Persons of low income" means ~~persons~~ individuals or families who lack the
18 amount of income which is necessary, as determined by the authority undertaking
19 the housing project, to enable them, without financial assistance, to live in decent,
20 safe, and sanitary dwellings without overcrowding.
- 21 13. "Persons of moderate income" means individuals or families whose income is not
22 adequate without governmental assistance to cause private enterprise to provide a
23 substantial supply of decent, safe, and sanitary housing at rents or prices within
24 their financial means.
- 25 14. "Real property" includes ~~all lands~~ land, including improvements and fixtures
26 ~~thereon~~ on the land and property of any nature appurtenant ~~thereto~~ to the land or
27 used in connection ~~therewith~~ with the land, and every estate, interest, and right,
28 legal or equitable, ~~therein~~ in the land, including terms for years and liens by way of
29 judgment, mortgage, or otherwise and the indebtedness secured by ~~such~~ the liens.
- 30 44. 15. "Slum" means any area where dwellings predominate which, by reason of
31 dilapidation, overcrowding, faulty arrangement or design, lack of ventilation, light,

1 or sanitary facilities, or by reason of any combination of these factors, are
2 detrimental to safety, health, and morals.

3 **SECTION 2. AMENDMENT.** Section 23-11-03 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **23-11-03. When resolution declaring housing authority to be necessary shall be**
6 **adopted.**

7 1. The governing body of the city or county, as ~~the case may be~~ appropriate, shall
8 adopt a resolution declaring that there is need for a housing authority in the city or
9 county if ~~it~~ the governing body finds:

10 ~~1.~~ That that unsanitary or unsafe inhabited dwelling accommodations exist in the city
11 or county; ~~1.~~ or

12 ~~2.~~ That that there is a shortage of safe or sanitary dwelling accommodations in ~~such~~
13 the city or county available to persons of low or moderate income at rentals they
14 can afford to pay.

15 2. In determining whether dwelling accommodations are unsafe or unsanitary, ~~said~~
16 the governing body may take into consideration the degree of overcrowding, the
17 percentage of land coverage, the light, air, space, and access available to the
18 inhabitants of ~~such~~ the dwelling accommodations, the size and arrangement of the
19 rooms, the sanitary facilities, and the extent to which conditions which endanger
20 life or property by fire or other causes exist in ~~such~~ the buildings.

21 **SECTION 3. AMENDMENT.** Section 23-11-11 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **23-11-11. Powers of authority.** An authority has the following powers and duties:

24 1. To exercise public and essential governmental functions.

25 2. To sue and be sued.

26 3. ~~Repealed by S.L. 1973, ch. 80, § 21.~~

27 4. To have perpetual succession.

28 ~~5.~~ 4. To make and execute contracts and other instruments necessary or convenient to
29 the exercise of the powers of the authority.

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- 1 ~~48.~~ 17. To invest any funds held by ~~it~~ the authority in reserves or sinking funds, or any
2 funds not required for immediate disbursement, in property or securities in which
3 savings banks may legally invest funds subject to ~~their~~ a savings bank's control.
- 4 ~~49.~~ 18. To purchase its bonds at a price not more than the principal amount ~~thereof~~ of the
5 bonds and accrued interest, ~~and all bonds~~ a bond so purchased ~~shall be~~ is
6 canceled.
- 7 ~~20.~~ 19. To investigate, in ~~its~~ the authority's area of operation, living, dwelling, and housing
8 conditions and the means and methods of improving the same.
- 9 ~~21.~~ 20. To determine, within ~~its~~ the authority's area of operation, where slum areas exist or
10 where there is a shortage of decent, safe, and sanitary dwelling accommodations
11 for persons of low or moderate income.
- 12 ~~22.~~ 21. To make studies and recommendations relating to the problem of clearing,
13 replanning, and reconstructing the slum areas within ~~its~~ the authority's area of
14 operation and the problem of providing dwelling accommodations for the persons
15 of low or moderate income, and to cooperate with the city, county, or state, or any
16 political subdivision ~~thereof~~, in any action taken in connection with ~~such~~ these
17 problems.
- 18 ~~23.~~ 22. To engage in research, studies, and experimentation on the subject of housing
19 within ~~its~~ the authority's area of operation.
- 20 ~~24.~~ 23. To conduct examinations and investigations and to hear testimony and take proof
21 under oath at public or private hearings on any matter material for ~~its~~ the
22 authority's information.
- 23 ~~25.~~ 24. To administer oaths, issue subpoenas requiring the attendance of witnesses or the
24 production of books and papers, and to issue commissions for the examinations of
25 witnesses who are outside of the state or unable to attend before the authority or
26 who are excused from attendance.
- 27 ~~26.~~ 25. To make available to appropriate agencies, including those charged with the duty
28 of abating or requiring the correction of nuisances or like conditions, or of
29 demolishing unsafe or unsanitary structures within ~~its~~ the authority's area of
30 operation, ~~its~~ the authority's findings and recommendations with regard to any

- 1 building or property where conditions exist which are dangerous to the public
2 health, morals, safety, or welfare.
- 3 ~~27.~~ 26. To issue bonds from time to time for any of its corporate purposes.
- 4 ~~28.~~ 27. To issue refunding bonds for the purpose of paying or retiring bonds previously
5 issued by ~~it~~ the authority.
- 6 ~~29.~~ 28. To borrow money or accept grants or other financial assistance from the federal
7 government for, or in aid of, any housing project within ~~its~~ the authority's area of
8 operation.
- 9 ~~30.~~ 29. To take over or lease or manage any housing project or undertaking constructed or
10 owned by the federal government.
- 11 ~~31.~~ 30. To comply with ~~such~~ conditions and to enter into ~~such~~ mortgages, trust indentures,
12 leases, or agreements as may be necessary, convenient, or desirable to carry out
13 ~~the provisions of this subsection and the preceding subsection~~ section.
- 14 ~~32.~~ 31. To do any and all things necessary or desirable to secure the financial aid or
15 cooperation of the federal government in the undertaking, construction,
16 maintenance, or operation of any housing project.
- 17 ~~33.~~ 32. To exercise all or any part or combination of powers ~~herein~~ granted.
- 18 ~~34.~~ 33. To exercise within ~~its~~ the authority's area of operation the authority granted to the
19 industrial commission under section 54-17-07.6.
- 20 34. To exercise the power to provide operation and maintenance expenses under
21 subdivision a of subsection 23 of section 23-11-24.
- 22 35. To exercise the power to issue general obligation bonds under subdivision b of
23 subsection 23 of section 23-11-24.
- 24 36. To determine, within the authority's area of operation, that the authority dispense
25 with competitive bidding on the construction of a housing project if:
- 26 a. The project is financed with the proceeds of bonds issued under this chapter
27 or from nongovernmental sources;
- 28 b. The project is either located on land that is owned or is being acquired by the
29 authority solely for housing project purposes, or is not owned by the authority
30 at the time the contract is entered into but the contract provides for

1 conveyance of lease to the authority of the project or improvements upon
2 completion of construction; or
3 c. The authority finds and determines that elimination of the public bidding
4 requirements is necessary in order for the housing project to be economical
5 and feasible.

6 ~~35.~~ 37. To exercise ~~such~~ other powers and duties as may be necessary to carry out the
7 purposes and provisions of this chapter.

8 An authority, in exercising the powers specified in subsections ~~24~~ 23, ~~25~~ 24, and ~~26~~ 25, may
9 act through one or more of the commissioners or through other persons designated by ~~it~~ the
10 authority. ~~No provision~~ Provisions of law with respect to the acquisition, operation, or
11 disposition of property by other public bodies ~~is~~ are not applicable to an authority unless there is
12 specific provision to that effect by the legislative assembly.

13 **SECTION 4. AMENDMENT.** Section 23-11-14 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **23-11-14. Rentals and tenant selection.** In the operation or management of housing
16 projects, an authority at all times shall observe the following duties with respect to rentals and
17 tenant selection:

- 18 1. ~~It~~ The authority may rent or lease the dwelling accommodations ~~therein only~~ in the
19 project solely to persons of low or moderate income.
- 20 2. ~~It~~ The authority may rent or lease the dwelling accommodations ~~therein only~~ in the
21 project solely at rentals within the financial reach of ~~such~~ persons of low or
22 moderate income.
- 23 3. ~~It~~ The authority may rent or lease to a tenant dwelling accommodations consisting
24 ~~only~~ solely of the number of rooms which ~~it deems~~ the authority determines
25 necessary to provide safe and sanitary accommodations to the proposed
26 occupants ~~thereof~~, without overcrowding.
- 27 4. ~~It~~ The authority may not accept ~~any person~~ persons of low income as a tenant in
28 any housing project if the ~~person~~ individual or ~~persons~~ family who would occupy
29 the dwelling accommodations ~~have~~ has an aggregate annual income in excess of
30 five times the annual rental of the quarters to be furnished ~~such person~~ the
31 individual or ~~persons~~ family. In computing the rental for this purpose, there must

1 be included in the rental the average annual cost to the occupant, as determined
2 by the authority, of heat, water, electricity, gas, cooking, and other necessary
3 services or facilities, whether ~~or not~~ the charge for ~~such~~ the services and facilities
4 is in fact included in the rental.

5 5. ~~‡~~ The authority shall prohibit subletting by tenants.

6 **SECTION 5. AMENDMENT.** Section 23-11-20 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **23-11-20. Bonds - Types which may be issued.**

9 1. An authority may issue ~~such types~~ any type of ~~bonds~~ bond as ~~it may determine~~ the
10 authority determines necessary for the purpose of financing housing for persons of
11 low or moderate income, including ~~bonds~~ a bond on which the interest and
12 principal are payable:

13 4. a. Exclusively from the income and revenues of the housing project financed
14 with the proceeds of ~~such bonds~~ the bond or with ~~such~~ the proceeds together
15 with a grant from the federal government in aid of ~~such~~ the project;

16 2. b. Exclusively from the income and revenues of certain designated housing
17 projects whether ~~or not they~~ the projects are financed in whole or in part with
18 the proceeds of ~~such bonds~~ the bond; or

19 3. c. From ~~its~~ the authority's revenues generally.

20 2. The bonds and other obligations of the authority are not payable out of any funds
21 or properties other than those of the authority. ~~Any of such~~ These bonds, however,
22 may be secured additionally by a pledge of any loan, grant, or contribution, or part
23 of the same, from the federal government or other source of a pledge of any
24 income or revenues or by a mortgage on any housing project, projects, or other
25 property of the authority.

26 **SECTION 6. AMENDMENT.** Section 23-11-21 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **23-11-21. Bonds - Liability - Tax exempt.** Neither the commissioners of an authority
29 nor any person executing bonds of the authority is liable personally ~~thereon~~ on the bonds by
30 reason of the issuance ~~thereof~~ of the bonds, nor is any city, county, or state, or political
31 subdivision ~~thereof~~, liable ~~thereon~~ on the bonds. The bonds and other obligations of an

1 authority are not a debt of the city, county, or state, nor of any political subdivision ~~thereof~~, and
2 must so state on ~~their~~ the face of the bond. ~~They~~ The bonds do not constitute an indebtedness
3 within the meaning of any constitutional or statutory debt limitation or restriction. ~~Such~~ The
4 bond obligations are declared to be issued for an essential public and governmental purpose
5 and to be public instrumentalities and the bonds, together with the interest ~~thereon~~ on the
6 bonds and income ~~therefrom~~, from the bonds are exempt from taxation. The tax exemption
7 provisions of this chapter are considered part of the contract for the security of the bond
8 obligations authorized by this chapter and do not need to be restated in the bond obligations.

9 **SECTION 7. AMENDMENT.** Section 23-11-23 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **23-11-23. Bonds - Validity when officer who signs bond is no longer in office -**
12 **Deemed issued for housing project.** If any of the commissioners or officers of an authority
13 whose signatures appear on any bonds or coupons cease to be ~~such commissioners a~~
14 commissioner or ~~officers~~ officer before the delivery of the bonds, the signatures are valid and
15 sufficient for all purposes the same as if the ~~commissioners~~ commissioner or ~~officers~~ officer
16 had remained in office until the delivery had been completed. Any bonds issued ~~pursuant to~~
17 ~~the provisions of the~~ under this chapter must be fully negotiable. In an action, suit, or
18 proceeding involving the validity or enforceability of any bond of an authority or of the security
19 ~~therefor for the bond~~, the bond must be deemed conclusively to have been issued for a housing
20 project if the bond recites that it has been issued by the authority to aid in financing a housing
21 project to provide dwelling accommodations for persons of low or moderate income. The
22 project ~~conclusively must be deemed to have been~~ is planned, located, and constructed in
23 accordance with ~~the purposes and provisions of~~ this chapter if ~~such a~~ this statement is
24 contained in the bond.

25 **SECTION 8. AMENDMENT.** Section 23-11-24 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **23-11-24. Provisions of bonds, trust indentures, and mortgages.** In connection
28 with the issuance of bonds or the incurring of obligations under leases; and in order to secure
29 the payment of ~~such~~ the bonds or obligations, an authority, in addition to ~~its~~ the authority's other
30 powers, has power:

- 1 1. To pledge all or any part of ~~its~~ the authority's gross or net rents, fees, or revenues
- 2 to which ~~its~~ the authority's right then exists or thereafter may come into existence.
- 3 2. To mortgage all or any part of ~~its real or personal~~ the authority's property then
- 4 owned or thereafter acquired.
- 5 3. To covenant against pledging all or any part of ~~its~~ the authority's rents, fees, and
- 6 revenues, or against mortgaging all or any part of ~~its real or personal~~ the
- 7 authority's property, to which ~~its~~ the authority's right or title then exists or thereafter
- 8 may come into existence, or against permitting or suffering any lien on any ~~such~~
- 9 revenues or property.
- 10 4. To covenant with respect to limitations on ~~its~~ the authority's right to sell, lease, or
- 11 otherwise dispose of any housing projects or any part ~~thereof~~ of a housing project.
- 12 5. To covenant as to what other or additional debts or obligations may be incurred by
- 13 ~~it~~ the authority.
- 14 6. To covenant as to the bonds to be issued and as to the issuance of ~~such~~ bonds in
- 15 escrow or otherwise; and as to the use and disposition of the proceeds ~~thereof~~ of
- 16 the bonds.
- 17 7. To provide for the replacement of lost, destroyed, or mutilated bonds.
- 18 8. To covenant against extending the time for the payment of ~~its~~ the authority's bonds
- 19 or interest ~~thereon~~ on the bonds.
- 20 9. To redeem the bonds, to covenant for ~~their~~ the bonds' redemption, and to provide
- 21 the terms and conditions ~~thereof~~ of redemption.
- 22 10. To covenant, subject to the limitations contained in this chapter, as to the rents and
- 23 fees to be charged in the operation of a housing project or projects, the amount to
- 24 be raised each year or other period of time by rents, fees, and other revenues, and
- 25 as to the use and disposition to be made ~~thereof~~ of the same.
- 26 11. To create, or to authorize the creation of, special funds for moneys held for
- 27 construction or operating costs, debt service, reserves, or other purposes, and to
- 28 covenant as to the use and disposition of the moneys held in ~~such~~ these funds.
- 29 12. To prescribe the procedure, if any, by which the terms of any contract with
- 30 bondholders may be amended or abrogated, the amount of bonds the holders of
- 31 which must consent ~~thereto~~, and the manner in which ~~such~~ consent may be given.

- 1 marketable notwithstanding that ~~such~~ the covenants, acts, or things may are not
2 be enumerated herein, including:
- 3 a. To the payment of the principal of and interest on bond obligations, when due,
4 there may be pledged as a first charge and lien the gross revenues of the
5 housing project financed in whole or in part by the obligations, and the
6 governing city or county may covenant to provide additional funds for the
7 benefit of that housing project to the extent that the gross revenues in excess
8 of those debt service requirements are not also sufficient from time to time to
9 pay the reasonable operating and maintenance expenses of that housing
10 project.
- 11 b. In addition to the authority to issue bonds pursuant to section 23-11-20, any
12 governing city or county of an authority may issue general obligation bonds for
13 the housing project specified in this section and subject to the requirements of
14 this section and the requirements of the constitution and any other applicable
15 laws, except the obligations are not subject to approval by the electors and
16 the maturities may not extend to more than thirty years from the estimated
17 date of completion of the housing project. The proceeds of the bonds must be
18 used for qualified housing project or projects, and the city or county must find
19 that the pledged revenues will equal or exceed one hundred percent of the
20 principal and interest due on the bonds for each year.
- 21 c. The principal amount of the issue must be approved by the governing body of
22 the city or county in which the housing project is located and whose general
23 obligation is pledged. Public hearings must be held on issuance of the
24 obligations by the city or county in which the housing project is located. The
25 hearings must be held at least fifteen days, but not more than one hundred
26 twenty days, before the sale of the obligations.