

RESOLUTION OF THE
NAVAJO NATION COUNCIL

23rd NAVAJO NATION COUNCIL -- Second Year, 2016

AN ACT

RELATING TO LAW AND ORDER, RESOURCES AND DEVELOPMENT AND
NAABIK'ÍYÁTI' COMMITTEES AND THE NAVAJO NATION COUNCIL,
APPROVING AMENDMENTS TO 6 N.N.C. §616

BE IT ENACTED:

Section One. Findings

- A. The Navajo Nation Council established the Law and Order Committee (LOC) as a Navajo Nation standing committee and as such empowered LOC to review and make recommendations to the Navajo Nation Council on proposed Navajo Nation Code amendments and enactments. 2 N.N.C. §§ 164 (A)(9), 600 (A), 601 (B)(14) (2012) *see also* CO-45-12.
- B. The Navajo Nation Council established the Resources and Development Committee (RDC) as a Navajo Nation Council standing committee and as such empowered RDC to establish policies and legislation appropriate to the housing needs of the Navajo Nation and its People. 2 N.N.C. §§ 500 (A), (C)(3), *see also* CO-45-12.
- C. The Navajo Nation Council established the Naabik'iyáti' Committee as a Navajo Nation standing committee and as such proposed legislation that requires final action by the Navajo Nation Council shall be assigned to the Naabik'iyáti' Committee. 2 N.N.C. §§ 164 (A)(9), 700 (A) (2012) *see also* CO-45-12.
- D. The Navajo Nation Council must review and approve enactments or amendments of positive law. 2 N.N.C. § 164 (A) (2012) *see also* CO-45-12.
- E. Over the past decade, Navajo Nation housing funds appropriated under the Native American Housing Assistance and Self Determination Act, 25 U.S.C. §4101, *et seq.*, as amended, have accumulated to unprecedented levels; and

- F. The Navajo Housing Authority has adopted and is implementing a five year expenditure plan that is reducing the Navajo Nation's NAHASDA funds; and
- G. A myriad of causes and effects have contributed to the accumulation of NAHASDA funds in the first ten years of the inception of NAHASDA; and
- H. To assist in the rapid expenditure of the NAHASDA funds, the Navajo Nation finds that it is in its best interest to amend its laws and to add new laws that will assist in expediting the more timely expenditure of the Nation's housing funds on housing and housing related development projects; and
- I. Some members of Congress have expressed that they will take back or recapture the Nation's housing funds if it is not quickly spent on housing for the Nation.

Section 2. Amendments to Title 6, N.N.C. § 616

The Navajo Nation hereby amends Title 6, Navajo Nation Code, Navajo Housing Authority, as follows:

**NAVAJO NATION CODE
TITLE 6. COMMUNITY DEVELOPMENT
CHAPTER 5. HOUSING PROJECTS
SUBCHAPTER 5. NAVAJO HOUSING AUTHORITY**

§ 616. Powers

- A. The Authority shall have perpetual succession in its corporate name.
- B. The Authority shall have the following powers which it may exercise consistent with the purposes for which it is established:
 - 1. Subject to the Navajo Sovereign Immunity Act, the Navajo Nation gives its irrevocable consent to allowing the Authority to sue and be sued in its corporate name, upon any contract, claim or obligation arising out of its activities, and the

Authority may expressly agree by contract, on a case by case basis, to waive any immunity from suit which the Navajo Housing Authority might otherwise have; but under no circumstances shall the Navajo Nation be liable for the debts and obligations of the Authority, nor shall the land, funds and all other real or personal property of the Navajo Nation be subject to execution or levy on account of the debts or obligations of the Authority. Nothing contained herein nor in any other provision of this Subchapter shall be construed to waive the right of the Navajo Nation to assert the defense of sovereign immunity in any lawsuit against the Navajo Nation, and nothing contained herein nor in any other provision of this Subchapter shall impair the validity of this defense; and the right to assert that defense is and shall remain inviolate and inviolable.

2. To adopt and use a corporate seal.

3. To enter into agreements, contracts and understandings with any governmental agency, federal, state or local (including the Navajo Nation Council and/or standing committees) or with any person, partnership, corporation or Indian Tribe; and to agree to any conditions attached to federal financial assistance. Notwithstanding anything to the contrary contained in this Subchapter or in any other provision of law, to agree to any conditions attached to federal financial assistance relating to the determination of prevailing salaries or wages or payment of not less than prevailing salaries or wages or compliance with labor standards, in the development or administration of projects, and to include in any contract let in connection with a project, stipulations requiring that the contractor and any subcontractors comply with requirements as to minimum salaries or wages and maximum hours of labor, and comply with any conditions which the federal government may have attached to its financial aid of the project. The Authority shall exercise any other power, duties or responsibilities as shall be delegated by law or regulation including the Native American Housing Assistance and Self-Determination Act (NAHASDA).

It is the purpose and intent of this Subchapter to authorize the Authority to do any and all things necessary or desirable to secure the financial aid or cooperation of the federal government in the undertaking, construction, maintenance or operation of any project by the Authority.

4. To lease property from the Navajo Nation and others for such periods as are authorized by law, and to hold and manage or to sublease the same.

5. To borrow money, to issue temporary or long-term evidence of indebtedness; and to repay the same. Corporate bonds shall be issued and repaid in accordance with the provisions of 6 N.N.C. § 617.

6. To pledge the assets and receipts of the Authority as security for debts; and to acquire, sell, lease, exchange, transfer or assign personal property or interests therein.

7. To purchase land or interests in land or take the same by gift; to lease land or interests in land to the extent provided by law.

8. To undertake and carry out studies and analyses of the housing needs in areas under the jurisdiction of the Navajo Nation, to prepare housing plans, to execute the same, to operate projects and to provide for the construction, reconstruction, improvement, extension, alteration or repair of any project or any part thereof.

9. With respect to any dwellings, accommodations, lands, buildings or facilities embraced within any project (including individual cooperative or condominium units): to lease or rent, sell, enter into purchase agreements, mortgages, encumbrances, lease-purchase agreements or leases with option to purchase; to establish and revise rents or required monthly payments; to make rules and regulations concerning the selection of tenants or homebuyers, including the establishment of priorities, and concerning the occupancy, rental, care and management of housing units; and to make such further rules and regulations as the Board may deem necessary and desirable to effectuate the powers granted by this Subchapter.

10. To purchase insurance in any stock or mutual company for any property or against any risks or hazards.

11. To invest such funds as are not required for immediate disbursement.

12. To establish and maintain such bank accounts as may be necessary or convenient.

13. To employ an executive director, technical and maintenance personnel and such other officers and employees, permanent or temporary, as it may require; and to delegate to such officers and employees such powers or duties as the Board shall deem proper.

14. To take such further actions as are commonly engaged in by corporate bodies of this character as the Board may deem necessary and desirable to effectuate the purposes of the Authority.

15. To adopt such bylaws as the Board deems necessary and appropriate.

16. To join or cooperate with any other public housing agency or agencies operating under the laws or ordinances of a state or another tribe in the exercise, either jointly or otherwise, of any or all of the powers of the Authority and such other public housing agency or agencies for the purpose of financing (including but not limited to the issuance of notes or other obligations and giving security therefor), planning, undertaking, owning, constructing, operating, or contracting with respect to a housing project or projects of the Authority or such other public housing agency or agencies. For such purpose, the Authority may by resolution prescribe and authorize any other public housing agency or agencies, so joining or cooperating with the Authority, to act on the Authority's behalf with respect to any or all powers, as the Authority's agent or otherwise, in the name of the Authority or in the name of such agency or agencies.

17. To finance purchase of a home by an eligible homebuyer in accordance with regulations and requirements of the Department of Housing and Urban Development including development of lending, mortgage, loan guaranty or other financial assistance programs.

18. To terminate any lease or rental agreement, lease purchase agreement, purchase agreement or other agreements when the tenant or homebuyer who has violated the terms of such agreement, or failed to meet any of its obligations thereunder, or when such termination is otherwise authorized under the provisions of such agreement; and to bring action for foreclosure, breach of contract, eviction or other legal remedies against such tenant or homebuyer.

19. To aid in increasing employment opportunities and diversification of Navajo economic development, the Authority is authorized and empowered to engage in economic development and business development activities.

20. To serve as the Construction Management Authority for the Navajo Nation only for ~~on all NAHASDA funded development project(s)~~ funded 100% by NAHASDA IHGB funds notwithstanding any other provision of law or plan of operation of any Navajo division. Such authorization includes but is not limited to the authority to:

- a. Provide planning, architectural, engineering, construction, inspection services and construction management services to chapters, Navajo Nation divisions and other entities of the Navajo Nation on all NAHASDA funded development project(s).
- b. Provide planning, architectural, engineering, construction, inspection services, and construction management services for Navajo Nation public facilities and capital projects that are funded by NAHASDA to meet specifications satisfying cultural and environmental conditions in accordance with applicable established Navajo Nation, State and Federal regulations, codes and standards.

Section 3. Effective Date

The Act enacted herein shall be effective upon its approval pursuant to 2 N.N.C. §221.

Section 4. Codification

The provisions of this ordinance which amend or adopt new sections of the Navajo Nation Code shall be codified by the Office of Legislative Counsel. The Office of Legislative Counsel shall incorporate such amended provisions in the next codification of the Navajo Nation Code.

Section 5. Saving Clause

Should any provisions of this ordinance be determined invalid by the Navajo Nation Supreme Court, or the District Courts of the Navajo Nation, without appeal to the Navajo Nation Supreme Court, those portions of this ordinance which are not determined invalid shall remain the law of the Navajo Nation.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona) at which a quorum was present and that the same was passed by a vote of 15 in favor and 4 opposed, this 19th day of July 2016.

Edmund Yazzie, Pro Tem, Speaker
Navajo Nation Council

07/29/16
Date

Motion: Honorable Seth Damon
Second: Honorable Herman M. Daniels

ACTION BY THE NAVAJO NATION PRESIDENT:

1. I hereby sign into law the foregoing legislation, pursuant to 2 N.N.C. §1005 (C) (10), on this 19th day of August 2016.

Russell Begaye, President
Navajo Nation

2. I hereby veto the foregoing legislation, pursuant to 2 N.N.C. §1005 (C) (11), this _____ day of _____ 2016 for the reason(s) expressed in the attached letter to the Speaker.

Russell Begaye, President
Navajo Nation

NAVAJO NATION

RCS# 515

Summer Session

7/19/2016
02:15:38 PM

Amd# to Amd#

Legislation No. 0203-15

PASSED

MOT Damon
SEC Daniels

Approving Amendments to 6 N.N.C.
Section 616

Yea : 15

Nay : 4

Not Voting : 3

Yea : 15

Begay, K
BeGaye, N
Brown
Chee

Crotty
Daniels
Filfred
Hale

Jack
Perry
Phelps
Shepherd

Slim
Smith
Tso

Nay : 4

Pete

Tsosie

Witherspoon

Bennett

Not Voting : 3

Damon

Yazzie

Bates

Begay, NM

RESOLUTION NHA-4397-2014

**RESOLUTION OF THE BOARD OF COMMISSIONERS
OF THE NAVAJO HOUSING AUTHORITY**

**Recommending to the Navajo Nation Council To Amend
Title Six Relating to Construction Management Authority
for all NAHASDA - funded Projects**

WHEREAS:

1. Pursuant to Title 6 of the Navajo Nation Code, §§ 605 and 616 (b)(3), the Board of Commissioners of the Navajo Housing Authority (“NHA”) is empowered with the authority to manage the affairs of the NHA and to do any and all things necessary to carry out the operations of the NHA; and
2. The Navajo Nation Council created and established the NHA as a public body of the Navajo Nation and its plan of operation is codified at Title 6 Navajo Nation Code, § 601 et seq.; and
3. Over the past decade, Navajo Nation housing funds appropriated under the Native American Housing Assistance and Self Determination Act, 25 U.S.C. § 4101, et. seq., as amended, have accumulated to unprecedented levels because of a myriad of valid causes and reasons; and
4. During that decade, the U. S. Department of Housing and Urban Development (HUD) and the former NHA Management at the time failed to assist the NHA in quickly spending down such a high balance; and
5. Only after recent inquiry by Congressional staffers has HUD started issuing Letters of Warning and Notice of Intent to attempt to take back Navajo housing funds; and
6. Even though the NHA has adopted a five year expenditure plan that is now being implemented to reduce the Navajo Nation’s NAHASDA funds, HUD’s only focus now is to attempt to take away a substantial amount of the Navajo housing funds; and
7. To assist in the rapid expenditure of the NAHASDA funds, the Navajo Nation’s laws need to be amended to assist in expediting the more timely expenditure of the Nation’s housing funds on housing and housing related development projects; and
8. A major cause of extended delay in housing development and the use of NAHASDA funds is the Navajo Nation Department of Design and Engineering’s Construction Management Authority pursuant to its Plan of Operation; and

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May 10, 2014

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9. It is in the best interest of the Board of Commissioners of the Navajo Housing Authority to approve this resolution.

NOW, THEREFORE, BE IT RESOLVED THAT:

A. The Board of Commissioners of the Navajo Housing Authority hereby requests the Navajo Nation Council to approve the proposed changes to the Navajo Housing Authority's Plan of Operation contained in Title Two of the Navajo Nation Code changing the Construction Management Authority for all NAHASDA funded projects as shown by strikeouts for proposed deletions and underlines for proposed changes in the attached Exhibit "A".

B. The Board of Commissioners of the Navajo Housing Authority hereby authorizes the Chief Executive Officer of the Navajo Housing Authority to do all things necessary to carry out the purposes of this resolution.

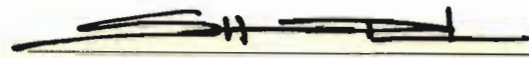
CERTIFICATION

Commissioner Wilson Ray, Sr. moved that the foregoing Resolution **NHA-4397-2014** be adopted and this was seconded by Commissioner Richard Blackhorse.

Same was passed by the following vote:

AYES: 5 NAYS: 0 ABSTAINED: 0

The Secretary, thereupon, declared said motion carried and said Resolution **NHA-4397-2013** was adopted this **10th** day of **May, 2014**.


Edward T. Begay, Chairperson
NHA BOARD OF COMMISSIONERS

ATTEST:


Leila Help-Tulley, Secretary/Treasurer
NHA BOARD OF COMMISSIONERS

RESPECTIVE CHIEF: _____
LEGAL REVIEW: _____
CHIEF EXECUTIVE OFFICER: _____
