

SENATE BILL NO. 311—SENATOR RATTI

MARCH 22, 2021

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to rural housing.
(BDR 25-542)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to housing; authorizing the Nevada Rural Housing Authority to create a for-profit business entity for the purpose of developing, operating and managing housing projects to provide dwellings primarily for persons of low and moderate income; exempting such a business entity from compliance with the Open Meeting Law; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Nevada Rural Housing Authority to prepare, carry out and operate housing projects in certain rural areas of this State. (NRS 315.961-315.99874) Existing law authorizes the Authority to create a nonprofit organization for the purpose of developing housing projects. (NRS 315.983) **Sections 3 and 10** of this bill additionally authorize the Authority to create a for-profit business entity for that purpose. **Section 10** authorizes the Authority or any nonprofit or for-profit business entity created by the Authority to hold an ownership interest in such a business entity and participate in matters of corporate governance for that business entity. **Section 4** of this bill authorizes a business entity created by the Authority to: (1) prepare, carry out, operate and otherwise manage housing projects; (2) provide for the construction, reconstruction, improvement, extension, alteration or repair of housing projects; (3) enter into a public-private partnership to finance a housing project; and (4) construct or operate a housing project for profit. **Section 12** of this bill makes conforming changes to authorize a business entity created by the Authority to make certain payments in lieu of taxes relating to the development, operation and management of housing projects. **Sections 13 and 14** of this bill make conforming changes to clarify that a business entity created by the Authority is not subject to: (1) certain restrictions against operating a housing project for profit; and (2) certain restrictions on rates that the Authority may charge for rentals or payments for dwellings in the Authority's housing projects. **Sections 4 and 15** of this bill exempt a business entity created by the Authority from the provisions that require that meetings of state and local agencies be open and public. **Sections 4, 7**



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and 11 of this bill also provide that management of a housing project is within the scope of the duties of the Authority or a business entity created by the Authority. Sections 6 and 8 of this bill standardize certain terminology relating to housing authorities.

Existing law defines, for the purposes of the authorized activities of the Authority, the term "housing project" to include any work or undertaking to provide decent, safe and sanitary rural dwellings, apartments or other living accommodations for persons of low and moderate income. (NRS 315.969) Section 7 of this bill revises this definition to: (1) allow a housing project to provide accommodations primarily, instead of entirely, for persons of low and moderate income; and (2) authorize a housing project to specifically include affordable housing. Section 2 of this bill defines the term "affordable housing" to include housing for persons or families who make up to 120 percent of the median monthly gross household income for the county in which the housing is located. (NRS 278.0105, 278.01902, 278.01904, 278.01906) Section 9 of this bill revises the definition of "persons of low and moderate income" to mean any person who qualifies for affordable housing. Sections 7 and 9 thereby clarify the persons to whom the Authority is authorized to lease or rent dwelling accommodations. Sections 4, 7 and 9 thereby allow a business entity created by the Authority to rent or lease dwelling accommodations in a housing project to persons with a higher income, as long as the housing project primarily serves persons of low and moderate income. Section 18 of this bill makes a conforming change by removing a requirement that the Authority determine who qualifies as a person of low and moderate income as a result of the change in section 9. Section 5 of this bill makes a conforming change to indicate the proper placement of sections 2-4 in the Nevada Revised Statutes.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 315 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. *"Affordable housing" has the meaning ascribed to it in NRS 278.0105.*

Sec. 3. *"Business entity" means a corporation, whether or not for profit, nonprofit organization, association, partnership, limited-liability company, limited-liability partnership or other entity formed pursuant to NRS 315.983.*

Sec. 4. *1. A business entity may:*

(a) Within the area of operation of the Authority:

(1) Prepare, carry out, operate and otherwise manage housing projects; and

(2) Provide for the construction, reconstruction, improvement, extension, alteration or repair of any such project or any part thereof.

(b) Enter into a public-private partnership to finance a housing project.

(c) Construct or operate a housing project for profit.



1 **2. The meetings of a business entity are not subject to the**
2 **provisions of chapter 241 of NRS.**

3 **Sec. 5.** NRS 315.962 is hereby amended to read as follows:
4 315.962 As used in NRS 315.961 to 315.99874, inclusive, **and**
5 **sections 2, 3 and 4 of this act**, unless the context otherwise requires,
6 the words and terms defined in NRS 315.963 to 315.976, inclusive,
7 **and sections 2 and 3 of this act** have the meanings ascribed to them
8 in those sections.

9 **Sec. 6.** NRS 315.964 is hereby amended to read as follows:
10 315.964 “Authority” ~~for “State Authority”~~ means the Nevada
11 Rural Housing Authority created by NRS 315.977.

12 **Sec. 7.** NRS 315.969 is hereby amended to read as follows:
13 315.969 1. “Housing project” means any work or
14 undertaking:

15 (a) To demolish, clear or remove buildings from any area
16 acquired by the Authority ~~or~~
17 **or a business entity;**

18 (b) To provide decent, safe and sanitary rural dwellings,
19 apartments or other living accommodations **primarily** for persons of
20 low and moderate income ~~or~~ **, including, without limitation,**
21 **affordable housing.** Such work or undertaking may include
22 buildings, land, equipment, facilities and other real or personal
23 property for necessary, convenient or desirable appurtenances,
24 streets, sewers, water service, utilities, parks, site preparation,
25 landscaping, administrative, health, recreational, welfare or other
26 purposes; or

27 (c) To accomplish a combination of the foregoing.
28 2. “Housing project” also may be applied to the planning of the
29 buildings and improvements, the acquisition **of property or the**
30 **management of property, including, without limitation, the** leasing
31 of property, the demolition of existing structures, the construction,
32 reconstruction, alteration and repair of the improvements and all
33 other work in connection therewith.

34 3. The term includes the acquisition or development of mobile
35 home parks and facilities, the leasing or rental of mobile home lots
36 in the park, or the purchase, leasing or rental of mobile homes.

37 **Sec. 8.** NRS 315.971 is hereby amended to read as follows:
38 315.971 “Local ~~housing authority~~ or “~~local~~” authority” means
39 an authority as defined in NRS 315.170.

40 **Sec. 9.** NRS 315.973 is hereby amended to read as follows:
41 315.973 “Persons of low and moderate income” means
42 individuals or families who ~~lack the amount of income which is~~
43 ~~necessary, as determined by the Authority pursuant to the~~
44 ~~provisions of NRS 315.9845, to enable them, without financial~~



~~assistance, to live in decent, safe and sanitary dwellings, without overcrowding.]~~ *meet the criteria for affordable housing.*

Sec. 10. NRS 315.983 is hereby amended to read as follows:

315.983 1. Except as otherwise provided in NRS 354.474 and 377.057, the Authority:

(a) Shall be deemed to be a public body corporate and politic, and an instrumentality, local government and political subdivision of the State, exercising public and essential governmental functions, and having all the powers necessary or convenient to carry out the purposes and provisions of NRS 315.961 to 315.99874, inclusive, *and sections 2, 3 and 4 of this act* but not the power to levy and collect taxes or special assessments.

(b) Is not an agency, board, bureau, commission, council, department, division, employee or institution of the State.

2. The Authority may:

(a) Sue and be sued.

(b) Have a seal.

(c) Have perpetual succession.

(d) Make and execute contracts and other instruments necessary or convenient to the exercise of its powers.

(e) Deposit money it receives in any insured state or national bank, insured credit union, insured savings and loan association or insured savings bank, or in the Local Government Pooled Long-Term Investment Account created by NRS 355.165 or the Local Government Pooled Investment Fund created by NRS 355.167.

(f) Adopt bylaws, rules and regulations to carry into effect the powers and purposes of the Authority.

(g) Create a ~~{nonprofit organization which is exempt from taxation pursuant to 26 U.S.C. § 501(c)(3) and}~~ *business entity* which has as its principal purpose the development , *operation or management* of housing projects. *The Authority or any business entity created by the Authority pursuant to this paragraph may hold an ownership interest in a business entity created pursuant to this paragraph and participate in matters of corporate governance for that business entity.*

(h) Enter into agreements or other transactions with, and accept grants from and cooperate with, any governmental agency or other source in furtherance of the purposes of NRS 315.961 to 315.99874, inclusive.

(i) Enter into an agreement with a local government ~~{in a county whose population is less than 100,000}~~ *within the area of operation of the Authority* to receive a loan of money from the local government in accordance with NRS 354.6118.



(j) Acquire real or personal property or any interest therein, by gift, purchase, foreclosure, deed in lieu of foreclosure, lease, option or otherwise.

Sec. 11. NRS 315.984 is hereby amended to read as follows:

315.984 1. The Authority ~~for a nonprofit corporation created pursuant to paragraph (g) of subsection 2 of NRS 315.983~~ may, within its area of operation, prepare, carry out , ~~and~~ operate *and otherwise manage* housing projects and provide for the construction, reconstruction, improvement, extension, alteration or repair of any such project or any part thereof.

2. The Authority may, within its area of operation, administer programs to subsidize that portion of a tenant's rental payments which represents the difference between the payment required in the lease and the amount paid under any program of the Federal Government.

3. The Authority may, within its area of operation, determine where there is a need for additional low-rent housing for persons of low and moderate income and where there is unsafe, insanitary or overcrowded housing.

4. The Authority may, within its area of operation, make studies and recommendations relating to the problems of relieving the shortage of low-rent housing and of eliminating unsafe, insanitary or overcrowded housing.

5. The Authority may, within its area of operation, cooperate with the Federal Government, state agencies, local housing authorities, counties, cities, towns and other political subdivisions of the State in action taken in connection with such problems.

Sec. 12. NRS 315.990 is hereby amended to read as follows:

315.990 The Authority *or a business entity, as applicable,* shall agree with the governing body of each affected city, town, county or other political subdivision to make such payments in lieu of taxes as it finds consistent with ~~the maintenance of the low rent character of housing projects or~~ the achievement of the purposes of NRS 315.961 to 315.99874, inclusive ~~and~~ *and sections 2, 3 and 4 of this act, including, without limitation, the development, operation and management of affordable housing.*

Sec. 13. NRS 315.993 is hereby amended to read as follows:

315.993 1. The Authority shall not construct or operate any housing project for profit.

2. The Authority shall manage and operate its housing projects in an efficient manner so as to enable it to fix the rentals or payments for dwelling accommodations at low rates consistent with its providing decent, safe and sanitary dwelling accommodations for persons of low and moderate income.



3. The Authority shall fix the rentals or payments for dwellings in its housing projects at no higher rates than are necessary to produce revenue which, together with all other available money, revenue, income and receipts of the Authority from whatever sources derived, will be sufficient:

(a) To pay, as it becomes due, the principal and interest on the bonds of the Authority.

(b) To create and maintain such reserves as may be required to assure the payment of principal and interest as it becomes due on its bonds.

(c) To meet the cost of, and to provide for, maintaining and operating the housing projects, including necessary reserves therefor and the cost of any insurance, and the administrative expenses of the Authority.

(d) To make such payments in lieu of taxes as it determines are consistent with the maintenance of the low-rent character of the housing projects.

4. For the purposes of this section, a housing project constructed or operated by the Authority that is eligible for credit for low-income housing pursuant to 26 U.S.C. § 42 is not constructed or operated for profit.

5. Nothing in this section shall be construed to:

(a) Prohibit a business entity from taking any action authorized by section 4 of this act; or

(b) Impose restrictions on a business entity taking any action authorized by section 4 of this act.

Sec. 14. NRS 315.994 is hereby amended to read as follows:

315.994 **1.** In the operation or management of its housing projects, the Authority shall at all times observe the following duties with respect to rentals and tenant admissions:

~~(1)~~ **(a)** It may rent or lease the dwelling accommodations therein only to persons of low and moderate income.

~~(2)~~ **(b)** It may rent or lease to a tenant dwelling accommodations consisting of the number of rooms, but no greater number, which it deems necessary to provide safe and sanitary accommodations to the proposed occupants thereof, without overcrowding.

~~(3)~~ **(c)** It shall not accept any person or persons as tenants in any housing project if the person or persons who occupy the dwelling accommodations have, at the time of admission, an aggregate annual net income, less an exemption of \$200 for each minor member of the family other than the head of the family and his or her spouse, in excess of 7 times the annual rental of the quarters to be furnished such person or persons; but the Authority may agree to conditions as to tenant eligibility or preference



required by the Federal Government pursuant to federal law in any contract for financial assistance with the Authority. In computing the rental for this purpose of admitting tenants, there shall be included in the rental the average annual cost, as determined by the Authority, to occupants of heat, water, electricity, gas, cooking fuel, and other necessary services or facilities, whether or not the charge for such services and facilities is included in the rental.

2. The requirements of this section do not apply to housing project developed, operated or managed by a business entity.

Sec. 15. NRS 241.016 is hereby amended to read as follows:

241.016 1. The meetings of a public body that are quasi-judicial in nature are subject to the provisions of this chapter.

2. The following are exempt from the requirements of this chapter:

(a) The Legislature of the State of Nevada.

(b) Judicial proceedings, including, without limitation, proceedings before the Commission on Judicial Selection and, except as otherwise provided in NRS 1.4687, the Commission on Judicial Discipline.

(c) Meetings of the State Board of Parole Commissioners when acting to grant, deny, continue or revoke the parole of a prisoner or to establish or modify the terms of the parole of a prisoner.

3. Any provision of law, including, without limitation, NRS 91.270, 219A.210, 228.495, 239C.140, 239C.420, 281A.350, 281A.690, 281A.735, 281A.760, 284.3629, 286.150, 287.0415, 287.04345, 287.338, 288.220, 288.590, 289.387, 295.121, 360.247, 388.261, 388A.495, 388C.150, 388D.355, 388G.710, 388G.730, 392.147, 392.467, 394.1699, 396.3295, 414.270, 422.405, 433.534, 435.610, 442.774, 463.110, 480.545, 622.320, 622.340, 630.311, 630.336, 631.3635, 639.050, 642.518, 642.557, 686B.170, 696B.550, 703.196 and 706.1725, ***and section 4 of this act***, which:

(a) Provides that any meeting, hearing or other proceeding is not subject to the provisions of this chapter; or

(b) Otherwise authorizes or requires a closed meeting, hearing or proceeding,

↪ prevails over the general provisions of this chapter.

4. The exceptions provided to this chapter, and electronic communication, must not be used to circumvent the spirit or letter of this chapter to deliberate or act, outside of an open and public meeting, upon a matter over which the public body has supervision, control, jurisdiction or advisory powers.

Sec. 16. 1. Any administrative regulations adopted by an officer or an agency whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer or agency remain in force until amended



1 by the officer or agency to which the responsibility for the adoption
2 of the regulations has been transferred.

3 2. Any contracts or other agreements entered into by an officer
4 or agency whose name has been changed or whose responsibilities
5 have been transferred pursuant to the provisions of this act to
6 another officer or agency are binding upon the officer or agency to
7 which the responsibility for the administration of the provisions of
8 the contract or other agreement has been transferred. Such contracts
9 and other agreements may be enforced by the officer or agency to
10 which the responsibility for the enforcement of the provisions of the
11 contract or other agreement has been transferred.

12 3. Any action taken by an officer or agency whose name has
13 been changed or whose responsibilities have been transferred
14 pursuant to the provisions of this act to another officer or agency
15 remains in effect as if taken by the officer or agency to which the
16 responsibility for the enforcement of such actions has been
17 transferred.

18 **Sec. 17.** The Legislative Counsel shall:

19 1. In preparing the reprint and supplements to the Nevada
20 Revised Statutes, appropriately change any references to an officer,
21 agency or other entity whose name is changed or whose
22 responsibilities are transferred pursuant to the provisions of this act
23 to refer to the appropriate officer, agency or other entity.

24 2. In preparing supplements to the Nevada Administrative
25 Code, appropriately change any references to an officer, agency or
26 other entity whose name is changed or whose responsibilities are
27 transferred pursuant to the provisions of this act to refer to the
28 appropriate officer, agency or other entity.

29 **Sec. 18.** NRS 315.9845 is hereby repealed.

30 **Sec. 19.** 1. This section becomes effective upon passage and
31 approval.

32 2. Sections 1 to 18, inclusive, of this act become effective:

33 (a) Upon passage and approval for the purpose of adopting any
34 regulations and performing any other preparatory administrative
35 tasks that are necessary to carry out the provisions of this act; and

36 (b) On October 1, 2021, for all other purposes.

TEXT OF REPEALED SECTION

315.9845 Determination of income. The State Authority
shall determine the amount of income which is necessary to enable a



person or family, without financial assistance, to live in decent, safe and sanitary dwellings, without overcrowding.

