

# TITLE XII

## PUBLIC SAFETY AND WELFARE

### CHAPTER 162-L

### COMMUNITY DEVELOPMENT FINANCE AUTHORITY

#### Section 162-L:1

**162-L:1 Definitions.** – In this chapter, the following terms shall have the following meanings, unless the context indicates another meaning or intent:

I. "Authority" means the community development finance authority established by RSA 162-L:2.

II. "Community development corporation" means a nonprofit corporation, organized under the laws of the state to carry out certain public purposes and with bylaws providing that:

(a) The corporation shall be organized to operate within specific geographic boundaries.

(b) Membership in the corporation shall be open to all residents of the target area who are 18 years of age or older; membership may be open to persons outside the target area, but voting membership of persons not residing in the target area shall be limited to 10 percent of the total membership.

(c) The corporation shall have a board of directors, a majority of whom reside in a target area or are members of a target population, 2/3 of whom are elected by the membership, with each member having an equal vote.

(d) The corporation shall make a demonstrable effort to hire low income or underemployed residents of the operating area.

(e) The corporation shall impose an annual individual membership fee of not less than \$1 nor more than \$10.

III. "Other nonprofit organizations and municipal governments involved in community development" means a nonprofit organization organized under the laws of the state or municipal government to carry out purposes related to community development, improvement, revitalization, or other activities consistent with the purposes of this chapter.

IV. "Cost of a project" means any and all costs associated with the design, planning, and implementation of a project undertaken in a target area or with a target population which can reasonably be recovered in the financing of the project. Such costs may include, but are not limited to, the costs of planning and design, options to buy land, feasibility or other studies, seed money, construction, working capital, and any other costs determined by the authority to be necessary for the purposes of this chapter.

V. "Employee cooperative" means a corporation in which the power to elect at least 2/3 of the corporation's directors is held by the employees and in which such elections are held on a one person-one vote basis.

VI. "Other type of cooperative" means any corporation in which the power to elect the governing body is held by the members of the corporation and in which elections are held on a one person-one vote basis. This may include cooperatives such as housing cooperatives and consumer cooperatives.

VII. "Low income" means an income equal to or less than 125 percent of the federal poverty guidelines, as established by the Bureau of Labor Statistics lower level budget.

VIII. "Primary employment" means work which pays at least 1 1/2 times the minimum wage as established under federal law, which offers adequate fringe benefits, including health insurance, and which is not seasonal or part-time.

IX. "Project" means any commercial, industrial, or real estate business or other economic activity designed to create or preserve primary employment for low income people or to reduce conditions of

blight, economic depression, or widespread reliance on public assistance in a target area or of a target population.

X. "Pledge" means a written agreement between the community development finance authority and a contributor for the contributor to provide cash contributions in the future.

**Source.** 1991, 334:3. 1994, 336:1. 1998, 338:2. 2011, 204:3, eff. Aug. 21, 2011.

## **Section 162-L:2**

### **162-L:2 Community Development Finance Authority. –**

I. There is hereby established the community development finance authority, a body corporate and politic. The authority is constituted a public instrumentality of the state. The exercise by the authority of the powers conferred by this chapter shall be deemed and held to be the performance of essential governmental functions. The authority shall be a nonprofit corporation organized under RSA 292.

II. The authority shall be governed by a board of 11 directors which shall include the commissioner of the department of resources and economic development or designee, and 10 public members appointed by the governor and council as follows:

(a) Four representatives of community development corporations or other nonprofit organizations engaged in community development activities.

(b) One representative of organized labor.

(c) Two representatives of small business and the financial community.

(d) One representative of employment training programs.

(e) Two representatives of private financial institutions.

III. The 10 appointed members of the board of directors shall serve for 5-year terms. If a vacancy occurs on the board of directors, the governor and council shall appoint a person to serve the remainder of the term. A member of the board of directors may be reappointed.

IV. The members of the board of directors shall receive no compensation for their services but shall be reimbursed for actual and necessary expenses, including travel expenses, incurred in performing their duties.

**Source.** 1991, 334:3, eff. June 28, 1991.

## **Section 162-L:3**

### **162-L:3 Board of Directors; Organization. –**

I. Upon appointment of the members of the board of directors and annually thereafter, the members shall elect, from among the members, a chairman and a vice-chairman and shall designate a secretary-treasurer who need not be a member of the board.

II. The secretary-treasurer shall keep a record of the proceedings of the authority and the board of directors and shall be the custodian of all books, documents, and papers filed with the authority, the minute books of the authority, and its official seal.

III. A majority of the directors shall constitute a quorum, but no power of the authority shall be exercised without a majority vote of the full board of directors. The authority shall employ an executive director; legal, financial, and technical experts; and other persons as it may require. The authority shall determine the qualifications, duties, and compensation of its employees.

**Source.** 1991, 334:3, eff. June 28, 1991.

## **Section 162-L:4**

**162-L:4 Powers and Duties of the Authority. –**

I. The authority shall have all the powers necessary and convenient to carry out and effectuate the purposes and provisions of this chapter and may:

- (a) Adopt bylaws and rules for the regulation of its affairs and the conduct of its business.
- (b) Adopt an official seal.
- (c) Sue and be sued in its own name.
- (d) Maintain an office.
- (e) Accept from any source loans, contributions, or grants to aid the authority in the conduct of its affairs.
- (f) Make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions.
- (g) Acquire real property or an interest in real property, by purchase or foreclosure, when such acquisition is necessary or appropriate to protect or secure any investment in which the authority has an interest; to sell, transfer, and convey any such property to a buyer and, in the event such sale, transfer, or conveyance cannot be effected with reasonable promptness or at a reasonable price, to lease such property to a tenant.
- (h) Issue grants to finance operating or other costs of community development corporations and employee cooperatives under RSA 162-L:5.
- (i) Provide technical assistance to community development corporations, other nonprofit organizations involved in community development activities, and employee and other types of cooperatives.
- (j) Invest in or lend to any community development corporation, other nonprofit organizations involved in community development, or employee or other type of cooperative for a specific project if the authority finds that the project meets the following conditions:
  - (1) The project shall be within the scope of this chapter and may reasonably be expected to contribute to the development or redevelopment and economic well-being of target areas or target populations, to contribute to the economic development of the state, or to increase or maintain threatened primary employment or to provide affordable housing opportunities to low and moderate income people. Strong preference is given to housing projects which provide for the permanent affordability of the housing units through such legal mechanisms as deed restrictions, equity limitation formulas, or land leases.
  - (2) The project shall conform to all applicable environmental, zoning, building, planning or sanitation laws.
  - (3) The project shall be of public benefit and for a public purpose. The benefits, including increased or maintained primary employment and improved standard of living, shall primarily accrue to a target area or target population.
  - (4) There shall be a reasonable expectation that the project will be successful.
  - (5) Private industry shall have not provided sufficient capital required for the project or sufficient primary employment opportunities in the project's area.
  - (6) The authority shall determine that its participation is necessary to the successful completion of the proposed project because adequate funding for the project is unavailable in the traditional capital markets or because credit has been offered on terms that would preclude the success of the project.
  - (7) The proceeds of the purchase or contract shall be used solely in connection with the costs of the project.
  - (8) Provision shall have been made by contract for adequate reporting of financial data from the community development corporation, other nonprofit organizations involved in community development, or employee or other cooperative to the authority. Such provisions may include a requirement for an annual or other periodic audit of the project books.
  - (9) Provision has been made that should the authority desire to sell or otherwise dispose of the capital participation instrument obtained by contract, the community development corporation, other

nonprofit organizations involved in community development, or employee or other types of cooperatives, or its nominee, shall have for 120 days the right of first refusal upon the sale or disposal and the right to meet any subsequent bona fide offer by a third party.

(10) The project shall not result in a substantial increase in unemployment in the area of original location of any business or establishment relocated as part of the project.

(k) Exercise any other powers, rights or responsibilities necessary to effectuate the purposes of this chapter.

II. The findings of the community development finance authority company under this section shall be conclusive and may not be appealed.

**Source.** 1991, 334:3, eff. June 28, 1991.

## Section 162-L:5

### **162-L:5 Technical Assistance; Grants. –**

I. The authority shall provide technical assistance to community development corporations, other nonprofit organizations involved in community development, and employee and other types of cooperatives and to persons forming such organizations. Technical assistance includes, but is not limited to, assistance with respect to organizational development, economic development planning, community education, financial planning or packaging, the development of grant or other applications, market research, business plan development or review, management training, and such accounting and legal services as may be necessary to enhance or render effective any of the foregoing. Such assistance may be provided by the authority directly by staff or other agents of the authority or through contract with a third party.

II. The authority may award grants to community development corporations, other nonprofit organizations involved in community development activities, and employee and other types of cooperatives to fund their operating costs or other costs of projects including, but not limited to, costs incurred for planning, feasibility or other studies, consultants, technical assistance, or educational or publicity programs. The authority shall award the grants to further the purposes of this chapter. The authority shall review applications for grants based upon need, effectiveness in encouraging the development of community development corporations, other nonprofit organizations involved in community development activities, and employee or other types of cooperatives, effectiveness in assisting in the attainment of capital for the development of the operating area of the organization or cooperative, and the extent to which the grant will encourage the exchange of information among community development organizations and cooperatives.

**Source.** 1991, 334:3, eff. June 28, 1991.

## Section 162-L:6

**162-L:6 Reporting Requirements. –** On or before September 1 of each year, the authority shall submit an annual report of its activities for the preceding fiscal year to the governor, the president of the senate, the speaker of the house of representatives and the state treasurer. The report shall set forth a complete operating and financial statement of the authority during such year. The report shall include outstanding amounts of pledges made and cash contributions received against pledges. The authority shall cause an audit by an independent certified public accountant of its books and accounts to be made each fiscal year.

**Source.** 1991, 334:3. 1993, 350:21. 1994, 336:2, eff. June 8, 1994.

## Section 162-L:7

**162-L:7 Liberal Construction.** – The provisions of this chapter shall be interpreted and construed liberally in aid of its declared purpose.

**Source.** 1991, 334:3, eff. June 28, 1991.

## Section 162-L:8

**162-L:8 Investment Tax Credit.** – [Repealed by 1993, 350:41, V, eff. July 1, 1994.]

## Section 162-L:9

**162-L:9 Community Development Finance Authority.** – [Repealed 1998, 338:4, eff. July 1, 1999.]

## Section 162-L:10

**162-L:10 New Investment Tax Credit.** –

I. An investment tax credit equal to 75 percent of the contribution made to the authority during the contributor's tax year shall be allowed against any of the following individually or in combination:

- (a) Taxes imposed by RSA 77-A.
- (b) Taxes imposed by RSA 400-A.
- (c) Taxes imposed by RSA 77-E.

II. Credits provided by this section applied against the liabilities imposed by RSA 400-A and RSA 77-E shall be deemed to be taxes paid for the purpose of RSA 77-A:5, III and X, respectively.

III. The credit or any unused portion thereof may be carried forward for no more than 5 succeeding years, but shall not exceed \$1,000,000 in any given tax year.

IV. (a) The credit provided by this section shall be available to contributors on or after contributions for which credit is to be taken are actually received by the authority.

(b) Contributions received by the authority for which credit is to be taken shall not exceed \$5,000,000 in any state fiscal year. Contributions received by the authority in excess of \$5,000,000 in any state fiscal year shall not be eligible for credit in such fiscal year but may be carried forward to the next succeeding fiscal year or years and shall be given priority in determining the total contributions eligible for credit in such fiscal year.

V. Estimated tax payments under RSA 400-A:32 due and payable after the date of contribution to the authority may be reduced by the credit allowable under this section.

**Source.** 1998, 338:3, eff. July 1, 1999.

# Community Development Block Grant Program

## Section 162-L:11

**162-L:11 Definitions.** – In this subdivision:

- I. "Authority" means the community development finance authority established by RSA 162-L:2.
- II. "Chief executive officer" means the chief executive of the municipality, whether the official designation is mayor, city manager, chairman of the board of selectmen, or otherwise.
- III. "Committee" means the community development advisory committee.
- IV. "Entitlement municipality" means a municipality entitled to receive funds directly from the United

States Department of Housing and Urban Development under Title I, section 106(b) of the federal act.

V. "Federal act" means Title I of the Housing and Community Development Act of 1974, as amended, 42 U.S.C. section 5301 et seq.

VI. "Governing body" means, in the case of a city, the city council or the board of aldermen or, in the case of a town, the board of selectmen or the town council.

VII. "Grantee" means a municipality that receives a grant under the provisions of this subdivision.

VIII. "Municipality" means a city or a town. It also means a "non-entitlement area" as defined in Title I, section 102(a)(7) of the federal act.

**Source.** 2003, 319:13, eff. July 1, 2003.

## Section 162-L:12

**162-L:12 Program Goals.** – In allocating funds under the community development block grant program, the authority shall give priority to activities that:

I. Benefit low and moderate income households.

II. Aid in the prevention or elimination of slum or blight.

III. Aid in the prevention or elimination of conditions which pose a serious or immediate threat to the health and welfare of the community where no other financial resources exist to meet such needs.

**Source.** 2003, 319:13, eff. July 1, 2003.

## Section 162-L:13

**162-L:13 Eligible Activities.** – A wide range of community development activities shall be eligible for funding. These may include, but are not limited to:

I. The acquisition, rehabilitation, or expansion of housing.

II. The creation, expansion, or retention of employment through the stimulation of private investment and community revitalization.

III. The installation, rehabilitation, or replacement of public facilities.

IV. Activities that test the feasibility of innovative approaches to community development.

V. Activities that provide timely responses to unpredictable circumstances or special development opportunities.

**Source.** 2003, 319:13, eff. July 1, 2003.

## Section 162-L:14

**162-L:14 Grant of Powers to Municipalities.** –

I. All municipalities not designated as entitlement municipalities under the federal act are authorized to apply with the authority for funds and are granted such additional authority and power, essential and incidental, as may be necessary for the administration of this program.

II. Prior to filing an application under this subdivision, a municipality shall:

(a) Through action by the governing body adopt or pass an official act or resolution authorizing the filing of the application and directing the chief executive officer or designee to act in connection with the application and to provide such information as may be required.

(b) Hold at least one public hearing to obtain the views of citizens on community development, to furnish the citizens with information concerning the amount of funds available and the range of community development activities that may be undertaken under this subdivision and to give affected citizens an opportunity to examine a proposed statement to the projected use of such funds to be applied

for. A notice of the hearing shall specify the grounds for the hearing as well as the date, time, and place. This notice of the hearing shall be published in a newspaper of general circulation in the municipality, and a legal notice shall also be posted in at least 3 public places within such municipality at least 10 days prior to the hearing. The 10 days shall not include the day of publication or the day of posting, whichever is later, nor the day of the hearing, but shall include any Saturdays, Sundays, and legal holidays within the period. This hearing shall be held before the municipality's governing body takes any final action regarding the filing of the application.

III. The chief executive officer shall certify that the municipality will comply with the provisions of this subdivision and with other applicable federal and state laws and rules as may be determined by the authority and the federal government.

**Source.** 2003, 319:13, eff. July 1, 2003.

## **Section 162-L:15**

### **162-L:15 The New Hampshire Community Development Advisory Committee. –**

I. There is established the community development advisory committee which shall be provided staff and administrative assistance by the authority.

II. The committee shall consist of 10 voting members as follows:

(a) The chairperson of the board of directors of the community development finance authority, or designee, who shall serve as chairperson of the committee.

(b) The director of the office of energy and planning, or designee.

(c) The executive director of the New Hampshire housing finance authority, or designee.

(d) The director of the division of economic development, department of resources and economic development, or designee.

(e) Six public members, at least 3 of whom shall be municipal officials, who shall be appointed by and serve at the pleasure of the governor.

III. The 6 public members shall be paid their actual expenses incurred in performing their duties under this subdivision and shall be paid mileage at the same rate as state employees.

IV. A majority of the members of the committee shall constitute a quorum.

V. No person who receives a significant portion of his or her income directly or indirectly from the community development activities governed by this subdivision shall be a member of the committee.

VI. The committee shall advise the authority in the development of rules for administering this subdivision and developing criteria for the allocation of funds provided under the federal act.

**Source.** 2003, 319:13. 2004, 257:44, eff. July 1, 2004.

## **Section 162-L:16**

### **162-L:16 Powers and Duties of the Authority. –**

I. The authority shall be responsible for the former functions, duties, and responsibilities of the office of state planning relative to administration of the community development block grant program and shall, with the consent of the committee and with the approval of the governor and council make final awards of grants and enter into contractual relationships with grantees for administering funds.

II. The authority shall provide advice and assistance to municipalities in dealing with community development concerns and problems.

III. The authority is authorized to accept federal funds to administer the small cities community development block grant program in accordance with the provisions of this subdivision.

IV. The authority shall adopt rules, pursuant to RSA 541-A, relative to:

(a) The application process.

- (b) Criteria and procedures for evaluating applications submitted by eligible municipalities.
- (c) Procedures for the administration of program activities and funds by grantees.
- (d) Procedures for monitoring grantees and for hearings.

**Source.** 2003, 319:13. 2004, 104:1, eff. July 16, 2004.

## **Section 162-L:17**

### **162-L:17 Procedures for Administration. –**

I. All funds allocated to the state under the federal act, except for an amount not exceeding the maximum allowable under the federal act available to the state for administrative costs, shall be allocated to eligible municipalities.

II. All municipalities shall be eligible to apply for and receive funds under this subdivision except for entitlement municipalities.

III. The allocation system shall be competitive and shall provide the opportunity for any eligible municipality to compete for funding for community development projects.

IV. The authority shall solicit applications from eligible municipalities. Any eligible municipality desiring to receive funds under this subdivision shall complete and submit an application in accordance with the rules adopted under RSA 162-L:16.

V. The authority shall evaluate the relative merits of the applications based on the rules, criteria, and procedures adopted under RSA 162-L:16.

**Source.** 2003, 319:13, eff. July 1, 2003.

## **Section 162-L:18**

### **162-L:18 Remedies for Noncompliance. –**

I. If the authority finds, after reasonable notice and opportunity for hearing, that a grantee under this subdivision has failed to comply substantially with the provisions of this subdivision, the rules adopted under this subdivision, or applicable provisions of federal law, the authority may:

(a) Terminate payments to the grantee under this subdivision; or

(b) Limit the availability of payments under this subdivision under such conditions as the authority may establish.

II. In lieu of, or in addition to, any action authorized in paragraph I, the authority may refer the matter to the attorney general of the state of New Hampshire with a recommendation that an appropriate civil action be instituted.

**Source.** 2003, 319:13, eff. July 1, 2003.

## **Section 162-L:19**

**162-L:19 Status of State Employees. –** Classified employees of the office of energy and planning responsible for administration of the community development block grant program shall be transferred to the community development finance authority. Any person employed in such a position at the time of the transfer shall be deemed an employee of the authority. Any individual transferred from the office of energy and planning to the authority shall be entitled to continue to receive such health, dental, life insurance, deferred compensation, and retirement benefits as are afforded to classified employees of the state. Service as an employee of the authority shall be creditable service for purposes of RSA 21-I:30. Employees of the authority, however, shall not be classified employees of the state of New Hampshire within the meaning of RSA 21-I:49 but employees at will of the authority. The authority shall pay from



its revenues the state share of such benefits. Any remaining costs of health, dental, life insurance, deferred compensation, and retirement benefits which an individual elects to receive pursuant to this section, shall be withheld from such individual's salary as a payroll deduction. Written notice of the availability of these benefit options shall be provided to each individual upon transfer to the authority.

**Source.** 2003, 319:13. 2004, 104:2; 257:44. 2012, 175:4, eff. July 1, 2012.