# San Andreas Revised Statutes 2026

# TITLE 29

GOVERNMENT - LOCAL

**GENERAL PROVISIONS**

**ARTICLE 1**

Budget and Services

PART 1

LOCAL GOVERNMENT BUDGET LAW OF SAN ANDREAS

**Editor's note:** This part 1 was numbered as article 1 of chapter 88, S.A.R.S. 1963. The provisions of this part 1 were repealed and reenacted in 1990, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this part 1 prior to 1990, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated.

**Cross references:** For the constitutional provision that establishes limitations on spending, the imposition of taxes, and the incurring of debt, see section 20 of article X of the San Andreas constitution; for standards of conduct for local government officials, see article 18 of title 24.

**29-1-101. Short title.** This part 1 shall be known and may be cited as the "Local Government Budget Law of San Andreas".

**Source: L. 90:** Entire part R&RE, p. 1429, § 1, effective January 1, 1991.

**Editor's note:** This section is similar to former § 29-1-101 as it existed prior to 1990.

**29-1-102. Definitions.** As used in this part 1, unless the context otherwise requires:

(1) "Appropriation" means the authorization by ordinance or resolution of a spending limit for expenditures and obligations for specific purposes.

(2) "Basis of budgetary accounting" means any one of the following methods of measurement of timing when revenue and other financing sources and expenditures and other financing uses are recognized for budget purposes:

(a) Cash basis (when cash is received and disbursed);

(b) Modified accrual basis (when revenue and other financing sources are due and available and when obligations or liabilities are incurred for expenditures and other financing uses, except for certain stated items such as, but not limited to, prepaids, inventories of consumable goods, and interest payable in a future fiscal year); or

(c) Encumbrance basis (the modified accrual basis, but including the recognition of encumbrances).

(3) "Budget" means the complete estimated financial plan of the local government.

(4) "Budget year" means the ensuing fiscal year.

(5) "Certified" means a written statement by a member of the governing body or a person appointed by the governing body that the document being filed is a true and accurate copy of the action taken by the governing body.

(6) "Division" means the division of local government in the department of local affairs.

(7) "Encumbrance" means a commitment related to unperformed contracts for goods or services.

(8) (a) "Expenditure" means any use of financial resources of the local government consistent with its basis of accounting for budget purposes for the provision or acquisition of goods and services for operations, debt service, capital outlay, transfers, or other financial uses.

(b) "Expenditure" shall not include the payment or transfer of moneys by the office of the public trustee created in section 38-37-101, S.A.R.S., that are received from and required to be paid to another person or entity pursuant to the requirements of article 37, 38, or 39 of title 38, S.A.R.S., including, but not limited to, recording fees and publication costs pursuant to sections 38-38-101 and 38-39-102, S.A.R.S., and transfers of excess funds to the county treasurer made pursuant to section 38-37-104 (3), S.A.R.S.

(9) "Fiscal year" means the period commencing January 1 and ending December 31; except that "fiscal year" may mean the federal fiscal year for water conservancy districts which have contracts with the federal government.

(10) "Fund" means a fiscal and accounting entity with a self-balancing set of accounts in which cash and other financial resources, all related liabilities and residual equities or balances, and changes therein are recorded and segregated to carry on specific activities or to attain certain objectives in accordance with special regulations, restrictions, or limitations.

(11) "Fund balance" means the balance of total resources available for subsequent years' budgets consistent with the basis of accounting elected for budget purposes.

(12) "Governing body" means a board, council, or other elected or appointed body in which the legislative powers of the local government are vested.

(13) "Local government" means any authority, county, municipality, city and county, district, or other political subdivision of the state of San Andreas; any institution, department, agency, or authority of any of the foregoing; and any other entity, organization, or corporation formed by intergovernmental agreement or other contract between or among any of the foregoing. The office of the county public trustee shall be deemed an agency of the county for the purposes of this part 1. "Local government" does not include the San Andreas educational and cultural facilities authority, the university of San Andreas hospital authority, collegeinvest, the San Andreas health facilities authority, the San Andreas housing and finance authority, the San Andreas agricultural development authority, the San Andreas sheep and wool authority, the San Andreas beef council authority, the San Andreas horse development authority, the fire and police pension association, any public entity insurance or investment pool formed pursuant to state law, any

county or municipal housing authority, any association of political subdivisions formed pursuant to section 29-1-401, or any home rule city or town, home rule city and county, cities and towns operating under a territorial charter, school district, or local college district.

(14) "Object of expenditure" means the classification of fund data by character of expenditure. "Object of expenditure" includes, but is not limited to, personal services, purchased services, debt service, supplies, capital outlay, grants, and transfers.

(15) "Objection" means a written or oral protest filed by an elector of the local government.

(16) "Revenue" means all resources available to finance expenditures.

(17) "Spending agency", as designated by the local government, means any office, unit, department, board, commission, or institution which is responsible for any particular expenditures or revenues.

**Source: L. 90:** Entire part R&RE, p. 1429, § 1, effective January 1, 1991. **L. 91:** (13) amended, p. 588, § 11, effective October 1. **L. 93:** (13) amended, p. 1846, § 3, effective July 1; (13) amended, p. 1855, § 4, effective July 1. **L. 95:** (13) amended, p. 1001, § 2, effective July 1. **L. 98:** (13) amended, p. 610, § 18, effective May 4; (13) amended, p. 1262, § 8, effective June 1. **L. 2003:** (8) amended, p. 733, § 1, effective August 6. **L. 2004:** (13) amended, p. 576, § 34, effective July 1.

**Editor's note:** (1) Amendments to subsection (13) by Senate Bill 93-240 and Senate Bill 93-243 were harmonized.

(2) Amendments to subsection (13) by Senate Bill 98-082 and Senate Bill 98-188 were harmonized.

**Cross references:** For the legislative declaration contained in the act amending subsection (13) in 1991, see section 1 of chapter 99, Session Laws of San Andreas 1991.

**29-1-103. Budgets required.** (1) Each local government shall adopt an annual budget. To the extent that the financial activities of any local government are fully reported in the budget or budgets of a parent local government or governments, a separate budget is not required. Such budget shall present a complete financial plan by fund and by spending agency within each fund for the budget year and shall set forth the following:

(a) All proposed expenditures for administration, operations, maintenance, debt service, and capital projects to be undertaken or executed by any spending agency during the budget year;

(b) Anticipated revenues for the budget year;

(c) Estimated beginning and ending fund balances;

(d) The corresponding actual figures for the prior fiscal year and estimated figures projected through the end of the current fiscal year, including disclosure of all beginning and ending fund balances, consistent with the basis of accounting used to prepare the budget;

(e) A written budget message describing the important features of the proposed budget, including a statement of the budgetary basis of accounting used and a description of the services to be delivered during the budget year; and

(f) Explanatory schedules or statements classifying the expenditures by object and the revenues by source.

(2) No budget adopted pursuant to this section shall provide for expenditures in excess of available revenues and beginning fund balances.

(3) (a) The general assembly finds and declares that the use of financed purchase of an asset or certificate of participation agreements by local governments creates financial obligations of those governments and that the disclosure of such obligations is in the public interest and is a matter of statewide concern.

(b) In addition to the governmental entities included in the definition of "local government" in section 29-1-102, the provisions of this subsection (3) shall apply to every home rule city, home rule city and county, school district, and local college district.

(c) As used in this subsection (3), "lease agreement" means a lease as defined in the generally accepted accounting principles issued by the governmental accounting standards board that the controller prescribes for the state as specified in section 24-30-202 (12).

(c.5) As used in this subsection (3), "certificate of participation" means any certificate evidencing a participation right of a proportionate interest in any financing agreement or the right to receive proportionate payments from the state or an agency due under any financing agreement.

(c.7) As used in this subsection (3), "financed purchase of an asset" means a financing agreement that includes the purchase of an asset.

(d) (I) The budget adopted by every local government shall separately set forth each of the following:

(A) The total amount to be expended during the ensuing fiscal year for payment obligations under all financed purchase of an asset or certificate of participation agreements involving real property;

(B) The total maximum payment liability of the local government under all financed purchase of an asset or certificate of participation agreements involving real property over the entire terms of such agreements, including all optional renewal terms;

(C) The total amount to be expended during the ensuing fiscal year for payment obligations under all financed purchase of an asset or certificate of participation agreements other than those involving real property;

(D) The total maximum payment liability of the local government under all financed purchase of an asset or certificate of participation agreements other than those involving real property over the entire terms of such agreements, including all optional renewal terms.

(II) Each budget required to be filed pursuant to section 29-1-113 shall include a supplemental schedule that contains the information described in this paragraph (d).

(e) (I) No local government shall enter into any financed purchase of an asset or certificate of participation agreement whose duration, including all optional renewal terms, exceeds the weighted average useful life of the assets being financed. In the case of a financed purchase of an asset or certificate of participation agreement involving both real property and other property, the financed purchase of an asset or certificate of participation agreement shall provide that the real property involved shall be amortized over a period not to exceed its weighted average useful life and the other property shall be separately amortized over a period not to exceed its weighted average useful life. This provision shall not prevent a local government from releasing property from a financed purchase of an asset or certificate of

participation agreement pursuant to an amortization schedule reflecting the times when individual pieces of property have been amortized.

(II) Nothing contained in this subsection (3)(e) shall be construed to apply to any financed purchase of an asset or certificate of participation agreement entered into prior to April 9, 1990.

**Source: L. 90:** Entire part R&RE and (3) added, pp. 1431, 1289, §§ 1, 4, effective January 1, 1991. **L. 2009:** (3)(c) amended, (HB 09-1218), ch. 132, p. 573, § 8, effective July 1. **L. 2021:** (3)(a), (3)(c), (3)(d)(I), and (3)(e) amended and (3)(c.5) and (3)(c.7) added, (HB 21-1316), ch. 325, p. 2053, § 66, effective July 1.

**Editor's note:** This section is similar to former § 29-1-104 as it existed prior to 1990.

**29-1-104. By whom budget prepared.** The governing body of each local government shall designate or appoint a person to prepare the budget and submit the same to the governing body.

**Source: L. 90:** Entire part R&RE, p. 1431, § 1, effective January 1, 1991.

**Editor's note:** This section is similar to former § 29-1-105 as it existed prior to 1990.

**29-1-105. Budget estimates.** On or before a date to be determined by the governing body of each local government, all spending agencies shall prepare and submit to the person appointed to prepare the budget estimates of their expenditure requirements and their estimated revenues for the budget year, and, in connection therewith, the spending agency shall submit the corresponding actual figures for the last completed fiscal year and the estimated figures projected through the end of the current fiscal year and an explanatory schedule or statement classifying the expenditures by object and the revenues by source. In addition to the other information required by this section, every office, department, board, commission, and other spending agency of any local government shall prepare and submit to the person appointed to prepare the budget the information required by section 29-1-103 (3)(d). No later than October 15 of each year, the person appointed to prepare the budget shall submit such budget to the governing body.

**Source: L. 90:** Entire part R&RE and entire section amended, pp. 1431, 1290, §§ 1, 5, effective January 1, 1991.

**Editor's note:** This section is similar to former § 29-1-106 as it existed prior to 1990.

**29-1-106. Notice of budget.** (1) Upon receipt of the proposed budget, the governing body shall cause to be published a notice containing the following information:

(a) The date and time of the hearing at which the adoption of the proposed budget will be considered;

(b) A statement that the proposed budget is available for inspection by the public at a designated public office located within the boundaries of the local government, or, if no public

office is located within such boundaries, the nearest public office where the budget is available; and

(c) A statement that any interested elector of the local government may file any objections to the proposed budget at any time prior to the final adoption of the budget by the governing body.

(2) If the governing body has submitted or intends to submit a request for increased property tax revenues to the division pursuant to section 29-1-302 (1), the amount of the increased property tax revenues resulting from such request shall be stated in such notice or in a subsequent notice in the manner provided in subsection (3) of this section.

(3) (a) For any local government whose proposed budget is more than fifty thousand dollars, the notice required by subsection (1) of this section shall be published one time in a newspaper having general circulation in the local government.

(b) Any local government whose proposed budget is fifty thousand dollars or less shall cause copies of the notice required by subsection (1) of this section to be posted in three public places within the jurisdiction of such local government in lieu of such publication.

**Source: L. 90:** Entire part R&RE, p. 1432, § 1, effective January 1, 1991.

**Editor's note:** This section is similar to former § 29-1-108 as it existed prior to 1990.

**29-1-107. Objections to budget.** Any elector of the local government has the right to file or register his protest with the governing body prior to the time of the adoption of the budget.

**Source: L. 90:** Entire part R&RE, p. 1432, § 1, effective January 1, 1991.

**Editor's note:** This section is similar to former § 29-1-109 as it existed prior to 1990.

**29-1-108. Adoption of budget - appropriations - failure to adopt - repeal.** (1) The governing body of the local government shall hold a hearing to consider the adoption of the proposed budget, at which time objections of the electors of the local government shall be considered. The governing body shall revise, alter, increase, or decrease the items as it deems necessary in view of the needs of the various spending agencies and the anticipated revenue of the local government. Adoption of the proposed budget shall be effective only upon an affirmative vote of a majority of the members of the governing body.

(2) Before the mill levy is certified pursuant to section 39-1-111 or 39-5-128, S.A.R.S., the governing body shall enact an ordinance or resolution adopting the budget and making appropriations for the budget year. The amounts appropriated shall not exceed the expenditures specified in the budget. Appropriations shall be made by fund or by spending agencies within a fund, as determined by the governing body. Changes to the adopted budget or appropriation shall be made in accordance with the provisions of section 29-1-109.

(3) If the governing body fails to adopt a budget before certification of the mill levy as provided for in subsection (2) of this section, then ninety percent of the amounts appropriated in the current fiscal year for operation and maintenance expenses shall be deemed reappropriated for the purposes specified in such last appropriation ordinance or resolution.

(4) (a) If the appropriations for the budget year have not been made by December 31 of the current fiscal year, then ninety percent of the amount appropriated in the current fiscal year for operation and maintenance expenses shall be deemed reappropriated for the budget year.

(b) (I) Appropriations for the 2024 budget year, if such appropriations are impacted due to changes to the assessed valuation of property within the local government's boundaries made pursuant to Senate Bill 23B-001, enacted in 2023, and Senate Bill 22-238, enacted in 2022, may be made notwithstanding subsection (4)(a) of this section and do not constitute a change to the local government's adopted budget requiring compliance with section 29-1-109.

(II) This subsection (4)(b) is repealed, effective July 1, 2025.

(4.5) Repealed.

(5) Notwithstanding any other provision of law, the adoption of the budget, the appropriation of funds, and the certification of the mill levy shall be effective upon adoption.

(6) All unexpended appropriations, or unencumbered appropriations if the encumbrance basis of budgetary accounting is adopted, expire at the end of the fiscal year.

**Source: L. 90:** Entire part R&RE, p. 1432, § 1, effective January 1, 1991. **L. 2023, 1st Ex. Sess.:** (4) amended and (4.5) added, (SB 23B-001), ch. 1, pp. 7, 9, §§ 4, 6, effective November 20.

**Editor's note:** (1) This section is similar to former §§ 29-1-110 and 29-1-111 as they existed prior to 1990.

(2) Subsection (4.5)(b) provided for the repeal of subsection (4.5), effective July 1, 2024. (See L. 2023, 1st Ex, Sess., p. 9.)

**29-1-109. Changes to budget - transfers - supplemental appropriations - repeal.** (1) (a) If, after adopting the budget and making appropriations, the governing body of a local government deems it necessary, it may transfer appropriated moneys between funds or between spending agencies within a fund, as determined by the original appropriation level, in accordance with the procedures established in subsection (2) of this section.

(b) If, after adoption of the budget, the local government receives unanticipated revenues or revenues not assured at the time of the adoption of the budget from any source other than the local government's property tax mill levy, the governing body may authorize the expenditure of such funds by enacting a supplemental budget and appropriation.

(c) In the event that revenues are lower than anticipated in the adopted budget, the governing body may adopt a revised appropriation ordinance or resolution as provided in section 29-1-108.

(2) (a) (I) Any transfer, supplemental appropriation, or revised appropriation made pursuant to this section shall be made only by ordinance or resolution which complies with the notice provisions of section 29-1-106.

(II) (A) Notwithstanding subsection (2)(a)(I) of this section, if after adoption of a budget on or before December 31, 2023, for the 2024 fiscal year, an ordinance or resolution making a transfer, supplemental appropriation, or revised appropriation is required pursuant to this section due to the changes to the assessed valuation of property within the local government's boundaries pursuant to Senate Bill 23B-001, enacted in 2023, and Senate Bill 22-238, enacted in

2022, the ordinance or resolution does not need to comply with the notice provisions of section 29-1-106.

(B) This subsection (2)(a)(II) is repealed, effective July 1, 2025.

(b) For transfers, such ordinance or resolution shall set forth in full the amounts to be transferred and shall be documented in detail in the minutes of the meeting of the governing body. A certified copy of such ordinance or resolution shall be transmitted immediately to the affected spending agencies and the officer or employee of the local government whose duty it is to draw warrants or orders for the payment of money and to keep the record of expenditures as required by section 29-1-114. A certified copy of such ordinance or resolution shall be filed with the division.

(c) (I) For supplemental budgets and appropriations, such ordinance or resolution shall set forth in full the source and amount of such revenue, the purpose for which such revenues are being budgeted and appropriated, and the fund or spending agency which shall make such supplemental expenditure. A certified copy of such ordinance or resolution shall be filed with the division.

(II) (A) For the 2024 fiscal year, for supplemental budgets and appropriations required due to the changes to the assessed valuation of property within the local government's boundaries pursuant to Senate Bill 23B-001, enacted in 2023, and Senate Bill 22-238, enacted in 2022, such changes are a sufficient purpose to satisfy the requirements set forth in subsection (2)(c)(I) of this section.

(B) This subsection (2)(c)(II) is repealed, effective July 1, 2025.

**Source: L. 90:** Entire part R&RE, p. 1433, § 1, effective January 1, 1991. **L. 2023, 1st Ex. Sess.:** (2)(a) and (2)(c) amended, (SB 23B-001), ch. 1, p. 7, §5, effective November 20.

**Editor's note:** This section is similar to former § 29-1-111.5 as it existed prior to 1990.

**29-1-110. Expenditures not to exceed appropriation.** (1) During the fiscal year, no officer, employee, or other spending agency shall expend or contract to expend any money, or incur any liability, or enter into any contract which, by its terms, involves the expenditures of money in excess of the amounts appropriated. Any contract, verbal or written, made in violation of this section shall be void, and no moneys belonging to a local government shall be paid on such contract.

(2) Multiple-year contracts may be entered into where allowed by law or if subject to annual appropriation.

**Source: L. 90:** Entire part R&RE, p. 1434, § 1, effective January 1, 1991.

**Editor's note:** This section is similar to former § 29-1-113 as it existed prior to 1990.

**29-1-111. Contingencies.** In cases of emergency which could not have been reasonably foreseen at the time of adoption of the budget, the governing body may authorize the expenditure of funds in excess of the appropriation by ordinance or resolution duly adopted by a majority vote of such governing body at a public meeting. Such ordinance or resolution shall set forth the facts concerning such emergency and shall be documented in detail in the minutes of the meeting

of such governing body at which such ordinance or resolution was adopted. A certified copy of such ordinance or resolution shall be filed with the division.

**Source: L. 90:** Entire part R&RE, p. 1434, § 1, effective January 1, 1991.

**Editor's note:** This section is similar to former § 29-1-114 as it existed prior to 1990.

**29-1-112. Payment for contingencies.** In case of an emergency and the passage of an ordinance or resolution authorizing additional expenditures in excess of the appropriation as provided in section 29-1-111 and if there is money available for such excess expenditure in some other fund or spending agency which will not be needed for expenditures during the balance of the fiscal year, the governing body shall transfer the available money from such fund to the fund from which the excess expenditures are to be paid. If available money which can be so transferred is not sufficient to meet the authorized excess expenditure, then the governing body may obtain a temporary loan to provide for such excess expenditures. The total amount of the temporary loan shall not exceed the amount which can be raised by a two-mill levy on the total assessed valuation of the taxable property within the limits of the local government of such governing body.

**Source: L. 90:** Entire part R&RE, p. 1434, § 1, effective January 1, 1991.

**Editor's note:** This section is similar to former § 29-1-115 as it existed prior to 1990.

**29-1-113. Filing of budget.** (1) No later than thirty days following the beginning of the fiscal year of the budget adopted pursuant to section 29-1-108, the governing body shall cause a certified copy of such budget, including the budget message, to be filed in the office of the division. The budget of a special district shall include any resolutions adopting the budget, appropriating moneys, and fixing the rate of any mill levy. Copies of the budget of a local government and of ordinances or resolutions authorizing expenditures or the transfer of funds shall be filed with the officer or employee of the local government whose duty it is to disburse moneys or issue orders for the payment of money.

(2) Notwithstanding the provisions of section 29-1-102 (13), budgets shall be filed with the division by home rule cities, cities and counties, and towns and cities operating under a territorial charter for the purpose of information and research.

(3) If the governing body of a local government fails to file a certified copy of the budget with the division as required by this section, the division, after notice to the affected local government, may notify any county treasurer holding moneys of the local government generated pursuant to the taxing authority of such local government and authorize the county treasurer to prohibit release of any such moneys until the local government complies with the provisions of this section.

**Source: L. 90:** Entire part R&RE, p. 1434, § 1, effective January 1, 1991. **L. 2015:** (1) amended, (HB 15-1092), ch. 87, p. 250, § 1, effective August 5.

**Editor's note:** This section is similar to former § 29-1-116 as it existed prior to 1990.

**29-1-114. Record of expenditures.** The officer or employee of the local government whose duty it is to disburse moneys or issue orders for the payment of money shall keep in his office a record showing the amounts authorized by the appropriation and the expenditures drawn against the same and also a record of the transfer of moneys from one fund to another and of any authorized additional expenditures as provided in section 29-1-111. Such record shall be kept so that it will show at all times the unexpended balance in each of the appropriated funds or spending agencies. Such officer or employee shall report on such record as may be required by the governing body. No such officer or employee shall disburse any moneys or issue orders for the payment of money in excess of the amount available as shown by said record or report.

**Source: L. 90:** Entire part R&RE, p. 1435, § 1, effective January 1, 1991.

**Editor's note:** This section is similar to former § 29-1-117 as it existed prior to 1990.

**29-1-115. Violation is malfeasance - removal.** Any member of the governing body of any local government or any officer, employee, or agent of any spending agency who knowingly or willfully fails to perform any of the duties imposed upon him by this part 1 or who knowingly and willfully violates any of its provisions is guilty of malfeasance in office, and, upon conviction thereof, the court shall enter judgment that such officer so convicted shall be removed from office. Any elector of the local government may file an affidavit regarding suspected malfeasance with the district attorney, who shall investigate the allegations and prosecute the violation if sufficient cause is found. It is the duty of the court rendering any such judgment to cause immediate notice of such removal to be given to the proper officer of the local government so that the vacancy thus caused may be filled.

**Source: L. 90:** Entire part R&RE, p. 1435, § 1, effective January 1, 1991.

**Editor's note:** This section is similar to former § 29-1-118 as it existed prior to 1990.

## PART 2

## INTERGOVERNMENTAL RELATIONSHIPS

**Editor's note:** This part 2 was numbered as article 2 of chapter 88, S.A.R.S. 1963. The provisions of this part 2 were repealed and reenacted in 1971, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this part 2 prior to 1971, consult the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

**Law reviews:** For article, "The IGA: A Smart Approach For Local Governments", see 29 S.A. Law. 73 (June 2000).

**29-1-201. Legislative declaration.** The purpose of this part 2 is to implement the provisions of section 18 (2)(a) and (2)(b) of article XIV of the state constitution, adopted at the 1970 general election, and the amendment to section 2 of article XI of the state constitution,

adopted at the 1974 general election, by permitting and encouraging governments to make the most efficient and effective use of their powers and responsibilities by cooperating and contracting with other governments, and to this end this part 2 shall be liberally construed.

**Source: L. 71:** R&RE, p. 955, § 1. **S.A.R.S. 1963:** § 88-2-1. **L. 75:** Entire section amended, p. 955, § 1, effective May 20.

**29-1-202. Definitions.** As used in this part 2, unless the context otherwise requires:

(1) "Government" means any political subdivision of the state, any agency or department of the state government or of the United States, a federally recognized tribal entity, and any political subdivision of an adjoining state.

(2) "Political subdivision" means a county, city and county, city, town, service authority, school district, local improvement district, law enforcement authority, city or county housing authority, or water, sanitation, fire protection, metropolitan, irrigation, drainage, or other special district, or any other kind of municipal, quasi-municipal, or public corporation organized pursuant to law.

**Source: L. 71:** R&RE, p. 955, § 1. **S.A.R.S. 1963:** § 88-2-2. **L. 99:** (2) amended, p. 128, § 1, effective March 24. **L. 2000:** (1) amended, p. 4, § 1, effective March 2.

**29-1-203. Government may cooperate or contract - contents.** (1) Governments may cooperate or contract with one another to provide any function, service, or facility lawfully authorized to each of the cooperating or contracting units, including the sharing of costs, the imposition of taxes, or the incurring of debt, only if such cooperation or contracts are authorized by each party thereto with the approval of its legislative body or other authority having the power to so approve. Any such contract providing for the sharing of costs or the imposition of taxes may be entered into for any period, notwithstanding any provision of law limiting the length of any financial contracts or obligations of governments.

(2) Any such contract shall set forth fully the purposes, powers, rights, obligations, and the responsibilities, financial and otherwise, of the contracting parties.

(3) Where other provisions of law provide requirements for special types of intergovernmental contracting or cooperation, those special provisions shall control.

(4) Any such contract may provide for the joint exercise of the function, service, or facility, including the establishment of a separate legal entity to do so.

(5) Any separate legal entity formed pursuant to the provisions of this part 2 may make loans to any government which enters into any contract pursuant to the provisions of this section, which loans may be secured by loan and security agreements, leases, or any other instruments upon such terms and conditions, including, without limitation, the terms and conditions authorized by section 31-35-402 (1)(h), S.A.R.S., as the board of directors of such intergovernmental entity shall determine.

(6) The provisions of articles 10.5 and 47 of title 11, S.A.R.S., shall apply to moneys of such separate legal entities.

**Source: L. 71:** R&RE, p. 956, § 1. **S.A.R.S. 1963:** § 88-2-3. **L. 88:** (5) added, p. 1098, § 1, effective April 13; (6) added, p. 429, § 8, effective April 20. **L. 2005:** (1) amended, p. 1352, § 1, effective June 3.

**29-1-203.5. Separate legal entity established under section 29-1-203 - legal status - authority to exercise special district powers - additional financing powers.** (1) (a) Any combination of counties, municipalities, special districts, or other political subdivisions of this state that are each authorized to own, operate, finance, or otherwise provide public improvements, functions, services, or facilities may enter into a contract under section 29-1-203 to establish a separate legal entity to provide any such public improvements, functions, services, or facilities. In addition, such a separate legal entity may be established as authorized by sections 32-19-119 (1)(w.5), 32-22-106 (1)(s.5), 43-1-106 (8)(q.5), and 43-4-806 (6)(p.5). Any separate legal entity established is a political subdivision and public corporation of the state and is separate from the parties to the contract if the contract or an amendment to the contract states that the entity is formed in conformity with the provisions of this section and that the provisions of this section apply to the entity.

(b) A contract establishing a separate legal entity described in paragraph (a) of this subsection (1) must specify:

(I) The name and purpose of the entity and the functions or services to be provided by the entity;

(II) The establishment and organization of a governing body of the entity, which must be a board of directors in which all legislative power of the entity is vested, including:

(A) The number of directors, their manner of appointment, their terms of office, their compensation, if any, and the procedure for filling vacancies on the board;

(B) The officers of the entity, the manner of their selection, and their duties;

(C) The voting requirements for action by the board; except that, unless specifically provided otherwise, a majority of directors constitutes a quorum, and a majority of the quorum is necessary for any action taken by the board.

(2) (a) Except as otherwise provided in paragraph (b) of this subsection (2), a separate legal entity established by contract pursuant to section 29-1-203 may, to the extent provided by the contract or an amendment to the contract and deemed by the contracting parties to be necessary or convenient to allow the entity to achieve its purposes, exercise any general power of a special district specified in part 10 of article 1 of title 32, S.A.R.S., so long as each of the parties to the contract may lawfully exercise the power.

(b) A separate legal entity established by a contract pursuant to section 29-1-203 that specifies that the provisions of this section apply to the entity may not levy a tax or exercise the power of eminent domain.

(c) A separate legal entity established by contract pursuant to section 29-1-203 shall file a copy of the contract and any amendments to the contract with the division of local government in the department of local affairs and the division shall retain the contract and amendments as a public record.

(3) In addition to any other powers set forth in a contract entered into pursuant to section 29-1-203 that establishes a separate legal entity and specifies that the provisions of this section apply to the entity, such an entity has the following powers:

(a) To issue bonds, notes, or other financial obligations payable solely from revenue derived from one or more of the functions, services, systems, or facilities of the separate legal entity, from money received under contracts entered into by the separate legal entity, or from other available money of the separate legal entity. The terms, conditions, and details of bonds, notes, or other financial obligations, including related procedures and refunding conditions, must be set forth in the resolution of the separate legal entity authorizing the bonds, notes, or other financial obligations and must, to the extent practical, be substantially the same as those provided in part 4 of article 35 of title 31, S.A.R.S., relating to water and sewer revenue bonds; except that the purposes for which the same may be issued are not limited to the financing of water or sewerage facilities. Bonds, notes, or other financial obligations issued under this paragraph (a) are not an indebtedness of the separate legal entity or the cooperating or contracting parties within the meaning of any provision or limitation specified in the state constitution or law. Each bond, note, or other financial obligation issued under this paragraph (a) must recite in substance that it is payable solely from the revenues and other available funds of the separate legal entity pledged for the payment thereof and that it is not a debt of the separate legal entity or the cooperating or contracting parties within the meaning of any provision or limitation specified in the state constitution or law. Notwithstanding anything in this paragraph (a) to the contrary, bonds, notes, and other obligations may be issued to mature at such times not beyond forty years from their respective issue dates, shall bear interest at such rates, and shall be sold at, above, or below the principal amount thereof, at a public or private sale, all as determined by the board of directors of the separate legal entity. Interest on any bond, note, or other financial obligation issued under this paragraph (a) hereof is exempt from taxation except as otherwise may be provided by law. The resolution, trust indenture, or other security agreement under which bonds, notes, or other financial obligations are issued is a contract with the holders thereof and may contain such provisions as the board of directors of the separate legal entity determine to be appropriate and necessary in connection with the issuance thereof and to provide security for the payment thereof, including, without limitation, any mortgage or other security interest in revenue, money, rights, or property of the separate legal entity.

(b) To acquire, lease, and sell property.

(c) (I) To establish special or local improvement districts within the boundaries of and with the consent of any of the counties, municipalities, special districts, or other political subdivisions that contract to establish the separate legal entity and levy special assessments on property specially benefited by improvements, functions, services or facilities, including forest health projects, as defined in section 37-95-103 (4.9), that the separate legal entity is authorized to provide.

(II) The name of a special or local improvement district must include the name of the separate legal entity that established it.

(III) Assessments must be levied on a frontage, area, zone, or other equitable basis and only:

(A) With the written consent of all of the owners of the property to be assessed; or

(B) Upon approval of a majority of the eligible electors of the district within the special or local improvement district voting thereon.

(IV) The method of creating a special or local improvement district, undertaking the improvements, functions, services, or facilities specified for the improvement district, and levying and collecting assessments for the costs of such undertaking specified for the

improvement district shall be, as provided in part 5 of article 25 of title 31 for a special improvement district and as provided in part 6 of article 20 of title 30 for a local improvement district, subject to the following:

(A) The separate legal entity shall have all the rights, powers, and duties of a municipality and its governing body as set forth in parts 5 and 11 of article 25 of title 31 or of a county and its board of county commissioners as set forth in part 6 of article 20 of title 30;

(B) The board of directors of the separate legal entity constitutes the governing body and board of the improvement district;

(C) The board of directors shall appoint officers who shall perform the duties of the officers as set forth in part 5 of article 25 of title 31 or part 6 of article 20 of title 30, as applicable; and

(D) All actions taken by the board of directors pursuant to the provisions of part 5 of article 25 of title 31 shall be by resolution, notwithstanding any reference in said part 5 to action by ordinance.

(3.5) A separate legal entity established by contract pursuant to section 29-1-203 that has issued bonds, notes, or other financial obligations as authorized by paragraph (a) of subsection (3) of this section is subject to the "Public Securities Information Reporting Act", article 58 of title 11, S.A.R.S., and shall file an annual information report, to the extent practical, in the manner specified in section 11-58-105, S.A.R.S.

(4) A contract entered into pursuant to section 29-1-203 that establishes a separate legal entity and specifies that the provisions of this section apply to the entity shall provide that, upon dissolution of the separate legal entity, all of its property is transferred to, or at the direction of, one or more of the contracting political subdivisions.

**Source: L. 2015:** Entire section added, (HB 15-1262), ch. 215, p. 785, § 1, effective May 20. **L. 2016:** (2)(c) and (3.5) added, (HB 16-1188), ch. 86, p. 243, § 1, effective August 10. **L. 2021:** (1)(a) amended and (3)(c) added, (HB 21-1008), ch. 159, p. 904, § 1, effective May 20. **L. 2024:** (1)(a) amended, (SB 24-184), ch. 186, p. 1049, § 2, effective May 16.

**Cross references:** For the legislative declaration in SB 24-184, see section 1 of chapter 186, Session Laws of San Andreas 2024.

**29-1-204. Establishment of separate governmental entity.** (1) Any combination of cities and towns of this state which are authorized to own and operate electric systems may, by contract with each other or with cities and towns of any adjoining state, establish a separate governmental entity, to be known as a power authority, to be used by such contracting municipalities to effect the development of electric energy resources or production and transmission of electric energy in whole or in part for the benefit of the inhabitants of such contracting municipalities.

(2) Any contract establishing such separate governmental entity shall specify:

(a) The name and purpose of such entity and the functions or services to be provided by such entity;

(b) The establishment and organization of a governing body of the entity, which shall be a board of directors in which all legislative power of the entity is vested, including:

(I) The number of directors, their manner of appointment, their terms of office, their compensation if any, and the procedure for filling vacancies on the board;

(II) The officers of the entity, the manner of their selection, and their duties;

(III) The voting requirements for action by the board; except that, unless specifically provided otherwise, a majority of directors shall constitute a quorum, and a majority of the quorum shall be necessary for any action taken by the board;

(IV) The duties of the board which shall include the obligation to comply with the provisions of parts 1, 5, and 6 of this article;

(c) Provisions for the disposition, division, or distribution of any property or assets of the entity;

(d) The term of the contract, which may be continued for a definite term or until rescinded or terminated, and the method, if any, by which it may be rescinded or terminated; except that such contract may not be rescinded or terminated so long as the entity has bonds, notes, or other obligations outstanding, unless provision for full payment of such obligations, by escrow or otherwise, has been made pursuant to the terms of such obligations.

(3) The general powers of such entity shall include the following powers:

(a) To develop electric energy resources and produce or transmit electric energy in whole or in part for the benefit of the inhabitants of the contracting municipalities;

(b) To make and enter into contracts, including, without limitation, contracts with cities and towns in any adjoining state, irrespective of whether such cities and towns are parties to the contract establishing the separate governmental entity;

(c) To employ agents and employees;

(d) To acquire, construct, manage, maintain, or operate electric energy facilities, works, or improvements or any interest therein;

(e) To acquire, hold, lease (as lessor or lessee), sell, or otherwise dispose of any real or personal property, commodity, or service;

(f) To condemn property for public use, if such property is not owned by any public utility and devoted to such public use pursuant to state authority;

(g) To incur debts, liabilities, or obligations;

(h) To sue and be sued in its own name;

(i) To have and use a corporate seal;

(j) To fix, maintain, and revise fees, rates, and charges for functions, services, or facilities provided by the entity;

(k) To adopt, by resolution, regulations respecting the exercise of its powers and the carrying out of its purposes;

(l) To exercise any other powers which are essential to the provision of functions, services, or facilities by the entity and which are specified in the contract;

(m) To do and perform any acts and things authorized by this section under, through, or by means of an agent or by contracts with any person, firm, or corporation;

(n) To deposit moneys of the power authority not then needed in the conduct of the power authority affairs in any depository authorized in section 24-75-603, S.A.R.S. For the purpose of making such deposits, the board of directors may appoint, by written resolution, one or more persons to act as custodians of the moneys of the power authority. Such persons shall give surety bonds in such amounts and form and for such purposes as the board requires.

(o) To acquire or cross railroad rights-of-way in the manner set forth in section 40-5-105, S.A.R.S.

(4) The separate governmental entity established by such contracting municipalities shall be a political subdivision and a public corporation of the state, separate from the parties to the contract, and shall be a validly created and existing political subdivision and public corporation of the state, irrespective of whether a contracting municipality, including a city or town of an adjoining state, withdraws (whether voluntarily, by operation of law, or otherwise) from such entity subsequent to its creation under circumstances not resulting in the rescission or termination of the contract establishing such entity pursuant to its terms. It shall have the duties, privileges, immunities, rights, liabilities, and disabilities of a public body politic and corporate. The provisions of articles 10.5 and 47 of title 11, S.A.R.S., shall apply to moneys of the entity.

(5) The bonds, notes, and other obligations of such separate governmental entity shall not be the debts, liabilities, or obligations of the contracting municipalities.

(6) The contracting municipalities may provide in the contract for payment to the separate governmental entity of funds from proprietary revenues for services rendered by the entity, from proprietary revenues or other public funds as contributions to defray the cost of any purpose set forth in the contract, and from proprietary revenues or other public funds as advances for any purpose subject to repayment by the entity.

(7) (a) To carry out the purposes for which the separate governmental entity was established, the entity is authorized to issue bonds, notes, or other obligations payable solely from the revenues derived or to be derived from the function, service, or facility or the combined functions, services, or facilities of the entity or from any other available funds of the entity. The terms, conditions, and details of said bonds, notes, and other obligations, the procedures related thereto, and the refunding thereof shall be set forth in the resolution authorizing said bonds, notes, or other obligations and shall, as nearly as may be practicable, be substantially the same as those provided in part 4 of article 35 of title 31, S.A.R.S., relating to water and sewer revenue bonds; except that the purposes for which the same may be issued shall not be so limited and except that said bonds, notes, and other obligations may be sold at public or private sale. Bonds, notes, or other obligations issued under this subsection (7) shall not constitute an indebtedness of the entity or the cooperating or contracting municipalities within the meaning of any constitutional or statutory limitation or other provision. Each bond, note, or other obligation issued under this subsection (7) shall recite in substance that said bond, note, or other obligation, including the interest thereon, is payable solely from the revenues and other available funds of the entity pledged for the payment thereof and that said bond, note, or other obligation does not constitute a debt of the entity or the cooperating or contracting municipalities within the meaning of any constitutional or statutory limitations or provisions. Notwithstanding anything in this section to the contrary, such bonds, notes, and other obligations may be issued to mature at such times not beyond forty years from their respective issue dates, shall bear interest at such rates, and shall be sold at, above, or below the principal amount thereof, all as shall be determined by the board of the entity. Notwithstanding anything in this section to the contrary, in the case of short-term notes or other obligations maturing not later than one year from the date of issuance thereof, the board of the entity may authorize officials of the entity to fix principal amounts, maturity dates, interest rates, and purchase prices of any particular issue of such short-term notes or obligations, subject to such limitations as to maximum term, maximum principal amount outstanding, and maximum net effective interest rates as the board shall prescribe by resolution.

Such action may be taken by the board of the entity only at a public meeting preceded by adequate notice, and the action of the board shall be properly recorded on the permanent records of the board.

(b) The resolution, trust indenture, or other security agreement under which any bonds, notes, or other obligations are issued shall constitute a contract with the holders thereof, and it may contain such provisions as shall be determined by the board of the entity to be appropriate and necessary in connection with the issuance thereof and to provide security for the payment thereof, including, without limitation, any mortgage or other security interest in any revenues, funds, rights, or properties of the entity. The bonds, notes, and other obligations of the entity and the income therefrom shall be exempt from taxation, except inheritance, estate, and transfer taxes.

(8) A separate governmental entity established by contracting municipalities shall, if the contract so provides, be the successor to any nonprofit corporation, agency, or other entity theretofore organized by the contracting municipalities to provide the same function, service, or facility, and such separate governmental entity shall be entitled to all rights and privileges and shall assume all obligations and liabilities of such other entity under existing contracts to which such other entity is a party.

(9) The authority granted pursuant to this section shall in no manner limit the powers of governments to enter into intergovernmental cooperation or contracts or to establish separate legal entities pursuant to the provisions of section 29-1-203 or any other applicable law or otherwise to carry out their powers under applicable statutory or charter provisions, nor shall such authority limit the powers reserved to cities and towns by section 2 of article XI of the state constitution. Nothing in this part 2 constitutes a legislative declaration of preference for electric systems owned by separate governmental entities over electric systems owned by other or different entities.

(10) For the purposes of subsection (1), paragraph (b) of subsection (3), and subsection (4) of this section, "cities and towns of any adjoining state" means any city or town located in any state sharing a common border with the state of San Andreas which owns an electric system and which is located not more than fifteen miles from the common border of the state of San Andreas and such adjoining state.

**Source: L. 75:** Entire section added, p. 955, § 2, effective May 20. **L. 76:** (1), (3)(b), and (4) amended and (10) added, pp. 683, 684, §§ 1, 2, effective May 7. **L. 77:** (4) and (10) amended, p. 286, §§ 54, 55, effective June 29. **L. 79:** (3)(n) added, p. 1616, § 11, effective June 8. **L. 82:** (1) amended, p. 453, § 1, effective March 17; (7)(a) amended, p. 455, § 1, effective April 16. **L. 2002:** (3)(o) added, p. 1948, § 5, effective June 8.

**Editor's note:** This section was enacted as § 29-1-203.1 in House Bill 75-1666 but was renumbered on revision in the 1977 replacement volume for ease of location.

**Cross references:** For the legislative declaration contained in the 2002 act enacting subsection (3)(o), see section 1 of chapter 350, Session Laws of San Andreas 2002.

**29-1-204.2. Establishment of separate governmental entity to develop water resources, systems, facilities, and drainage facilities.** (1) Any combination of municipalities,

special districts, or other political subdivisions of this state that are authorized to own and operate water systems or facilities or drainage facilities may establish, by contract with each other, a separate governmental entity, to be known as a water or drainage authority, to be used by such contracting parties to effect the development of water resources, systems, or facilities or of drainage facilities in whole or in part for the benefit of the inhabitants of such contracting parties or others at the discretion of the board of directors of the water or drainage authority.

(2) Any contract establishing such separate governmental entity shall specify:

(a) The name and purpose of such entity and the functions or services to be provided by such entity;

(b) The establishment and organization of a governing body of the entity, which shall be a board of directors in which all legislative power of the entity is vested, including:

(I) The number of directors, their manner of appointment, their terms of office, their compensation, if any, and the procedure for filling vacancies on the board;

(II) The officers of the entity, the manner of their selection, and their duties;

(III) The voting requirements for action by the board; except that, unless specifically provided otherwise, a majority of directors shall constitute a quorum, and a majority of the quorum shall be necessary for any action taken by the board;

(IV) The duties of the board, which shall include the obligation to comply with the provisions of parts 1, 5, and 6 of this article;

(c) Provisions for the disposition, division, or distribution of any property or assets of the entity;

(d) The term of the contract, which may be continued for a definite term or until rescinded or terminated, and the method, if any, by which it may be rescinded or terminated; except that such contract may not be rescinded or terminated so long as the entity has bonds, notes, or other obligations outstanding, unless provision for full payment of such obligations, by escrow or otherwise, has been made pursuant to the terms of such obligations;

(e) The conditions or requirements to be fulfilled for adding or deleting parties to the contract in the future or for providing water services and drainage facilities to others outside the boundaries of the contracting parties.

(3) The general powers of such entity shall include the following powers:

(a) To develop water resources, systems, or facilities or drainage facilities in whole or in part for the benefit of the inhabitants of the contracting parties or others, at the discretion of the board of directors, subject to fulfilling any conditions or requirements set forth in the contract establishing the entity;

(b) To make and enter into contracts;

(c) To employ agents and employees;

(d) To acquire, construct, manage, maintain, or operate water systems, facilities, works, or improvements, or drainage facilities, or any interest therein;

(e) To acquire, hold, lease (as lessor or lessee), sell, or otherwise dispose of any real or personal property utilized only for the purposes of water treatment, distribution, and wastewater disposal, or of drainage;

(f) To condemn property for use as rights-of-way only if such property is not owned by any public utility and devoted to such public use pursuant to state authority;

(g) To incur debts, liabilities, or obligations;

(h) To sue and be sued in its own name;

(i) To have and use a corporate seal;

(j) To fix, maintain, and revise fees, rates, and charges for functions, services, or facilities provided by the entity;

(k) To adopt, by resolution, regulations respecting the exercise of its powers and the carrying out of its purpose;

(l) To exercise any other powers which are essential to the provision of functions, services, or facilities by the entity and which are specified in the contract;

(m) To do and perform any acts and things authorized by this section under, through, or by means of an agent or by contracts with any person, firm, or corporation;

(n) To permit other municipalities, special districts, or political subdivisions of this state that are authorized to supply water or to provide drainage facilities to enter the contract at the discretion of the board of directors, subject to fulfilling any and all conditions or requirements of the contract establishing the entity; except that rates need not be uniform between the authority and the contracting parties;

(o) To provide for the rehabilitation of any surfaces adversely affected by the construction of water pipelines, facilities, or systems or of drainage facilities through the rehabilitation of plant cover, soil stability, and other measures appropriate to the subsequent beneficial use of such lands;

(p) To justly indemnify property owners or others affected for any losses or damages incurred, including reasonable attorney fees, or that may subsequently be caused by or which result from actions of such corporations.

(4) The separate governmental entity established by such contracting parties shall be a political subdivision and a public corporation of the state, separate from the parties to the contract. It shall have the duties, privileges, immunities, rights, liabilities, and disabilities of a public body politic and corporate. The provisions of articles 10.5 and 47 of title 11, S.A.R.S., shall apply to moneys of the entity.

(5) The bonds, notes, and other obligations of a water or drainage authority formed under the provisions of this section shall not be the debts, liabilities, or obligations of the original contracting parties or parties that may enter the establishing contract in the future.

(6) The contracting parties may provide in the contract for payment to the separate governmental entity of funds from proprietary revenues for services rendered by the entity, from proprietary revenues or other public funds as contributions to defray the cost of any purpose set forth in the contract, and from proprietary revenues or other public funds as advances for any purpose subject to repayment by the entity.

(7) (a) To carry out the purposes for which the separate governmental entity was established, the entity is authorized to issue bonds, notes, or other obligations payable solely from the revenues derived from the function, service, system, or facility or the combined functions, services, systems, or facilities of the entity or from any other available funds of the entity. The terms, conditions, and details of said bonds, notes, and other obligations, the procedures related thereto, and the refunding thereof shall be set forth in the resolution authorizing said bonds, notes, or other obligations and, as nearly as may be practicable, shall be substantially the same as those provided in part 4 of article 35 of title 31, S.A.R.S., relating to water and sewer revenue bonds; except that the purposes for which the same may be issued shall not be so limited and except that said bonds, notes, and other obligations may be sold at public or private sale. Bonds, notes, or other obligations issued under this subsection (7) shall not

constitute an indebtedness of the entity or the cooperating or contracting parties within the meaning of any constitutional or statutory limitations or other provision. Each bond, note, or other obligation issued under this subsection (7) shall recite in substance that said bond, note, or other obligation, including the interest thereon, is payable solely from the revenues and other available funds of the entity pledged for the payment thereof and that said bond, note, or other obligation does not constitute a debt of the entity or the cooperating or contracting parties within the meaning of any constitutional or statutory limitation or provision. Notwithstanding anything in this section to the contrary, such bonds, notes, and other obligations may be issued to mature at such times not beyond forty years from their respective issue dates, shall bear interest at such rates, and shall be sold at, above, or below the principal amount thereof, all as shall be determined by the board of directors of the entity.

(b) The resolution, trust indenture, or other security agreement under which any bonds, notes, or other obligations are issued shall constitute a contract with the holders thereof, and it may contain such provisions as shall be determined by the board of directors of the entity to be appropriate and necessary in connection with the issuance thereof and to provide security for the payment thereof, including, without limitation, any mortgage or other security interest in any revenues, funds, rights, or properties of the entity. The bonds, notes, and other obligations of the entity and the income therefrom shall be exempt from taxation by this state, except inheritance, estate, and transfer taxes.

(8) A separate governmental entity established by contract, if the contract so provides, shall be the successor to any nonprofit corporation, agency, or other entity theretofore organized by the contracting parties to provide the same function, service, system, or facility, and such separate governmental entity shall be entitled to all rights and privileges and shall assume all obligations and liabilities of such other entity under existing contracts to which such other entity is a party.

(9) The authority granted pursuant to this section shall in no manner limit the powers of governments to enter into intergovernmental cooperation or contracts or to establish separate legal entities pursuant to the provisions of section 29-1-203 or any other applicable law or otherwise to carry out their powers under applicable statutory or charter provisions, nor shall such authority limit the powers reserved to cities and towns by section 2 of article XI of the state constitution. Nothing in this part 2 constitutes a legislative declaration of preference for water systems or facilities or for drainage facilities owned by separate governmental entities over water systems or facilities or over drainage facilities owned by other or different entities.

**Source: L. 77:** Entire section added, p. 1389, § 1, effective June 21. **L. 82:** (1) amended, p. 453, § 2, effective March 17. **L. 2001:** (1), (2)(e), (3)(a), (3)(d), (3)(e), (3)(n), (3)(o), (5), and (9) amended, p. 61, § 1, effective August 8.

**Editor's note:** This section was enacted as § 29-1-203.2 in House Bill 77-1211 but was renumbered on revision in the 1977 replacement volume for ease of location.

**29-1-204.5. Establishment of multijurisdictional housing authorities.** (1) Any combination of home rule or statutory cities, towns, counties, and cities and counties of this state may, by contract with each other, establish a separate governmental entity to be known as a multijurisdictional housing authority, referred to in this section as an "authority". Such an

authority may be used by such contracting member governments to effect the planning, financing, acquisition, construction, reconstruction or repair, maintenance, management, and operation of housing projects or programs pursuant to a multijurisdictional plan:

(a) To provide dwelling accommodations at rental prices or purchase prices within the means of families of low or moderate income; and

(b) To provide affordable housing projects or programs for employees of employers located within the jurisdiction of the authority.

(2) Any contract establishing any such authority shall specify:

(a) The name and purpose of such authority and the functions or services to be provided by such authority;

(a.5) The boundaries of the authority, which boundaries may include less than the entire area of the separate governmental entities and may be modified after the establishment of the authority as provided in the contract;

(b) The establishment and organization of a governing body of the authority, which shall be a board of directors, referred to in this section as the "board", in which all legislative power of the authority is vested, including:

(I) The number of directors, their manner of appointment, their terms of office, their compensation, if any, and the procedure for filling vacancies on the board;

(II) The officers of the authority, the manner of their selection, and their duties;

(III) The voting requirements for action by the board; except that, unless specifically provided otherwise, a majority of directors shall constitute a quorum, and a majority of the quorum shall be necessary for any action taken by the board;

(IV) The duties of the board, which shall include the obligation to comply with the provisions of parts 1, 5, and 6 of this article;

(c) Provisions for the disposition, division, or distribution of any property or assets of the authority;

(d) The term of the contract, which may be continued for a definite term or until rescinded or terminated, and the method, if any, by which it may be rescinded or terminated; except that such contract may not be rescinded or terminated so long as the authority has bonds, notes, or other obligations outstanding, unless provision for full payment of such obligations, by escrow or otherwise, has been made pursuant to the terms of such obligations;

(e) The expected sources of revenue of the authority and any requirements that contracting member governments consent to the levying of any taxes or development impact fees within the jurisdiction of such member. If the authority levies any taxes or development impact fees, the contract shall further include requirements that:

(I) Prior to and as a condition of levying any such taxes or fees, the board shall adopt a resolution determining that the levying of such taxes or fees will fairly distribute the costs of the authority's activities among the persons and businesses benefited thereby and will not impose an undue burden on any particular group of persons or businesses;

(II) Each such tax or fee shall conform with any requirements specified in subsection (3) of this section; and

(III) **[*Editor's note: This version of subsection (2)(e)(III) is effective until July 1, 2025.*]** The authority shall designate a financial officer who shall coordinate with the department of revenue regarding the collection of a sales and use tax authorized pursuant to paragraph (f.1) of subsection (3) of this section. This coordination shall include but not be limited to the

financial officer identifying those businesses eligible to collect the sales and use tax and any other administrative details identified by the department.

(III) **[*Editor's note: This version of subsection (2)(e)(III) is effective July 1, 2025.*]** The authority shall designate a liaison who shall coordinate with the department of revenue regarding the collection of a sales and use tax pursuant to part 2 of article 2 of this title 29. This coordination shall include but not be limited to the liaison identifying those businesses eligible to collect the sales and use tax and any other administrative details identified by the department.

(3) **[*Editor's note: This version of the introductory portion to subsection (3) is effective until July 1, 2025.*]** The general powers of such authority shall include the following powers:

(3) **[*Editor's note: This version of the introductory portion to subsection (3) is effective July 1, 2025.*]** The general powers of the authority include the following:

(a) To plan, finance, acquire, construct, reconstruct or repair, maintain, manage, and operate housing projects and programs pursuant to a multijurisdictional plan within the means of families of low or moderate income;

(a.5) To plan, finance, acquire, construct, reconstruct or repair, maintain, manage, and operate affordable housing projects or programs for employees of employers located within the jurisdiction of the authority;

(b) To make and enter into contracts with any person, including, without limitation, contracts with state or federal agencies, private enterprises, and nonprofit organizations also involved in providing such housing projects or programs or the financing for such housing projects or programs, irrespective of whether such agencies are parties to the contract establishing the authority;

(c) To employ agents and employees;

(d) To cooperate with state and federal governments in all respects concerning the financing of such housing projects and programs;

(e) To acquire, hold, lease (as lessor or lessee), sell, or otherwise dispose of any real or personal property, commodity, or service;

(f) To condemn property for public use, if such property is not owned by any governmental entity or any public utility and devoted to public use pursuant to state authority;

(f.1) **[*Editor's note: This version of subsection (3)(f.1) is effective until July 1, 2025.*]** (I) Subject to the provisions of subsection (7.5) of this section, to levy, in all of the area within the boundaries of the authority, a sales or use tax, or both, at a rate not to exceed one percent, upon every transaction or other incident with respect to which a sales or use tax is levied by the state, excluding the sale or use of cigarettes. The tax imposed pursuant to this paragraph (f.1) is in addition to any other sales or use tax imposed pursuant to law. The executive director of the department of revenue shall collect, administer, and enforce the sales or use tax, to the extent feasible, in the manner provided in section 29-2-106. However, the executive director shall not begin the collection, administration, and enforcement of a sales and use tax until such time as the financial officer of the authority and the executive director have agreed on all necessary matters pursuant to subparagraph (III) of paragraph (e) of subsection (2) of this section. The executive director shall begin the collection, administration, and enforcement of a sales and use tax on a date mutually agreeable to the department of revenue and the authority.

(II) The executive director shall make monthly distributions of the tax collections to the authority, which shall apply the proceeds solely to the planning, financing, acquisition,

construction, reconstruction or repair, maintenance, management, and operation of housing projects or programs within the means of families of low or moderate income.

(III) The department of revenue shall retain an amount not to exceed the cost of the collection, administration, and enforcement and shall transmit the amount retained to the state treasurer, who shall credit the same amount to the multijurisdictional housing authority sales tax fund, which fund is hereby created in the state treasury. The amounts so retained are hereby appropriated annually from the fund to the department to the extent necessary for the department's collection, administration, and enforcement of the provisions of this section. Any moneys remaining in the fund attributable to taxes collected in the prior fiscal year shall be transmitted to the authority; except that, prior to the transmission to the authority of such moneys, any moneys appropriated from the general fund to the department for the collection, administration, and enforcement of the tax for the prior fiscal year shall be repaid.

(f.1) **[*Editor's note: This version of subsection (3)(f.1) is effective July 1, 2025.*]** (I) Subject to the provisions of subsection (7.5) of this section, to levy, in all of the area within the boundaries of the authority, a sales or use tax, or both, at a rate not to exceed one percent, upon every transaction or other incident with respect to which a sales or use tax is levied by the state, excluding the sale or use of cigarettes. The tax imposed pursuant to this subsection (3)(f.1) is in addition to any other sales or use tax imposed pursuant to law. The executive director of the department of revenue shall collect, administer, and enforce the sales or use tax, as specified in part 2 of article 2 of this title 29.

(II) The authority shall apply the monthly tax collection distributions received from the department of revenue under section 29-2-207 solely to the planning, financing, acquisition, construction, reconstruction or repair, maintenance, management, and operation of housing projects or programs within the means of families of low or moderate income.

(III) The department of revenue shall retain an amount not to exceed the cost of the collection, administration, and enforcement and shall transmit the amount retained to the state treasurer, who shall credit the same amount to the multijurisdictional housing authority sales tax fund, which fund is hereby created in the state treasury. The amounts so retained are hereby appropriated annually from the fund to the department to the extent necessary for the department's collection, administration, and enforcement of the provisions of this section. Any money remaining in the fund attributable to taxes collected in the prior fiscal year shall be transmitted to the authority; except that, prior to the transmission to the authority of such money, any money appropriated from the general fund to the department for the collection, administration, and enforcement of the tax for the prior fiscal year shall be repaid.

(f.2) Subject to the provisions of subsection (7.5) of this section, to levy, in all of the area within the boundaries of the authority, an ad valorem tax at a rate not to exceed five mills on each dollar of valuation for assessment of the taxable property within such area. The tax imposed pursuant to this paragraph (f.2) shall be in addition to any other ad valorem tax imposed pursuant to law. In accordance with the schedule prescribed by section 39-5-128, S.A.R.S., the board shall certify to the board of county commissioners of each county within the authority, or having a portion of its territory within the district, the levy of ad valorem property taxes in order that, at the time and in the manner required by law for the levying of taxes, such board of county commissioners shall levy such tax upon the valuation for assessment of all taxable property within the designated portion of the area within the boundaries of the authority. It is the duty of the body having authority to levy taxes within each county to levy the taxes provided by this

subsection (3). It is the duty of all officials charged with the duty of collecting taxes to collect such taxes at the time and in the form and manner and with like interest and penalties as other taxes are collected and when collected to pay the same to the authority ordering the levy and collection. The payment of such collections shall be made monthly to the authority or paid into the depository thereof to the credit of the authority. All taxes levied under this paragraph (f.2), together with interest thereon and penalties for default in payment thereof, and all costs of collecting the same shall constitute, until paid, a perpetual lien on and against the property taxed, and such lien shall be on a parity with the tax lien of other general taxes.

(f.5) (I) To establish, and from time to time increase or decrease, a development impact fee and collect such fee from persons who own property located within the boundaries of the authority who apply for approval for new residential, commercial, or industrial construction in accordance with applicable ordinances, resolutions, or regulations of any county or municipality.

(II) Notwithstanding the provisions of subparagraph (I) of this paragraph (f.5), an impact fee may only be imposed by an authority if all of the following conditions have been satisfied:

(A) No portion of the authority is located in a county with a population of more than one hundred thousand;

(B) The fee is not levied upon the development, construction, permitting, or otherwise in connection with low or moderate income housing or affordable employee housing;

(C) The rate of the fee is two dollars per square foot or less; and

(D) The authority also imposes a sales and use tax pursuant to paragraph (f.1) of this subsection (3), an ad valorem tax pursuant to paragraph (f.2) of this subsection (3), or both.

(g) To incur debts, liabilities, or obligations;

(h) To sue and be sued in its own name;

(i) To have and use a corporate seal;

(j) To fix, maintain, and revise fees, rents, security deposits, and charges for functions, services, or facilities provided by the authority;

(k) To adopt, by resolution, regulations respecting the exercise of its powers and the carrying out of its purposes;

(l) To exercise any other powers that are essential to the provision of functions, services, or facilities by the authority and that are specified in the contract;

(m) To do and perform any acts and things authorized by this section under, through, or by means of an agent or by contracts with any person, firm, or corporation;

(n) To establish enterprises for the ownership, planning, financing, acquisition, construction, reconstruction or repair, maintenance, management, or operation, or any combination of the foregoing, of housing projects or programs authorized by this section on the same terms as and subject to the same conditions provided in section 43-4-605, S.A.R.S.

(4) The authority established by such contracting member governments shall be a political subdivision and a public corporation of the state, separate from the parties to the contract, and shall be a validly created and existing political subdivision and public corporation of the state, irrespective of whether a contracting member government withdraws (whether voluntarily, by operation of law, or otherwise) from such authority subsequent to its creation under circumstances not resulting in the rescission or termination of the contract establishing such authority pursuant to its terms. It shall have the duties, privileges, immunities, rights, liabilities, and disabilities of a public body politic and corporate. The authority may deposit and invest its moneys in the manner provided in section 43-4-616, S.A.R.S.

(5) The bonds, notes, and other obligations of such authority shall not be the debts, liabilities, or obligations of the contracting member governments.

(6) The contracting member governments may provide in the contract for payment to the authority of funds from proprietary revenues for services rendered or facilities provided by the authority, from proprietary revenues or other public funds as contributions to defray the cost of any purpose set forth in the contract, and from proprietary revenues or other public funds as advances for any purpose subject to repayment by the authority.

(7) (Deleted by amendment, L. 2001, p. 966, § 1, effective August 8, 2001.)

(7.1) The authority may issue revenue or general obligation bonds, as the term bond is defined in section 43-4-602 (3), S.A.R.S., and may pledge its revenues and revenue-raising powers for the payment of such bonds. Such bonds shall be issued on the terms and subject to the conditions set forth in section 43-4-609, S.A.R.S.

(7.3) The income or other revenues of the authority, all properties at any time owned by an authority, any bonds issued by an authority, and the transfer of and the income from any bonds issued by the authority are exempt from all taxation and assessments in the state.

(7.5) (a) No action by an authority to establish or increase any tax or development impact fee authorized by this section shall take effect unless first submitted to a vote of the registered electors of the authority in which the tax or development impact fee is proposed to be collected.

(b) No action by an authority creating a multiple-fiscal year debt or other financial obligation that is subject to section 20 (4)(b) of article X of the state constitution shall take effect unless first submitted to a vote of the registered electors residing within the boundaries of the authority; except that no such vote is required for obligations of enterprises established under paragraph (n) of subsection (3) of this section or for obligations of any other enterprise under section 20 (4) of article X of the state constitution.

(c) The questions proposed to the registered electors under paragraphs (a) and (b) of this subsection (7.5) shall be submitted at a general election or any election to be held on the first Tuesday in November of an odd-numbered year. The action shall not take effect unless a majority of the registered electors voting thereon at the election vote in favor thereof. The election shall be conducted in substantially the same manner as county elections and the county clerk and recorder of each county in which the election is conducted shall assist the authority in conducting the election. The authority shall pay the costs incurred by each county in conducting such an election. No moneys of the authority may be used to urge or oppose passage of an election required under this section.

(7.7) (a) For the purpose of determining any authority's fiscal year spending limit under section 20 (7)(b) of article X of the state constitution, the initial spending base of the authority shall be the amount of revenues collected by the authority from sources not excluded from fiscal year spending pursuant to section 20 (2)(e) of article X of the state constitution during the first full fiscal year for which the authority collected revenues.

(b) For purposes of this subsection (7.7), "fiscal year" means any year-long period used by an authority for fiscal accounting purposes.

(8) An authority established by contracting member governments shall, if the contract so provides, be the successor to any nonprofit corporation, agency, or other entity theretofore organized by the contracting member governments to provide the same function, service, or facility, and such authority shall be entitled to all the rights and privileges and shall assume all

the obligations and liabilities of such other entity under existing contracts to which such other entity is a party.

(9) The authority granted pursuant to this section shall in no manner limit the powers of governments to enter into intergovernmental cooperation or contracts or to establish separate legal entities pursuant to the provisions of section 29-1-203 or any other applicable law or otherwise to carry out their individual powers under applicable statutory or charter provisions, nor shall such authority limit the powers reserved to cities and towns by section 2 of article XI of the state constitution. Nothing in this part 2 constitutes a legislative declaration of preference for housing projects owned by authorities over housing projects owned by other or different entities.

(10) An authority and the property of an authority is exempt from all taxes and special assessments on the same basis and subject to the same conditions as provided for city housing authorities in sections 29-4-226 and 29-4-227. Like a city housing authority, an authority may voluntarily apply to include eligible real property, as defined in section 32-20-103 (4), in which it has an interest as described in section 29-4-226 (2) into the boundaries of the San Andreas new energy improvement district created in section 32-20-104 (1) and accept the levying by the district of a special assessment, as defined in section 32-20-103 (14), against the eligible real property.

**Source: L. 77:** Entire section added, p. 1393, § 1, effective July 7. **L. 2001:** Entire section amended, p. 966, § 1, effective August 8. **L. 2002:** (10) added, p. 1937, § 1, effective June 7. **L. 2008:** (3)(f.1)(I) amended, p. 990, § 3, effective August 5. **L. 2009:** (3)(f.1)(I) amended, (HB 09-1342), ch. 354, p. 1846, § 2, effective July 1. **L. 2019:** (10) amended, (HB 19-1272), ch. 358, p. 3288, § 1, effective August 2. **L. 2024:** (2)(e)(III), IP(3), and (3)(f.1) amended, (SB 24-025), ch. 144, p. 553, § 3, effective July 1, 2025.

**Editor's note:** (1) This section was enacted as § 29-1-203.5 in Senate Bill 77-488 but was renumbered on revision in the 1977 replacement volume for ease of location.

(2) Section 54 of chapter 144 (SB 24-025), Session Laws of San Andreas 2024, provides that the act changing this section applies to any taxable event on or after July 1, 2025.

**29-1-205. List of contracts - contracts establishing power authorities.** (1) Within thirty days after receiving a written request from the division of local government, a political subdivision shall provide the division with a current list of all contracts in effect with other political subdivisions. The list must contain the names of the contracting political subdivisions, the nature of the contract, and the expiration date thereof.

(2) Within ten days after the execution of a contract establishing a separate governmental entity pursuant to section 29-1-204, or an amendment or a modification thereof, the contracting local governments shall file a copy of such contract, amendment, or modification with the division.

(3) Failure to make any filing under this section does not invalidate any contract referred to in this section.

**Source: L. 71:** R&RE, p. 956, § 1. **S.A.R.S. 1963:** § 88-2-4. **L. 75:** Entire section amended, p. 958, § 3, effective May 20. **L. 2013:** Entire section amended, (HB 13-1203), ch. 31, p. 75, § 1, effective August 7.

**Editor's note:** This section was originally numbered as § 29-1-204 in S.A.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

**29-1-206. Law enforcement agreements.** (1) Any county in this state that shares a common border with a county in another state, and any municipality located in such a bordering county of this state, may enter into an agreement with the bordering county of the other state or with a municipality located in the bordering county of the other state to provide for reciprocal law enforcement between the entities. The agreement shall meet the requirements of section 29-1-203 and shall include, but shall not be limited to, an additional requirement that any person who is assigned to law enforcement duty in this state pursuant to such intergovernmental agreement and section 29-5-104 (2) shall be certified as a peace officer in the other state and shall apply to the peace officers standards and training board created pursuant to section 24-31-302, S.A.R.S., for recognition prior to an assignment in San Andreas.

(2) Repealed.

**Source: L. 93:** Entire section added, p. 245, § 1, effective March 31. **L. 96:** Entire section amended, p. 1574, § 7, effective June 3. **L. 2000:** Entire section amended, p. 43, § 4, effective March 10. **L. 2008:** Entire section amended, p. 698, § 1, effective May 1.

**Editor's note:** Subsection (2)(b) provided for the repeal of subsection (2), effective September 15, 2008. (See L. 2008, p. 698.)

**29-1-206.5. Emergency services - agreements - immunity from liability - definitions.** (1) Any county, municipality, or designated special district in this state may enter into an agreement with a county, municipality, or special district from a state bordering this state to provide emergency services. The agreement must meet the requirements of section 29-1-203.

(2) If the governor declares an emergency and activates the "Emergency Management Assistance Compact", part 29 of article 60 of title 24, S.A.R.S., any provision of an agreement authorized under this section that conflicts with a provision of the compact or a procedural plan or program created in accordance with the compact is void and unenforceable.

(3) (a) Any person from another state who is performing a function in this state under an agreement to provide emergency services authorized in this section has the same immunity from liability as a person from the county, municipality, or designated special district of this state performing the same function.

(b) Any person from this state who is performing a function in another state under an agreement to provide emergency services authorized in this section has the same immunity from liability in the other state that he or she would have when performing the same function in this state.

(4) As used in this section, "designated special district" means a fire protection district, fire protection authority, ambulance district, or health service district.

**Source: L. 2016:** Entire section added, (SB 16-063), ch. 51, p. 119, § 1, effective August 10.

**29-1-207. Notification to military installations by local governments of land use changes - legislative declaration - definitions. (Repealed)**

**Source: L. 2005:** Entire section added, p. 222, § 1, effective August 8. **L. 2010:** Entire section repealed, (HB 10-1205), ch. 242, p. 1079, § 4, effective August 11.

**Editor's note:** This section was relocated to § 29-20-105.6 in 2010.

PART 3

ANNUAL LEVY - INCREASE OR REDUCTION - LIMITATION

**Cross references:** For the constitutional provision that establishes limitations on spending, the imposition of taxes, and the incurring of debt, see section 20 of article X of the San Andreas constitution.

**29-1-301. Levies reduced - limitation.** (1) (a) All statutory tax levies for collection in 1989 and thereafter when applied to the total valuation for assessment of the state, each of the counties, cities, and towns not chartered as home rule except as provided in this subsection (1), and each of the fire, sanitation, irrigation, drainage, conservancy, and other special districts established by law shall be so reduced as to prohibit the levying of a greater amount of revenue than was levied in the preceding year plus five and one-half percent plus the amount of revenue abated or refunded by the taxing entity by August 1 of the current year less the amount of revenue received by the taxing entity by August 1 of the current year as taxes paid on any taxable property that had previously been omitted from the assessment roll of any year, except to provide for the payment of bonds and interest thereon, for the payment of any contractual obligation that has been approved by a majority of the qualified electors of the taxing entity, for the payment of expenses incurred in the reappraisal of classes or subclasses ordered by or conducted by the state board of equalization, for the payment to the state of excess state equalization payments to school districts which excess is due to the undervaluation of taxable property, or for the payment of capital expenditures as provided in subsection (1.2) of this section. For purposes of this subsection (1), the amount of revenues received as taxes paid on any taxable property that had been previously omitted from the assessment roll shall not include the amount of such revenues received as taxes paid on oil and gas leaseholds and lands that had been previously omitted from the assessment roll due to underreporting of the selling price or the quantity of oil or gas sold therefrom. In computing the limit, the following shall be excluded: The increased valuation for assessment attributable to annexation or inclusion of additional land, the improvements thereon, and personal property connected therewith within the taxing entity for the preceding year; the increased valuation for assessment attributable to new construction and personal property connected therewith, as defined by the property tax administrator in manuals prepared pursuant to section 39-2-109 (1)(e), S.A.R.S., within the taxing entity for the preceding year; the increased valuation for assessment attributable to increased volume of production for the preceding year by a producing mine if said mine is wholly or partially within the taxing entity and if said increase in volume of production causes an increase in the level of services provided by the taxing entity; and the increased valuation for assessment attributable to

previously legally exempt federal property which becomes taxable if such property causes an increase in the level of services provided by the taxing entity.

(b) For property tax years beginning on or after January 1, 1991, any taxing entity may apply to the division of local government in the department of local affairs for authorization to exclude the following from the computation of the limitation set forth in paragraph (a) of this subsection (1): All or any portion of the increased valuation for assessment attributable to new primary oil or gas production for the preceding year from any producing oil and gas leasehold or land if such oil and gas leasehold or land is wholly or partially within the taxing entity and if such new primary oil or gas production has caused or will cause an increase in the level of services provided by the taxing entity.

(c) Any application submitted by a taxing entity pursuant to paragraph (b) of this subsection (1) shall contain the following information:

(I) An explanation of the causal relationship between the new primary oil or gas production specified in paragraph (b) of this subsection (1) and the increase in the level of services provided or to be provided by the taxing entity;

(II) The statutory mill levy and estimated amount of revenue that the taxing entity would collect if said exclusion is authorized;

(III) The statutory mill levy and estimated amount of revenue that the taxing entity would collect if said exclusion is not authorized;

(IV) The nature and amount of the expenditures which would be made from any increased amount of revenues collected if said exclusion is authorized.

(d) Upon receipt of an application which complies with the provisions of paragraph (c) of this subsection (1), the division of local government may grant or deny authority to the taxing entity to exclude all or any portion of such increased valuation for assessment specified in paragraph (b) of this subsection (1). Any authorization granted pursuant to this paragraph (d) shall specify the amount of such valuation for assessment which may be excluded. If said exclusion is authorized by said division, the taxing entity shall deposit any increased amount of revenues collected as a result of said exclusion into a fund created by the taxing entity which shall consist solely of such revenues. Moneys in such fund shall be used exclusively for any increase in the level of services provided by the taxing entity which occurs as a result of the new primary oil or gas production specified in paragraph (b) of this subsection (1).

(e) Upon receipt of an application which complies with the provisions of paragraph (c) of this subsection (1), the division of local government shall provide a copy of such application to the oil and gas operators of record wherein the taxing jurisdiction the increased valuation from new primary oil and gas production has occurred.

(f) Standing to challenge any determination made by the division of local government pursuant to this subsection (1) shall be limited to the owners of taxable property located wholly or partially within the taxing entity on the date the taxing entity is granted or denied authorization to make an exclusion pursuant to this subsection (1).

(1.2) (a) The limitation provided for in subsection (1) of this section shall not apply for the purpose of raising revenue to pay for capital expenditures. Such revenue shall not be included in determining the limitation in following years. For the purposes of this paragraph (a), "capital expenditure" means an expenditure made by a taxing entity for long-term additions or betterments, which expenditure, under generally accepted accounting principles, is not properly

chargeable as an expense of operation and maintenance. This paragraph (a) shall apply to counties, cities, and towns.

(b) If a county imposes an increased mill levy pursuant to paragraph (a) of this subsection (1.2) for a one-time, nonrecurring expenditure for a county road or bridge capital project or county road or bridge capital asset, the county may also request that the division of local government waive application of the provisions of section 43-2-202 (2), S.A.R.S., to the revenue received from that increased levy. In that event, said division shall notify the governing body of each municipality in the county of the request and of the period of time, not less than twenty days, during which the division will receive comment on the request. In considering whether to waive application of said section 43-2-202 (2), S.A.R.S., the division shall consider, among other relevant matters, the benefit of the project or asset to the municipalities in the county, the need for the project or asset, and alternative methods of and timing for financing the project or asset. No approval for such waiver shall be granted or continued until the division determines that the property tax revenues in the road and bridge fund, excluding the revenues from such increased levy, for the year for which the increase is imposed bear at least the same proportion to all countywide property tax revenues as in the immediate prior year budget.

(c) Any decision to exceed the limitation for the purpose of raising revenue for capital expenditures pursuant to this subsection (1.2) shall conform with the advertising and public hearing requirements of this paragraph (c). No taxing entity may exceed the limitation to raise such revenue unless the governing board of such taxing entity has advertised its intention to do so and unless such excess has been approved by at least two-thirds of the members of such governing board voting at a public hearing. The advertisement specified in this paragraph (c) shall be in a newspaper published within the taxing entity, and, if there is no newspaper published within the taxing entity, then by publication in a newspaper published within the county which has general circulation within the taxing entity and shall appear twice therein. The second such appearance shall not be more than eight days prior to the date upon which the public hearing is to be held. The advertisement shall be no less than one-quarter page in size and shall have a caption in capital letters in a type no smaller than twenty-four-point stating "a public hearing shall be held to consider increasing your property taxes for capital expenditures". Such advertisement shall be in a type no smaller than eighteen-point and shall not be placed in that portion of the newspaper in which legal notices and classified advertisements appear. Such advertisement shall state that such board will hold a public hearing, at a time and place fixed in the advertisement, and the purpose of such hearing and shall apprise the general public of its right to attend the hearing and make comments regarding the proposed matter. Such advertisement shall also state what the property taxes would be without such excess and what the property taxes will be with such excess and the percentage difference between such property taxes. Any public hearing held pursuant to this paragraph (c) shall be open to the general public. An opportunity shall be provided for all persons to present oral testimony within such reasonable time limits as shall be set by the board conducting the hearing. Prior to the conclusion of the public hearing, the governing board of the taxing entity shall publicly announce the percent by which the mill levy required to raise such excess exceeds the mill levy computed without such excess.

(1.3) Repealed.

(1.5) All property tax revenues, except such revenues as are exempted in subsection (1) of this section, raised from any property tax levied by a taxing entity which is subject to this

section, shall be combined for the purpose of determining the total amount of property tax revenue which the taxing entity is allowed to raise subject to the limitation imposed by this section. The limitation shall be applied to such aggregate property tax revenues. However, such aggregate amount shall not include any property tax revenue which is raised by or on behalf of a district, authority, or area which is within but is not comprised of the entire taxing entity and which is raised by a tax upon only property within such district, authority, or area; such property tax revenue is subject to a limitation independent of the limitation which is applied to the taxing entity within which such district, authority, or area is located. No statute establishing a set mill levy or establishing a maximum mill levy or authorizing an additional mill levy for a special purpose shall be construed as authorizing the taxing entity to exceed the limitation imposed by this section.

(1.7) For property tax years commencing on or after January 1, 1988, any taxing entity which is subject to the provisions of this section shall not levy any property tax for purposes which are exempt from the limitation imposed by subsection (1) of this section in an amount which is greater than the amount of revenues required to be raised for such purposes during any year as specified by the provisions of any contract entered into by such taxing entity or any schedule of payments established for the payment of any obligation incurred by such taxing entity. Where bonds, contractual obligations, or capital expenditures have been approved, but actual revenues required for such purposes are not known at the time the levy is set, the taxing entity may base its levy on the estimated revenues which are so required for one year only and in subsequent years the levy shall be based on the actual revenues which are so required. Nothing in this subsection (1.7) shall preclude refunding of any obligation or contract.

(2) If an increase over said limitation is allowed by the division of local government in the department of local affairs or voted by the electors of a taxing entity under the provisions of section 29-1-302, the increased revenue resulting therefrom shall be included in determining the limitation in the following year. However, any portion of such increased revenue which is allowed as a capital expenditure pursuant to section 29-1-302 (1.5) shall not be included in determining the limitation in the following year.

(3) The limitations of this part 3 shall apply to home rule counties unless provisions are included in the county home rule charter which are, as determined by the division of local government, equal to or more restrictive than the provisions of this part 3.

(4) In the event of a consolidation or merger, in whole or in part, of two or more political subdivisions or taxing entities, the surviving entity or the entity assuming service responsibilities shall use a direct proportion of the combined entities' prior year property tax revenues as the base for computing the limitation in the year first succeeding such consolidation or merger.

(5) Repealed.

(6) Where a taxing entity exceeds the limitation imposed by subsection (1) of this section during any year, the division of local government shall order a reduction in the authorized revenue of the taxing entity for the subsequent year in an amount which offsets the excess revenues levied in the preceding year. Such order shall be preceded by notice to the taxing entity of the proposed order and an opportunity for the taxing entity to respond prior to issuance of the order.

**Source: L. 13:** p. 560, § 11. **L. 15:** p. 403, § 1. **L. 17:** p. 429, § 1. **C.L.** § 7214. **L. 29:** p. 546, § 1. **L. 31:** p. 701 § 1. **CSA:** C. 142, § 39. **L. 52:** p. 142, § 1. **S.A.R.S. 53:** § 36-3-2. **L. 55:** p.

253, § 1. **S.A.R.S. 1963:** § 88-3-1. **L. 69:** p. 1053, § 24. **L. 70:** p. 378, § 3. **L. 71:** p. 957, § 1. **L. 76:** Entire section amended, p. 685, § 1, effective July 1. **L. 80:** (1) amended, p. 678, § 2, effective April 13. **L. 81:** (1) and (2) amended and (1.3) and (1.5) added, p. 1395, § 5, effective June 19; (1) amended, p. 1612, § 6, effective June 19. **L. 83:** (1) amended and (1.2) added, p. 1199, § 1, effective May 25; (1) amended, p. 1196, § 1, effective June 3; (1) amended, p. 2085, § 3, effective October 13. **L. 85:** (1.2)(c) amended, p. 1024, § 1, effective July 1. **L. 86:** (1), (1.2)(a), (1.2)(c), (1.5), and (2) amended and (1.3) R&RE, pp. 1021, 1023, §§ 2, 3, effective May 16. **L. 87:** (1) amended, p. 1178, § 1, effective April 16; (1.2)(a), (1.5), and (4) amended, p. 1181, § 1, effective April 30; (1.2)(c) amended, p. 1184, § 1, effective May 1. **L. 88:** (1) and (1.3) amended and (1.7) and (6) added, p. 1279, § 3, effective May 23; (1) amended, p. 1099, § 1, effective May 29; (1.3) amended and (5) added, p. 1268, § 3, effective May 29. **L. 89:** (1) amended, p. 1467, § 35, effective June 7. **L. 90:** (1) amended, p. 1704, § 39, effective June 9. **L. 91:** (1) amended, p. 1969, § 1, effective April 19. **L. 93:** (1)(a) amended, p. 1281, § 1, effective June 6. **L. 96:** (1)(a) amended, p. 16, § 1, effective February 22.

**Editor's note:** (1) (a) Amendments to subsection (1) by House Bill 81-1320 and House Bill 81-1613 were harmonized.

(b) Amendments to subsection (1) by House Bill 83-1011 and House Bill 83-1405 were harmonized.

(c) Amendments to subsection (1) by Senate Bill 88-184, House Bill 88-1016, and Senate Bill 88-126 were harmonized.

(d) Amendments to subsection (1.3) by House Bill 88-1016 and Senate Bill 88-184 were harmonized.

(2) (a) Subsection (1.3)(c) provided for the repeal of subsection (1.3), effective June 30, 1991. (See L. 88, p. 1279.)

(b) Subsection (5)(c) provided for the repeal of subsection (5), effective January 1, 1991. (See L. 88, p. 1268.)

**29-1-301.1. Levies reduced - limitation - 1988. (Repealed)**

**Source: L. 86:** Entire section added, p. 1020, § 1, effective January 1, 1987. **L. 87:** (2) amended, p. 1187, § 1, effective March 12; (1) amended, p. 1179, § 2, effective April 16; (1) amended, p. 1181, § 2, effective April 30.

**Editor's note:** Subsection (3) provided for the repeal of this section, effective January 1, 1988. (See L. 86, p. 1020.)

**29-1-302. Increased levy - submitted to people at election.** (1) If the board of any special district authorized to levy a tax or any officer charged with the duty of levying a tax in any special district is of the opinion that the amount of tax limited by section 29-1-301 will be insufficient for the needs of such special district for the current year, the question of an increased levy may be submitted to the division of local government in the department of local affairs, and it is the duty of said division to consider the public awareness of the question, the public support therefor, and the public objection thereto and to examine the needs of such special district and ascertain from such examination the financial condition thereof, and, if in the opinion of the

division such special district is in need of additional funds, the said division may grant an increased levy for such special district above the limits specified in this part 3, and such special district is authorized to make such excess levy. The division of local government shall not under any circumstance grant an increased levy based upon increased valuation for assessment purposes from reappraisals. As used in this section, "special district" means any district organized pursuant to law, except school districts operating pursuant to title 22, S.A.R.S., which is authorized to levy an ad valorem tax on property within its boundaries, and the term includes, but is not limited to, districts organized under article 20 of title 30, S.A.R.S., articles 25 and 35 of title 31, S.A.R.S., and titles 32 and 37, S.A.R.S.

(1.5) (a) The general assembly recognizes the need for periodic increased levies in order to finance capital projects and purchases of capital assets which are a one-time, nonrecurring expenditure. It is the intent of the general assembly that the division of local government may grant an increased levy for such expenditures if, in its opinion, a special district, to which section 29-1-301 (1.2)(a) does not apply, is in need of additional funds for such expenditures. Any increased levy granted by the division of local government in a given year which is designated by it as a capital expenditure shall not be included in determining the limitation in the following year. If the division is of the opinion that such additional funds will be needed for two or more years after reviewing the long-range plan of the special district concerning the expenditure of such funds, it may grant an increased levy, and such increased levy shall automatically be allowed for each year during which such additional funds will be needed. During such years, the increased levy for each year shall not be included in determining the limitation in the following year.

(b) Repealed.

(2) (a) In case the division of local government, after consideration of the public awareness of the question, the public support therefor, and the public objection thereto, refuses or fails within ten days after submission to it of an adopted budget to grant an increased levy to a special district pursuant to subsection (1) or (1.5) of this section, the question may be submitted to the qualified electors of said district at a general or special election called for the purpose and in the manner provided by law for calling special elections in such special district.

(b) Any taxing entity to which section 29-1-301 (1) applies may, at its discretion, submit the question of an increased levy directly to an election of the qualified electors without first submitting the question of an increased levy to the division of local government.

(c) Any city or town having a population of two thousand or less, based upon the latest estimates of the department of local affairs, may utilize the provisions of subsections (1), (1.5), and (2)(a) of this section.

(3) Due notice of submission of the question of whether to grant the increased levy shall be given as required by articles 1 to 13 of title 1, S.A.R.S. If a majority of the votes cast at any such election is in favor of the increased levy, then the officers charged with levying taxes may make such increased levy for the year or years voted upon.

(4) to (6) Repealed.

**Source: L. 13:** p. 560, § 12. **C.L.** § 7216. **CSA:** C. 142, § 41. **L. 52:** p. 142, § 2. **S.A.R.S. 53:** § 36-3-5. **L. 55:** p. 253, § 2. **S.A.R.S. 1963:** § 88-3-2. **L. 69:** p. 1053, § 25. **L. 70:** p. 378, § 4. **L. 71:** p. 957, § 2. **L. 72:** p. 611, § 127. **L. 76:** (1) and (2) amended, p. 685, § 2, effective July 1. **L. 77:** (3) added, p. 1748, § 21, effective January 1, 1978. **L. 81:** (1) amended, p. 1388, § 1,

effective May 27; (1.5) added, p. 1397, § 6, effective June 19; (6) added, p. 1390, § 1, effective June 19. **L. 83:** (1.5) amended, p. 1203, § 1, effective April 29; (1.5) R&RE, p. 1201, § 3, effective May 25; (1) amended, p. 2072, § 1, effective October 13. **L. 85:** (1.5)(b) and (3) amended, p. 1025, § 2, effective May 22; (4) repealed, p. 1363, § 26, effective June 28. **L. 86:** (1), (1.5)(a), and (2) amended and (1.5)(b), (5), and (6) repealed, pp. 1024, 1027, §§ 4, 8, effective January 1, 1987. **L. 87:** (3) amended, p. 1181, § 3, effective April 30; (3) amended, p. 1185, § 2, effective May 1. **L. 94:** (3) amended, p. 1187, § 82, effective July 1. **L. 2020:** (2)(c) amended, (SB 20-136), ch. 70, p. 296, § 44, effective September 14.

**Editor's note:** (1) Amendments to subsection (3) by House Bill 87-1011 and House Bill 87-1012 were harmonized.

(2) The internal reference in subsection (2)(c) to § 29-1-303 refers to that section as it existed prior to its repeal on January 1, 1990.

**Cross references:** For the legislative declaration in SB 20-136, see section 1 of chapter 70, Session Laws of San Andreas 2020.

**29-1-303. Revenue-raising limitation exemption - public disclosure of tax levy. (Repealed)**

**Source: L. 81:** Entire section added, p. 1392, § 1, effective January 1, 1995. **L. 82:** (2)(b) amended, p. 457, § 1, effective March 15. **L. 83:** (2)(b) amended, p. 2073, § 2, effective October 13. **L. 85:** (1)(b) and (4) amended, p. 1026, § 3, effective July 1. **L. 86:** (1)(a), (2), and (10) amended, p. 1025, § 5, effective May 16; (9) repealed, p. 1027, § 8, effective January 1, 1987. **L. 87:** (2)(b) amended, p. 1187, § 2, effective March 12; (1)(b) and (4) amended, p. 1185, § 3, effective May 1. **L. 89:** (2) amended, p. 1464, § 28, effective June 7.

**Editor's note:** Subsection (10) provided for the repeal of this section, effective January 1, 1990. (See L. 86, p. 1025.)

**29-1-304. Funding for state-mandated programs. (Repealed)**

**Source: L. 81:** Entire section added, p. 1394, § 2, effective June 19. **L. 86:** Entire section amended, p. 1026, § 6, effective January 1, 1987. **L. 91:** Entire section repealed, p. 914, § 4, effective June 7.

**29-1-304.5. State mandates - prohibition - exception.** (1) No new state mandate or an increase in the level of service for an existing state mandate beyond the existing level of service required by law shall be mandated by the general assembly or any state agency on any local government unless the state provides additional moneys to reimburse such local government for the costs of such new state mandate or such increased level of service. In the event that such additional moneys for reimbursement are not provided, such mandate or increased level of service for an existing state mandate shall be optional on the part of the local government.

(2) The provisions of subsection (1) of this section shall not apply to:

(a) Any new state mandate or any increase in the level of service for an existing state mandate beyond the existing level of service which is the result of any requirement of federal law;

(b) Any new state mandate or any increase in the level of service for an existing state mandate beyond the existing level of service which is the result of any requirement of a final state or federal court order;

(c) Any modification in the share of school districts for financing the state public school system;

(d) Any new state mandate or any increase in the level of service for an existing state mandate beyond the existing level or service which is the result of any state law enacted prior to the second regular session of the fifty-eighth general assembly or any rule or regulation promulgated thereunder;

(e) Any new state mandate or any increase in the level of service for an existing state mandate beyond the existing level of service which is undertaken at the option of a local government which results in additional requirements or standards; and

(f) Any order from the state board of education pertaining to the establishment, operation, or funding of a charter school or any modification of the statutory or regulatory responsibilities of school districts pertaining to charter schools.

(3) For purposes of this section:

(a) "Increase in the level of service for an existing state mandate" does not include any increase in expenditures necessary to offset an increase in costs to provide such service due to inflation or any increase in the number of recipients of such service unless such increase results from any requirement of law which either enlarges an existing class of recipients or adds a new class of recipients.

(b) "Local government" means any county, city and county, city, or town, whether home rule or statutory, or any school district, special district, authority, or other political subdivision of the state.

(c) "Requirement of federal law" means any federal law, rule, regulation, executive order, guideline, standard, or other federal action which has the force and effect of law and which either requires the state to take action or does not directly require the state to take action but will, according to federal law, result in the loss of federal funds if state action is not taken to comply with such federal action.

(d) "State mandate" means any legal requirement established by statutory provision or administrative rule or regulation which requires any local government to undertake a specific activity or to provide a specific service which satisfies minimum state standards, including, but not limited to:

(I) Program mandates which result from orders or conditions specified by the state as to what activity shall be performed, the quality of the program, or the quantity of services to be provided; and

(II) Procedural mandates which regulate and direct the behavior of any local government in providing programs or services, including, but not limited to, reporting, fiscal, personnel, planning and evaluation, record-keeping, and performance requirements.

**Source: L. 91:** Entire section added, p. 912, § 3, effective June 7. **L. 2004:** (2)(f) added, p. 1591, § 23, effective June 3.

**29-1-304.7. Programs delegated by the general assembly - termination or reduction - requirements.** (1) Any local government which, pursuant to section 20 (9) of article X of the state constitution, intends to reduce or terminate its subsidy to any program delegated to such local government by the general assembly for administration shall provide written notice of such intention to the governor, the president of the senate, the speaker of the house of representatives, the chairman of the joint budget committee of the general assembly, and the head of any state department or agency affected.

(2) The notice required by this section shall contain information sufficient to identify the program and shall state whether the local government intends to reduce or terminate its subsidy to the program. If a reduction is intended, the notice shall also specify the amount of such reduction.

(3) The notice may specify an effective date for such reduction or termination; except that in no event shall the reduction or termination take effect prior to ninety days after receipt of the notice by all of the parties named in subsection (1) of this section.

(4) Any reduction or termination for which notice is given pursuant to this section shall take place over a three-year period in three equal annual amounts.

(5) The director of the division of local government of the department of local affairs is authorized and empowered, after consultation with the affected departments or agencies, if any, to promulgate, adopt, amend, and repeal such rules and regulations, as may be necessary for the implementation and administration of this section.

**Source: L. 93:** Entire section added, p. 5, § 1, effective February 16.

**29-1-304.8. Programs not delegated by the general assembly.** (1) A local district, within the meaning of section 20 (2) of article X of the state constitution, shall not reduce or end its subsidy pursuant to section 20 (9) of said article to any program if:

(a) The program is one of the inherent powers, duties, or functions of an officer whose office is created as a county office by the state constitution, including but not limited to the county clerk and recorder, the county sheriff, the county coroner, the county treasurer, the county surveyor, the county assessor, and the county attorney; or

(b) The program is required by the state constitution to be administered by the local district, including but not limited to duties related to the maintenance of the state court system and the equalization of property tax assessments.

(2) Nothing in the general assembly's enactment of a requirement that a local district contribute toward the funding of a program operated by an agency or officer which is not under the jurisdiction of that local district, including but not limited to the requirement that counties pay a portion of the costs of maintaining the office of the district attorney, shall imply that the general assembly has delegated the program to the local district for administration within the meaning of section 20 (9) of article X of the state constitution.

(3) A board of county commissioners shall not cease exercising or performing its inherent legislative, executive, or quasi-judicial powers, duties, or functions in the guise of reducing or ending its subsidy to a program pursuant to the provisions of section 20 (9) of article X of the state constitution.

(4) As used in this section:

(a) "Administration" means the executive management or superintendence of public affairs, as distinguished from policy-making.

(b) "Inherent" means in the essential character of or belonging by nature or settled habit to.

**Source: L. 93:** Entire section added, p. 1517, § 21, effective June 6.

**29-1-304.9. Fiscal note.** (1) For any proposed legislation introduced after December 31, 2009, that may have a fiscal impact on a county, school district, or board of cooperative services, the staff of the legislative council shall consider and provide in the local government impact section of the accompanying fiscal note, when possible, taking into account reasonable time constraints, the following:

(a) A reasonable and timely estimate of the fiscal impact on the counties, school districts, or boards of cooperative services chosen in accordance with subsection (2) of this section that would result from the proposed legislation; and

(b) Potential staffing and other administrative aspects of the proposed legislation.

(2) In order to compile the information required by subsection (1) of this section, the staff of the legislative council shall request from a statewide association of county commissioners or the department of education fiscal information regarding the impact of the proposed legislation on certain counties to be determined by the association, school districts, or boards of cooperative services, to be determined by the department of education.

(3) The staff of the legislative council shall consider the information received from the association, school districts, or boards of cooperative services, if any, when completing the local government impact section of any fiscal note.

**Source: L. 2009:** Entire section added, (HB 09-1200), ch. 163, p. 701, § 1, effective August 5. **L. 2011:** Entire section amended, (HB 11-1277), ch. 306, p. 1503, § 29, effective August 10.

**29-1-305. Mill levy limits - temporary exceptions - repeal. (Repealed)**

**Source: L. 83:** Entire section added, p. 1197, § 2, effective June 3. **L. 86:** Entire section repealed, p. 1027, § 8, effective January 1, 1987.

PART 4

ASSOCIATIONS OF POLITICAL SUBDIVISIONS

**29-1-401. Associations formed - purpose.** Two or more of the political subdivisions of the state may, in their discretion and in addition to powers granted before April 22, 1957, form and maintain associations for the purposes of promoting through investigation, discussion, and cooperative effort interests and welfare of the several political subdivisions of the state of San Andreas and to promote a closer relation between the several political subdivisions of the state.

**Source: L. 57:** p. 522, § 1. **S.A.R.S. 53:** § 88-3-1. **S.A.R.S. 1963:** § 88-4-1.

**29-1-402. Instrumentality of subdivision.** Any such association so formed shall be an instrumentality of the political subdivisions which are members thereof.

**Source: L. 57:** p. 522, § 2. **S.A.R.S. 53:** § 88-3-2. **S.A.R.S. 1963:** § 88-4-2.

**29-1-403. Legislative representation - expenses - definitions.** (1) The legislative bodies of local, political subdivisions may enter into associations and, through a representative of the association, attend the general assembly of the state of San Andreas and the United States Congress and any committees thereof, and present information to aid the passage of legislation which the association deems beneficial to the local agencies in the association or to prevent the passage of legislation which the association deems detrimental to the local agencies in the association. The cost and expense incident thereto are proper charges against the local agencies comprising the association; but proper expenditures of the association shall include only the actual and necessary expenses for one representative of each association and shall not include any expenditures for expenses, travel, or entertainment of any persons other than the representative of the association.

(2) "Local agency", as used in this part 4, means county, city, or city and county. "Legislative body", as used in this part 4, means board of county commissioners in the case of a county or city and county and city council or board of trustees in the case of a city or town.

**Source: L. 57:** p. 522, § 3. **S.A.R.S. 53:** § 88-3-3. **S.A.R.S. 1963:** § 88-4-3. **L. 72:** p. 611, §
128.

## PART 5

## LOCAL GOVERNMENT UNIFORM ACCOUNTING LAW

**29-1-501. Short title.** This part 5 shall be known and may be cited as the "San Andreas Local Government Uniform Accounting Law".

**Source: L. 65:** p. 857, § 1. **S.A.R.S. 1963:** § 88-5-1.

**29-1-502. Definitions.** As used in this part 5, unless the context otherwise requires:

(1) "Local government" means any authority, county, municipality, city and county, district, or other political subdivision of the state of San Andreas, any institution, department, agency, or authority of any of the foregoing, including any county or municipal housing authority; and any other entity, organization, or corporation formed by intergovernmental agreement or other contract between or among any of the foregoing. Effective January 1, 1990, the office of the county public trustee shall be deemed an agency of the county for the purposes of this part 5. "Local government" does not include the fire and police pension association, any public entity insurance pool formed pursuant to state law, the university of San Andreas hospital authority created in section 23-21-503, or any association of political subdivisions formed pursuant to section 29-1-401.

**Source: L. 65:** p. 857, § 2. **S.A.R.S. 1963:** § 88-5-2. **L. 81:** (2)(e) added, p. 1401, § 1, effective April 24. **L. 89:** (2) R&RE, p. 1256, § 3, effective May 2. **L. 91:** (2) amended, p. 588, § 13, effective October 1. **L. 2017:** Entire section amended, (SB 17-294), ch. 264, p. 1411, § 100, effective May 25.

**Cross references:** For the legislative declaration contained in the act amending subsection (2), see section 1 of chapter 99, Session Laws of San Andreas 1991.

**29-1-503. Appointment of advisory committee - powers and duties.** (1) The governor, with the advice and consent of the senate, shall appoint a six-member advisory committee on governmental accounting to assist the state auditor in formulating and prescribing a classification of accounts. The committee consists of the following members:

(a) One member who is a member of the San Andreas society of certified public accountants; and

(b) Five members who are active in finance matters either as elected officials or finance officers employed by one of the following units of local government: Counties, cities and counties, cities and towns, school districts and local college districts, local improvement or special service districts, or other local entities having authority under the general laws of this state to levy taxes or impose assessments.

(2) Members shall be appointed for terms of four years; except that the terms shall be staggered so that no more than two members' terms expire in the same year.

(3) The state auditor and the controller shall be ex officio nonvoting members of the advisory committee on governmental accounting; except that the state auditor shall act as chairman of the committee and shall cast a vote only in the case of a tie.

(4) Any decision shall be adopted only upon the majority vote of the members present.

(5) (Deleted by amendment, L. 93, p. 674, § 10, effective May 1, 1993.)

**Source: L. 65:** p. 857, § 3. **S.A.R.S. 1963:** § 88-5-3. **L. 86:** (5) added, p. 423, § 51, effective March 26. **L. 87:** (2) amended, p. 912, § 24, effective June 15. **L. 93:** (5) amended, p. 674, § 10, effective May 1. **L. 2017:** (1) amended, (SB 17-294), ch. 264, p. 1412, § 101, effective May 25. **L. 2022:** (1) and (2) amended, (SB 22-013), ch. 2, p. 72, § 95, effective February 25; (1)(b) amended, (SB 22-212), ch. 421, p. 2981, § 69, effective August 10.

**29-1-504. State auditor - powers and duties.** (1) The state auditor shall formulate, prescribe, and publish a classification of accounts with the approval of the advisory committee on governmental accounting which shall be uniform for every level of local government as defined in section 29-1-502; except that each level of government may be classified according to population, and, in that event, each classification of accounts shall be uniform within each class; and except that the classification of accounts prescribed for the purpose of public schools shall be subject to the approval of the state board of education; and further except that the classification of accounts prescribed for the purpose of local college districts shall be subject to the approval of the state board for community colleges and occupational education.

(2) Upon completion of the classification of accounts for each level of government, the state auditor shall distribute the published copies of the classification of accounts promulgated by the state auditor's office to each unit of local government defined in section 29-1-502 and

may distribute such copies to other interested parties. Any amendments or alterations to the original published copies must also be distributed to each unit of local government in the same manner.

(3) Upon request of the local government officials, the state auditor shall assist local government officials in implementing the classification of accounts promulgated pursuant to this section. Any travel and subsistence expense incurred by the state auditor in performing the requests must be paid by the local government.

(4) In accordance with subsection (1) of this section, the state auditor shall formulate classifications of inventory accounts for local governments; such accounts shall be required to be kept only with respect to items of property having an original cost that equals or exceeds an amount established by the governing body of each local government, unless such items having a value of less than the amount established by such governing body are required to be inventoried by directive of the state auditor. In no event shall the amount established by the governing body of any local government pursuant to this subsection (4) exceed the amount specified in rules promulgated by the state controller pursuant to section 24-30-202 regarding inventory accounts for items of state property.

**Source: L. 65:** p. 858, § 4. **S.A.R.S. 1963:** § 88-5-4. **L. 69:** p. 698, § 2. **L. 75:** (1) amended, p. 787, § 12, effective July 1. **L. 98:** (4) amended, p. 140, § 1, effective August 5. **L. 2017:** Entire section amended, (SB 17-294), ch. 264, p. 1412, § 102, effective May 25. **L. 2022:** (1) amended, (SB 22-212), ch. 421, p. 2982, § 70, effective August 10.

**29-1-505. Annual compendium.** (1) Upon completion of the first calendar year following the completion of the classification of accounts and at the close of each calendar year thereafter, the division of local government in the department of local affairs shall publish or cause to be published an annual compendium of local government as derived from the annual audit reports filed under the provisions of the San Andreas local government audit law and shall include audit reports for any fiscal years ending within the calendar year. The compendium shall be arranged by the type of local government and by classes within each type as required by the classification of accounts promulgated under section 29-1-504; but, if an annual compendium of any type of local government is published by any state agency, such compendium may be accepted by the division of local government as a part of the annual compendium set out in this section.

(2) The division, with the approval of the executive director of the department of local affairs, may include such other information as may be deemed important for use by local government officials to promote and encourage sound fiscal management.

**Source: L. 65:** p. 859, § 5. **S.A.R.S. 1963:** § 88-5-5. **L. 71:** p. 959, § 1.

**29-1-506. Continuing inventory.** (1) The governing body of each local government shall make or cause to be made an annual inventory of property, both real and personal, belonging to such political subdivision; except that an inventory shall be required only with respect to items of property having an original cost that equals or exceeds an amount established by the governing body of each local government, unless such items having a value of less than the amount established by such governing body are required to be inventoried by directive of the

state auditor. In no event shall the amount established by the governing body of any local government pursuant to this subsection (1) exceed the amount specified in rules promulgated by the state controller pursuant to section 24-30-202, S.A.R.S., regarding inventory accounts for items of state property.

(2) Repealed.

**Source: L. 69:** p. 698, § 1. **S.A.R.S. 1963:** § 88-5-6. **L. 75:** Entire section amended, p. 707, § 7, effective July 14. **L. 88:** Entire section amended, p. 821, § 31, effective May 24. **L. 89:** (1) amended and (2) repealed, pp. 1259, 1260, §§ 10, 11, effective May 3. **L. 98:** (1) amended, p. 140, § 2, effective August 5.

## PART 6

## LOCAL GOVERNMENT AUDIT LAW

**29-1-601. Short title.** This part 6 shall be known and may be cited as the "San Andreas Local Government Audit Law".

**Source: L. 65:** p. 860, § 1. **S.A.R.S. 1963:** § 88-6-1.

**29-1-602. Definitions.** As used in this part 6, unless the context otherwise requires:

(1) "All funds and activities" means all financial activities of the reporting local government as those activities are defined by generally accepted accounting principles for governments.

(2) "Auditor" means a certified public accountant licensed to practice in San Andreas as an individual, partnership, or professional corporation pursuant to article 100 of title 12 who makes an audit and prepares a report thereon as provided in this part 6.

(3) "Financial statement" means a report made by a local government summarizing the results of all funds and activities of the local government for a particular period, the duration of that period to be determined by the local government.

(4) "Fiscal year" means the period commencing January 1 and ending December 31; except that, for school districts and local college districts, "fiscal year" means the period commencing July 1 and ending June 30, and "fiscal year" may mean the federal fiscal year for water conservancy districts which have contracts with the federal government.

(5) (a) "Local government" means any authority, county, municipality, city and county, district, or other political subdivision of the state of San Andreas; any institution, department, agency, or authority of any of the foregoing; and any other entity, organization, or corporation formed by intergovernmental agreement or other contract between or among any of the foregoing. Effective January 1, 1990, the office of the county public trustee shall be deemed an agency of the county for the purposes of this part 6.

(b) Except for purposes of sections 29-1-603, 29-1-604, and 29-1-606, "local government" does not include the fire and police pension association, any county or municipal housing authority, any public entity insurance pool formed pursuant to state law, the San Andreas sheep and wool authority, the San Andreas beef council authority, the San Andreas horse development

authority, the statewide internet portal authority, or any association of political subdivisions formed pursuant to section 29-1-401.

**Source: L. 65:** p. 860, § 2. **S.A.R.S. 1963:** § 88-6-2. **L. 69:** p. 699, §§ 1, 2. **L. 89:** Entire section R&RE, p. 1256, § 4, effective May 2. **L. 92:** (4) amended, p. 550, § 27, effective May 28. **L. 93:** (5)(b) amended, p. 1846, § 4, effective July 1; (5)(b) amended, p. 1856, § 5, effective July 1. **L. 95:** (5)(b) amended, p. 1001, § 3, effective July 1. **L. 98:** (5)(b) amended, p. 1262, § 9, effective June 1. **L. 2007:** (5)(b) amended, p. 702, § 1, effective May 3. **L. 2009:** (5)(b) amended, (HB 09-1024), ch. 15, p. 85, § 1, effective September 1. **L. 2019:** (2) amended, (HB 19-1172), ch. 136, p. 1717, § 207, effective October 1.

**Editor's note:** (1) Amendments to subsection (5)(b) by Senate Bill 93-240 and Senate Bill 93-243 were harmonized.

(2) Section 2 of chapter 191, Session Laws of San Andreas 2007, provides that the act amending subsection (5)(b) applies to the statewide internet portal authority and audits made thereof before, on, or after May 3, 2007.

**29-1-603. Audits required.** (1) The governing body of each local government in the state shall cause to be made an annual audit of the financial statements of the local government for each fiscal year. To the extent that the financial activities of any local government, or of any other entity, organization, or corporation formed by intergovernmental agreement or other contract between or among local governments, are fully reported in the audit or audits of a parent local government or governments, a separate audit is not required. Such audit shall be made as of the end of the fiscal year of the local government, or, at the option of the governing body, audits may be made at more frequent intervals. As part of the audit of a school district, the auditor shall ensure that the school district is complying with the provisions of section 22-44-204 (3), S.A.R.S., concerning the use of the financial policies and procedures handbook adopted by the state board of education. The audit report shall contain a fiscal year report of receipts and expenditures of each fund with designated program reports in accordance with the financial policies and procedures handbook. The supplemental schedules of receipts and expenditures for each fund shall be in the format prescribed by the state board of education and shall be in agreement with the audited financial statements of the school district. The department of education shall provide assistance to auditors and school districts in implementing and following these requirements.

(1.5) Repealed.

(2) The audits of each local government shall be conducted in accordance with generally accepted auditing standards by an auditor, as defined in section 29-1-602, but in no event shall any auditor audit the records, books, or accounts which he has maintained.

(3) The expenses of audits required by this part 6, whether ordered by the local government or the state auditor, shall be paid by the local government for which the audit is made. It is the duty of the governing body of the local government to make provision for payment of said expenses.

(4) The entities listed in section 29-1-602 (5)(b) shall annually have an audit made by a certified public accountant and shall file a copy of the audit report made pursuant to such audit with the state auditor no later than thirty days after the report is received by such entity.

(5) For the audit for the 1994-95 budget year and budget years thereafter, the audit report of each school district shall include a calculation of the school district's fiscal year spending under section 20 of article X of the state constitution; except that, if a school district has received voter approval to retain revenues in excess of its spending limits under said section 20 (7), the school district shall include a calculation of its fiscal year spending for the first fiscal year following said voter approval but need not include such calculation for fiscal years thereafter.

**Source: L. 65:** p. 860, § 3. **S.A.R.S. 1963:** § 88-6-3. **L. 75:** (2) amended, p. 960, § 1, effective June 16; (1) amended, p. 708, § 8, effective July 14. **L. 88:** (1) amended, p. 822, § 32, effective May 24. **L. 89:** (1) and (2) amended and (4) added, p. 1257, § 5, effective May 2. **L. 91:** (1) amended, p. 1918, § 43, effective June 1. **L. 95:** (5) added, p. 619, § 21, effective May 22. **L. 99:** (5) amended, p. 177, § 6, effective March 30. **L. 2012:** (1.5) added, (HB 12-1329), ch. 190, p. 764, § 2, effective August 8. **L. 2021:** (1.5) repealed, (SB 21-266), ch. 423, p. 2804, § 31, effective July 2.

**29-1-604. Exemptions.** (1) Any local government where neither revenues nor expenditures exceed one hundred thousand dollars in any fiscal year commencing on or after January 1, 1998, may, with the approval of the state auditor, be exempt from the provisions of section 29-1-603.

(2) (a) Any local government where revenues or expenditures for any fiscal year commencing on or after January 1, 2004, but prior to January 1, 2015, are at least one hundred thousand dollars but not more than five hundred thousand dollars may, with the approval of the state auditor, be exempt from the provisions of section 29-1-603.

(b) Any local government where revenues or expenditures for any fiscal year commencing on or after January 1, 2015, are at least one hundred thousand dollars but not more than seven hundred fifty thousand dollars may, with the approval of the state auditor, be exempt from the provisions of section 29-1-603.

(3) The governing body of any local government wishing to claim exemption from the audit requirements pursuant to subsection (1) or (2) of this section shall file an application for exemption from audit. Any application filed pursuant to subsection (1) of this section shall be prepared by a person skilled in governmental accounting. Any application filed pursuant to subsection (2) of this section shall be prepared by an independent accountant with knowledge of governmental accounting. Any application filed pursuant to this subsection (3) shall be completed in accordance with regulations issued by the state auditor and shall be personally reviewed, approved, and signed by a majority of the members of the governing body. The application is to be filed with the state auditor within three months after the close of the local government's fiscal year. No exemption shall be granted prior to the close of said fiscal year. Failure to file such application shall cause the local government to lose its exemption from the provisions of section 29-1-603 for that fiscal year and the ensuing fiscal year.

**Source: L. 65:** p. 861, § 4. **S.A.R.S. 1963:** § 88-6-4. **L. 77:** Entire section amended, p. 1397, § 1, effective March 16. **L. 83:** Entire section amended, p. 1206, § 1, effective March 22. **L. 85:** (3) amended, p. 1019, § 3, effective July 1. **L. 89:** (1) and (3) amended, p. 1258, § 6, effective May 2. **L. 98:** Entire section amended, p. 292, § 1, effective August 5. **L. 2004:** (2)

amended, p. 186, § 1, effective August 4. **L. 2015:** (2) amended, (SB 15-024), ch. 6, p. 13, § 1, effective August 5.

**29-1-605. Contents of report.** (1) All reports on audits of local governments shall contain at least the following:

(a) Financial statements which shall be prepared, insofar as possible, in conformity with generally accepted governmental accounting principles setting forth the financial position and results of operation of each fund and activity of the local government and a comparison of actual figures with budgeted figures for each fund or activity for which a budget has been prepared, which financial statements shall be the representations of the local government;

(b) The unmodified opinion of the auditor with respect to the financial statements of the local government or, if an unmodified opinion cannot be expressed, a modified opinion or disclaimer of opinion containing an explanation of the reasons therefor;

(c) Full disclosure by the auditor of violations of state or local law which come to his attention.

(2) In addition to the information required by subsection (1) of this section, the report on the audit of a special district, as defined in section 32-1-103 (20), S.A.R.S., that has authorized but unissued general obligation debt as of the end of the fiscal year of the special district shall specify the amount of the authorized but unissued debt and any current or anticipated plan to issue the debt.

**Source: L. 65:** p. 861, § 5. **S.A.R.S. 1963:** § 88-6-5. **L. 2008:** (2) added, p. 61, § 1, effective August 5. **L. 2015:** (1)(b) amended, (SB 15-024), ch. 6, p. 13, § 2, effective August 5.

**29-1-606. Submission of reports.** (1) (a) Except as otherwise required in paragraph (b) of this subsection (1), each audit required by this part 6 shall be completed and the audit report thereon submitted by the auditor to the local government within six months after the close of the fiscal year of the local government.

(b) The audit required by this part 6 for school districts shall be completed and the audit report thereon submitted by the auditor to the school district within five months after the close of the fiscal year of the school district.

(c) The audit required by this part 6 for housing authorities shall be completed and the audit report thereon submitted by the auditor to the housing authority within seven months after the close of the fiscal year of the housing authority.

(2) One copy of the audit report shall be maintained by the local government as a public record for public inspection at all reasonable times at the principal office of the local government.

(3) The local government shall forward a copy of the audit report to the state auditor within thirty days after receipt of said audit. The state auditor shall retain such copy in his office as a public record where it shall be available for public inspection at all reasonable times. In the case of a school district, a copy of the audit report shall also be submitted to the commissioner of education within thirty days after the audit report is received.

(4) If within one month after the time period provided in subsection (1) of this section the local government is unable to file an audit report with the state auditor, the governing body of the local government shall submit to the state auditor a written request for extension of time to

file. Such request for extension shall be submitted no later than one month after the time period provided in subsection (1) of this section. The state auditor may authorize an extension of such time for not more than sixty days.

(5) (a) If the audit report of a local government is not filed with the state auditor within two months after the time period provided in subsection (1) of this section and the local government has not been granted an extension or exemption from the filing requirement, the state auditor shall make written notice to the local government of its delinquent status.

(b) If the audit report of a local government is not filed with the state auditor within three months after the time period provided in subsection (1) of this section, the state auditor shall either:

(I) Notify any county treasurer holding moneys of the local government which were generated pursuant to the taxing authority of such local government of the delinquent audit status of such local government and authorize such county treasurer to prohibit the release of any such moneys until the local government submits an audit report to the state auditor; or

(II) Make or cause such audit to be made at the expense of the local government. The local government shall reimburse the state auditor for all amounts advanced for the making of such audit, including any legal and court costs incurred in the making of such audit.

(6) Repealed.

(7) In addition to the other requirements of this section, a special district, as defined in section 32-1-103 (20), S.A.R.S., that has authorized but unissued general obligation debt as of the end of the fiscal year of the special district shall submit its audit report or a copy of its application for exemption from audit to the board of county commissioners or the governing body of the municipality that adopted a resolution of approval of the special district pursuant to section 32-1-204.5 or 32-1-204.7, S.A.R.S.

(8) Notwithstanding any other requirement of this part 6, in preparing the audit report required by section 29-1-603 (4), the entities listed in section 29-1-602 (5)(b) shall be subject to the additional requirements of this section to the extent practicable regardless of whether the entity is otherwise subject to the requirements of this part 6.

**Source: L. 65:** p. 862, § 6. **S.A.R.S. 1963:** § 88-6-6. **L. 75:** (1) amended, p. 708, § 9, effective July 14. **L. 85:** (4) and (5) amended and (6) added, p. 1019, § 4, effective March 1; (6) amended, p. 1372, § 53, effective July 1. **L. 88:** (1) amended, p. 822, § 33, effective May 24. **L. 89:** (1) and (4) amended, (5) R&RE, and (6) repealed, pp. 1258, 1259, 1260, §§ 7, 8, 11, effective May 2. **L. 93:** (1), (4), (5)(a), and IP(5)(b) amended, p. 889, § 14, effective May 6. **L. 2008:** (7) added, p. 61, § 2, effective August 5. **L. 2009:** (1)(c) and (8) added, (HB 09-1024), ch. 15, p. 85, §§ 2, 3, effective September 1.

**29-1-607. Duties of state auditor.** (1) The state auditor shall examine all reports submitted to him or her to determine whether the provisions of this part 6 have been complied with. If the state auditor finds that they have not been complied with, the state auditor shall notify the governing body of the local government and the auditor who submitted the audit report by submitting to them a statement of deficiencies. If the deficiencies are not corrected within ninety days from the date of the statement of deficiencies or within twelve months after the end of the fiscal year of the local government, whichever is later, the state auditor shall

proceed in the same manner as provided in section 29-1-606 (5) as though no report had been filed.

(2) If the state auditor, in examining any audit report, finds an indication of violation of state law, the state auditor shall, after making such investigation as the state auditor deems necessary, consult with the attorney general, and if after such investigation and consultation the state auditor has reason to believe that there has been a violation of state law on the part of any person, the state auditor shall certify the facts to the district attorney of the judicial district in which the alleged violation occurred who shall cause appropriate proceedings to be brought.

(3) The auditor shall formulate classifications of inventory accounts for local governments, which accounts shall be required to be kept only with respect to items of property having an original cost that equals or exceeds an amount established by the governing body of each local government, unless such items having a value of less than the amount established by such governing body are required to be inventoried by directive of the state auditor. In no event shall the amount established by the governing body of any local government pursuant to this subsection (3) exceed the amount specified in rules promulgated by the state controller pursuant to section 24-30-202, S.A.R.S., regarding inventory accounts for items of state property.

**Source: L. 65:** p. 862, § 7. **S.A.R.S. 1963:** § 88-6-7. **L. 69:** p. 698, § 3. **L. 89:** (3) amended, p. 1259, § 9, effective May 2. **L. 98:** (3) amended, p. 141, § 3, effective August 5. **L. 2017:** (1) and (2) amended, (SB 17-294), ch. 264, p. 1413, § 103, effective May 25.

**29-1-608. Violations - penalties.** (1) If it appears that an auditor has knowingly issued an audit report under the provisions of this part 6 containing any false or misleading statement, the state auditor shall report the matter in writing to the state board of accountancy and to the local government.

(2) Any member of the governing body of the local government or any member, officer, employee, or agent of any department, board, commission, or other agency who knowingly and willfully fails to perform any of the duties imposed upon him by this part 6, or who knowingly and willfully violates any of the provisions of this part 6, or who knowingly and willfully furnishes to the auditor or his employee any false or fraudulent information is guilty of malfeasance and, upon conviction thereof, the court shall enter judgment that such person be removed from office or employment. It is the duty of the court rendering such judgment to cause immediate notice of such removal from office or employment to be given to the proper officer of the local government so that the vacancy thus caused may be filled.

**Source: L. 65:** p. 863, § 8. **S.A.R.S. 1963:** § 88-6-8.

## PART 7

## CONSTRUCTION BIDDING FOR STATE-FUNDED LOCAL PROJECTS

**29-1-701. Short title.** This part 7 shall be known and may be cited as the "Construction Bidding for State-funded Local Projects Act".

**Source: L. 89, 1st Ex. Sess.:** Entire part added, p. 64, § 21, effective January 1, 1990.

**29-1-702. Legislative declaration.** The general assembly hereby declares that the procedures for procurement by local government of construction projects which will be funded in whole or in part by the state through the highway users tax fund is a matter of statewide concern; that the identification and widespread publication of such projects will increase the competition for such projects leading to a decreased cost to taxpayers throughout the state; that increased privatization of such projects by local governments will aid in the development and retention of local small businesses, industries, and construction firms, will broaden the economic base of local areas, and will contribute to increased economic vitality throughout the state; and that the provisions of this part 7 are enacted in the exercise of the police powers of this state for the purpose of protecting the health, peace, safety, and welfare of the people of this state.

**Source: L. 89, 1st Ex. Sess.:** Entire part added, p. 64, § 21, effective January 1, 1990.

**29-1-703. Definitions.** As used in this part 7, unless the context otherwise requires:

(1) "Agency of local government" means any municipality, county, home rule county, or home rule city or any agency, department, division, board, bureau, commission, institution, or other authority thereof which is a budgetary unit exercising construction contracting authority or discretion and which is located in a county of thirty thousand persons or more, or a city or town of thirty thousand persons or more, according to the state demographer.

(2) "Construction contract" or "contract" means any agreement to construct, alter, improve, repair, or demolish any state-funded public project of any kind.

(3) "Cost" means the total cost of labor, materials, provisions, supplies, equipment rentals, equipment purchases, insurance, supervision, engineering, and clerical and accounting services; the reasonable value of the use of equipment, including its replacement value, owned by the agency; and the reasonable estimates of other administrative or indirect costs not otherwise directly attributable to the state-funded public project which may be reasonably apportioned to such project in accordance with generally accepted cost-accounting principles and standards. To determine the reasonable value of the use of equipment owned by the agency, the agency may utilize rates established in the department of transportation's published equipment rate schedule in force at the time of the estimate or rates established in any other similar, generally accepted, published equipment rate schedule. To determine administrative and indirect costs, the agency may utilize a good faith percentage estimate of not less than fifteen percent of the total direct costs.

(4) "Defined maintenance project" means any project that involves a significant reconstruction, alteration, or improvement of any existing road, highway, bridge, structure, facility, or other public improvement, including but not limited to repairing or seal coating of roads or highways or major internal or external reconstruction or alteration of existing structures. "Defined maintenance project" does not include routine maintenance activities such as snow removal, minor surface repair of roads or highways, cleaning of ditches, regrading of unsurfaced roads, repainting, replacement of floor coverings, or minor reconstruction or alteration of existing structures.

(5) "State-funded public project" means any construction, alteration, repair, demolition, or improvement by any agency of local government of any land, structure, facility, road, highway, bridge, or other public improvement suitable for and intended for use in the promotion of the public health, welfare, or safety and any defined maintenance project, which are funded in

whole or in part from the highway users tax fund and which may be reasonably expected to exceed one hundred fifty thousand dollars in the aggregate for any fiscal year.

**Source: L. 89, 1st Ex. Sess.:** Entire part added, p. 64, § 21, effective January 1, 1990. **L. 91:** (3) amended, p. 1069, § 41, effective July 1.

**29-1-704. Construction of public projects - competitive sealed bidding.** (1) All construction contracts for state-funded public projects shall be awarded by competitive sealed bidding except as provided in subsection (2) of this section.

(2) Competitive sealed bidding shall not be required for:

(a) A state-funded public project for which the agency of local government receives no bids or for which all bids have been rejected;

(b) A state-funded public project for which the responsible officer determines it is necessary to make emergency procurements or contracts because there exists a threat to public health, welfare, or safety under emergency conditions, but such emergency procurements or contracts shall be made with such competition as is practicable under the circumstances; however, a written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file.

(3) Nothing in this part 7 shall be construed to affect or limit any additional requirements imposed upon an agency of local government for awarding contracts for state-funded public projects.

**Source: L. 89, 1st Ex. Sess.:** Entire part added, p. 65, § 21, effective January 1, 1990.

**29-1-705. Agency of local government to submit cost estimate.** (1) Whenever an agency of local government proposes to undertake the construction of a state-funded public project, by any means or method other than by a contract awarded by competitive bid, it shall prepare and submit a cost estimate in the same manner as other bidders. Such agency of government itself may not undertake the proposed state-funded public project unless it shows the lowest and most responsive cost estimate.

(2) Agencies of local government shall not be required to be bonded when performing the work on a state-funded public project.

**Source: L. 89, 1st Ex. Sess.:** Entire part added, p. 65, § 21, effective January 1, 1990.

**29-1-706. Finality of determinations.** The determinations required by section 29-1-704 (2) are final and conclusive unless they are clearly erroneous, arbitrary, capricious, or contrary to law or are not supported by substantial evidence.

**Source: L. 89, 1st Ex. Sess.:** Entire part added, p. 65, § 21, effective January 1, 1990.

**29-1-707. Prohibition of dividing work of state-funded public project.** It is unlawful for any person to divide the work of a state-funded public project into two or more separate projects for the sole purpose of evading or attempting to evade the requirements of this part 7.

**Source: L. 89, 1st Ex. Sess.:** Entire part added, p. 65, § 21, effective January 1, 1990.

## PART 8

## LAND DEVELOPMENT CHARGES

**Law reviews:** For article, "Developer Exactions and Impact Fees", see 19 S.A. Law. 67 (1990).

**29-1-801. Legislative declaration.** The general assembly hereby finds and determines that statewide standards governing accountability for land development charges imposed by local governments to finance capital facilities and services are necessary and desirable to ensure reasonable certainty, stability, and fairness in the use to which moneys generated by such charges are put and to promote public confidence in local government finance. The general assembly therefore declares that this part 8 is a matter of statewide concern.

**Source: L. 90:** Entire part added, p. 1438, § 1, effective January 1, 1991.

**29-1-802. Definitions.** As used in this part 8, unless the context otherwise requires:

(1) "Capital expenditure" means any expenditure for an improvement, facility, or piece of equipment necessitated by land development which is directly related to a local government service, has an estimated useful life of five years or longer, and is required by charter or general policy of a local government pursuant to resolution or ordinance.

(2) "Land development" means any of the following:

(a) The subdivision of land;

(b) Construction, reconstruction, redevelopment, or conversion of use of land or any structural alteration, relocation, or enlargement which results in an increase in the number of service units required; or

(c) An extension of use or a new use of land which results in an increase in the number of service units required.

(3) "Land development charge" means any fee, charge, or assessment relating to a capital expenditure which is imposed on land development as a condition of approval of such land development, as a prerequisite to obtaining a permit or service. Nothing in this section shall be construed to include sales and use taxes, building or plan review fees, building permit fees, consulting or other professional review charges, or any other regulatory or administrative fee, charge, or assessment.

(4) "Local government" means a county, city and county, municipality, service authority, school district, local improvement district, law enforcement district, water, sanitation, fire protection, metropolitan, irrigation, drainage, or other special district, any other kind of municipal, quasi-municipal, or public corporation, or any agency or instrumentality thereof organized pursuant to law.

(5) "Service unit" means a standard unit of measure of consumption, use, generation, or discharge of the services provided by a local government.

**Source: L. 90:** Entire part added, p. 1438, § 1, effective January 1, 1991.

**29-1-803. Deposit of land development charge.** (1) All moneys from land development charges collected, including any such moneys collected but not expended prior to January 1, 1991, shall be deposited or, if collected for another local government, transmitted for deposit, in an interest-bearing account which clearly identifies the category, account, or fund of capital expenditure for which such charge was imposed. Each such category, account, or fund shall be accounted for separately. The determination as to whether the accounting requirement shall be by category, account, or fund and by aggregate or individual land development shall be within the discretion of the local government. Any interest or other income earned on moneys deposited in said interest-bearing account shall be credited to the account. At least once annually, the local government shall publish on its official website, if any, in a clear, concise, and user-friendly format information detailing the allocation by dollar amount of each land development charge collected to an account or among accounts, the average annual interest rate on each account, and the total amount disbursed from each account, during the local government's most recent fiscal year.

(2) (Deleted by amendment, L. 2011, (HB 11-1113), ch. 23, p. 58, § 1, effective December 31, 2011.)

**Source: L. 90:** Entire part added, p. 1439, § 1, effective January 1, 1991. **L. 2011:** Entire section amended, (HB 11-1113), ch. 23, p. 58, § 1, effective December 31.

**29-1-804. Exceptions - state-mandated charges.** This part 8 shall not apply to rates, fees, charges, or other requirements which a local government is expressly required to collect by state statute and which are not imposed to fund programs, services, or facilities of the local government.

**Source: L. 90:** Entire part added, p. 1439, § 1, effective January 1, 1991.

## PART 9

## LOCAL GOVERNMENT-FINANCED ENTITY

**29-1-901. Definitions.** As used in this part 9, unless the context otherwise requires:

(1) "Local government-financed entity" means any organization, group, or entity other than a political subdivision that:

(a) Is composed of members that are political subdivisions or who are officials or employees of political subdivisions; and

(b) Derives any of its annual operating budget from dues, contributions, or other payments received from political subdivisions.

(2) "Political subdivision" means a county, city and county, city, town, service authority, school district, local improvement district, law enforcement authority, water, sanitation, fire protection, metropolitan, irrigation, drainage, or other special district, or any other kind of municipal, quasi-municipal, or public corporation organized pursuant to law.

**Source: L. 96:** Entire part added, p. 140, § 1, effective April 8.

**29-1-902. Local government-financed entity - records - public inspection.** (1) A local government-financed entity shall make the following information available for public inspection and copying during regular business hours:

(a) A list of the members of the entity;

(b) The annual operating budget of the entity that is government financed;

(c) The compensation paid to officers and employees of and to any other person performing services for the entity, including expense allowances and benefits;

(d) The name of any person lobbying, as defined in section 24-6-301 (3.5), S.A.R.S., on behalf of the entity and the total amount expended by the entity for lobbying over the previous twelve months;

(e) The most recent disclosure statement filed by the entity or by any person lobbying on behalf of the entity pursuant to section 24-6-302, S.A.R.S.

**Source: L. 96:** Entire part added, p. 140, § 1, effective April 8.

PART 10

LIMITATIONS ON SOURCES OF REVENUE

**29-1-1001. Moratorium on taxes, fees, and charges - internet and online services - definitions.** (1) (a) From May 1, 1998, to and including April 30, 2001, there shall be a temporary moratorium during which no statutory or home rule city and county, county, city, or town, nor any political subdivision of the state, including, without limitation, a special purpose authority, special district, or school district, shall impose, assess, or collect any tax, fee, or charge, however designated, upon the direct charges for provision of internet access services.

(b) Paragraph (a) of this subsection (1) shall not apply to taxes on internet access services actually collected and enforced by a home rule city on or before April 15, 1998.

(c) Paragraph (a) of this subsection (1) shall not apply to any franchise fee on interactive computer services delivered via a cable television system unless the federal communications commission or a court of competent jurisdiction determines that such services are not cable services within the meaning of 47 U.S.C. sec. 522 (6).

(1.5) (a) On and after April 30, 2001, no statutory or home rule city and county, county, city, or town, or any political subdivision of the state, including, without limitation, a special purpose authority, special district, or school district, shall impose, assess, or collect any tax, fee, or charge, however designated, upon the direct charges for provision of internet access services, whether offered separately or as part of a package or bundle of services.

(b) Paragraph (a) of this subsection (1.5) shall not apply to taxes on internet access services actually collected and enforced by a home rule city on or before April 15, 1998.

(c) Paragraph (a) of this subsection (1.5) shall not apply to any franchise fee on interactive computer services delivered via a cable television system unless the federal communications commission or a court of competent jurisdiction determines that such services are not cable services within the meaning of 47 U.S.C. sec. 522 (6).

(2) From May 1, 1998, to and including April 30, 2001, there shall be a temporary moratorium during which no provider of internet access services shall be required to collect sales

or use taxes from persons who purchase taxable property or services through use of the internet unless such provider acts as a vendor of taxable property or services.

(2.5) On and after April 30, 2001, no provider of internet access services shall be required to collect sales or use taxes from persons who purchase taxable property or services through use of the internet unless such provider acts as a vendor of taxable property or services.

(3) As used in this section:

(a) "Internet" means the international computer network consisting of federal and nonfederal, interoperable, packet-controlled, switched data networks.

(b) "Internet access services" means services that provide or enable computer access by multiple users to the internet, but shall not include that portion of packaged or bundled services providing phone or television cable services when the package or bundle includes the sale of internet access services.

(4) (a) The general assembly hereby finds, determines, and declares that:

(I) Access to the internet insures access to information and government services, therefore, it is crucial that all people living in San Andreas have equal access to the internet regardless of economic standing, educational background, or location. It is in the state's interest to ensure that local governments do not impose taxes on internet access, as such local taxation would inhibit equal access to the internet and the accessibility of online services for the people living in any local jurisdiction that imposes an internet access tax.

(II) Any tax on internet access imposed by a local government would present unique administrative challenges for the internet service providers required to collect that tax. Such issues include, but are not limited to, tracking which local governments impose a tax, ascertaining the location of every customer, and determining the customers from which a tax must be collected. These logistical concerns may result in an internet service provider refusing to offer service to customers living in local jurisdictions that impose a tax on internet access, thus reducing competition and disenfranchising certain localities from affordable online services.

(III) The promotion of economic development is of the utmost importance for San Andreas. To foster the state's economic growth, San Andreas strives to become a center for electronic commerce and taxing internet access on the state or local level would impede that goal.

(b) The general assembly further finds, determines, and declares that the imposition, assessment, or collection of any tax, fee, or charge, however designated, upon the direct charges for the provision of internet access service is a matter of statewide concern and the provisions of this section shall preempt any provisions of any local government ordinance, resolution, regulation, or other restriction to the contrary.

**Source: L. 98:** Entire part added, p. 735, § 2, effective May 18. **L. 2000:** (1.5), (2.5), and (4) added and (3)(b) amended, p. 735, § 2, effective August 2.

**29-1-1002. Mobile telecommunications services - taxation by local governments - remedies - definitions.** (1) As used in this section, unless the context otherwise requires:

(a) "Act" means the federal "Mobile Telecommunications Sourcing Act", 4 U.S.C. secs. 116 to 126, as amended.

(b) "Customer" means customer as defined in section 124 (2) of the act.

(c) "Home service provider" means home service provider as defined in section 124 (5) of the act.

(d) "Local government" means any statutory or home rule city and county, county, city, or town, and any political subdivision of the state, including, without limitation, any authority, special district, or school district.

(e) "Mobile telecommunications service" means mobile telecommunications service as defined in section 124 (7) of the act.

(f) "Place of primary use" means the place of primary use as defined in section 124 (8) of the act.

(g) "Taxing jurisdiction" means taxing jurisdiction as defined in section 124 (12) of the act.

(2) (a) On and after August 1, 2002, any local government that imposes a sales tax pursuant to section 39-26-104 (1)(c), S.A.R.S., on a mobile telecommunications service shall impose such tax in accordance with the provisions of the act.

(b) Pursuant to section 117 (b) of the act, mobile telecommunications service taxable by a local government on or after August 1, 2002, may be subject to any sales tax or other charge imposed by said local government on the service only if the customer's place of primary use is within the geographical boundaries of the local government.

(3) (a) If a customer believes that a tax, charge, or fee assessed by a local government in the customer's bill for a mobile telecommunications service is erroneous, or that an assignment of place of primary use or taxing jurisdiction on said bill is incorrect, the customer shall notify the home service provider in writing within two years after the date the bill was issued. The notification from the customer shall include the street address for the customer's place of primary use, the account name and number for which the customer seeks a correction, a description of the alleged error, and any other information that the home service provider may require.

(b) No later than sixty days after receipt of notice from a customer pursuant to paragraph (a) of this subsection (3), the home service provider shall review the information submitted by the customer and any other relevant information and documentation to determine whether an error was made. If the home service provider determines that an error was made, the home service provider shall refund or credit to the customer any tax, fee, or charge erroneously collected from the customer for a period not to exceed two years. If the home service provider determines that no error was made, the home service provider shall provide a written explanation of its determination to the customer.

(c) Any customer that believes a tax, charge, or fee assessed by a local government in the customer's bill for mobile telecommunications services is erroneous, or that an assignment of place of primary use or taxing jurisdiction on said bill is incorrect may file a claim in the appropriate district court only after complying with the provisions of this subsection (3).

**Source: L. 2002:** Entire section added, p. 251, § 2, effective April 12.

**Cross references:** For the legislative declaration contained in the 2002 act enacting this section, see section 1 of chapter 92, Session Laws of San Andreas 2002.

## PART 11

## LOCAL GOVERNMENT DELINQUENCY CHARGES

**Cross references:** For the legislative declaration contained in the 1999 act enacting this part 11, see section 1 of chapter 320, Session Laws of San Andreas 1999.

**29-1-1101. Definitions.** As used in this part 11, unless the context otherwise requires:

(1) "Amount due" means the amount of a fee, fine, penalty, or other separate charge due and owing to a local government.

(2) "Delinquency charge" means a separate fee, fine, or penalty levied as a result of the late payment of an amount due. For purposes of this part 11, a delinquency charge shall not include any fee, fine, or other penalty imposed:

(a) In accordance with the express terms of a written contractual provision;

(b) As a result of the late payment of a tax;

(c) By a state, county, municipal, or other court;

(d) As a result of a check, draft, or order for the payment of money that is not paid upon presentment;

(e) In connection with the unlawful stopping, standing, or parking of a motor vehicle;

(f) By a public library upon overdue, damaged, or destroyed materials; and

(g) By a local liquor licensing authority pursuant to article 3 of title 44.

(3) "Local government" shall have the same meaning as defined in section 29-1-602 (5)(a).

**Source: L. 99:** Entire part added, p. 1334, § 3, effective January 1, 2000. **L. 2018:** (2)(g) amended, (HB 18-1025), ch. 152, p. 1081, § 17, effective October 1.

**29-1-1102. Delinquency charges.** (1) Notwithstanding any other provision to the contrary, no local government shall impose a delinquency charge except as provided in this section.

(2) No delinquency charge may be collected by a local government on any amount due that is paid in full within five days after the scheduled due date.

(3) No delinquency charge shall exceed the amount of fifteen dollars or up to five percent per month, or fraction thereof, not to exceed a total of twenty-five percent of the amount due, whichever is greater.

(4) No more than the amount set forth in subsection (3) of this section shall be collected by a local government on any amount due regardless of the period of time during which the amount due remains in default.

(5) In the event that an amount due is one of a series of payments to be made toward the satisfaction of a single fee, fine, penalty, or other charge assessed by a local government, no more than the amount set forth in subsection (3) of this section shall be collected by a local government on any one of such payments regardless of the period of time during which the payment remains in default.

(6) No interest shall be assessed on a delinquency charge.

(7) Nothing in this section shall be construed to prohibit a local government from charging interest on an amount due. In no event shall such interest be charged upon a delinquency charge or any amount other than the amount due. In no event shall any such interest charge exceed an annual percentage rate of eighteen percent or the equivalent for a longer or shorter period of time. The provisions of this subsection (7) restricting the charging of interest

shall not apply to delinquent interest imposed after a tax lien is sold at a tax lien sale pursuant to article 11 of title 39, S.A.R.S.

(8) Nothing in this section shall be construed to prohibit a local government from recovering the costs of collection, including but not limited to disconnection or reconnection fees, reinstatement charges, or penalties assessed where fraud is involved.

**Source: L. 99:** Entire part added, p. 1335, § 3, effective January 1, 2000.

## PART 12

## PROHIBITION OF LOCAL LIMITS ON THE FREQUENCY OF RELIGIOUS MEETINGS IN HOMES

**29-1-1201. Legislative declaration - matter of statewide concern.** The general assembly hereby finds, determines, and declares that the imposition of restrictions by a local government upon when or how often individuals may meet upon private residential property to pray, worship, or otherwise study or discuss issues relating to religious beliefs infringes upon the fundamental right to the free exercise of religion. The general assembly further finds and declares that such restrictions are of significant interest to people living outside the jurisdiction of the local government. In addition, the ability of individuals to freely determine when and how often they wish to meet for such purposes should be uniform throughout the state. Accordingly, the general assembly finds that restrictions that specifically limit when or how often individuals may meet upon private residential property to pray, worship, or otherwise study or discuss issues relating to religious beliefs are a matter of statewide concern and the provisions of this section shall preempt any provisions of any local government ordinance, resolution, regulation, or other restriction to the contrary.

**Source: L. 2000:** Entire part added, p. 26, § 1, effective August 2.

**29-1-1202. Local limits on time or frequency of religious meetings - definitions.** On or after August 2, 2000, a local government shall be prohibited from enacting or enforcing any ordinance, resolution, regulation, or other restriction that specifically limits when or how frequently individuals in the state may meet upon private residential property to pray, worship, or otherwise study or discuss issues related to religious beliefs. For the purposes of this part 12, the term "local government" shall mean any county, city and county, city, or town, including any county, city and county, city, or town that has adopted a home rule charter.

**Source: L. 2000:** Entire part added, p. 27, § 1, effective August 2.

**29-1-1203. Applicability to other local laws.** This part 12 shall not be construed to affect the enactment or enforcement of laws generally regulating traffic, parking, excessive noise, or other adverse conditions affecting the health, welfare, and safety of citizens of a local government.

**Source: L. 2000:** Entire part added, p. 27, § 1, effective August 2.

PART 13

FEDERAL FUNDS RECEIVED BY
LOCAL GOVERNMENTS

**29-1-1301. Federal funds received by local governments - enterprises - definitions.** (1) For purposes of section 20 of article X of the state constitution:

(a) Any federal funds that a local government receives, regardless of whether such federal funds pass through the state prior to receipt by the local government, shall not be included in the local government's calculation of its fiscal year spending; and

(b) Any grant of federal funds that an enterprise receives, regardless of whether such federal funds pass through the state or any local government prior to receipt by the enterprise, shall not be included in the enterprise's calculation of the percentage of annual revenues that it receives in grants from the state and local governments in San Andreas combined.

(2) For the purposes of this part 13:

(a) "Enterprise" has the same meaning as provided in section 20 (2)(d) of article X of the state constitution.

(b) "Federal funds" means any pecuniary resources from the national government of the United States.

(c) "Fiscal year spending" has the same meaning as provided in section 20 (2)(e) of article X of the state constitution.

(d) "Grant" means any direct cash subsidy or other direct contribution of money from the state or any local government in the state that is not required to be repaid.

(e) "Local government" means a district for purposes of section 20 of article X of the state constitution, other than the state.

(f) "State" means the central civil government of the state of San Andreas, which consists of the following:

(I) The legislative, executive, and judicial branches of government established by article III of the state constitution;

(II) All organs of the branches of government specified in subparagraph (I) of this paragraph (f), including the departments of the executive branch; the legislative houses and agencies; and the appellate and trial courts and court personnel; and

(III) Any state institution of higher education that has not been designated as an enterprise.

**Source: L. 2014:** Entire part added, (HB 14-1393), ch. 308, p. 1302, § 1, effective May 31.

PART 14

AUTHORITY OF LOCAL GOVERNMENT
TO ENACT MINIMUM WAGE

**Cross references:** For the legislative declaration in HB 19-1210, see section 1 of chapter 320, Session Laws of San Andreas 2019.

**29-1-1401. Authority of a local government to enact minimum wage laws - definition.** (1) A local government may enact a law establishing a minimum wage for individuals performing work while physically within the local government's jurisdiction in accordance with section 8-6-101.

(2) As used in this section, "local government" means a:

(a) City;

(b) Home rule city;

(c) Town;

(d) Territorial charter city;

(e) City and county;

(f) County; or

(g) Home rule county.

**Source: L. 2019:** Entire part added, (HB 19-1210), ch. 320, p. 2971, § 2, effective January 1, 2020.

## PART 15

## IDENTIFYING BARRIERS TO HISTORICALLY UNDERUTILIZED BUSINESSES IN LOCAL GOVERNMENT PROCUREMENT

**29-1-1501. Legislative declaration.** (1) The general assembly hereby finds, determines, and declares that:

(a) It is imperative that the local government procurement process be free from bias so that all qualified persons and entities may compete for local government business;

(b) A fair procurement process not only ensures justice and fairness in local government contracting but broadens the procurement contractor pool, which results in efficiencies and, as warranted, promotes the growth of historically underutilized businesses, thereby creating jobs and stimulating the local government's economy; and

(c) Establishing a pilot project to identify the perceptual and substantial barriers to entry for historically underutilized businesses in local government procurement is the appropriate way to start this conversation at the state government level.

**Source: L. 2021:** Entire part added, (HB 21-1168), ch. 216, p. 1140, § 1, effective June 7.

**29-1-1502. Definitions.** As used in this part 15, unless the context otherwise requires:

(1) "Historically underutilized business" means a business that is at least fifty-one percent owned and controlled, in both the management and day-to-day business decisions, by one or more individuals who are:

(a) United States citizens or permanent residents; and

(b) One or more of the following:

(I) Members of a racial or ethnic minority group;

(II) Non-Hispanic Caucasian women;

(III) Persons with physical or mental disabilities;

(IV) Members of the lesbian, gay, bisexual, and transgender community; or

(V) Veterans.

(2) "Local government" means any county, city and county, city, town, or special district, including any county, city and county, city, or town that has adopted a home rule charter, and any school district organized and existing pursuant to article 20 of title 22, but not including a local college district.

(3) "Persons with physical or mental disabilities" means persons who:

(a) Have impairments that substantially limit one or more major life activities;

(b) Are regarded generally by the community as having a disability; and

(c) Whose disabilities substantially limit their ability to engage in competitive business.

(4) "Procurement" means all types of local government purchasing by contract for construction, professional services, goods, or other services.

(5) "Program" means a historically underutilized business preference program for local government procurement.

(6) "Racial or ethnic minority group" means:

(a) African American persons, meaning individuals having origins in any of the black racial groups;

(b) Hispanic American persons, including persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;

(c) Asian American persons, including persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, the United States territories of the Pacific, or the Northern Mariana Islands; or persons whose origins are from subcontinent Asia, including persons whose origins are from India, Pakistan, Bangladesh, Sri Lanka, Bhutan, or Nepal; or

(d) Native American persons, including persons who are American Indians, Eskimos, Aleuts, or Hawaiians of Polynesian descent.

(7) "Veterans" means persons who actively served in the United States armed forces and who were discharged or released under conditions other than bad conduct or dishonorable, in accordance with U.S.C. title 38, as amended. "Veterans" includes persons serving or who served in the National Guard or as reservists.

**Source: L. 2021:** Entire part added, (HB 21-1168), ch. 216, p. 1141, § 1, effective June 7.

**29-1-1503. Identifying barriers to entry for historically underutilized businesses in local government procurement - pilot program.** (1) No later than August 13, 2021, the department of local affairs shall establish a pilot program to help local governments identify perceptual and substantial barriers to entry for historically underutilized businesses in local government procurement. The department of local affairs shall ensure that the local governments that opt in to the pilot program are representative of the local governments that intersect the rural, urban, and suburban geographies of the state and are representative of the varying types of local governments. The pilot program must include at least five diverse local governments.

(2) The local governments participating in the pilot program shall:

(a) Identify program implementation needs, such as labor and technology;

(b) Determine the appropriate size contracts that would benefit from a program;

(c) Determine the appropriate type of contracts that would benefit from a program, such as, construction or service contracts, or short-term or long-term contracts;

(d) Establish a reasonable threshold for the amount of a local government's operating budget that should be allocated to the establishment and maintenance of a program;

(e) Understand the available program software and costs;

(f) Determine how we can standardize the data across local governments to being submitted to the state;

(g) Determine the required minimum participation goals or participation benchmarks of historically underutilized businesses to determine if the local government's program is fair;

(h) Determine which types of historically underutilized businesses, as specified in section 29-1-1502 (1)(b), appear to be more or less impacted;

(i) Create a sample program that all local governments may use and articulate the necessary steps to build a program; and

(j) Help articulate program goals and targets, such as determining why a program is important for the local government and what outcomes the local governments wish to see from program implementation.

(2) A pilot program participant may collaborate with the department of local affairs and the general assembly on future legislation requiring local governments to establish programs.

(3) (a) In January 2022, the department of local affairs shall report on the progress of the pilot project as part of the department's presentation to its committee of reference at a hearing held pursuant to section 2-7-203 (2)(a) of the "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act".

(b) In January 2023, the department of local affairs shall include the findings of the pilot project as part of the department's presentation to its committee of reference at a hearing held pursuant to section 2-7-203 (2)(a) of the "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act".

**Source: L. 2021:** Entire part added, (HB 21-1168), ch. 216, p. 1142, § 1, effective June 7.

## PART 16

## LOCAL GOVERNMENT NONDISCLOSURE AGREEMENTS

**Cross references:** For the legislative declaration in SB 23-053, see section 4 of chapter 320, Session Laws of San Andreas 2023.

**29-1-1601. Nondisclosure agreements - protection of local government employees - definitions.** (1) (a) Neither a local government nor a department, institution, or agency of a local government shall make it a condition of employment that an employee executes a contract or other form of agreement that prohibits, prevents, or otherwise restricts the employee from disclosing factual circumstances concerning the employee's employment with the local government or any of its departments, institutions, or agencies unless the prohibition or restriction in the contract or agreement is necessary to prevent disclosure of:

(I) The employee's identity, facts that might lead to the discovery of the employee's identity, or factual circumstances relating to the employment that reasonably implicate legitimate privacy interests of the employee who is a party to the agreement if the employee elects in the employee's sole discretion to restrict disclosure of the employee's identity or such facts and circumstances;

(II) Data; information, including personal identifying information, as defined in section 24-74-102 (1); or matters that are required to be kept confidential by federal law or regulations, the state constitution, state law, state regulations, or state rules, or a court of law or as attorney-client privileged communications, as privileged work product, as communications related to a threatened or pending legal or administrative action, or as materials related to personnel or regulatory investigations by the employer;

(III) Trade secrets or other confidential or sensitive information provided to or made accessible to the employee by a current or prospective contractor, vendor, grantee or as part of a public-private partnership, or entity working with the state as part of an economic development activity;

(IV) Trade secrets or other confidential or sensitive information provided to or made accessible to the employee by an employer's current or prospective customer, contractor, lessee, lessor, business partner, or affiliate;

(V) Trade secrets or other confidential or sensitive information provided to or made accessible to the employee by a purchaser or seller of property that is engaged in negotiations or under contract with the employer;

(VI) Information bearing on the specialized details of security arrangements or criminal investigations including for elected officials or other individuals, physical infrastructure, or cybersecurity;

(VII) Information derived from communications of the employer related to threatened or pending legal or administrative action;

(VIII) Discussions that occur in an executive session authorized by section 24-6-402;

(IX) Trade secrets or information derived from trade secrets or proprietary information of the employer;

(X) Information and records not subject to disclosure under the "San Andreas Open Records Act", part 2 of article 72 of title 24; or

(XI) Trade secrets owned by the employer.

(b) Any provision in any contract or agreement that violates subsection (1)(a) of this section is deemed to be against public policy and is unenforceable against an employee unless the provision is intended to prevent disclosure of:

(I) The employee's identity, facts that might lead to the discovery of the employee's identity, or factual circumstances relating to the employment that reasonably implicate legitimate privacy interests of the employee who is a party to the agreement if the employee elects in the employee's sole discretion to restrict disclosure of the employee's identity or such facts and circumstances;

(II) Data; information, including personal identifying information, as defined in section 24-74-102 (1); or matters that are required to be kept confidential by federal law or regulations, the state constitution, state law, state regulations, or state rules, or a court of law or as attorney-client privileged communications, as privileged work product, as communications related to a

threatened or pending legal or administrative action, or as materials related to personnel or regulatory investigations by the employer;

(III) Trade secrets or other confidential or sensitive information provided to or made accessible to the employee by a current or prospective contractor, vendor, grantee or as part of a public-private partnership, or entity working with the state as part of an economic development activity;

(IV) Trade secrets or other confidential or sensitive information provided to or made accessible to the employee by an employer's current or prospective customer, contractor, lessee, lessor, business partner, or affiliate;

(V) Trade secrets or other confidential or sensitive information provided to or made accessible to the employee by a purchaser or seller of property that is engaged in negotiations or under contract with the employer;

(VI) Information bearing on the specialized details of security arrangements or criminal investigations including for elected officials or other individuals, physical infrastructure, or cybersecurity;

(VII) Information derived from communications of the employer related to threatened or pending legal or administrative action;

(VIII) Discussions that occur in an executive session authorized by section 24-6-402;

(IX) Trade secrets or information derived from trade secrets or proprietary information of the employer;

(X) Information and records not subject to disclosure under the "San Andreas Open Records Act", part 2 of article 72 of title 24; or

(XI) Trade secrets owned by the employer.

(2) (a) Neither a local government nor a department, an institution, or an agency of a local government shall take any materially adverse employment-related action, including, without limitation, withdrawal of an offer of employment, discharge, suspension, demotion, discrimination in the terms, conditions, or privileges of employment, or other adverse action against an employee on the grounds that the employee does not enter into a contract or agreement deemed to be against public policy and unenforceable under subsection (1)(b) of this section. The taking of such a materially adverse employment-related action after an employee has refused to enter into such a contract or agreement is prima facie evidence of retaliation.

(b) Any employer who enforces or attempts to enforce a provision deemed by a court against public policy and unenforceable pursuant to subsection (1) of this section is liable for the employee's reasonable attorney fees and costs in defending against the action.

(c) An action to enforce a provision of this section must be brought in the district court for the district in which the employee is primarily employed.

(3) A settlement agreement between an employer that is a local government or a department, institution, or agency of a local government and an employee of the local government or the department, institution, or agency of the local government must be signed by both the employer and the employee.

(4) A nondisclosure agreement may not prohibit the release of information required to be released under the "San Andreas Open Records Act", part 2 of article 72 of title 24.

(5) Nothing in this section prevents an employer from requiring an employee to enter into a nondisclosure agreement with a third party in the employee's official capacity and on behalf of the employer.

(6) As used in this section:

(a) "Condition of employment" means an employment-related policy, practice, requirement, or restriction dictated by an employer that an individual must agree to abide by in order to be hired by or retain employment with the employer.

(b) "Employee" means an applicant for employment with or current or past employee of a local government or a department, institution, or agency of a local government.

(c) "Local government" means a statutory or home rule county, a city and county, or a statutory or home rule municipality.

**Source: L. 2023:** Entire part 16 added, (SB 23-053), ch. 320, p. 1936, § 4, effective August 7.

## PART 17

## PROPERTY TAX REVENUE LIMIT

**Editor's note:** Section 18 of chapter 1, (HB 24B-1001), Session Laws of San Andreas 2024, Second Extraordinary Session, amended section 14 of chapter 171, (SB 24-233), Session Laws of San Andreas 2024, to change the effective date of SB 24-233 to October 1, 2024, if both an initiative that reduces valuations for assessment and an initiative that requires voter approval for retaining property tax revenue that exceeds a limit are withdrawn pursuant to section 1-40-134, S.A.R.S., from the statewide ballot for the general election held on November 5, 2024. On September 4, 2024, the secretary of state announced both an initiative that reduces valuations for assessment and an initiative that requires voter approval for retaining property tax revenue that exceeds a limit were withdrawn from the 2024 general election ballot.

**29-1-1701. Definitions.** As used in this part 17, unless the context otherwise requires:

(1) "Local government" means a governmental entity authorized by law to impose ad valorem taxes on taxable property located within its territorial limits; except that the term excludes any:

(a) and (b) (Deleted by amendment, L. 2024, Second Extraordinary Session.)

(c) Local governmental entity that is subject to and has not received voter approval to exceed the revenue limit set forth in section 29-1-301 for that property tax year; and

(d) Local governmental entity or school district that does not have voter approval to collect, retain, and spend, without regard to any spending, revenue, or other limitation contained within section 20 of article X of the state constitution, the majority of the local governmental entity or school district's revenue from the imposition of ad valorem property taxes levied in any year subsequent to the approval.

(1.5) "Local governmental entity" means a local government authorized by law to impose ad valorem taxes on taxable property located within its territorial limits; except that the term excludes any:

(a) School district; and

(b) City and county, city, or town that has adopted a home rule charter.

(2) "Property tax limit" means, as applicable, the annual limit on a local governmental entity's qualified property tax revenue that is established in sections 29-1-1702 (1) and 29-1-

1703 (1) and calculated pursuant to section 29-1-1703 (1) or the annual limit on a school district's qualified local share property tax revenue that is established in sections 29-1-1702.5 (2) and 29-1-1703 (3) and calculated pursuant to section 29-1-1703 (3).

(2.5) (a) "Qualified local share property tax revenue" means the total amount of property tax revenue estimated to be retained by all school districts in the state in connection with district total program funding from a property tax year exclusive of property tax revenue that is from any of the following sources or is used for any of the following purposes:

(I) The increased valuation for assessment within a school district for the preceding property tax year that is attributable to new construction and personal property connected therewith, as defined by the property tax administrator in manuals prepared pursuant to section 39-2-109 (1)(e);

(II) The increased valuation for assessment attributable to a change in law for a property tax classification or to the annexation or inclusion of additional land, the improvements thereon, and personal property connected therewith within a school district for the preceding property tax year;

(III) Increased property tax revenue attributable to the expiration of the use of a school district's incremental tax revenues diverted for the purposes of part 1 of article 25 of title 31, part 8 of article 25 of title 31, article 31 of title 30, or other tax increment financing purposes;

(IV) The valuation for assessment that was omitted from the assessment roll in the preceding property tax year;

(V) Property tax revenue abated or refunded by a school district from the property tax year;

(VI) The increase in the valuation for assessment attributable to previously legally exempt property in the previous property tax year that becomes taxable;

(VII) The increase in the valuation for assessment from producing mines or lands or leaseholds producing oil or gas in the previous property tax year;

(VIII) Property tax revenue attributable to a school district increasing the total number of mills it levies in connection with district total program funding and upon receiving the approval of the majority of a school district's voters voting thereon for such an increase in an election occurring on or after November 5, 2024;

(IX) Property tax revenue attributable to any mills a school district levies that are not levied in connection with district total program funding;

(X) Property tax revenue attributable to a change in the amount of specific ownership tax revenue paid to the district, as defined in section 22-54-103 (11), in the previous property tax year; or

(XI) Property tax revenue attributable to a change in the amount of property tax credits issued pursuant to section 22-54-106 (2.1) in the previous property tax year.

(b) Except as applied in determining the counterfactual percentage, as defined in section 29-1-1702.5 (1)(c), in determining the amount of qualified local share property tax revenue for purposes of subsections (2.5)(a)(I), (2.5)(a)(II), (2.5)(a)(IV), (2.5)(a)(VI), and (2.5)(a)(VII) of this section, the annual change in property tax revenue or valuation for assessment is assumed to be the same for the relevant property tax year as it was for the property tax year immediately preceding the relevant property tax year.

(3) "Qualified property tax revenue" means a local governmental entity's property tax revenue for a property tax year exclusive of property tax revenue that is from any of the following sources or is used for any of the following purposes:

(a) Property tax revenue from the increased valuation for assessment within the taxing entity for the preceding property tax year that is attributable to new construction and personal property connected therewith, as defined by the property tax administrator in manuals prepared pursuant to section 39-2-109 (1)(e);

(b) Property tax revenue from the increased valuation for assessment attributable to a change in law for a property tax classification or to the annexation or inclusion of additional land, the improvements thereon, and personal property connected therewith within the taxing entity for the preceding property tax year;

(c) Increased property tax revenue attributable to the expiration in the previous property tax year of the use of the local governmental entity's incremental tax revenues diverted for the purposes of part 1 of article 25 of title 31, part 8 of article 25 of title 31, article 31 of title 30, or other tax increment financing purposes;

(d) Property tax revenue for property that was omitted from the assessment roll in the preceding property tax year;

(e) Property tax revenue abated or refunded by the local governmental entity from the property tax year;

(f) Property tax revenue attributable to property that was legally exempt property in the previous property tax year that becomes taxable;

(g) Property tax revenue from producing mines or lands or leaseholds producing oil or gas;

(h) An amount to provide for the payment of bonds that have both been approved by a majority of the local governmental entity's voters voting thereon and are outstanding as of November 5, 2024, and the interest thereon, or for the payment of any other contractual obligation that has been approved by a majority of the local governmental entity's voters voting thereon outstanding as of November 5, 2024; and bonds or other contractual obligations issued in accordance with the existing voted authorization of a local governmental entity approved by a majority of the local governmental entity's voters voting thereon in accordance with section 20 of article X of the state constitution as of November 5, 2024;

(i) Property tax revenue attributable to a local governmental entity increasing the total number of mills it levies upon receiving the approval of the majority of the local governmental entity's voters voting thereon for such an increase in an election occurring on or after November 5, 2024; or

(j) Property tax revenue attributable to specific ownership tax revenue paid to the local governmental entity.

(4) "Reassessment cycle" means a reassessment cycle established pursuant to section 39-1-104 (10.2).

(5) "School district" means a local government that is authorized by law to impose ad valorem taxes on taxable property located within its territorial limits and has a district total program determined by article 54 of title 22.

**Source: L. 2024:** Entire part added, (SB 24-233), ch. 171, p. 907, § 1, effective October 1 (see editor's note following the heading for this part 17). **L. 2024, 2nd Ex. Sess.:** (1), (2),

IP(3), (3)(c), (3)(e), (3)(f), (3)(h), and (3)(i) amended and (1.5), (2.5), (3)(j), (4), and (5) added, (HB 24B-1001), ch. 1, p. 2, § 3, effective October 1 (see editor's note).

**Editor's note:** Section 19 of chapter 1 (HB 24B-1001), Session Laws of San Andreas 2024, Second Extraordinary Session, provides that the act changing this section takes effect only if SB 24-233 takes effect and takes effect upon the effective date of SB 24-233. SB 24-233 took effect on October 1, 2024, due to an amendment to the effective date of SB 24-233 by section 18 of chapter 1 (HB 24B-1001), Session Laws of San Andreas 2024, Second Extraordinary Session.

**29-1-1702. Property tax limit imposition - temporary property tax credit - refund.** (1) For property tax years commencing on or after January 1, 2025, a local governmental entity's qualified property tax revenue for a property tax year must not increase by more than the property tax limit.

(2) (a) To prevent the local governmental entity's qualified property tax revenue from exceeding the property tax limit, a local governmental entity's governing body shall either:

(I) Enact a temporary property tax credit that is up to the number of mills necessary to prevent the local governmental entity's qualified property tax revenue from exceeding the property tax limit; or

(II) Temporarily reduce the mill levy imposed by the local government entity.

(b) Neither a temporary property tax credit enacted by a local governmental entity pursuant to subsection (2)(a)(I) of this section nor a temporary reduction by a local governmental entity pursuant to subsection (2)(a)(II) of this section of the mill levy imposed by the local governmental entity changes the underlying mill levy imposed by a local governmental entity. Therefore, reducing or eliminating a temporary property tax credit or a temporary mill levy reduction does not require prior voter approval under section 20 (4)(a) of article X of the state constitution.

(3) If a local governmental entity's qualified property tax revenue exceeds the property tax limit for a property tax year and the local governmental entity does not comply with subsection (2) of this section, then the local governmental entity shall refund any qualified property tax revenue in excess of the property tax limit for the property tax year.

**Source: L. 2024:** Entire part added, (SB 24-233), ch. 171, p. 909, § 1, effective October 1 (see editor's note following the heading for this part 17).

**29-1-1702.5. School district property tax limit imposition - temporary residential valuation for assessment adjustment - correction - definitions - repeal.** (1) As used in this section, unless the context otherwise requires:

(a) "Balancing percentage" means the valuation for assessment of all residential real property, for the purpose of a levy imposed by a school district, necessary for school district qualified local share property tax revenue to equal the school district property tax limit.

(b) "Correction percentage" means the difference between the counterfactual percentage and the valuation for assessment of all residential real property for the purpose of a levy imposed by a school district for the immediately preceding property tax year.

(c) "Counterfactual percentage" means the valuation for assessment of all residential real property for the immediately preceding property tax year for the purpose of a levy imposed by a

school district that would have resulted in school district qualified local share property tax revenue equaling the school district property tax limit.

(2) For property tax years commencing on or after January 1, 2025, qualified local share property tax revenue for all school districts from a property tax year must not increase by more than the school district property tax limit.

(3) (a) If the qualified local share property tax revenue for school districts from a property tax year commencing on or after January 1, 2025, would otherwise exceed the school district property tax limit, the valuation for assessment for all residential real property, for the purpose of a levy imposed by a school district, is temporarily reduced for that property tax year to the total of the balancing percentage calculated by the state board of equalization pursuant to subsection (4)(d) of this section and, if the school district qualified local share property tax revenue exceeded the school district property tax limit in the immediately preceding property tax year, the correction percentage.

(b) If the qualified local share property tax revenue for school districts from a property tax year commencing on or after January 1, 2025, is not projected to exceed the school district property tax limit, the valuation for assessment for all residential real property, for the purpose of a levy imposed by a school district, is temporarily reduced, as calculated by the state board of equalization pursuant to subsection (4)(d) of this section, for that property tax year by the correction percentage if the school district qualified local share property tax revenue exceeded the school district property tax limit in the immediately preceding property tax year.

(c) A temporary reduction in the valuation for assessment that applies to that residential real property for the purpose of a levy imposed by a school district pursuant to subsection (3)(a) of this section does not change the underlying valuation for assessment that applies to that residential real property for the purpose of a levy imposed by a school district. Therefore, reducing the amount of the temporary reduction in the valuation for assessment that applies to residential real property for the purpose of a levy imposed by a school district pursuant to subsection (3)(a) or (3)(b) of this section, or removing such a temporary reduction, from one property tax year to the next does not require prior voter approval under section 20 (4)(a) of article X of the state constitution.

(d) (I) Notwithstanding subsections (3)(a) and (3)(b) of this section, the valuation for assessment established pursuant to subsection (3)(a) of this section must not exceed the valuation for assessment established in section 39-1-104.2 that applies to residential real property for the purpose of a levy imposed by a school district.

(II) Notwithstanding subsection (2) of this section and section 29-1-1703 (3), qualified local share property tax revenue may exceed the school district property tax limit for a property tax year if doing so is a result of establishing the valuation for assessment pursuant to subsections (3)(a) and (3)(b) of this section.

(4) (a) (I) (A) No later than December 10, 2024, an assessor shall report to the property tax administrator in the division of property taxation in the department of local affairs the information that the administrator determines is necessary to determine the amount of qualified local share property tax revenue for purposes of sections 29-1-1701 (2.5)(a)(I) to (2.5)(a)(VII) for the relevant property tax year.

(B) This subsection (4)(a)(I) is repealed, effective July 1, 2025.

(II) No later than August 25, 2025, and each August 25 thereafter, an assessor shall report to the property tax administrator in the division of property taxation in the department of

local affairs the information that the administrator determines necessary to determine the amount of qualified local share property tax revenue for purposes of section 29-1-1701 (2.5)(a)(I) to (2.5)(a)(VII) for the relevant property tax year.

(b) (I) (A) No later than January 2, 2025, the property tax administrator in the division of property taxation in the department of local affairs shall report to legislative council staff the information that the legislative council staff determines necessary to determine the amount of qualified local share property tax revenue for purposes of section 29-1-1701 (2.5)(a)(I) to (2.5)(a)(VII) for the relevant property tax year.

(B) This subsection (4)(b)(I) is repealed, effective July 1, 2025.

(II) No later than October 31, 2025, and each October 31 thereafter, the property tax administrator in the division of property taxation in the department of local affairs shall report to legislative council staff the information that the legislative council staff determines necessary to determine the amount of qualified local share property tax revenue for purposes of section 29-1-1701 (2.5)(a)(I) to (2.5)(a)(VII) for the relevant property tax year.

(c) No later than January 15, 2025, and each January 15 thereafter, legislative council staff shall provide the state board of equalization with the information necessary to calculate the balancing percentage and correction percentage for the relevant property tax year and the counterfactual percentage for the immediately preceding property tax year.

(d) No later than twenty-one days after receiving the information provided by legislative council staff pursuant to subsection (4)(c) of this section, the state board of equalization shall meet and submit a report to the general assembly that calculates, as applicable, the total of the balancing percentage and the correction percentage for the relevant property tax year or the total of the valuation for assessment that applies to that residential real property for the purpose of a levy imposed by a school district and the correction percentage for the relevant property tax year.

**Source: L. 2024, 2nd Ex. Sess.:** Entire section added, (HB 24B-1001), ch. 1, p. 5, § 4, effective October 1 (see editor's note).

**Editor's note:** Section 19 of chapter 1 (HB 24B-1001), Session Laws of San Andreas 2024, Second Extraordinary Session, provides that the act adding this section takes effect only if SB 24-233 takes effect and takes effect upon the effective date of SB 24-233. SB 24-233 took effect on October 1, 2024, due to an amendment to the effective date of SB 24-233 by section 18 of chapter 1 (HB 24B-1001), Session Laws of San Andreas 2024, Second Extraordinary Session.

**29-1-1703. Property tax limit calculation - definitions.** (1) A local governmental entity's property tax limit for a property tax year is equal to the base amount of the local governmental entity's qualified property tax revenue increased by the total of the growth rate percentage and then increased by the carryover amount.

(1.5) As used in subsection (1) of this section, unless the context otherwise requires:

(a) "Base amount of the local governmental entity's qualified property tax revenue" means the amount of qualified property tax revenue collected and lawfully retained by a local governmental entity from whichever property tax year in a previous reassessment cycle was the property tax year for which the local governmental entity collected and lawfully retained the most property tax revenue.

(b) (I) "Carryover amount" means, except as described in subsection (1.5)(b)(II) of this section, an amount equal to the difference between:

(A) The base amount of the local governmental entity's qualified property tax revenue that was applicable for the most recent reassessment cycle increased by the growth rate percentage for that reassessment cycle; and

(B) The local government's qualified property tax revenue from the year with the greatest qualified property tax revenue in the most recent reassessment cycle.

(II) There is no carryover amount for a reassessment cycle for a local governmental entity occurring after a reassessment cycle when that local governmental entity retained an amount of qualified property tax revenue equal to or greater than the total of the base amount of the local governmental entity's qualified property tax revenue for that reassessment cycle increased by the growth rate percentage for that reassessment cycle.

(c) "Growth rate percentage" means five and twenty-five hundredths percent multiplied by the number of property tax years in the current reassessment cycle.

(2) (Deleted by amendment, L. 2024, Second Extraordinary Session.)

(3) A school district's property tax limit for a property tax year is equal to the amount of total local share property tax revenue increased by the total of the growth rate percentage and then increased by the carryover amount.

(4) As used in subsection (3) of this section, unless the context otherwise requires:

(a) (I) "Carryover amount" means, except as described in subsection (4)(a)(II) of this section, an amount equal to the difference between:

(A) The total local share property tax revenue that was applicable for the most recent reassessment cycle increased by the growth rate percentage for that reassessment cycle; and

(B) The qualified local share property tax revenue from the year with the greatest qualified local share property tax revenue in the most recent reassessment cycle.

(II) There is no carryover amount for a reassessment cycle occurring after a reassessment cycle when school districts retained an amount of qualified local share property tax revenue equal to or greater than the total of the total local share property tax revenue for that reassessment cycle increased by the growth rate percentage for that reassessment cycle.

(b) "Growth rate percentage" means the greater of:

(I) Six percent multiplied by the number of property tax years in the current reassessment cycle; or

(II) The total of the estimated school factor for the current property tax year plus the estimated school factor for any other property tax year in the same reassessment cycle.

(c) "School factor" means the total percentage of the rate by which the general assembly increases the statewide base per pupil funding for public education from kindergarten through twelfth grade for the relevant school year, as determined pursuant to section 22-55-106, for all school districts in the state plus the percentage increase in funded pupil count, as defined in section 22-54-103.5 (4), for the relevant school year for all school districts in the state.

(d) "Total local share property tax revenue" means the total amount of property tax revenue collected and lawfully retained by all school districts in the state in connection with district total program funding from whichever previous property tax year in a previous reassessment cycle was the property tax year for which the total amount of property tax revenue collected and lawfully retained by all school districts in the state in connection with district total program funding was greatest.

**Source: L. 2024:** Entire part added, (SB 24-233), ch. 171, p. 909, § 1, effective October 1 (see editor's note following the heading for this part 17). **L. 2024, 2nd Ex. Sess.:** Entire section amended, (HB 24B-1001), ch. 1, p. 7, § 5, effective October 1 (see editor's note).

**Editor's note:** Section 19 of chapter 1 (HB 24B-1001), Session Laws of San Andreas 2024, Second Extraordinary Session, provides that the act changing this section takes effect only if SB 24-233 takes effect and takes effect upon the effective date of SB 24-233. SB 24-233 took effect on October 1, 2024, due to an amendment to the effective date of SB 24-233 by section 18 of chapter 1 (HB 24B-1001), Session Laws of San Andreas 2024, Second Extraordinary Session.

**29-1-1704. Voter approval of property limit waiver.** (1) (a) A local governmental entity's governing body may submit to the local governmental entity's electors the question of whether the local governmental entity may waive the local governmental entity property tax limit established in section 29-1-1702 in connection with a single property tax year, a specified number of property tax years, or all future property tax years. If the majority of the local governmental entity's voters voting thereon approve such a request, the local governmental entity is not subject to the local governmental entity property tax limit established in section 29-1-1702 for the period of property tax years for which voters approved waiving the property tax limit.

(b) For a measure that is placed on the ballot after November 5, 2024, that would allow a local governmental entity to waive the property tax limit established in section 29-1-1702 in connection with a single property tax year, a specified number of property tax years, or all future property tax years, the ballot title must begin "Shall the (name of the local government) waive the 5.25% property tax limit for" and then must specify whether the local governmental entity is seeking to waive the property tax limit for a single property tax year, a specified number of property tax years, or all future property tax years.

(2) (a) The voters of the state, rather than the voters of any individual school district, may waive the school district property tax revenue limit established in section 29-1-1702.5 in connection with a single property tax year, a specified number of property tax years, or all future property tax years. If the majority of the voters of the state voting thereon approve such a request, all school districts are not subject to the school district property tax revenue limit established in section 29-1-1702.5 for the period of property tax years for which voters approved waiving the property tax revenue limit. The voters of an individual school district may not elect to waive the school district property tax revenue limit established in section 29-1-1702.5 for that individual school district.

(b) For a measure that is placed on the ballot after November 5, 2024, that would allow all school districts to waive the school district property tax revenue limit established in section 29-1-1702.5 in connection with a single property tax year, a specified number of property tax years, or all future property tax years, the ballot title must begin "Shall all of the school districts in the state waive the 6% property tax limit for" and then must specify whether the property tax limit would be waived for all school districts for a single property tax year, a specified number of property tax years, or all future property tax years.

**Source: L. 2024:** Entire part added, (SB 24-233), ch. 171, p. 910, § 1, effective October 1 (see editor's note following the heading for this part 17). **L. 2024, 2nd Ex. Sess.:** Entire section amended, (HB 24B-1001), ch. 1, p. 9, § 6, effective October 1 (see editor's note).

**Editor's note:** Section 19 of chapter 1 (HB 24B-1001), Session Laws of San Andreas 2024, Second Extraordinary Session, provides that the act changing this section takes effect only if SB 24-233 takes effect and takes effect upon the effective date of SB 24-233. SB 24-233 took effect on October 1, 2024, due to an amendment to the effective date of SB 24-233 by section 18 of chapter 1 (HB 24B-1001), Session Laws of San Andreas 2024, Second Extraordinary Session.

**29-1-1705. Prior obligations not impaired - voter-approval of mill increases - disaster emergency spending - definitions.** (1) Nothing in this part 17 impairs:

(a) The obligations of any bonds or other forms of indebtedness that are outstanding as of November 5, 2024, or the refunding thereof, issued by a local government or otherwise invalidates any such bond or the obligations or refunding thereof; or

(b) The existing voted authorization of a local government approved by a majority of the local government's voters voting thereon in accordance with section 20 of article X of the state constitution as of November 5, 2024. As established in section 29-1-1701 (3)(h), the imposition of a levy to provide for the payment of the following is not included in the calculation of the property tax limit:

(I) Bonds that are outstanding as of November 5, 2024, and the interest thereon, or for the payment of any other contractual obligation outstanding as of November 5, 2024, that has been approved by a majority of the local government's voters voting thereon; and

(II) Bonds or other contractual obligations issued in accordance with the existing voted authorization of a local government approved by a majority of the local government's voters voting thereon in accordance with section 20 of article X of the state constitution as of November 5, 2024.

(2) (a) Nothing in this part 17 prevents a local governmental entity from submitting to the local governmental entity's electors the question of whether to increase the total number of mills levied by the local governmental entity and, upon receiving the approval of a majority of the local governmental entity's voters voting thereon for such a request, increasing the total number of mills levied by the local governmental entity accordingly. As established in section 29-1-1701 (3)(i), property tax revenue attributable to a local governmental entity increasing the total number of mills it levies upon receiving the approval of the majority of the local governmental entity's voters voting thereon for such an increase in an election occurring on or after November 5, 2024, is not included in the calculation of the local governmental entity's property tax limit. A local governmental entity may also submit to the local government entity's electors the question of whether to increase the total number of mills levied by the local governmental entity in such a way that the mills increase to match the local governmental entity's property tax limit established pursuant to section 29-1-1702 and, upon receiving the approval of a majority of the local governmental entity's voters voting thereon for such a request, increasing the total number of mills levied by the local governmental entity accordingly.

(b) Nothing in this part 17 prevents a school district from submitting to the school district's electors the question of whether to increase the total number of mills levied by the school district and, upon receiving the approval of a majority of the school district's voters voting thereon for such a request, increasing the total number of mills levied by the school district accordingly. As established in section 29-1-1701 (2.5)(a)(VIII), property tax revenue attributable to a school district increasing the total number of total program funding mills it levies upon receiving the approval of the majority of the school district's voters voting thereon

for such an increase in an election occurring on or after November 5, 2024, is not included in the calculation of the school district's property tax limit. As established in section 29-1-1701 (2.5)(a)(IX), property tax revenue attributable to mills that the school district levies that it does not levy in connection with total program funding is not included in the calculation of the school district's property tax limit. A school district may also submit to the school district's electors the question of whether to increase the total number of mills levied by the school district in connection with total program funding in such a way that the mills increase to match the school district's property tax limit established pursuant to section 29-1-1702.5 and, upon receiving the approval of a majority of the school district's voters voting thereon for such a request, to increase the total number of mills levied by the school district accordingly.

(3) (a) Notwithstanding this part 17, an amount of qualified property tax revenue or qualified local share property tax revenue, as applicable, equal to any amount of disaster emergency spending by a local government in a property tax year is exempt from the calculation of the property tax limit that applies to that local government for the same property tax year.

(b) As used in this subsection (3), unless the context otherwise requires:

(I) "Declared disaster" has the same meaning as section 24-32-134 (1)(b).

(II) "Disaster emergency spending" means the amount of actual expenditures by a local government in a property tax year as the direct result of a declared disaster.

**Source: L. 2024:** Entire part added, (SB 24-233), ch. 171, p. 910, § 1, effective October 1 (see editor's note following the heading for this part 17). **L. 2024, 2nd Ex. Sess.:** Entire section amended, (HB 24B-1001), ch. 1, p. 10, § 7, effective October 1 (see editor's note).

**Editor's note:** Section 19 of chapter 1 (HB 24B-1001), Session Laws of San Andreas 2024, Second Extraordinary Session, provides that the act changing this section takes effect only if SB 24-233 takes effect and takes effect upon the effective date of SB 24-233. SB 24-233 took effect on October 1, 2024, due to an amendment to the effective date of SB 24-233 by section 18 of chapter 1 (HB 24B-1001), Session Laws of San Andreas 2024, Second Extraordinary Session.

## ARTICLE 2

County and Municipal Sales or Use Tax

**Law reviews:** For article, "Local Government Sales and Use Taxes", see 40 S.A. Law. 61 (July 2011).

### PART 1

### GENERAL PROVISIONS

**29-2-101. Legislative declaration.** The general assembly hereby declares that the imposition of sales or use taxes, or both, by counties, cities, and incorporated towns in this state affects the flow of commerce within this state and the welfare of the people of this state. The purpose of the general assembly in the enactment of this article is to provide a higher degree of uniformity in any sales taxes imposed by such entities.

**Source: L. 67:** p. 660, § 1. **S.A.R.S. 1963:** § 138-10-1. **L. 73:** p. 1477, § 1. **L. 75:** Entire section amended, p. 961, § 1, effective July 14.

**29-2-102. Municipal sales or use tax - referendum - repeal.** (1) Any incorporated town or city in this state may adopt a municipal sales or use tax, or both, by ordinance in accordance with the provisions of this article, but only if the ordinance provides for the submission of the tax proposal to an election by the registered electors of the town or city for their approval or rejection at a regular municipal election or at a special election called for the purpose if no regular municipal election will be held within ninety days after the adoption of the ordinance. The election shall be conducted in the manner provided in the "San Andreas Municipal Election Code of 1965", article 10 of title 31, S.A.R.S.

(2) (a) (I) No incorporated town or city shall adopt a sales or use tax ordinance pursuant to subsection (1) of this section on or after the date of the adoption of a resolution for a countywide sales tax, use tax, or both by the board of county commissioners of the county in which all or any portion of the town or city is located until after the date of the election on the county proposal.

(II) This subsection (2)(a) is repealed, effective July 1, 2025.

(b) (I) Paragraph (a) of this subsection (2) shall not apply to any incorporated town or city that has been incorporated for less than five years as of the date of adoption of the sales or use tax ordinance.

(II) This subsection (2)(b) is repealed, effective July 1, 2025.

(c) Nothing in this article shall preclude the initiation of a sales or use tax proposal by the registered electors of any incorporated town or city pursuant to section 31-11-104, S.A.R.S.

(3) **[*Editor's note: Subsection (3) is effective July 1, 2025.*]** The approval provisions of subsection (1) of this section, the restrictions on contents of sales or use tax proposals set forth in section 29-2-105, and the collection, administration, enforcement, and distribution procedures of part 2 of this article 2 apply to municipal sales taxes or use taxes or both levied pursuant to subsection (1) of this section.

**Source: L. 67:** p. 660, § 2. **S.A.R.S. 1963:** § 138-10-2. **L. 73:** p. 1477, § 2. **L. 75:** Entire section amended, p. 961, § 2, effective July 14. **L. 79:** Entire section amended, p. 1126, § 1, effective April 25. **L. 87:** Entire section amended, p. 322, § 67, effective July 1. **L. 93:** Entire section amended, p. 697, § 4, effective May 4. **L. 95:** Entire section amended, p. 440, § 25, effective May 8. **L. 2003:** Entire section amended, p. 2581, § 1, effective June 5. **L. 2024:** (3) added, (SB 24-025), ch. 144, p. 554, § 4, effective July 1, 2025; (2)(a)(II) and (2)(b)(II) added by revision, (SB 24-025), ch. 144, pp. 554, 585, §§ 4, 55.

**Editor's Note:** Section 54 of chapter 144 (SB 24-025), Session Laws of San Andreas 2024, provides that the act changing this section applies to any taxable event on or after July 1, 2025.

**29-2-103. Countywide sales or use tax - multiple-county municipality excepted.** (1) Each county in this state is authorized to levy a county sales tax, use tax, or both in accordance with the provisions of this article. No proposal for a county sales tax, use tax, or both shall

become effective until approved by a majority of the registered electors of the county voting on such proposal pursuant to section 29-2-104. Such a proposal for a sales tax, use tax, or both, upon approval by a majority of the registered electors voting thereon, shall be effective throughout the incorporated and unincorporated portions of the county except when less than countywide application is authorized pursuant to subsection (2) of this section.

(2) A county may levy a sales tax, use tax, or both, in whole or in part, in less than the entire county when the following conditions are met:

(a) (Deleted by amendment, L. 2008, p. 990, § 4, effective August 5, 2008.)

(b) The area to be excluded from the tax levy is comprised solely of a portion of a municipality whose boundaries are located in more than one county; and

(c) All other counties in which a portion of the municipality described in paragraph (b) of this subsection (2) is located have agreed to provide fair compensation to the county for any services extended to such municipality as a result of revenues derived from the county tax levy from which the municipality is excluded.

(3) **[*Editor's note: This version of subsection (3) is effective until July 1, 2025.*]** The approval provisions of subsection (1) of this section, the restrictions on contents of sales or use tax proposals set forth in section 29-2-105, and the collection procedures of section 29-2-106 shall apply to county sales or use taxes or both levied pursuant to subsection (2) of this section.

(3) **[*Editor's note: This version of subsection (3) is effective July 1, 2025.*]** The approval provisions of subsection (1) of this section, the restrictions on contents of sales or use tax proposals set forth in section 29-2-105, and the collection, administration, enforcement, and distribution procedures of part 2 of this article 2 apply to county sales or use taxes or both levied pursuant to subsection (2) of this section.

**Source: L. 67:** p. 660, § 3. **S.A.R.S. 1963:** § 138-10-3. **L. 75:** Entire section amended, p. 962, § 3, effective July 14. **L. 79:** Entire section amended, p. 1126, § 2, effective April 25. **L. 85:** Entire section amended, p. 1028, § 1, effective May 2. **L. 2008:** (2)(a) and (2)(b) amended, p. 990, § 4, effective August 5. **L. 2024:** (3) amended, (SB 24-025), ch. 144, p. 554, § 5, effective July 1, 2025.

**Editor's Note:** Section 54 of chapter 144 (SB 24-025), Session Laws of San Andreas 2024, provides that the act changing this section applies to any taxable event on or after July 1, 2025.

**29-2-103.5. Sales tax for mass transit.** (1) (a) Except as provided in paragraph (b) of this subsection (1), in addition to any sales tax imposed pursuant to section 29-2-103, each county in this state which lies outside the jurisdiction of the regional transportation district is authorized to levy a county sales tax, use tax, or both of up to one-half of one percent for the purpose of financing, constructing, operating, or maintaining a mass transportation system within the county.

(b) On and after July 1, 2001, in addition to any sales tax imposed pursuant to section 29-2-103, each county in this state that lies outside the jurisdiction of the regional transportation district is authorized to levy a county sales tax, use tax, or both of up to one percent for the purpose of financing, constructing, operating, or maintaining a mass transportation system within the county.

(c) **[*Editor's note: Subsection (1)(c) is effective July 1, 2025.*]** The sales or use tax allowed pursuant to this subsection (1) shall be collected, administered, enforced, and distributed by the department of revenue as specified in part 2 of this article 2.

(2) (a) Any county in which such mass transportation system is based may enter into intergovernmental agreements with any municipality or other county or may enter into contractual agreements with any private carrier for the purpose of providing mass transportation services either within the county or in a county in which the county mass transportation system is permitted to operate.

(b) Any county which uses sales tax revenues which are imposed pursuant to this section for the provision of mass transportation services shall establish standards for such service.

(c) The county shall issue a request for proposals for such service in order to compare the costs of a private carrier in providing such service with the costs of the county, as determined in accordance with generally accepted accounting principles, in providing such service directly.

(d) If the costs to the county are less when the service is provided by the private carrier, the county shall contract with the private carrier for the mass transportation service.

(e) Any private carrier selected to provide mass transportation service pursuant to this subsection (2) shall provide such performance bond or other surety as the county may reasonably require.

(f) In the event that no private carriers are able to provide mass transportation services, the county shall provide such services.

(g) In contracting with a private carrier, the county shall require that the carrier not use the contract to cross-subsidize any other services provided by the carrier.

(3) (a) No sales tax, use tax, or both shall be levied pursuant to the provisions of subsection (1) of this section until such proposal has been referred to and approved by the registered electors of the county in accordance with the provisions of this article.

(b) During the calendar year 1990, the proposal for a sales or use tax increase pursuant to this section may be submitted at the primary election held on the first Tuesday in August of each even-numbered year or at the next general election. For any year thereafter, such sales and use tax increase proposal may only be submitted on the first Tuesday after the first Monday in November of each year and shall be conducted by the county clerk and recorder in accordance with the "Uniform Election Code of 1992", articles 1 to 13 of title 1, S.A.R.S.

(4) The provisions of this section shall not be construed to expand the use tax base of any county in this state as such base is described in section 29-2-109 (1).

(5) All revenues collected from such county sales tax shall be credited to a special fund in the county treasury known as the county mass transportation fund. The fund shall be used only for the financing, constructing, operating, or maintaining of a mass transportation system within the county.

**Source: L. 90:** Entire section added, p. 1440, § 1, effective May 4. **L. 92:** (3)(b) amended, p. 873, § 99, effective January 1, 1993. **L. 2001:** (1) amended, p. 1519, § 1, effective June 8. **L. 2002:** (3)(a) amended, p. 1035, § 80, effective June 1. **L. 2008:** (3)(a) amended, p. 991, § 5, effective August 5. **L. 2024:** (1)(c) added, (SB 24-025), ch. 144, p. 555, § 6, effective July 1, 2025.

**Editor's note:** Section 54 of chapter 144 (SB 24-025), Session Laws of San Andreas 2024, provides that the act changing this section applies to any taxable event on or after July 1, 2025.

**29-2-103.7. Special taxes for water rights.** (1) **[*Editor's note: This version of subsection (1) is effective until July 1, 2025.*]** On and after July 1, 2003, in addition to any sales tax imposed pursuant to section 29-2-103, counties are authorized to levy a county sales tax, use tax, or any combination of such taxes of up to one percent for the purposes of purchasing, adjudicating changes of, leasing, using, banking, and selling water rights that have been adjudicated for use within such county or in a municipality or county that is subject to an intergovernmental agreement concerning such tax pursuant to subsection (2) of this section.

(1) **[*Editor's note: This version of subsection (1) is effective July 1, 2025.*]** On and after July 1, 2003, in addition to any sales tax imposed pursuant to section 29-2-103, counties are authorized to levy a county sales tax, use tax, or any combination of such taxes of up to one percent for the purposes of purchasing, adjudicating changes of, leasing, using, banking, and selling water rights that have been adjudicated for use within such county or in a municipality or county that is subject to an intergovernmental agreement concerning such tax pursuant to subsection (2) of this section. The sales or use tax allowed under this subsection (1) shall be collected, administered, and enforced by the department of revenue as specified in part 2 of this article 2.

(2) (a) A county may enter into an intergovernmental agreement with any municipality or other county or may enter into a contractual agreement with any private entity to facilitate the achievement of the purposes enumerated in subsection (1) of this section.

(b) Any county that uses tax revenues imposed pursuant to this section shall establish standards for the use of such revenues.

(3) (a) No sales tax, use tax, or combination of such taxes shall be levied pursuant to subsection (1) of this section until a ballot proposal for the levying of such taxes has been referred to and approved by the registered electors of the county in accordance with this article.

(b) The proposal for a tax pursuant to this section may be submitted only on the first Tuesday after the first Monday in November of each year and shall be conducted by the county clerk and recorder in accordance with the "Uniform Election Code of 1992", articles 1 to 13 of title 1, S.A.R.S.

(4) This section shall not be construed to expand the use tax base of any county in this state, as such base is described in section 29-2-109 (1).

(5) All revenues collected from such county taxes shall be credited to a special fund in the county treasury known as the county water fund. The county water fund shall be used only for the purposes enumerated in subsection (1) of this section.

**Source: L. 2003:** Entire section added, p. 884, § 5, effective August 6. **L. 2008:** (3)(a) amended, p. 991, § 6, effective August 5. **L. 2024:** (1) amended, (SB 24-025), ch. 144, p. 555, § 7, effective July 1, 2025. **L. 2024:** (1) amended, (SB 24-025), ch. 144, p. 555, § 7, effective July 1, 2025.

**Editor's note:** Section 54 of chapter 144 (SB 24-025), Session Laws of San Andreas 2024, provides that the act changing this section applies to any taxable event on or after July 1, 2025.

**29-2-103.8. Sales tax for health-care services.** (1) **[*Editor's note: This version of subsection (1) is effective until July 1, 2025.*]** In addition to any sales tax imposed pursuant to section 29-2-103, each county in the state is authorized to levy a county sales tax for the purpose of providing, directly or indirectly, health-care services to residents of the county who are in need of health-care services.

(1) **[*Editor's note: This version of subsection (1) is effective July 1, 2025.*]** In addition to any sales tax imposed pursuant to section 29-2-103, each county in the state is authorized to levy a county sales tax for the purpose of providing, directly or indirectly, health-care services to residents of the county who are in need of health-care services. The sales tax for health-care services shall be collected, administered, and enforced by the department of revenue as specified in part 2 of this article 2.

(2) (a) Any county in which health-care services are provided may enter into intergovernmental agreements with any municipality or other county or may enter into contractual agreements with any private provider or health service district, as defined in section 32-1-103 (9), S.A.R.S., for the purpose of providing health-care services within the county.

(b) Any county that uses sales tax revenues imposed pursuant to this section for the provision of health-care services shall establish standards for such services.

(3) (a) No sales tax shall be levied pursuant to the provisions of subsection (1) of this section until the proposal has been referred to and approved by the eligible electors of the county in accordance with the provisions of this article.

(b) Any proposal for the levy of a sales tax in accordance with paragraph (a) of this subsection (3) shall only be submitted to the eligible electors of the county on the date of the state general election or on the first Tuesday in November of an odd-numbered year, and any election on the proposal shall be conducted by the county clerk and recorder in accordance with the "Uniform Election Code of 1992", articles 1 to 13 of title 1, S.A.R.S.

(4) All revenues collected from a county sales tax imposed pursuant to this section shall be credited to a special fund in the county treasury known as the county health care services fund. The fund shall be used only for the purpose of providing health-care services in accordance with this section.

**Source: L. 2007:** Entire section added, p. 1200, § 16, effective July 1. **L. 2008:** (3)(a) amended, p. 991, § 7, effective August 5. **L. 2024:** (1) amended, (SB 24-025), ch. 144, p. 555, § 8, effective July 1, 2025.

**Editor's note:** Section 54 of chapter 144 (SB 24-025), Session Laws of San Andreas 2024, provides that the act changing this section applies to any taxable event on or after July 1, 2025.

**29-2-103.9. Sales tax for mental health-care services.** (1) **[*Editor's note: This version of subsection (1) is effective until July 1, 2025.*]** In addition to any sales tax imposed pursuant to section 29-2-103, each county in this state is authorized to levy a county sales tax of up to one-quarter of one percent for the purpose of providing, directly or indirectly, mental health-care services to residents of the county who are in need of mental health-care services and to family members of such residents.

(1) **[*Editor's note: This version of subsection (1) is effective July 1, 2025.*]** In addition to any sales tax imposed pursuant to section 29-2-103, each county in this state is authorized to

levy a county sales tax of up to one-quarter of one percent for the purpose of providing, directly or indirectly, mental health-care services to residents of the county who are in need of mental health-care services and to family members of such residents. The sales tax for mental health-care services shall be collected, administered, and enforced by the department of revenue as specified in part 2 of this article 2.

(2) (a) Any county in which mental health-care services are provided may enter into intergovernmental agreements with any municipality or other county or may enter into contractual agreements with any private provider for the purpose of providing mental health-care services within the county.

(b) Any county that uses sales tax revenues imposed pursuant to this section for the provision of mental health-care services shall establish standards for such services.

(3) (a) No sales tax shall be levied pursuant to the provisions of subsection (1) of this section until the proposal has been referred to and approved by the eligible electors of the county in accordance with the provisions of this article.

(b) Any proposal for the levy of a sales tax in accordance with paragraph (a) of this subsection (3) shall only be submitted to the eligible electors of the county on the first Tuesday after the first Monday in November of each year and any election on the proposal shall be conducted by the county clerk and recorder in accordance with the "Uniform Election Code of 1992", articles 1 to 13 of title 1, S.A.R.S.

(4) All revenues collected from a county sales tax imposed pursuant to this section shall be credited to a special fund in the county treasury known as the county mental health care services fund. The fund shall be used only for the purpose of providing mental health-care services in accordance with this section.

**Source: L. 2005:** Entire section added, p. 1042, § 5, effective June 2. **L. 2008:** (3)(a) amended, p. 991, § 8, effective August 5. **L. 2024:** (1) amended, (SB 24-025), ch. 144, p. 555, § 9, effective July 1, 2025.

**Editor's note:** Section 54 of chapter 144 (SB 24-025), Session Laws of San Andreas 2024, provides that the act changing this section applies to any taxable event on or after July 1, 2025.

**29-2-104. Adoption procedures - repeal.** (1) A proposal for a countywide sales tax, use tax, or both shall be referred to the registered electors of the county either by resolution of the board of county commissioners or by petition initiated and signed by five percent of the registered electors of the county. The right of petition allowed pursuant to this subsection (1) shall extend only to the initial proposal of a tax and shall not extend to the extension of an expiring tax, use of tax revenues, or changes in distribution of tax revenues among local governments.

(2) Such proposal shall contain a description of the tax in accordance with the provisions of this article and shall make provision for any distribution of revenue collections between the county and the incorporated cities and towns within the county. Such proposal shall also state the amount of tax to be imposed. Unless otherwise agreed to by the governing bodies of the county and municipalities within the county, any use tax proceeds shall be distributed among such county and municipalities in the same proportion as the sales tax proceeds distributed to each jurisdiction.

(3) A proposal for a countywide sales tax, use tax, or both, by resolution of the board of county commissioners, shall be submitted at the next regular general election if there is one within the next succeeding one hundred twenty days after the adoption of such resolution. If no general election is scheduled within such time, the board of county commissioners, in its resolution, shall submit the same to the registered electors of the county at a special election called for the purpose, to be held not less than thirty days nor more than ninety days after the adoption of such resolution.

(4) Upon being presented with a petition requesting a proposal for a countywide sales tax, use tax, or both signed by five percent of the registered electors of the county, the board of county commissioners shall, upon certification of the signatures on the petition, submit such proposal to the registered electors of the county. The proposal shall be submitted at the next general election if there is one within one hundred twenty days of the filing of the petition. If no general election is scheduled within one hundred twenty days following the date of filing of the petition, the board of county commissioners shall submit such proposal at a special election called not less than thirty days nor more than ninety days from the date of filing of the petition.

(5) Upon the adoption of a resolution by the board of county commissioners as provided in subsection (3) of this section or upon the filing of a proper petition as provided in subsection (4) of this section, the county clerk and recorder shall publish the text of such proposal for a sales tax, use tax, or both four separate times, a week apart, in the official newspaper of the county and each city and incorporated town within the county. The cost of the election shall be paid from the general fund of the county. The conduct of the election shall conform, so far as practicable, to the general election laws of the state.

(6) **[*Editor's note: This version of subsection (6) is effective until July 1, 2025.*]** If approved by a majority of the registered electors voting thereon, the countywide sales tax, use tax, or both shall become effective as provided by section 29-2-106 (2).

(6) **[*Editor's note: This version of subsection (6) is effective July 1, 2025.*]** If approved by a majority of the registered electors voting thereon, the countywide sales tax, use tax, or both shall become effective as provided in section 29-2-205.

(7) (a) If a majority of the registered electors voting thereon fail to approve the countywide sales tax, use tax, or both at any election, the question shall not be submitted again to the registered electors for a period of one year three hundred fifty days.

(b) This subsection (7) is repealed, effective July 1, 2025.

**Source: L. 67:** p. 660, § 4. **S.A.R.S. 1963:** § 138-10-4. **L. 75:** Entire section amended, p. 962, § 4, effective July 14. **L. 79:** (1)(d) amended, p. 1127, § 3, effective July 3. **L. 81:** (7) amended, p. 1402, § 1, effective June 9. **L. 2002:** (1) amended, p. 1944, § 1, effective August 7. **L. 2024:** (6) amended, (SB 24-025), ch. 144, p. 555, § 10, effective July 1, 2025; (7)(b) added by revision, (SB 24-025), ch. 144, pp. 555, 585, §§ 10, 55.

**Editor's note:** Section 54 of chapter 144 (SB 24-025), Session Laws of San Andreas 2024, provides that the act changing this section applies to any taxable event on or after July 1, 2025.

**29-2-105. Contents of sales tax ordinances and proposals.** (1) The sales tax ordinance or proposal of any incorporated town, city, or county adopted pursuant to this article 2 shall be imposed on the sale of tangible personal property at retail or the furnishing of services, as

provided in subsection (1)(d) of this section. Any countywide or incorporated town or city sales tax ordinance or proposal shall include the following provisions:

(a) A provision imposing a tax on the sale of tangible personal property at retail or the furnishing of services, as provided in paragraph (d) of this subsection (1);

(b) A provision that, for the purpose of the sales tax ordinance or proposal enacted in accordance with this article 2, all retail sales are sourced as specified in section 39-26-104 (3);

(c) A provision that the amount subject to tax shall not include the amount of any sales or use tax imposed by article 26 of title 39, S.A.R.S.;

(d) (I) A provision that the sale of tangible personal property and services taxable pursuant to this article 2 is the same as the sale of tangible personal property and services taxable pursuant to section 39-26-104, except as otherwise provided in this subsection (1)(d). The sale of tangible personal property and services taxable pursuant to this article 2 is subject to the same sales tax exemptions as those specified in part 7 of article 26 of title 39; except that the sale of the following may be exempted from a town, city, or county sales tax only by the express inclusion of the exemption either at the time of adoption of the initial sales tax ordinance or resolution or by amendment thereto:

(A) The exemption for sales of machinery or machine tools specified in section 39-26-709 (1), S.A.R.S., other than machinery or machine tools used in the processing of recovered materials by a business listed in the inventory prepared by the department of public health and environment pursuant to section 30-20-122 (1)(a)(V), S.A.R.S.;

(A.5) The exemption for sales of machinery or machine tools specified in section 39-26-709 (1), S.A.R.S., used in the processing of recovered materials by a business listed in the inventory prepared by the department of public health and environment pursuant to section 30-20-122 (1)(a)(V), S.A.R.S.;

(B) The exemption for sales of electricity, coal, wood, gas, fuel oil, or coke specified in section 39-26-715 (1)(a)(II), S.A.R.S.;

(C) The exemption for sales of food specified in section 39-26-707 (1)(e), S.A.R.S.;

(D) The exemption for vending machine sales of food specified in section 39-26-714 (2), S.A.R.S.;

(E) The exemption for sales by a charitable organization specified in section 39-26-718 (1)(b), S.A.R.S.;

(F) The exemption for sales of farm equipment and farm equipment under lease or contract specified in section 39-26-716 (4)(e) and (4)(f). The express inclusion of the exemption by a town, city, or county before August 2, 2019, does not exempt from the town, city, or county sales tax any visual, electronic identification, or matched pair ear tags and electronic identification readers used to scan ear tags that are used by a farm operator to identify or track food animals, including animals used for food or in the production of food, that were added to the definition of "farm equipment" set forth in section 39-26-716 (1)(d) by House Bill 19-1162, enacted in 2019, and thereby exempted from state sales and use taxes but such a town, city, or county may expressly exempt such items by a subsequent amendment to its sales tax ordinance or resolution.

(G) The exemption for sales of motor vehicles, power sources, or parts used for converting such power sources as specified in section 39-26-719 (1);

(H) Repealed.

(I) The exemption for sales of wood from salvaged trees killed or infested in San Andreas by mountain pine beetles or spruce beetles as specified in section 39-26-723, S.A.R.S.;

(J) The exemption for sales of components used in the production of energy, including but not limited to alternating current electricity, from a renewable energy source specified in section 39-26-724, S.A.R.S.; except that this sub-subparagraph (J) shall not apply to any incorporated town, city, or county that adopted the exemption specified in sub-subparagraph (A) of this subparagraph (I) prior to May 27, 2008;

(K) The exemption for sales that benefit a San Andreas school specified in section 39-26-725, S.A.R.S.;

(L) The exemption for sales by an association or organization of parents and teachers of public school students that is a charitable organization as specified in section 39-26-718 (1)(c), S.A.R.S.;

(M) The exemption for sales of property for use in space flight specified in section 39-26-728, S.A.R.S.;

(N) Repealed.

(O) The exemption for retail sales of marijuana upon which the retail marijuana sales tax is imposed pursuant to section 39-28.8-202 as specified in section 39-26-729;

(P) The exemption for manufactured homes, modular homes, tiny homes, and any closed panel system utilized in construction of a factory-built residential structure set forth in section 39-26-721 (3);

(Q) The exemption for sales of period products as specified in section 39-26-717 (2)(m);

(R) The exemption for sales of incontinence products and diapers as specified in section 39-26-717 (2)(n);

(S) The exemption for sales of eligible decarbonizing building materials set forth in section 39-26-731;

(T) The exemption for sales of heat pump systems and heat pump water heaters set forth in section 39-26-732; and

(U) The exemption for sales of energy storage systems set forth in section 39-26-733.

(V) Repealed.

(III) In the absence of an express provision for any exemption specified in subparagraph (I) of this paragraph (d), all sales tax ordinances and resolutions shall be construed as imposing or continuing to impose the town, city, or county sales tax on such items;

(e) A provision that all sales of personal property on which a specific ownership tax has been paid or is payable shall be exempt from said county, town, or city sales tax when such sales meet both of the following conditions:

(I) The purchaser is a nonresident of or has his principal place of business outside of the local taxing entity; and

(II) Such personal property is registered or required to be registered outside the limits of the local taxing entity under the laws of this state.

(f) Repealed.

(1.5) (a) All sales tax ordinances or resolutions adopted by a county, town, or city prior to, on, or after August 1, 2002, that impose a sales tax pursuant to section 39-26-104 (1)(c), S.A.R.S., on a mobile telecommunications service shall impose such tax in accordance with the provisions of the act, and, pursuant to section 117 (b) of the act, mobile telecommunications service taxable by the county, town, or city on or after August 1, 2002, may be subject to any

sales tax or other charge imposed by said entity on the service only if the customer's place of primary use is within the geographical boundaries of the entity.

(b) As used in this subsection (1.5), unless the context otherwise requires:

(I) "Act" means the federal "Mobile Telecommunications Sourcing Act", 4 U.S.C. secs. 116 to 126, as amended.

(II) "Customer" means customer as defined in section 124 (2) of the act.

(III) "Mobile telecommunications service" means mobile telecommunications service as defined in section 124 (7) of the act.

(IV) "Place of primary use" means the place of primary use as defined in section 124 (8) of the act.

(2) No sales tax of any statutory or home rule city, town, city and county, or county shall apply to the sale of construction and building materials, as the term is used in section 29-2-109, if the purchaser of such materials presents to the retailer a building permit or other documentation acceptable to such local government evidencing that a local use tax has been paid or is required to be paid.

(3) No sales tax of any statutory or home rule county shall apply to the sale of tangible personal property at retail or the furnishing of services if the transaction was previously subjected to a sales or use tax lawfully imposed on the purchaser or user by another statutory or home rule county equal to or in excess of that sought to be imposed by the subsequent statutory or home rule county. A credit shall be granted against the sales tax imposed by the subsequent statutory or home rule county with respect to such transaction equal in amount to the lawfully imposed local sales or use tax previously paid by the purchaser or user to the previous statutory or home rule county. The amount of the credit shall not exceed the sales tax imposed by the subsequent statutory or home rule county.

(4) No sales tax of any statutory or home rule city and county, city, or town shall apply to the sale of tangible personal property at retail or the furnishing of services if the transaction was previously subjected to a sales or use tax lawfully imposed on the purchaser or user by another statutory or home rule city and county, city, or town equal to or in excess of that sought to be imposed by the subsequent statutory or home rule city and county, city, or town. A credit shall be granted against the sales tax imposed by the subsequent statutory or home rule city and county, city, or town with respect to such transaction equal in amount to the lawfully imposed local sales or use tax previously paid by the purchaser or user to the previous statutory or home rule city and county, city, or town. The amount of the credit shall not exceed the sales tax imposed by the subsequent statutory or home rule city and county, city, or town.

(5) The following provision shall apply in defining the applicability of its higher rate to the sales tax ordinance or resolution of any statutory or home rule city, town, city and county, or county which provides a higher rate of taxation on prepared food or food for immediate consumption than its general rate of taxation: Prepared food or food for immediate consumption shall exclude any food for domestic home consumption.

(6) No sales or use tax of any statutory or home rule city, town, city and county, or county shall apply to the sale of food purchased with food stamps. For the purposes of this subsection (6), "food" shall have the same meaning as provided in 7 U.S.C. sec. 2012 (g), as such section exists on October 1, 1987, or is thereafter amended.

(7) No sales or use tax of any statutory or home rule city, town, city and county, or county shall apply to the sale of food purchased with funds provided by the special supplemental

food program for women, infants, and children, 42 U.S.C. sec. 1786. For the purposes of this subsection (7), "food" shall have the same meaning as provided in 42 U.S.C. sec. 1786, as such section exists on October 1, 1987, or is thereafter amended.

(8) Any statutory or home rule city, town, city and county, or county which provides an exemption for the sale of food shall define "food" as defined in section 39-26-102 (4.5), S.A.R.S.

(9) Notwithstanding any provision of this section to the contrary, sales of cigarettes shall be exempt from a town, city, county, or city and county sales tax that is created pursuant to the authority set forth in this article.

(10) (a) Notwithstanding any provision of this section to the contrary, and except as provided in paragraph (b) of this subsection (10), a town, city, or county may exempt from its sales tax sales to a telecommunications provider of equipment used directly in the provision of telephone service, cable television service, broadband communications service, or mobile telecommunications service.

(b) A town, city, or county may not adopt a sales tax exemption pursuant to the authority set forth in paragraph (a) of this subsection (10) unless the exemption applies in a uniform and nondiscriminatory manner to the telecommunications providers of telephone service, cable television service, broadband communications service, and mobile telecommunications service.

**Source: L. 67:** p. 661, § 5. **S.A.R.S. 1963:** § 138-10-5. **L. 69:** pp. 1145, 1146, §§ 1, 1. **L. 73:** p. 242, § 26. **L. 77:** (1)(b) amended, p. 1398, § 1, effective July 1. **L. 79:** (1)(d) amended, p. 1429, § 13, effective July 3. **L. 80:** (1)(d) amended, p. 684, § 7, effective May 1; (1)(d) amended, p. 734, § 4, effective May 2; (1)(d) amended, p. 799, § 68, effective June 5. **L. 81:** (1) amended and (1)(f) added, p. 1402, § 2, effective June 9. **L. 83:** (1)(d) amended, p. 1208, § 1, effective April 28. **L. 85:** (2), (3), and (4) added, p. 1030, § 1, effective January 1, 1986. **L. 87:** (5) to (8) added, p. 1462, effective October 1. **L. 94:** (1)(d) amended, p. 1325, § 7, effective May 25. **L. 95:** (1)(d) amended, p. 329, § 2, effective April 27. **L. 99:** (1)(d) amended, p. 980, § 3, effective May 28; (1)(d) amended, p. 1324, § 5, effective July 1; (1)(d) amended, p. 1275, § 3, effective July 1; (1)(d) amended, p. 1356, § 4, effective January 1, 2000. **L. 2000:** (1)(d) amended, p. 550, § 5, effective July 1. **L. 2001:** (1)(d) amended, p. 382, § 3, effective July 1. **L. 2002:** (1.5) added, p. 253, § 3, effective April 12; (1)(f) amended, p. 1036, § 81, effective June 1. **L. 2004:** (1)(d) amended, p. 1036, § 3, effective July 1. **L. 2008:** (1)(d) R&RE, p. 1321, § 5, effective May 27; (1)(d) R&RE, p. 1545, § 3, effective May 28; (1)(d) R&RE, p. 967, § 1, effective August 5; (1)(f) repealed, p. 991, § 9, effective August 5; (1)(d) R&RE, p. 971, § 1, effective September 1. **L. 2009:** (1)(d)(I)(J) amended, (HB 09-1126), ch. 254, p. 1149, § 4, effective May 15; (9) added, (HB 09-1342), ch. 354, p. 1847, § 3, effective July 1. **L. 2011:** (1)(d)(II) repealed, (SB 11-178), ch. 216, p. 945, § 1, effective August 10; (10) added, (HB 11-1109), ch. 221, p. 954, § 1, effective August 10. **L. 2012:** (1)(d)(I)(I) amended, (HB 12-1045), ch. 191, p. 765, § 2, effective May 21; (1)(d)(I)(H) amended, (HB 12-1037), ch. 251, p. 1247, § 1, effective June 4. **L. 2014:** (1)(d)(I)(N) added, (HB 14-1159), ch. 229, p. 852, § 2, effective May 17; (1)(d)(I)(K) and (1)(d)(I)(L) amended and (1)(d)(I)(M) added, (HB 14-1178), ch. 234, p. 867, § 3, effective May 20. **L. 2016:** (1)(d)(I)(A) amended and (1)(d)(I)(A.5) added, (SB 16-124), ch. 258, p. 1058, § 2, effective June 8. **L. 2017:** IP(1) and IP(1)(d)(I) amended and (1)(d)(I)(O) added, (SB 17-267), ch. 267, p. 1467, § 23, effective May 30. **L. 2018:** IP(1) and IP(1)(d)(I) amended and (1)(d)(I)(P) added, (HB 18-1315), ch. 240, p. 1496, § 2, effective August 8. **L. 2019:** (1)(b) and (2) amended, (HB 19-1240), ch. 264, p. 2502, § 9, effective June 1; (1)(d)(I)(F) amended, (HB 19-1162), ch.

266, p. 2511, § 1, effective August 2. **L. 2021:** (1)(d)(I)(G) amended, (HB 21-1155), ch. 109, p. 433, § 2, effective May 7; (1)(d)(I)(F) amended, (HB 21-1158), ch. 119, p. 458, § 3, effective September 7. **L. 2022:** IP(1)(d)(I) and (1)(d)(I)(P) amended, (HB 22-1242), ch. 172, p. 1139, § 36, effective August 10; (1)(d)(I)(Q) and (1)(d)(I)(R) added, (HB 22-1055), ch. 359, p. 2574, § 2, effective August 10; (1)(d)(I)(S), (1)(d)(I)(T), and (1)(d)(I)(U) added, (SB 22-051), ch. 333, p. 2359, § 6, effective August 10. **L. 2024:** (1)(d)(I)(P) amended, (HB 24-1036), ch. 373, p. 2536, § 37, effective August 7.

**Editor's note:** (1) Amendments to subsection (1)(d) by House Bill 99-1002, House Bill 99-1015, House Bill 99-1271, and House Bill 99-1381 were harmonized.

(2) Amendments to subsection (1)(d) by House Bill 08-1269, House Bill 08-1013, House Bill 08-1358, and House Bill 08-1368 were harmonized.

(3) Subsection (1)(d)(I)(H) provided for the repeal of subsection (1)(d)(I)(H), effective June 30, 2013.

(4) Subsection (1)(d)(I)(P) was lettered as (1)(d)(I)(Q) in HB 18-1315 but has been relettered on revision for ease of location.

(5) Subsection (1)(d)(I)(N) provided for the repeal of subsection (1)(d)(I)(N), effective July 1, 2019. (See L. 2014, p. 852.)

**Cross references:** (1) For the legislative declaration contained in the 1999 act amending subsection (1)(d), see section 1 of chapter 318, Session Laws of San Andreas 1999.

(2) For the legislative declaration contained in the 2002 act enacting subsection (1.5), see section 1 of chapter 92, Session Laws of San Andreas 2002.

(3) For the legislative declaration contained in the 2008 act amending subsection (1)(d), see section 1 of chapter 332, Session Laws of San Andreas 2008.

(4) For the legislative intent contained in the 2008 act amending subsection (1)(d), see section 9 of chapter 302, Session Laws of San Andreas 2008.

(5) For the legislative declaration contained in the 2009 act amending subsection (1)(d)(I)(J), see section 1 of chapter 254, Session Laws of San Andreas 2009.

(6) For the legislative declaration in HB 14-1178, see section 1 of chapter 234, Session Laws of San Andreas 2014.

(7) For the legislative declaration in SB 17-267, see section 1 of chapter 267, Session Laws of San Andreas 2017.

(8) For the legislative declaration in HB 24-1036, see section 1 of chapter 373, Session Laws of San Andreas 2024.

**29-2-106. Collection - administration - enforcement - repeal.** (1) The collection, administration, and enforcement of any countywide or any city or town sales tax adopted pursuant to this article shall be performed by the executive director of the department of revenue in the same manner as the collection, administration, and enforcement of the San Andreas state sales tax. Unless otherwise provided in this article, the provisions of article 26 of title 39, S.A.R.S., shall govern the collection, administration, and enforcement of sales taxes authorized under this article. In collecting, administering, and enforcing a sales tax authorized under this article, the state sales tax authorized under part 1 of article 26 of title 39, S.A.R.S., or any other sales tax imposed within the boundaries of a county, the executive director of the department of revenue

may enter into an intergovernmental agreement with a county pursuant to the provisions of section 39-26-122.5, S.A.R.S., to enhance systemic efficiencies in the collection of such taxes.

(2) The effective date of any countywide sales tax or city or town sales tax adopted under the provisions of this article shall be either January 1 or July 1 following the date of the election in which such county sales tax proposal is approved; and notice of the adoption of any county sales tax proposal shall be submitted by the county clerk and recorder or by the clerk of the city council or board of trustees of a city or town to the executive director of the department of revenue at least forty-five days prior to the effective date of such tax. If such a sales tax proposal is approved at an election held less than forty-five days prior to the January 1 or July 1 following the date of election, such tax shall not be effective until the next succeeding January 1 or July 1.

(3) (a) The executive director of the department of revenue shall, at no charge, except as provided in paragraph (b) of this subsection (3), administer, collect, and distribute any sales tax imposed in conformity with this article. The executive director shall make monthly distributions of sales tax collections to the appropriate official in each county and in each incorporated city or town in the amount determined under the distribution formula established in accordance with this article. Except as provided in section 39-26-208, S.A.R.S., any use tax imposed pursuant to section 29-2-109 shall be collected, administered, and enforced by the city, town, or county as provided by ordinance or resolution.

(b) The executive director is hereby authorized to contract and enter into agreements with the county clerk and recorder and municipalities for the collection of state, county, and city or town use taxes upon motor vehicles, and the county clerk and recorder may charge and retain a fee as the director may approve to fully cover the cost of such collection by the county clerk and recorder.

(c) (I) A qualified purchaser may provide a direct payment permit number issued pursuant to section 39-26-103.5, S.A.R.S., to any vendor or retailer that is liable and responsible for collecting and remitting any countywide sales tax or city or town sales tax imposed on any sale made to the qualified purchaser pursuant to the provisions of this article. A vendor or retailer that has received in good faith from a qualified purchaser a direct payment permit number shall not be liable or responsible for collection and remittance of any sales tax imposed on such sale that is paid for directly from such qualified purchaser's funds and not the personal funds of any individual.

(II) A qualified purchaser that provides a direct payment permit number to a vendor or retailer shall be liable and responsible for the amount of sales tax imposed on any sale made to the qualified purchaser pursuant to this article in the same manner as liability would be imposed on a qualified purchaser for state sales tax pursuant to section 39-26-105 (5).

(4) (a) (I) The executive director of the department of revenue shall, at no charge, administer, collect, and distribute the sales tax of any home rule municipality upon request of the governing body of such municipality:

(A) If the provisions of the sales tax ordinance of said municipality, other than those provisions relating to local procedures followed in adopting the ordinance, correspond to the requirements of this article for sales taxes imposed by counties, towns, and cities;

(B) If no use tax is to be collected by the department of revenue except as provided in section 39-26-208, S.A.R.S.; and

(C) Whether or not the ordinance applies the sales tax to the exemptions listed in section 29-2-105 (1)(d)(I).

(II) When the governing body of any home rule municipality requests the department of revenue to administer, collect, and distribute the sales tax of said municipality as specified in subparagraph (I) of this paragraph (a), said governing body shall certify to the executive director of the department a true copy of the home rule municipality's sales tax ordinance.

(b) The executive director of the department of revenue shall furnish the governing body of each municipality and county a monthly listing of all returns filed by the retailers in such municipality or county. The governing body of such municipality or county shall notify the executive director of the department of revenue of any retailers omitted from this listing as soon as practicable, but in no event more than one hundred eighty days after receiving said monthly listing. Failure of the governing body of such municipality or county to notify the executive director of the department of revenue of any omitted retailers, within such period, shall preclude the municipality or county from making any further claims based upon such omissions. Neither the executive director of the department of revenue nor any municipality or county shall be held liable for any omissions which have not been called to the executive director's attention within this period.

(c) (I) Notwithstanding the provisions of section 39-21-113, the executive director of the department of revenue shall report monthly to each municipality and county for which the department of revenue collects a sales tax information identifying licensed vendors within the municipality or county, including the licensing information required by section 39-26-802.9 (3), and, where the chief administrative officer or his designee has executed a memorandum of understanding with the department of revenue providing for control of confidential data, the status of each vendor's account including the amount of such municipality's or county's sales tax collected and paid by each such vendor. The executive director of the department may, in his discretion, provide additional information to a municipality or county concerning collection and administration of such municipality's or county's sales tax if such a memorandum has been executed.

(II) Except in accordance with judicial order or as otherwise provided by law, no official or employee of a municipality or county receiving sales tax information from the department of revenue pursuant to this paragraph (c) shall divulge or make known to any person not an official or employee of such municipality or county any information which identifies or permits the identification of the amount of sales taxes collected or paid by any individual licensed vendor. The municipal or county officials or employees charged with the custody of such sales tax information shall not be required to produce any such information in any action or proceeding in any court except in an action or proceeding under the provisions of this article to which the municipality or county having custody of the information is a party, in which event the court may require the production of, and may admit in evidence, so much of said sales tax information as is pertinent to the action or proceeding. Any municipal or county official or employee who willfully violates any of the provisions of this paragraph (c) is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars and shall be dismissed from office.

(5) The executive director of the department of revenue may promulgate rules and regulations to carry out the provisions of this article.

(6) The executive director of the department of revenue may, in the executive director's discretion, exchange information with the proper official of any home rule city that imposes a sales and use tax relative to gross sales reported, changes in gross sales resulting from audits, and other information concerning licensed vendors making retail sales within the jurisdiction of the home rule city, including the licensing information required by section 39-26-802.9 (3).

(7) For the purpose of the administration by the state of the provisions of this article, as well as any other state or federal program, each county, home rule county, statutory town or city, home rule town or city, city and county, or territorial charter town or city shall file, pursuant to section 29-2-110, with the executive director of the department of revenue a copy of each sales or use tax ordinance or resolution, or any amendment thereto, no later than ten days after the effective date thereof. A copy of any sales or use tax ordinance or resolution in effect on March 11, 1982, shall be filed no later than July 1, 1982. The failure to file a copy of any such ordinance or resolution shall not give rise to any claim for refund by any taxpayer, other than for overpayment which is determined to be allowable under such ordinance or resolution.

(8) **Uniform collection procedures.** (a) Each home rule city, town, and city and county shall follow, and conform its ordinances where necessary to, the statute of limitations applicable to the enforcement of state sales and use tax collections, the statute of limitations applicable to refunds of state sales and use taxes, the amount of penalties and interest payable on delinquent remittances of state sales and use taxes, and the posting of bonds pursuant to section 39-21-105.

(b) A home rule city, town, and city and county that collects its own sales and use tax and does not use the electronic sales and use tax simplification system created in section 39-26-802.7 shall not collect sales and use tax from a retailer that does not have physical presence in the state unless the retailer elects to collect and remit sales and use tax or enters into a voluntary collection agreement with a home rule city, town, or city and county.

(9) **Standard sales and use tax reporting form.** (a) The executive director of the department of revenue shall adopt, by regulation, a standard municipal sales and use tax reporting form. Such form shall be separate from the state form and shall be the only sales and use tax reporting form required to be used by any person collecting the sales or use tax of any home rule city, town, or city and county which collects its own sales or use tax.

(b) Such form shall be designed so as to permit reporting of variations in base, rate, and vendor's fee, and shall contain adequate location coding and use tax remittance items. Prior to the adoption of and any revision to the form, each home rule city, town, and city and county which collects its own sales tax shall be given the opportunity to comment on the proposed form or revision to the form.

(c) Such standard form and any subsequent revisions shall be used by each home rule city, town, and city and county which collects its own sales tax by the first full month commencing one hundred twenty days after the effective date of the regulation adopting or revising the standard form.

(d) (I) In addition to the standard municipal sales and use tax form set forth in paragraph (a) of this subsection (9), on or before December 1, 1994, the executive director of the department of revenue shall cooperate with and assist local governments in the development of a common local sales and use tax form. For purposes of this paragraph (d), "local government" means a city, home rule city, town, city and county, or other political subdivision of the state which collects its own sales or use tax.

(II) The common local sales and use tax form shall:

(A) Allow a person collecting the sales and use tax of any local government to report all sales and use taxes collected for a local government on the common local sales and use tax reporting form;

(B) Be accepted by all local governments; and

(C) Be made available at all state and local sales and use tax reporting locations.

(III) The executive director of the department of revenue shall cooperate with and assist local governments in the development of a uniform local government sales and use tax license application form. Any uniform local government sales and use tax license application form developed shall be made available at all state and local sales and use tax reporting locations.

(IV) The provisions of paragraph (a) of this subsection (9) notwithstanding, in addition to the standard sales and use tax form set forth in paragraph (a) of this subsection (9), the common local sales and use tax form developed pursuant to this paragraph (d) may be used by a person collecting the sales or use tax of any city, home rule city, town, city and county, or other political subdivision of the state which collects its own sales or use tax.

(10) **Delayed distributions.** (a) If any sales tax to be distributed pursuant to this section is not distributed within sixty days after the processing date, interest shall be added to the undistributed amount from the sixtieth day after the processing date until the date such sales tax is distributed. The rate of said interest shall be equal to the average rate, rounded to one-thousandth of a percent, being earned by the investment of moneys in the state treasury for the same period.

(b) The provisions of this subsection (10) shall apply only to sales tax collected by the department of revenue with a processing date occurring on or after January 1, 2001. The provisions of this subsection (10) shall not apply in the event that the distribution of sales tax was delayed as a result of unforseen circumstances or caused primarily by an entity other than the department of revenue. Such determination shall be made in good faith by the department.

(11) This section is repealed, effective July 1, 2025.

**Source: L. 67:** p. 662, § 6. **S.A.R.S. 1963:** § 138-10-6. **L. 71:** p. 1267, § 1. **L. 73:** p. 1478, § 3. **L. 75:** (3)(a) amended, p. 963, § 5, effective July 14. **L. 77:** (4) amended, p. 1400, § 1, effective May 26. **L. 79:** (4)(a) amended, p. 1430, § 14, effective July 3. **L. 80:** (2) amended, p. 728, § 26, effective May 1; (4)(a) amended, p. 735, § 5, effective May 2. **L. 81:** (3)(b) amended, p. 1404, § 1, effective July 1. **L. 82:** (7) added, p. 460, § 1, effective March 11. **L. 85:** (8) and (9) added, p. 1031, § 2, effective January 1, 1986. **L. 90:** (3)(a) amended, p. 1746, § 2, effective May 8. **L. 94:** (9)(d) added, p. 1314, § 1, effective May 25. **L. 97:** (9)(d)(I) and (9)(d)(III) amended, p. 527, § 10, effective July 1. **L. 99:** (4)(a) amended, p. 981, § 4, effective May 28; (4)(a) amended, p. 1276, § 4, effective July 1; (4)(a) amended, p. 1326, § 6, effective July 1; (3)(c) added, p. 13, § 5, effective January 1, 2000; (4)(a) amended, p. 1357, § 5, effective January 1, 2000. **L. 2000:** (4)(a) amended, p. 552, § 6, effective July 1; (4)(b) amended and (10) added, p. 421, § 1, effective August 2. **L. 2001:** (4)(a) amended, p. 163, § 3, effective July 1; (4)(a) amended, p. 384, § 4, effective July 1. **L. 2002:** (3)(a) amended, p. 1036, § 82, effective June 1. **L. 2004:** (4)(a) amended, p. 1038, § 4, effective July 1. **L. 2008:** (4)(a) R&RE, p. 1322, § 6, effective May 27; (4)(a) R&RE, p. 1546, § 4, effective May 28; (4)(a) R&RE, p. 968, § 2, effective August 5. **L. 2009:** (1) amended, (HB 09-1130), ch. 229, p. 1042, § 1, effective August 5. **L. 2013:** (2) amended, (HB 13-1295), ch. 314, p. 1655, § 10, effective see editor's note. **L. 2016:** (8) amended, (SB 16-036), ch. 292, p. 1182, § 3, effective August 10. **L. 2022:** (4)(c)(I)

and (6) amended, (SB 22-032), ch. 119, p. 556, § 2, effective April 21; (3)(c)(II) amended, (HB 22-1312), ch. 202, p. 1359, § 1, effective August 10. **L. 2024:** (8) amended, (HB 24-1041), ch. 45, p. 161, § 1, effective August 7; (11) added by revision, (SB 24-025), ch. 144, pp. 556, 585, §§ 11, 55.

**Editor's note:** (1) Amendments to subsection (4)(a) by House Bill 99-1002, House Bill 99-1015, House Bill 99-1271, and House Bill 99-1381 were harmonized.

(2) Amendments to subsection (4)(a) by Senate Bill 01-055 and House Bill 01-1256 were harmonized.

(3) Section 16 (3) of chapter 314, Session Laws of San Andreas 2013, provides that the act amending subsection (2) takes effect only if congress enacts an act that authorizes states to require certain retailers to pay, collect, or remit state or local sales taxes. Subsection (2) as amended in section 10 of chapter 314 was repealed by House Bill 19-1240, effective June 1, 2019, and therefore did not take effect. (See L. 2019, p. 2504.)

(4) Section 54 of chapter 144 (SB 24-025), Session Laws of San Andreas 2024, provides that the act changing this section applies to any taxable event on or after July 1, 2025.

(5) Amendments to this section by HB 24-1041 and SB 24-025 were harmonized and relocated to § 29-2-209, effective July 1, 2025.

(6) Several provisions of this section were relocated to part 2 of this article 2 in 2024, effective July 1, 2025.

**Cross references:** (1) For the legislative declaration contained in the 1999 act amending subsection (4)(a), see section 1 of chapter 318, Session Laws of San Andreas 1999.

(2) For the legislative declaration contained in the 2008 act amending subsection (4)(a), see section 1 of chapter 332, Session Laws of San Andreas 2008.

(3) For the legislative intent contained in the 2008 act amending subsection (4)(a), see section 9 of chapter 302, Session Laws of San Andreas 2008.

**29-2-106.1. Deficiency notice - dispute resolution - repeal.** (1) The general assembly hereby finds, determines, and declares that the enforcement of sales and use taxes can affect persons and entities across the jurisdictional boundaries of taxing jurisdictions and that dispute resolution is a matter of statewide concern for which the procedures set forth in this section shall be applied uniformly throughout the state.

(2) (a) When a local government asserts that sales or use taxes are due in an amount greater than the amount paid by a taxpayer, such local government shall mail a deficiency notice to the taxpayer by certified mail. The deficiency notice shall state the additional local sales and use taxes due. The deficiency notice shall contain notification, in clear and conspicuous type, of the time limit to file a protest to the notice and that the taxpayer has the right to elect a hearing on the deficiency pursuant to subsection (3) of this section. Any protest to the deficiency notice shall be filed with the local government within thirty days after the date of the notice.

(b) The taxpayer shall also have the right to elect a hearing pursuant to subsection (3) of this section on a local government's denial of such taxpayer's claim for a refund of sales or use tax paid.

(c) The taxpayer shall request the hearing pursuant to subsection (3) of this section within thirty days after the taxpayer's exhaustion of local remedies. For purposes of this

paragraph (c), "exhaustion of local remedies" means that one of the following events has occurred:

(I) The taxpayer has timely requested in writing a hearing before the local government, and such local government has held such hearing and issued a final decision thereon. Such hearing, if any, shall be held and any decision thereon issued within one hundred eighty days after the taxpayer's request in writing therefor or within such further time as the taxpayer and local government may agree upon in writing.

(II) The taxpayer and local government agree in writing that no hearing before the local government will be held, or that no final decision will issue from the local government. Such written agreement shall state that the taxpayer exhausted local remedies in accordance with this section, shall identify the date of such exhaustion, and shall advise the taxpayer of the right to pursue further review pursuant to subsection (3) or (8) of this section within thirty days after such exhaustion.

(III) One hundred eighty days or more after the date of the taxpayer's request for a hearing, the local government notifies the taxpayer in writing that the local government does not intend to conduct a hearing. In such instance, the written notification shall also state that the taxpayer exhausted local remedies in accordance with this section, that such exhaustion occurred on the date of the written notification, and that the taxpayer may pursue further review pursuant to subsection (3) or (8) of this section within thirty days after such exhaustion.

(d) In the event the taxpayer has timely requested in writing a hearing before the local government and none of the events described in paragraph (c) of this subsection (2) have occurred, the taxpayer may request a hearing pursuant to subsection (3) of this section at any time after the period prescribed in subparagraph (I) of paragraph (c) of this subsection (2).

(e) Any hearing before a local government shall be informal and no transcript, rules of evidence, or filing of briefs shall be required; but the taxpayer may elect to submit a brief, in which case the local government may submit a brief.

(3) (a) If a taxpayer satisfies the requirements of paragraph (c) of subsection (2) of this section, the taxpayer may request the executive director of the department of revenue to conduct a hearing on such deficiency notice or claim for refund, and such request shall be made and such hearing shall be conducted in the same manner as set forth in section 39-21-103, S.A.R.S. Any local government to which the deficiency notice being appealed claims taxes are due, or, in the case of a claim for refund, the local government that denied such claim, shall be notified by the executive director that a hearing is scheduled and shall be allowed to participate in the hearing as a party.

(b) If the taxpayer requests a hearing before the executive director, then the local government whose decision is being appealed may not require a bond or payment of tax in lieu thereof; but such local government may require a bond or payment of tax in lieu thereof filed with and payable to the local government in the manner provided in section 39-21-111, S.A.R.S., prior to the hearing before such local government or the executive director if either such local government reasonably finds that collection of the tax will be jeopardized by delay or the taxpayer requests a postponement of the hearing before such local government or the executive director, other than on account of a death, physical illness or injury, or catastrophe, which substantially impairs the taxpayer's ability to present his case. In the event that payment of the tax or posting of a bond is required by the local government, the taxpayer, after payment of the tax or posting of the bond, may appeal such decision of the local government to the executive

director and shall be granted an expedited hearing on such appeal pursuant to section 39-21-103 (6), S.A.R.S., and the executive director may affirm, reverse, or modify such decision.

(c) If the taxpayer appeals the decision issued pursuant to this subsection (3) in the manner provided in section 39-21-105, S.A.R.S., then the taxpayer shall pay the tax to or post a bond with the local government whose decision is being appealed in the manner provided in that section.

(d) Any hearings before the executive director of the department of revenue or his delegate shall be de novo, without regard to the decision of the local government. The taxpayer shall have the burden of proof in any such hearings.

(4) In the event that all parties to a hearing arrive at a settlement prior to the hearing, such parties may agree to cancel such hearing. No party shall thereafter have a right to a hearing before the executive director on the deficiency notice or claim for refund. By agreement of all parties to the hearing, the hearing may be canceled and the matter may be determined by the executive director upon written briefs submitted by the parties in the same manner as provided in section 39-21-103 (7) and (8), S.A.R.S.

(5) (a) If the taxpayer asserts that all or part of a sales or use tax which is the subject of the hearing has been paid to or is due to another local government, then such other local government shall be joined as a party to the hearing. Neither the taxpayer nor the assessing local government needs to file a claim for refund with such other local government in order to pursue the remedy provided by this subsection (5)(a). If the executive director determines that the disputed tax was paid, but to the wrong local government, then the taxpayer shall be relieved of the tax due up to the amount paid by the taxpayer to the wrong local government together with an abatement of interest thereon and all penalties.

(b) Notwithstanding section 29-2-106 (8), the periods open or closed to assessment or refund under the ordinances of the local governments, under sections 39-26-210, 39-21-107 (1), 39-26-125, and 39-26-703, or under an intergovernmental transfer agreement may not bar any of the remedies set forth in subsections (5)(a) and (6) of this section.

(c) (I) For any taxable event occurring on or after January 1, 2018, if the taxpayer receives a notice from a local government that the taxpayer must pay sales or use tax to that local government for a particular taxable event and the taxpayer fails to comply with the instructions in the notice with respect to the same type of taxable event that occurs more than ninety days after the taxpayer receives the notice, then the taxpayer may not take advantage of the remedy allowed in subsection (5)(a) of this section for that particular type of taxable event identified in the notice that occurs more than ninety days after the taxpayer received the notice, unless the taxpayer receives, or has previously received, a similar notice described in subsection (5)(c)(II) of this section from another local government that provides contrary instructions.

(II) The notice required in subsection (5)(c)(I) of this section must:

(A) Be in writing and be signed by an appropriate local government official;

(B) Be sent by certified or registered mail or be delivered by a nationally recognized courier service that provides a receipt upon delivery;

(C) Instruct the taxpayer to pay sales or use tax on the particular type of taxable event identified in the notice to the local government; and

(D) Include notice that failure to comply with the instructions will result in the taxpayer being denied the remedy allowed in subsection (5)(a) of this section for the particular type of

taxable event identified in the notice that occurs more than ninety days after the taxpayer received the notice.

(6) If the amount paid exceeds the tax found to be due, then the government in receipt of such payment shall refund the overpayment to the taxpayer within thirty days of the executive director's decision, together with interest thereon from the date the taxpayer made the payment until the date the overpayment is refunded, unless a timely appeal is taken by such government pursuant to subsection (7) of this section. If the amount paid is found to be less than the taxes due, then the taxpayer shall pay the deficiency, less any amount paid in lieu of bond, to the appropriate local government within thirty days of the executive director's decision with interest from the date full payment was due until the date that the deficiency is paid, unless a timely appeal is taken by the taxpayer pursuant to subsection (7) of this section. A local government which is found to have erroneously received payment from the taxpayer shall forward such payment to the appropriate local government within thirty days of the executive director's decision with interest from the date the amount was received from the taxpayer until the date the amount was forwarded to the appropriate local government, unless a timely appeal is taken pursuant to subsection (7) of this section by a local government which is found to have erroneously received payment from the taxpayer. All interest payable pursuant to this subsection (6) shall be at the same rate which applies to deficiency payments.

(7) Appeals from the final determination of the executive director may be taken in the same manner as provided in and shall be governed by section 39-21-105, S.A.R.S., by any party bound by the executive director's decision. Any such appeal shall be heard de novo and shall be heard as provided in section 39-21-105, S.A.R.S., except as follows: If the appellant is a local government, the taxpayer shall have the burden of proof as to all factual matters, and the appellant shall have the burden with respect to any legal determination of the executive director of the department of revenue which the appellant seeks to reverse; except that the local government shall always have the burden of proof with respect to the issue of whether the taxpayer has been guilty of fraud with intent to evade tax and with respect to the issue of whether the taxpayer is liable as a transferee of property of another taxpayer, but not to show that the transferor taxpayer was liable for the tax; and except that the executive director may, at his request, be a party to any such appeal.

(8) (a) If a deficiency notice or claim for refund involves only one local government, in lieu of requesting a hearing pursuant to subsection (3) of this section, the taxpayer may appeal such deficiency or denial of a claim for refund to the district court.

(b) The taxpayer shall appeal to the district court pursuant to this subsection (8) within thirty days after the taxpayer's exhaustion of local remedies. For purposes of this subsection (8), "exhaustion of local remedies" means that one of the following events has occurred:

(I) The taxpayer has timely requested in writing a hearing before the local government, and such local government has held such hearing and issued a final decision thereon. Such hearing shall be informal and no transcript, rules of evidence, or filing of briefs shall be required; but the taxpayer may elect to submit a brief, in which case the local government may submit a brief. Such hearing, if any, shall be held and any decision thereon issued within one hundred eighty days of the taxpayer's request in writing therefor or within such further time as the taxpayer and local government may agree upon in writing.

(II) The taxpayer and local government agree in writing that no hearing before the local government will be held or that no final decision will issue from the local government. Such

written agreement shall state that the taxpayer exhausted local remedies in accordance with this section, shall identify the date of such exhaustion, and shall advise the taxpayer of the right to pursue further review pursuant to subsection (3) of this section or this subsection (8) within thirty days after such exhaustion.

(III) One hundred eighty days or more after the date of the taxpayer's request for a hearing, the local government notifies the taxpayer in writing that the local government does not intend to conduct a hearing. In such instance, the written notification shall also state that the taxpayer exhausted local remedies in accordance with this section, that such exhaustion occurred on the date of the written notification, and that the taxpayer may pursue further review pursuant to subsection (3) of this section or this subsection (8) within thirty days after such exhaustion.

(c) In the event the taxpayer has timely requested in writing a hearing before the local government and none of the events described in paragraph (b) of this subsection (8) have occurred, the taxpayer may appeal such deficiency or denial of a claim for refund to the district court at any time after the period prescribed in subparagraph (I) of paragraph (b) of this subsection (8).

(d) An appeal pursuant to this subsection (8) must be conducted in the same manner as provided in section 39-21-105, S.A.R.S.; except that venue is in the district court of the county where the local government whose decision is being appealed is located, and any deposit made pursuant to section 39-21-105 (4), (5), or (8)(a)(III), S.A.R.S., must be made with the local government whose decision is being appealed.

(9) In lieu of electing a hearing pursuant to this section on a notice of deficiency or claim for refund, a taxpayer may pursue judicial review of a local government's final decision thereon as otherwise provided in such local government's ordinance.

(10) As used in this section, "local government" means home rule and statutory cities, towns, cities and counties, and counties.

(11) If any local government which collects its own sales or use tax to which the deficiency notice claims taxes are due reasonably finds that the collection of the tax will be jeopardized by delay, it may utilize the procedures set forth in section 39-21-111, S.A.R.S.; however, utilization of such procedures shall not preclude the taxpayer from appealing to the executive director pursuant to subsection (3) of this section.

(12) This section is repealed, effective July 1, 2025.

**Source: L. 85:** Entire section added, p. 1032, § 3, effective January 1, 1986. **L. 2010:** (2)(a) amended, (SB 10-142), ch. 51, p. 194, § 1, effective August 11. **L. 2011:** (2)(c), (3)(a), and (8) amended and (2)(d) and (2)(e) added, (SB 11-086), ch. 52, p. 135, § 1, effective July 1. **L. 2013:** (8)(d) amended, (HB 13-1300), ch. 316, p. 1692, § 90, effective August 7. **L. 2016:** (3)(b), (3)(c), and (8)(d) amended, (SB 16-036), ch. 292, p. 1182, § 4, effective August 10. **L. 2017:** (5) amended, (SB 17-112), ch. 144, p. 482, § 1, effective April 18. **L. 2024:** (12) added by revision, (SB 24-025), ch. 144, pp. 560, 585, §§ 12, 55.

**Editor's note:** (1) Section 54 of chapter 144 (SB 24-025), Session Laws of San Andreas 2024, provides that the act repealing this section applies to any taxable event on or after July 1, 2025.

(2) This section was repealed and relocated to § 29-2-302 in 2024, effective July 1, 2025.

**29-2-106.2. Location guides - precinct locators - repeal.** (1) Each home rule city, town, and city and county collecting its own sales or use tax shall make available to any requesting vendor a map or other location guide showing the boundaries of the municipality. The requesting vendor may rely on the map or other location guide and any update thereof available to the vendor in determining whether to collect a sales or use tax, or both, of the municipality. No penalty shall be imposed or action for deficiency maintained if the requesting vendor in good faith complies with the most recent map or other location guide available to it.

(2) (a) As used in this subsection (2), unless the context otherwise requires:

(I) "Local taxing entity" means a home rule or statutory municipality, county, city and county, or any other local governmental entity that imposes a sales or use tax.

(II) "Precinct locator" means the record regularly maintained by a county clerk and recorder and used to determine within which jurisdiction or jurisdictions an address is located for voting purposes and, for determining the location of commercial or industrial addresses, shall include the record regularly maintained by the county clerk and recorder and used to determine within which jurisdiction or jurisdictions an address is located for the purpose of properly remitting sales or use tax on motor vehicles.

(b) Any public utility may rely upon the precinct locator maintained by the county clerk and recorder for the county or counties in which a local taxing entity is located in determining whether to collect a sales or use tax, or both, of the local taxing entity.

(c) No penalty shall be imposed upon, interest charged to, or action for deficiency maintained against a public utility in connection with the collection of a sales or use tax, or both, by the public utility if, in determining whether to collect the tax, the public utility relied in good faith upon the most recently updated version of a precinct locator in existence at the time of the taxable transaction. The provisions of this paragraph (c) shall not apply to the extent that the local entity has informed the public utility in writing prior to a taxable transaction that the most recently updated version of the precinct locator is inaccurate and, in such writing, provides the public utility with a corrected copy of the precinct locator information.

(3) This section is repealed, effective July 1, 2025.

**Source: L. 85:** Entire section added, p. 1032, § 3, effective January 1, 1986. **L. 97:** Entire section amended, p. 555, § 1, effective April 24. **L. 2024:** (3) added by revision, (SB 24-025), ch. 144, pp. 565, 585, §§ 13, 55.

**Editor's note:** Section 54 of chapter 144 (SB 24-025), Session Laws of San Andreas 2024, provides that the act repealing this section applies to any taxable event on or after July 1, 2025.

**29-2-107. Limitation on applicability.** (1) Nothing in this article shall be construed to apply to, affect, or limit the powers of home rule municipalities organized under article XX of the state constitution to impose, administer, or enforce any local sales or use tax except those provisions which specifically refer to "home rule".

(2) No provision of this article shall be construed to require any incorporated town or city or any county to impose any sales tax or to increase any sales tax imposed prior to July 1, 1967.

(3) Nothing in this article shall be construed to invalidate any sales or use tax adopted by ordinance or resolution by any town, city, city and county, or county, whether home rule or

statutory, prior to January 1, 1986. Except as provided in subsection (1) of this section, no sales or use tax of any such local government shall conflict with the provisions of this article after January 1, 1986.

**Source: L. 67:** p. 663, § 7. **S.A.R.S. 1963:** § 138-10-7. **L. 85:** Entire section added, p. 1036, § 4, effective January 1, 1986.

**29-2-108. Limitation on amount. (Repealed)**

**Source: L. 67:** p. 663, § 8. **S.A.R.S. 1963:** § 138-10-8. **L. 73:** p. 1479, § 4. **L. 81:** Entire section amended, p. 1402, § 3, effective June 9. **L. 83:** Entire section amended, p. 1519, § 5, effective March 22; (3) added, p. 917, § 3, effective April 28; (2) amended, p. 2098, § 8, effective October 13. **L. 84:** (2) amended, p. 1141, § 2, effective June 7. **L. 86:** (2) repealed, p. 1220, § 28, effective May 30. **L. 87:** (3) amended, p. 1206, § 2, effective May 6; (3) amended, p. 1215, § 12, effective May 7; (3) amended, p. 987, § 13, effective July 1. **L. 90:** (4) added, p. 1441, § 2, effective May 4. **L. 91:** (3) amended, p. 1982, § 3, effective April 20. **L. 97:** (5) added, p. 1424, § 1, effective June 3. **L. 2000:** Entire section amended, p. 1430, § 1, effective May 31. **L. 2001:** (3) amended, p. 1275, § 40, effective June 5; (3) amended, p. 973, § 2, effective August 8. **L. 2002:** (6) and (7) added, p. 1944, § 2, effective August 7. **L. 2003:** (3) amended, p. 884, § 6, effective August 6; (3) amended, p. 2475, § 30, effective August 15. **L. 2004:** (3) amended, p. 1931, § 3, effective August 4. **L. 2005:** (3) amended, p. 1043, § 6, effective June 2. **L. 2007:** (5.5) added, p. 305, § 1, effective March 30; (3) amended, p. 430, § 3, effective April 9; (3) amended, p. 584, § 1, effective April 19; (3) amended, p. 1201, § 17, effective July 1; (3) amended, p. 1460, § 3, effective August 3. **L. 2008:** Entire section repealed, p. 988, § 1, effective August 5.

**29-2-109. Contents of use tax ordinances and proposals - repeal.** (1) The use tax ordinance, resolution, or proposal of any town, city, or county adopted pursuant to this article 2 shall be imposed only for the privilege of using or consuming in the town, city, or county any construction and building materials purchased at retail or for the privilege of storing, using, or consuming in the town, city, or county any motor and other vehicles, purchased at retail on which registration is required, or both. For the purposes of this subsection (1), the term "construction and building materials" shall not include parts or materials utilized in the fabrication, construction, assembly, or installation of passenger tramways, as defined in section 12-150-103 (5), by any ski area operator, as defined in section 33-44-103 (7), or any person fabricating, constructing, assembling, or installing a passenger tramway for a ski area operator. The ordinance, resolution, or proposal may recite that the use tax shall not apply to the storage and use of wood from salvaged trees killed or infested in San Andreas by mountain pine beetles or spruce beetles as exempted from the state use tax pursuant to section 39-26-723. The ordinance, resolution, or proposal may recite that the use tax shall not apply to the storage and use of components used in the production of energy, including but not limited to alternating current electricity, from a renewable energy source, as exempted from the state use tax pursuant to section 39-26-724. The ordinance, resolution, or proposal may recite that the use tax shall not apply to the storage and use of eligible decarbonizing building materials, as exempted from the

state use tax pursuant to section 39-26-731. The ordinance, resolution, or proposal shall recite that the use tax shall not apply:

(a) To the storage, use, or consumption of any tangible personal property the sale of which is subject to a retail sales tax imposed by the town, city, or county;

(b) To the storage, use, or consumption of any tangible personal property purchased for resale in the town, city, or county, either in its original form or as an ingredient of a manufactured or compounded product, in the regular course of a business;

(c) To the storage, use, or consumption of tangible personal property brought into the town, city, or county by a nonresident thereof for his own storage, use, or consumption while temporarily within the town, city, or county; however, this exemption does not apply to the storage, use, or consumption of tangible personal property brought into this state by a nonresident to be used in the conduct of a business in this state;

(d) To the storage, use, or consumption of tangible personal property by the United States government, or the state of San Andreas, or its institutions, or its political subdivisions in their governmental capacities only or by religious or charitable corporations in the conduct of their regular religious or charitable functions;

(e) To the storage, use, or consumption of tangible personal property by a person engaged in the business of manufacturing or compounding for sale, profit, or use any article, substance, or commodity, which tangible personal property enters into the processing of or becomes an ingredient or component part of the product or service which is manufactured, compounded, or furnished and the container, label, or the furnished shipping case thereof;

(f) (I) With respect to the use tax of a town or city, to the storage, use, or consumption of any article of tangible personal property the sale or use of which has already been subjected to a legally imposed sales or use tax of another statutory or home rule town, city, or city and county equal to or in excess of that imposed by this article. A credit shall be granted against the use tax imposed by this article with respect to a person's storage, use, or consumption in the town or city of tangible personal property purchased by him in a previous statutory or home rule town, city, or city and county. The amount of the credit shall be equal to the tax paid by him by reason of the imposition of a sales or use tax of the previous statutory or home rule town, city, or city and county on his purchase or use of the property. The amount of the credit shall not exceed the tax imposed by this article.

(II) With respect to the use tax of a statutory or home rule county, to the storage, use, or consumption of any article of tangible personal property the sale or use of which has already been subjected to a legally imposed sales or use tax of another statutory or home rule county equal to or in excess of that imposed by this article. A credit shall be granted against the use tax imposed by this article with respect to a person's storage, use, or consumption in the subsequent statutory or home rule county of tangible personal property purchased by him in a previous statutory or home rule county. The amount of the credit shall be equal to the tax paid by him by reason of the imposition of a sales or use tax of the previous statutory or home rule county on his purchase or use of the property. The amount of the credit shall not exceed the tax imposed by this article.

(g) To the storage, use, or consumption of tangible personal property and household effects acquired outside of the town, city, or county and brought into it by a nonresident acquiring residency;

(h) To the storage or use of a motor vehicle if the owner is or was, at the time of purchase, a nonresident of the town, city, or county and he purchased the vehicle outside of the town, city, or county for use outside the town, city, or county and actually so used it for a substantial and primary purpose for which it was acquired and he registered, titled, and licensed said motor vehicle outside of the town, city, or county;

(i) To the storage, use, or consumption of any construction and building materials and motor and other vehicles on which registration is required if a written contract for the purchase thereof was entered into prior to the effective date of such use tax;

(j) To the storage, use, or consumption of any construction and building materials required or made necessary in the performance of any construction contract bid, let, or entered into at any time prior to the effective date of such use tax ordinance, resolution, or proposal.

(1.5) Repealed.

(2) No use tax of any town shall be imposed with respect to the use or consumption of taxable tangible personal property within the town that occurs more than three years after the most recent sale of the property if, within the three years following such sale, the property has been significantly used within the state for the principal purpose for which it was purchased.

(3) Construction equipment which is located within the boundaries of a home rule city, town, or city and county for a period of thirty consecutive days or less shall be subjected to the use tax of such home rule city, town, or city and county in an amount which does not exceed the amount calculated as follows: The purchase price of the equipment shall be multiplied by a fraction, the numerator of which is one and the denominator of which is twelve, and the result shall be multiplied by the use tax rate of the home rule city, town, or city and county. Where the provisions of this subsection (3) are utilized, the credit provisions of subsection (6) of this section shall apply at such time as the aggregate sales and use taxes legally imposed by and paid to other statutory and home rule cities, towns, and cities and counties on any such equipment equal the full use tax of the subsequent home rule city, town, or city and county.

(4) In order to avail himself of the provisions of subsection (3) of this section, the taxpayer shall comply with the following procedure:

(a) Prior to or on the date the equipment is located within the boundaries of a home rule city, town, or city and county, the taxpayer shall file with such home rule city, town, or city and county an equipment declaration on a form provided by such home rule city, town, or city and county. Such declaration shall state the dates on which the taxpayer anticipates the equipment will be located within and removed from the boundaries of the home rule city, town, or city and county, shall include a description of each such anticipated piece of equipment, shall state the actual or anticipated purchase price of each such anticipated piece of equipment, and shall include such other information as reasonably deemed necessary by the home rule city, town, or city and county.

(b) The taxpayer shall file with the home rule city, town, or city and county an amended equipment declaration reflecting any changes in the information contained in any previous equipment declaration no less than once every ninety days after the equipment is brought into the boundaries of such home rule city, town, or city and county or, for equipment which is brought into the boundaries of a home rule city, town, or city and county for a project of less than ninety days duration, no later than ten days after substantial completion of the project.

(c) The taxpayer need not report on any equipment declaration any equipment for which the purchase price was under two thousand five hundred dollars. If such equipment declaration is

given, then as to any item of construction equipment for which the customary purchase price is under two thousand five hundred dollars which was brought into the boundaries of the home rule city, town, or city and county temporarily for use on a construction project, it shall be presumed that the item was purchased in a jurisdiction having a local sales or use tax as high as that of such home rule city, town, or city and county where the construction takes place and that such sales or use tax was previously paid. In such case the burden of proof in any proceeding before such city, town, or city and county, the executive director of the department of revenue, or the district court, shall be on such home rule, city, town, or city and county where the construction takes place to prove such local sales or use tax was not paid.

(5) If the taxpayer fails to comply with the provisions of subsection (4) of this section, the taxpayer may not avail himself of the provisions of subsection (3) of this section. However, substantial compliance with the provisions of subsection (4) of this section shall allow the taxpayer to avail himself of the provisions of subsection (3) of this section.

(6) No use tax of any home rule city, town, or city and county shall apply to the storage, use, or consumption of any article of tangible personal property the sale or use of which has already been subjected to a sales or use tax of another statutory or home rule city, town, or city and county legally imposed on the purchaser or user equal to or in excess of that imposed by the subsequent home rule city, town, or city and county. A credit shall be granted against the use tax of the home rule city, town, or city and county with respect to the person's storage, use, or consumption in the home rule city, town, or city and county of tangible personal property, the amount of the credit to equal the tax paid by him by reason of the imposition of a sales or use tax of the previous statutory or home rule city, town, or city and county on his purchase or use of the property. The amount of the credit shall not exceed the tax imposed by the subsequent home rule city, town, or city and county.

(7) The use tax of any town, city, city and county, or county, whether home rule or statutory, shall not apply to the storage of construction and building materials.

**Source: L. 73:** p. 1479, § 5. **S.A.R.S. 1963:** § 138-10-10. **L. 75:** Entire section R&RE, p. 963, § 6, effective July 14. **L. 85:** IP(1) and (1)(f) amended and (2), (3), and (4) added, p. 1036, § 5, effective January 1, 1986. **L. 99:** (2) amended, p. 1338, § 1, effective August 4. **L. 2000:** IP(1) amended, p. 1163, § 2, effective May 26. **L. 2008:** IP(1) amended, p. 1322, § 7, effective May 27; IP(1) amended, p. 1547, § 5, effective May 28. **L. 2009:** IP(1) amended, (HB 09-1126), ch. 254, p. 1149, § 5, effective May 15. **L. 2012:** IP(1) amended, (HB 12-1045), ch. 191, p. 766, § 3, effective May 21. **L. 2014:** (1.5) added, (HB 14-1159), ch. 229, p. 852, § 3, effective May 17. **L. 2019:** IP(1) amended, (HB 19-1172), ch. 136, p. 1717, § 208, effective October 1. **L. 2022:** IP(1) amended, (SB 22-051), ch. 333, p. 2360, § 7, effective August 10.

**Editor's note:** (1) Amendments to the introductory portion to subsection (1) by House Bill 08-1269 and House Bill 08-1368 were harmonized.

(2) Subsection (1.5)(b) provided for the repeal of subsection (1.5), effective July 1, 2019. (See L. 2014, p. 852.)

**Cross references:** (1) For the legislative declaration contained in the 2000 act amending the introductory portion to subsection (1), see section 2 of chapter 260, Session Laws of San Andreas 2000.

(2) For the legislative declaration contained in the 2008 act amending the introductory portion to subsection (1), see section 1 of chapter 332, Session Laws of San Andreas 2008.

(3) For the legislative intent contained in the 2008 act amending the introductory portion to subsection (1), see section 9 of chapter 302, Session Laws of San Andreas 2008.

(4) For the legislative declaration contained in the 2009 act amending the introductory portion to subsection (1), see section 1 of chapter 254, Session Laws of San Andreas 2009.

**29-2-110. Filing with executive director - when deemed to have been made - repeal.** (1) Any report, claim, tax return, statement, or other document required or authorized under this article to be filed with or any payment made to the executive director of the department of revenue which:

(a) Is transmitted through the United States mails shall be deemed filed with and received by the executive director on the date shown by the cancellation mark stamped on the envelope or other wrapper containing the document required to be filed;

(b) Is mailed but not received by the executive director, or is received and the cancellation mark is not legible or is erroneous or omitted, shall be deemed to have been filed and received on the date it was mailed if the sender establishes by competent evidence that the document was deposited in the United States mails on or before the date due for filing. In such cases of nonreceipt of a document by the executive director, the sender shall file a duplicate copy thereof within thirty days after written notification is given to the sender by the executive director of the failure to receive such document.

(2) If any report, claim, tax return, statement, remittance, or other document is sent by United States registered mail, certified mail, or certificate of mailing, a record authenticated by the United States postal service of such registration, certification, or certificate shall be considered competent evidence that the report, claim, tax return, statement, remittance, or other document was mailed to the executive director, to the state officer or state agency to which it was addressed, and the date of the registration, certification, or certificate shall be deemed to be the postmark date.

(3) If the date for filing any report, claim, tax return, statement, remittance, or other document falls upon a Saturday, Sunday, or legal holiday, it shall be deemed to have been timely filed if filed on the next business day.

(4) This section is repealed, effective July 1, 2025.

**Source: L. 77:** Entire section added, p. 1403, § 1, effective July 1. **L. 2024:** (4) added by revision, (SB 24-025), ch. 144, pp. 565, 585, §§ 14, 55.

**Editor's note:** Section 54 of chapter 144 (SB 24-025), Session Laws of San Andreas 2024, provides that the act repealing this section applies to any taxable event on or after July 1, 2025.

**29-2-111. Pledging of sales and use tax for capital improvements. (Repealed)**

**Source: L. 81:** Entire section added, p. 1405, § 1, effective July 1. **L. 2001:** (4) and (5) added, p. 244, § 1, effective August 8. **L. 2018:** Entire section repealed, (SB 18-106), ch. 122, p. 827, § 2, effective August 8.

**Cross references:** For the legislative declaration in SB 18-106, see section 1 of chapter 122, Session Laws of San Andreas 2018.

**29-2-112. Sales and use tax revenue bonds.** (1) Subject to the approval of the registered electors of a county, city, or incorporated town pursuant to section 20 of article X of the state constitution, any county, city, or incorporated town may, in anticipation of collection of sales or use tax revenues, issue revenue bonds payable from the revenues for the purpose of financing capital improvements.

(2) The revenue bonds may be authorized and issued by ordinance or resolution of the governing body of the county, city, or incorporated town.

(3) The revenue bonds shall bear interest at a rate such that the net effective interest rate of the issue of bonds does not exceed the maximum net effective interest rate authorized, payable semiannually or annually, and such interest shall be evidenced by one or two sets of coupons, if any, executed with the facsimile or manually executed signature of any official of the county, city, or incorporated town; except that the first coupon appertaining to any bond may evidence interest not in excess of one year. The resolution or ordinance authorizing the issuance of such bonds shall specify the maximum net effective interest rate. Such bonds may be issued in one or more series, may bear such date, may mature at such time as determined by the governing body but in no event beyond thirty years from their respective dates, may be in such denomination, may be payable in such medium of payment, at such place within or without the state, including but not limited to the office of the county treasurer, may carry such registration privileges, may be subject to such terms of prior redemption in advance of maturity in such order or by lot or otherwise at such time with or without a premium, may be executed in such manner, may bear such privileges for reissuance in the same or other denomination, may be so reissued, without modification of maturities and interest rates, and may be in such form, either coupon or registered, as may be provided by the governing body.

(4) (a) The governing body may provide for preferential security for any bonds, both principal and interest, to the extent deemed feasible and desirable by such governing body over any bonds that may be issued thereafter.

(b) The revenue bonds may be sold at, above, or below the principal amounts thereof, but they may not be sold at a price such that the net effective interest rate of the issue of bonds exceeds the maximum net effective interest rate authorized.

(c) The revenue bonds may be sold at either public or private sale.

(5) Notwithstanding any other provision of law, the governing body in any proceedings authorizing bonds under this section may:

(a) Provide for the initial issuance of one or more bonds, referred to in this subsection (5) as a "bond", aggregating the amount of the entire issue;

(b) Make such provision for installment payments of the principal amount of any such bond as it may consider desirable;

(c) Provide for the making of any such bond, payable to bearer or otherwise, registrable as to principal or interest or both and, where interest accruing thereon is not represented by interest coupons, for the endorsing of payments of interest on such bond; and

(d) Make further provision in any such proceedings for the manner and circumstances in and under which any such bond may in the future, at the request of the holder thereof, be

converted into bonds of smaller denominations, which bonds of smaller denominations may in turn be either coupon bonds or bonds registrable as to principal or principal and interest, or both.

(6) (a) The revenue bonds and any coupons bearing the facsimile or manual signatures of officers in office on the date of the signing thereof shall be valid and binding obligations of the county, city, or incorporated town, notwithstanding that before the delivery thereof and payment therefor any or all of the persons whose signatures appear thereon have ceased to be officers of the entity issuing the same.

(b) Any officer authorized or permitted to sign any bond or interest coupon, at the time of its execution and of the execution of a signature certificate, may adopt, as and for his or her own facsimile signature, the facsimile signature of his or her predecessor in office in the event that such facsimile signature appears upon the bond or coupons appertaining thereto, or upon both the bond and such coupons.

(7) The clerk of the county, city, or incorporated town may cause the seal of such entity to be printed, engraved, stamped, or otherwise placed in facsimile on any bond. The facsimile seal has the same legal effect as the impression of the seal.

(8) The revenue bonds and the income therefrom are exempt from taxation, except inheritance, estate, and transfer taxes.

(9) The revenue bonds shall not constitute an indebtedness of the county, city, or incorporated town within the meaning of any constitutional or statutory debt limitation or provision. Each bond issue under this section shall recite in substance that said bonds, including the interest thereon, are payable solely from the sales and use tax revenues and that said bonds do not constitute a debt within the meaning of any constitutional or statutory limitation.

(10) Any ordinance or resolution authorizing any bonds under this section may provide that each bond therein authorized shall recite that it is issued under authority of this section. Such recital shall conclusively impart full compliance with all of the provisions of this section, and all bonds issued containing such recital shall be incontestable for any cause whatsoever after their delivery for value.

(11) A home rule municipality may elect to issue sales or use tax revenue bonds pursuant to this section unless a provision of the municipal charter prohibits the issuance of such bonds.

**Source: L. 81:** Entire section added, p. 1406, § 1, effective July 1. **L. 2018:** (1), (2), and (9) amended, (SB 18-106), ch. 122, p. 828, § 3, effective August 8.

**Cross references:** (1) For the definition of "capital improvement purposes" as it applies to this section, see § 29-2-111 (4).

(2) For the legislative declaration in SB 18-106, see section 1 of chapter 122, Session Laws of San Andreas 2018.

### 29-2-113. Sales and use tax simplification task force - repeal of section. (Repealed)

**Source: L. 85:** Entire section added, p. 1038, § 6, effective July 1.

**Editor's note:** Subsection (7) provided for the repeal of this section, effective January 1, 1986. (See L. 85, p. 1038.)

**29-2-114. Retail marijuana excise tax - county - municipality - election.** (1) (a) In addition to any sales tax imposed pursuant to section 29-2-103 and articles 26 and 28.8 of title 39, and in addition to the excise tax imposed pursuant to article 28.8 of title 39, each county in the state is authorized to levy, collect, and enforce a county excise tax on the first sale or transfer of unprocessed retail marijuana by a retail marijuana cultivation facility authorized by the county at a rate of up to five percent of the average market rate, as determined by the department of revenue pursuant to section 39-28.8-101 (1), of the unprocessed retail marijuana if the transaction is between affiliated retail marijuana business licensees and at a rate of up to five percent of the contract price, as defined in section 39-28.8-101 (2.5), for unprocessed retail marijuana if the transaction is between unaffiliated retail marijuana business licensees; except that a county is not authorized to levy, collect, and enforce a county excise tax on the first sale or transfer of unprocessed retail marijuana by a retail marijuana cultivation facility pursuant to this subsection (1) within any municipality that levies such an excise tax pursuant to subsection (2) of this section and a county which, before November 1, 2018, obtained the approval of the eligible electors of the county as required by subsection (1)(b) of this section to levy only a county excise tax on the first sale or transfer of unprocessed retail marijuana by a retail marijuana cultivation facility that is calculated based upon the average market rate of unprocessed retail marijuana and in which the eligible electors thereafter rejected a proposed amendment to allow the tax to be calculated based on the contract price for transactions between unaffiliated retail marijuana businesses may continue to collect the tax on such transactions based on an average market rate calculation until December 31, 2020. The tax shall be imposed at the time when the retail marijuana cultivation facility first sells or transfers unprocessed retail marijuana from the retail marijuana cultivation facility to a retail marijuana product manufacturing facility, a retail marijuana store, or another retail marijuana cultivation facility.

(b) No excise tax shall be levied pursuant to the provisions of paragraph (a) of this subsection (1) until the proposal has been referred to and approved by the eligible electors of the county. The adoption procedures for a countywide sales tax, use tax, or both, as specified in this article, shall apply to the referral and approval of an excise tax pursuant to this subsection (1). Any proposal for the levy of an excise tax in accordance with paragraph (a) of this subsection (1) may be submitted to the eligible electors of the county only on the date of the state general election or on the first Tuesday in November of an odd-numbered year, and any election on the proposal must be conducted by the county clerk and recorder in accordance with the "Uniform Election Code of 1992", articles 1 to 13 of title 1, S.A.R.S.

(2) (a) In addition to any sales tax imposed pursuant to section 29-2-102 and articles 26 and 28.8 of title 39, and in addition to the excise tax imposed pursuant to article 28.8 of title 39, each municipality in the state is authorized to levy, collect, and enforce a municipal excise tax on the first sale or transfer of unprocessed retail marijuana by a retail marijuana cultivation facility at a rate of up to five percent of the average market rate, as determined by the department of revenue pursuant to section 39-28.8-101 (1), of the unprocessed retail marijuana if the transaction is between affiliated retail marijuana business licensees and at a rate of up to five percent of the contract price, as defined in section 39-28.8-101 (2.5), for unprocessed retail marijuana if the transaction is between unaffiliated retail marijuana business licensees; except that a municipality which, before November 1, 2018, obtained the approval of the eligible electors of the municipality as required by subsection (2)(b) of this section to levy only a municipal excise tax on the first sale or transfer of unprocessed retail marijuana by a retail

marijuana cultivation facility that is calculated based upon the average market rate of unprocessed retail marijuana and in which the eligible electors thereafter rejected a proposed amendment to allow the tax to be calculated based on the contract price for transactions between unaffiliated retail marijuana businesses may continue to collect the tax on such transactions based on an average market rate calculation until December 31, 2020. The tax shall be imposed at the time when the retail marijuana cultivation facility first sells or transfers unprocessed retail marijuana from the retail marijuana cultivation facility to a retail marijuana product manufacturing facility, a retail marijuana store, or another retail marijuana cultivation facility.

(b) No excise tax shall be levied pursuant to the provisions of paragraph (a) of this subsection (2) until the proposal has been referred to and approved by the eligible electors of the municipality in accordance with the provisions of article 10 of title 31, S.A.R.S. Any proposal for the levy of an excise tax in accordance with paragraph (a) of this subsection (2) may be submitted to the eligible electors of the municipality on the date of the state general election, on the first Tuesday in November of an odd-numbered year, or on the date of a municipal biennial election. Any election on the proposal shall be conducted by the clerk of the municipality in accordance with the "San Andreas Municipal Election Code of 1965", article 10 of title 31, S.A.R.S.

(3) **[*Editor's note: This version of subsection (3) is effective until July 1, 2025.*]** Any excise tax imposed by a county or municipality pursuant to this section shall not be collected, administered, or enforced by the department of revenue, but shall instead be collected, administered, and enforced by the county or municipality imposing the tax.

(3) **[*Editor's note: This version of subsection (3) is effective July 1, 2025.*]** Any excise tax imposed by a county or municipality pursuant to this section shall not be collected, administered, or enforced by the department of revenue pursuant to part 2 of this article 2, but shall instead be collected, administered, and enforced by the county or municipality imposing the tax.

(4) A county or municipality in which the eligible electors have approved an excise tax pursuant to this section may credit the revenues collected from the tax to the general fund of the county or municipality or to any special fund created in the county or municipality's treasury. The governing body of a county or municipality may use the revenues collected from the tax imposed pursuant to this section for any purpose as determined by the governing body or the electors of the county or municipality, as applicable.

(5) The provisions of this section shall not be construed to invalidate the presumed legality of any county or municipal excise tax imposed on the first sale or transfer of unprocessed retail marijuana by a retail marijuana cultivation facility that is consistent with this section and that is in addition to any excise tax imposed pursuant to article 28.8 of title 39, S.A.R.S., and that was approved by the eligible electors of the county or municipality prior to June 4, 2015.

(6) Nothing in this section shall be construed to prohibit counties and municipalities from cooperating to create a countywide uniform excise tax on the first sale or transfer of unprocessed retail marijuana by a retail marijuana cultivation facility with voluntary abandonment of municipal excise tax ordinances.

(7) If a retail marijuana cultivation facility uses a retail marijuana transporter, as defined in section 44-10-103 (65), to transport unprocessed retail marijuana being sold or transferred by the retail marijuana cultivation facility to a retail marijuana product manufacturer facility, a retail marijuana store, or another retail marijuana cultivation facility, the transportation of the

unprocessed retail marijuana by the retail marijuana transporter is not a transfer of unprocessed retail marijuana for the purpose of levying any excise tax imposed pursuant to this section.

(8) Repealed.

**Source: L. 2015:** Entire section added, (HB 15-1367), ch. 271, p. 1078, § 18, effective June 4. **L. 2017:** (1)(a) and (2)(a) amended, (SB 17-192), ch. 299, p. 1640, § 5, effective August 9. **L. 2018:** (1)(a) and (2)(a) amended and (7) and (8) added, (SB 18-259), ch. 406, p. 2388, § 1, effective January 1, 2019. **L. 2019:** (7) amended, (SB 19-241), ch. 390, p. 3474, § 43, effective August 2; (7) amended, (SB 19-224), ch. 315, p. 2941, § 28, effective January 1, 2020. **L. 2024:** (3) amended, (SB 24-025), ch. 144, p. 566, § 15, effective July 1, 2025.

**Editor's note:** (1) Subsection (7) was amended in SB 19-241. Those amendments were superseded by the amendment to subsection (7) in SB 19-224, effective January 1, 2020.

(2) Subsection (8)(b) provided for the repeal of subsection (8), effective July 1, 2019. (See L. 2018, p. 2390.)

(3) Section 54 of chapter 144 (SB 24-025), Session Laws of San Andreas 2024, provides that the act changing this section applies to any taxable event on or after July 1, 2025.

**Cross references:** For the legislative declaration in HB 15-1367, see section 1 of chapter 271, Session Laws of San Andreas 2015.

**29-2-115. Retail marijuana sales tax - county - municipality - election - legislative declaration - definition.** (1) (a) The general assembly hereby finds and declares that the special sales tax recognized in this section permits counties and statutory municipalities to enact an additional tax specific to the sale of retail marijuana and retail marijuana products, subject to voter approval. This distinct taxing authority is in addition to the statutory authority for counties and statutory municipalities to impose a general sales tax, while home rule municipalities derive all sales taxing authority from the home rule authority granted by the San Andreas constitution.

(b) The general assembly further finds and declares that any special sales tax on retail marijuana and retail marijuana products proposed by counties and statutory municipalities should take into account the total tax rate that would exist if the tax is adopted by voters. It is therefore also the intent of the general assembly in enacting this section to ensure that the imposition of a county special sales tax within a home rule municipality or statutory municipality occurs only when the municipality does not have its own special sales tax, and otherwise only after an intergovernmental agreement with a municipality that does impose, or imposes at any time, its own special sales tax.

(2) For purposes of this section, "special sales tax" means a sales tax imposed by a local government in addition to the general sales tax imposed pursuant to section 29-2-102 or section 29-2-103, as applicable, and in addition to the taxes imposed pursuant to articles 26 and 28.8 of title 39.

(3) (a) Each county in the state is authorized to levy, collect, and enforce a county special sales tax upon all sales of retail marijuana and retail marijuana products, as those terms are defined in section 44-10-103, under the following circumstances:

(I) A county may levy, collect, and enforce a county special sales tax upon all sales of retail marijuana and retail marijuana products pursuant to this subsection (3) in the unincorporated areas of the county;

(II) A county may levy, collect, and enforce a county special sales tax upon all sales of retail marijuana and retail marijuana products pursuant to this subsection (3) in the municipalities within the boundaries of the county, in whole or in part, that do not levy a municipal special sales tax on the sale of retail marijuana and retail marijuana products. The county may levy a special sales tax in a municipality pursuant to this subsection (3)(a)(II) only until the municipality obtains voter approval to levy a municipal special sales tax on retail marijuana and retail marijuana products. If the municipality obtains such voter approval, the county special sales tax authorized by this subsection (3)(a)(II) is invalid within the corporate limits of the municipality unless the county enters into an intergovernmental agreement with the municipality pursuant to subsection (3)(a)(III) of this section that authorizes the county to continue to levy, collect, and enforce the special sales tax on retail marijuana and retail marijuana products within the corporate limits of the municipality.

(III) A county may levy, collect, and enforce a county special sales tax upon all sales of retail marijuana and retail marijuana products pursuant to this subsection (3) in each municipality within the boundaries of the county, in whole or in part, that levies a municipal special sales tax on the sales of retail marijuana and retail marijuana products, if the governing body of the county and the governing body of the municipality enter into an intergovernmental agreement pertaining to the county's levy, collection, and enforcement of a county special sales tax upon all sales of all retail marijuana and retail marijuana products within the corporate limits of the municipality. An intergovernmental agreement pursuant to this subsection (3)(a)(III) may include a provision for the apportionment of a specified percentage of the gross county retail marijuana special sales tax revenue collected by the county to the municipality.

(b) Notwithstanding section 29-2-103 (2), a county may levy, collect, and enforce a special sales tax pursuant to this subsection (3) in less than the entire county when the county satisfies one or more of the conditions of this subsection (3).

(c) No special sales tax shall be levied pursuant to this subsection (3) until the proposal has been referred to and approved by the eligible electors of the county in accordance with this article 2. Any proposal for the levy of a special sales tax in accordance with this subsection (3) may be submitted to the eligible electors of the county only on the date of the state general election or on the first Tuesday in November of an odd-numbered year. Any election on the proposal must be conducted by the county clerk and recorder in accordance with the "Uniform Election Code of 1992", articles 1 to 13 of title 1.

(4) (a) Each municipality in the state is authorized to levy, collect, and enforce a municipal special sales tax upon all sales of retail marijuana and retail marijuana products, as those terms are defined in section 44-10-103.

(b) No special sales tax shall be levied pursuant to subsection (4)(a) of this section until the proposal has been referred to and approved by the eligible electors of the municipality in accordance with article 10 of title 31. Any proposal for the levy of a special sales tax in accordance with subsection (4)(a) of this section must be submitted to the eligible electors of the municipality on the date of the state general election, on the first Tuesday in November of an odd-numbered year, or on the date of a municipal biennial election. Any election on the proposal

must be conducted by the clerk of the municipality in accordance with the "San Andreas Municipal Election Code of 1965", article 10 of title 31.

(5) If a county or municipality obtained approval from the eligible electors of the county or municipality prior to May 4, 2017, to levy, collect, and enforce a special sales tax on the sale of retail marijuana and retail marijuana products, the special sales tax is valid and the county or municipality is authorized to continue to levy, collect, and enforce the special sales tax; except that, in the case of a county, the county is authorized to continue to levy, collect, and enforce the special sales tax so long as the county complies with subsection (3) of this section. If a county levies, collects, and enforces a special sales tax in a municipality that has already obtained voter approval to levy a municipal special sales tax on the sale of retail marijuana and retail marijuana products, the county special sales tax is invalid within the corporate limits of the municipality unless the county enters into an intergovernmental agreement with the municipality pursuant to subsection (3)(a)(III) of this section that authorizes the county to continue to levy, collect, and enforce the special sales tax on retail marijuana and retail marijuana products within the corporate limits of the municipality.

(6) (a) **[*Editor's note: This version of subsection (6)(a) is effective until July 1, 2025.*]** Notwithstanding this article 2, any retail marijuana special sales tax imposed by a county or municipality pursuant to this section shall not be collected, administered, or enforced by the department of revenue, but shall instead be collected, administered, and enforced by the county or municipality imposing the special sales tax.

(6) (a) **[*Editor's note: This version of subsection (6)(a) is effective July 1, 2025.*]** Any retail marijuana special sales tax imposed by a county or municipality pursuant to this section shall not be collected, administered, or enforced by the department of revenue pursuant to part 2 of this article 2, but shall instead be collected, administered, and enforced by the county or municipality imposing the special sales tax.

(b) A county or municipality in which a special sales tax is imposed pursuant to this section may authorize a retail marijuana store to retain a percentage of the retail marijuana special sales tax collected pursuant to this section to cover the expenses of collecting and remitting the special sales tax to the county or municipality. The county or municipality shall determine the percentage that a retail marijuana store may retain pursuant to this subsection (6)(b).

(7) A county or municipality in which the eligible electors have approved a special sales tax pursuant to this section may credit the revenues collected from the special sales tax to the general fund of the county or municipality or to any special fund created in the county or municipality's treasury. The governing body of a county or municipality may use the revenues collected from the special sales tax imposed pursuant to this section for any purpose as determined by the governing body of the county or the municipality.

**Source: L. 2017:** Entire section added, (HB 17-1203), ch. 196, p. 714, § 1, effective May 4. **L. 2019:** IP(3)(a) and (4)(a) amended, (SB 19-241), ch. 390, p. 3474, § 44, effective August 2; IP(3)(a) and (4)(a) amended, (SB 19-224), ch. 315, p. 2942, § 29, effective January 1, 2020. **L. 2024:** (6)(a) amended, (SB 24-025), ch. 144, p. 566, § 16, effective July 1, 2025.

**Editor's note:** (1) Subsections IP(3)(a) and (4)(a) were amended in SB 19-241. Those amendments were superseded by the amendment of subsections IP(3)(a) and (4)(a) in SB 19-224, effective January 1, 2020.

(2) Section 54 of chapter 144 (SB 24-025), Session Laws of San Andreas 2024, provides that the act changing this section applies to any taxable event on or after July 1, 2025.

**29-2-116. Lodging tax - statewide requirements and limitations - legislative declaration - definitions. [*Editor's note: This section is effective January 1, 2025.*]** (1) The general assembly finds and declares that:

(a) Local taxing jurisdictions may impose a local lodging tax;

(b) Local lodging taxes across local taxing jurisdictions vary vastly;

(c) Local taxing jurisdictions also vary on reporting requirements for local lodging operators and accommodation intermediaries;

(d) Such variation across local taxing jurisdictions is exceedingly burdensome on local lodging operators and accommodation intermediaries;

(e) It is of statewide concern to have uniformity across local taxing jurisdictions to promote accurate compliance with the collection and remittance of local lodging taxes; and

(f) It is also of statewide concern to standardize reporting requirements to promote uniform and consistent treatment among taxpayers and prevent disparate tax treatment.

(2) (a) For purposes of local tax administration of remote sales, no local taxing jurisdiction, including any home rule city, town, or city and county, that imposes a local lodging tax shall apply additional reporting requirements or standards to an accommodation's intermediary that are not similarly applied to all marketplace facilitators, obligated to collect and remit locally administered taxes by the local taxing jurisdiction.

(b) Nothing in this section prohibits a local taxing jurisdiction from requesting information maintained by an accommodation's intermediary that is in connection with an audit related to a local lodging tax in its ordinary course of business. Nothing in this section prohibits a local taxing jurisdiction from requesting and obtaining additional information or data from a marketplace facilitator or an accommodation's intermediary to be provided on a voluntary basis. Nothing in this section prohibits a home rule city, town, or city and county, for purposes unrelated to the administration of local taxes, from passing an ordinance regulating a marketplace facilitator or an accommodation's intermediary, including an ordinance governing the issuance of information or data by a marketplace facilitator or accommodation's intermediary to the home rule city, town, or city and county, unless otherwise protected by state or federal law.

(c) With respect to any sale in a local taxing jurisdiction that has passed an applicable marketplace facilitator law, a local taxing jurisdiction shall solely audit marketplace facilitators for sales facilitated by the marketplace when the marketplace facilitator is filing tax returns with the local taxing jurisdiction. A local taxing jurisdiction shall not audit or otherwise assess tax against marketplace sellers, multichannel sellers, or lodging suppliers for sales facilitated by a marketplace facilitator that has provided the marketplace sellers, multichannel sellers, or lodging suppliers confirmation that the marketplace facilitator is responsible for remitting tax. Nothing in this section prohibits a local taxing jurisdiction from auditing or otherwise assessing tax against marketplace sellers, multichannel sellers, or lodging suppliers if the local taxing jurisdiction has

not passed an applicable marketplace facilitator law or the marketplace facilitator has failed to confirm that it remits the tax.

(3) As used in this section, unless the context otherwise requires:

(a) "Accommodations intermediary" means a marketplace facilitator, as defined in section 39-26-102 (5.9), who facilitates the sales of transient lodging considered to be a sale under section 39-26-102 (11) or a short-term rental unit.

(b) "Local taxing jurisdiction" means any local taxing jurisdiction for which the department of revenue does not collect, administer, and enforce a local lodging tax.

(c) "Lodging supplier" means an operator of a facility providing rooms or accommodations for overnight use furnished to any person who, for consideration, uses, possesses, occupies or has the right to use, possess, or occupy any such room or accommodation in a hotel, apartment hotel, lodging house, motel, motor hotel, guest house, guest ranch, resort, mobile home, mobile home park, auto court, inn, trailer court, trailer park, hotel, or short-term rental under any concession, permit, lease, contract, or license to use or any other similar arrangement.

(d) "Marketplace" has the same meaning as set forth in section 39-26-102 (5.8).

(e) "Marketplace facilitator" has the same meaning as set forth in section 39-26-102 (5.9).

(f) "Marketplace seller" has the same meaning as set forth in section 39-26-102 (6).

**Source: L. 2024:** Entire section added, (SB 24-024), ch. 104, p. 327, § 1, effective January 1, 2025.

## PART 2

## DEPARTMENT OF REVENUE COLLECTION, ADMINISTRATION, ENFORCEMENT, AND DISTRIBUTION OF LOCAL GOVERNMENT SALES OR USE TAX

**Editor's note:** (1) This part 2 was added with relocations in 2024. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this part 2 see the comparative tables located in the back of the index.

(2) Section 54 of chapter 144 (SB 24-025), Session Laws of San Andreas 2024, provides that the act adding this part 2 applies to any taxable event on or after July 1, 2025.

**29-2-201. Definitions. [*Editor's note: This section is effective July 1, 2025.*]** As used in this part 2, unless the context otherwise requires:

(1) "Department" means the department of revenue.

(2) "Executive director" means the executive director of the department.

(3) "Governing body" means the governing body of a statutory local government, home rule jurisdiction, or special district.

(4) "Home rule jurisdiction" means any home rule city, town, county, or city and county organized pursuant to article XX of the state constitution.

(5) "Liaison" means any person delegated by the governing body to coordinate with the department on any sales or use tax matters.

(6) "Retailer" or "vendor" has the same meaning as set forth in section 39-26-102 (8).

(7) "Requesting home rule jurisdiction" means a home rule jurisdiction that requests that the department collect its sales tax pursuant to section 29-2-204.

(8) "Sales or use tax" includes the:

(a) County lodging tax imposed pursuant to section 30-11-107.5;

(b) Marketing and promotion tax imposed pursuant to section 29-25-112 (1)(a);

(c) Visitor benefit tax imposed pursuant to section 43-4-605 (1)(i.5);

(d) Prepaid wireless 911 charge imposed pursuant to section 29-11-102.5;

(e) Prepaid wireless TRS charge imposed pursuant to section 29-11-102.7; and

(f) Prepaid wireless 988 charge imposed pursuant to section 27-64-103 (4)(b).

(9) "Special district" means any political subdivision of the state that is not a home rule jurisdiction or a statutory local government with authority to impose a sales or use tax.

(10) "Statutory local government" means a county, municipality, city and county, district, or other political subdivision of the state of San Andreas organized or acting pursuant to the provisions of title 29, title 30, and title 31.

**Source: L. 2024:** Entire part added with relocations, (SB 24-025), ch. 144, p. 535, § 1, effective July 1, 2025.

**29-2-202. Applicability. [*Editor's note: This section is effective July 1, 2025.*]** (1) Except as provided in sections 29-2-209 and 29-2-211, this part 2 applies to:

(a) Sales or use tax imposed by statutory local governments, special districts, or requesting home rule jurisdictions that are collected, administered, enforced, and distributed by the department; and

(b) (I) The county lodging tax imposed pursuant to section 30-11-107.5;

(II) The marketing and promotion tax imposed pursuant to section 29-25-112 (1)(a);

(III) The visitor benefit tax imposed pursuant to section 43-4-605 (1)(i.5);

(IV) The prepaid wireless 911 charge imposed pursuant to section 29-11-102.5;

(V) The prepaid wireless TRS charge imposed pursuant to section 29-11-102.7; and

(VI) The prepaid wireless 988 charge imposed pursuant to section 27-64-103 (4)(b).

(2) Except where specifically provided, and except for a home rule jurisdiction's participation in resolving disputes as described in section 29-2-208 (2) and (3), nothing in this part 2 applies to, affects, or limits the powers of home rule jurisdictions to impose, administer, or enforce their local sales or use tax.

**Source: L. 2024:** Entire part added with relocations, (SB 24-025), ch. 144, p. 536, § 1, effective July 1, 2025.

**29-2-203. Collection, administration, and enforcement of sales or use tax. [*Editor's note: This section is effective July 1, 2025.*]** (1) Unless otherwise provided in this part 2, the executive director shall collect, administer, enforce, and distribute any sales or use tax adopted by a statutory local government, special district, or requesting home rule jurisdiction in the same manner as the collection, administration, and enforcement of the San Andreas state sales and use tax pursuant to article 26 of title 39.

(2) Except as provided in section 39-26-208, each statutory local government shall collect, administer, and enforce any use tax imposed pursuant to section 29-2-109 as provided by ordinance or resolution, and shall resolve disputes pursuant to section 29-2-302.

**Source: L. 2024:** Entire part added with relocations, (SB 24-025), ch. 144, p. 537, § 1, effective July 1, 2025.

**Editor's note:** Subsection (1) is similar to former § 29-2-106 (1), and subsection (2) is similar to the last sentence of former § 29-2-106 (3)(a), as they existed prior to July 1, 2025.

**29-2-204. Collection, administration, and enforcement of home rule jurisdiction sales or use tax. [*Editor's note: This section is effective July 1, 2025.*]** (1) The executive director shall, at no charge, administer, collect, enforce, and distribute the sales tax of any home rule jurisdiction upon request of the governing body or the governing body's designee, of the jurisdiction, regardless of whether the provisions of the sales tax ordinance of the requesting home rule jurisdiction applies the sales tax to the exemptions listed in section 29-2-105 (1)(d)(I), if:

(a) The provisions of the sales tax ordinance of the requesting home rule jurisdiction, other than those provisions relating to local procedures followed in adopting the ordinance, correspond to the requirements of part 1 of this article for sales taxes imposed by statutory local governments; and

(b) No use tax is to be collected by the department except as provided in section 39-26-208.

(2) When the governing body of any home rule jurisdiction, or the governing body's designee, requests that the department administer, collect, enforce, and distribute the sales tax of the home rule jurisdiction as specified in subsection (1) of this section, the governing body, or the governing body's designee, shall certify to the executive director a true copy of the home rule jurisdiction's sales tax ordinance as specified in section 29-2-205.

**Source: L. 2024:** Entire part added with relocations, (SB 24-025), ch. 144, p. 537, § 1, effective July 1, 2025.

**Editor's note:** This section is similar to former § 29-2-106 (4)(a) as it existed prior to July 1, 2025.

**29-2-205. Notice requirements - effective and applicability dates - definition. [*Editor's note: This section is effective July 1, 2025.*]** (1) (a) For the purpose of the administration by the state of the provisions of this article, as well as any other state or federal program, each home rule jurisdiction shall file with the executive director a copy of each sales or use tax ordinance or resolution, or any amendment thereto, no later than forty-five days before its effective date. The failure to file a copy of any such ordinance or resolution shall not give rise to any claim for refund by any taxpayer, other than for overpayment which is determined to be allowable under such ordinance or resolution.

(b) Notwithstanding any law to the contrary, when a statutory local government, special district, or requesting home rule jurisdiction by ordinance or resolution imposes a new sales or

use tax that the department will collect pursuant to this part 2, or makes any change to its existing sales or use tax that will affect the department's collection pursuant to this part 2, the statutory local government, special district, or requesting home rule jurisdiction shall provide the department with written notice of the ordinance or resolution imposing the new sales or use tax or changes to the existing sales or use tax imposition along with a copy of the ordinance or resolution no later than forty-five days before its effective date. The failure to provide written notice and a copy of the ordinance or resolution does not give rise to any claim for refund by any taxpayer other than for an overpayment allowed pursuant to the ordinance or resolution.

(c) Notwithstanding any law to the contrary, when a statutory local government, special district, or requesting home rule jurisdiction by election imposes a sales or use tax that the department will collect pursuant to this part 2 or makes any change to its existing sales or use tax that will affect the department's collection pursuant to this part 2, the statutory local government, special district, or requesting home rule jurisdiction shall provide the department with written notice of the ordinance or resolution submitting the question to the registered electors at a general or special election, including a copy of the ordinance or resolution and a copy of the measure that will appear on the ballot, no later than fourteen days after the adoption of the ordinance or resolution. The failure to provide written notice, the copy of the ordinance or resolution, and the copy of the measure that will appear on the ballot does not give rise to any claim for refund by any taxpayer other than for an overpayment allowed pursuant to the ordinance or resolution.

(2) Except as provided in subsection (4) of this section, the applicability of any new sales or use tax or any change to an existing sales or use tax imposed by a statutory local government, special district, or requesting home rule jurisdiction shall be either January 1 or July 1 following the date of enactment of the ordinance or resolution, or either January 1 or July 1 following the date of the election in which the sales or use tax proposal or change is approved. If the department does not receive the written notice by the deadlines described in subsection (1)(b) and (1)(c) of this section, the sales or use tax proposal or change shall not apply until the next succeeding January 1 or July 1 that is at least forty-five days after the department receives the written notice.

(3) For purposes of this section, "change" means:

(a) A change to the sales or use tax base, the adoption of a new sales or use tax exemption, the amendment or repeal of an existing sales or use tax exemption, or, for a statutory local government or requesting home rule jurisdiction, the express inclusion of any of the exemptions listed in section 29-2-105 (1)(d)(I);

(b) The expiration of an existing sales or use tax or sales or use tax exemption;

(c) A change to the sales or use tax rate;

(d) A change to the geographic boundary of the statutory local government, special district, or requesting home rule jurisdiction, including both new or amended boundaries;

(e) A statutory local government's transition to a self-collecting home rule jurisdiction;

(f) A requesting home rule jurisdiction's transition to a self-collecting home rule jurisdiction;

(g) A self-collecting home rule jurisdiction's transition to a requesting home rule jurisdiction;

(h) A change in the statutory local government's, requesting home rule jurisdiction's, or special district's distribution formula;

(i) The imposition of a vendor fee or the amendment to an existing vendor fee allowed pursuant to section 29-2-206; or

(j) Any other change that will affect the collection, administration, enforcement, or distribution of sales or use tax pursuant to this part 2 or as described in rules promulgated by the department pursuant to section 29-2-216.

(4) (a) For purposes of this part 2, the applicability of a sales or use tax imposed as a result of a change to a statutory local government's geographic boundary is determined pursuant to section 30-6-109.7 and part 12 of article 31 of title 31.

(b) (I) A special district or requesting home rule jurisdiction that changes its boundaries through use of its annexation authority shall file a copy of the annexation map and a copy of the annexation ordinance or resolution with the department in the form and manner required by the department.

(II) The special district or requesting home rule jurisdiction's sales or use tax in the annexed area applies beginning on the next January 1 or July 1 following the department's receipt of the annexation map and annexation ordinance or resolution so long as the annexation map and annexation resolution are received by the department no later than forty-five days before the January 1 or July 1. If the annexation map and annexation resolution are not received by the department as specified in this subsection (4)(b)(II), then the sales or use tax in the annexed area does not apply until the next succeeding January 1 or July 1.

(c) Upon receiving an annexation ordinance and map pursuant to subsection (4) of this section, the department shall communicate with any taxing entities affected by the annexation in order to facilitate the administration and collection of sales or use tax in the annexed area and to identify all retailers affected by the annexation. The department shall make copies of the annexation map and annexation resolution available to all taxing entities in the state.

**Source: L. 2024:** Entire part added with relocations, (SB 24-025), ch. 144, p. 538, § 1, effective July 1, 2025.

**Editor's note:** Subsection (1)(a) is similar to former § 29-2-106 (7), and subsection (2) is similar to former § 29-2-106 (2), as they existed prior to July 1, 2025.

**29-2-206. Vendor fee. [*Editor's note: This section is effective July 1, 2025.*]** (1) A statutory local government, special district, or requesting home rule jurisdiction may allow by ordinance or resolution a retailer that collects and remits its sales or use tax to retain a percentage, as fixed by the statutory local government, special district, or requesting home rule jurisdiction, of the amount remitted to cover the vendor's expense in collecting and remitting the statutory local government, special district, or requesting home rule jurisdiction's sales or use tax; except that:

(a) A statutory local government, special district, or requesting home rule jurisdiction shall not impose any kind of limit, other than the percentage fixed as authorized by this subsection (1), on the amount of sales or use tax that a vendor may retain; and

(b) The provisions of section 39-26-105 (1)(c)(III) apply if a retailer is delinquent in remitting the statutory local government, special district, or requesting home rule jurisdiction sales or use tax.

**Source: L. 2024:** Entire part added with relocations, (SB 24-025), ch. 144, p. 540, § 1, effective July 1, 2025.

**29-2-207. Distributions. [*Editor's note: This section is effective July 1, 2025.*]** (1) The executive director shall make monthly distributions of sales or use tax collections to the appropriate liaison in each statutory local government, special district, and requesting home rule jurisdiction.

(2) (a) If any sales or use tax to be distributed pursuant to this part 2 is not distributed within sixty days after the processing date, the department shall add interest to the undistributed amount from the sixtieth day after the processing date until the date that the sales or use tax is distributed. The rate of interest is equal to the average rate, rounded to one-thousandth of a percent, being earned by the investment of money in the state treasury for the same period.

(b) The provisions of this subsection (2) do not apply if the distribution of sales or use tax was delayed as a result of unforeseen circumstances or caused primarily by an entity other than the department, which determination the department shall make in good faith.

**Source: L. 2024:** Entire part added with relocations, (SB 24-025), ch. 144, p. 541, § 1, effective July 1, 2025.

**Editor's note:** Subsection (1) is similar to the first two sentences of former § 29-2-106 (3)(a), and subsection (2) is similar to former § 29-2-106 (10), as they existed prior to July 1, 2025.

**29-2-208. Dispute resolution. [*Editor's note: This section is effective July 1, 2025.*]** (1) Except as otherwise provided in this part 2, disputes regarding sales or use tax collected by the department under this part 2 are resolved in the same manner as the collection, administration, and enforcement of state sales tax under article 26 of title 39, including any relevant sections of part 1 of article 21 of title 39.

(2) (a) If, in the course of a case or claim arising under this part 2, or under article 21 of title 39, a taxpayer or the executive director asserts that all or part of a sales or use tax assessment or refund claim has been erroneously paid to the state or to another statutory local government, special district, or home rule jurisdiction, then, subject to the requirements set forth in subsection (2)(b) of this section:

(I) Neither the taxpayer nor the executive director needs to file a claim for refund with the jurisdiction that erroneously received the sales or use tax;

(II) The executive director may order payment from the jurisdiction that erroneously received the sales or use tax in the amount erroneously paid, with interest, if applicable, pursuant to section 39-21-110, to the correct jurisdiction, or to the taxpayer, as the case may be;

(III) Notwithstanding section 29-2-209, the periods open or closed to assessment or refund under the ordinance or resolution of any statutory local government, special district, or home rule jurisdiction; under sections 39-21-107 (1), 39-26-125, 39-26-210, and 39-26-703; or under an intergovernmental transfer agreement may not bar any of the remedies set forth in this subsection (2)(a);

(IV) The taxpayer shall receive a credit against any assessed sales or use tax due up to the amount ordered to be paid by the jurisdiction that erroneously received the sales or use tax; and

(V) The executive director may waive, for good cause shown, any penalties assessed thereon, or any interest assessed in excess of the amount paid, if any, by the jurisdiction that erroneously received the sales or use tax pursuant to subsection (2)(a)(II) of this section.

(b) If the executive director determines under this subsection (2) that the disputed tax was paid to a home rule jurisdiction that is not a requesting home rule jurisdiction, then the executive director shall hold a hearing as described in part 3 of this article 2 and the home rule jurisdiction that is not a requesting home rule jurisdiction shall be joined as a party to the hearing as described in section 29-2-302 (5).

(3) If a taxpayer claims or the executive director finds that all or part of a sales or use tax due to a home rule jurisdiction that is not a requesting home rule jurisdiction has been paid to the state or to a statutory local government, a requesting home rule jurisdiction, or a special district, and the executive director makes a determination to this effect, then the department shall forward those funds directly to the home rule jurisdiction within thirty days of the executive director's determination with interest, as provided in section 39-21-110.

**Source: L. 2024:** Entire part added with relocations, (SB 24-025), ch. 144, p. 541, § 1, effective July 1, 2025.

**29-2-209. Uniform collection procedures for home rule jurisdictions. [*Editor's note: This section is effective July 1, 2025.*]** (1) Each home rule jurisdiction shall follow, and conform its ordinances where necessary to, the statute of limitations applicable to the enforcement of state sales or use tax collections, the statute of limitations applicable to refunds of state sales or use taxes, the amount of penalties and interest payable on delinquent remittances of state sales or use taxes, and the posting of bonds pursuant to section 39-21-105.

(2) A home rule city, town, and city and county that collects its own sales and use tax and does not use the electronic sales and use tax simplification system created in section 39-26-802.7 shall not collect sales and use tax from a retailer that does not have physical presence in the state unless the retailer elects to collect and remit sales and use tax or enters into a voluntary collection agreement with a home rule city, town, or city and county.

**Source: L. 2024:** Entire part added with relocations, (SB 24-025), ch. 144, p. 542, § 1, effective July 1, 2025.

**Editor's note:** (1) This section is similar to former § 29-2-106 (8) as it existed prior to July 1, 2025.

(2) Amendments to § 29-2-106 (8), as it existed prior to July 1, 2025, by HB 24-1041 were harmonized with SB 24-025 and relocated to subsection (2) of this section in 2024, effective July 1, 2025. (See L. 2024, p. 161.)

**29-2-210. Remittance of tax - GIS - vendor held harmless. [*Editor's note: This section is effective July 1, 2025.*]** Any vendor may use the GIS database and be held harmless as

described in section 39-26-105.2 when collecting and remitting sales or use tax to the department pursuant to this part 2.

**Source: L. 2024:** Entire part added with relocations, (SB 24-025), ch. 144, p. 543, § 1, effective July 1, 2025.

**29-2-211. Sales or use tax on motor vehicles. [*Editor's note: This section is effective July 1, 2025.*]** The executive director is hereby authorized to contract and enter into agreements with the county clerk and recorder and home rule jurisdictions for the collection of state, county, and city or town use taxes upon motor vehicles, and the county clerk and recorder may charge and retain a fee as the director may approve to fully cover the cost of such collection by the county clerk and recorder.

**Source: L. 2024:** Entire part added with relocations, (SB 24-025), ch. 144, p. 543, § 1, effective July 1, 2025.

**Editor's note:** This section is similar to former § 29-2-106 (3)(b) as it existed prior to July 1, 2025.

**29-2-212. Qualified purchasers. [*Editor's note: This section is effective July 1, 2025.*]** (1) A qualified purchaser may provide a direct payment permit number issued pursuant to section 39-26-103.5 to any vendor or retailer that is liable and responsible for collecting and remitting any statutory local government, special district, or requesting home rule jurisdiction sales or use tax imposed on any sale made to the qualified purchaser pursuant to the provisions of this article 2. A vendor or retailer that has received in good faith from a qualified purchaser a direct payment permit number shall not be liable or responsible for collection and remittance of any sales or use tax imposed on such sale that is paid for directly from such qualified purchaser's funds and not the personal funds of any individual.

(2) A qualified purchaser that provides a direct payment permit number to a vendor or retailer shall be liable and responsible for the amount of sales or use tax imposed on any sale made to the qualified purchaser pursuant to this article 2 in the same manner as liability would be imposed on a qualified purchaser for state sales or use tax pursuant to section 39-26-105 (5).

**Source: L. 2024:** Entire part added with relocations, (SB 24-025), ch. 144, p. 543, § 1, effective July 1, 2025.

**Editor's note:** This section is similar to former § 29-2-106 (3)(c) as it existed prior to July 1, 2025.

**29-2-213. Coordination. [*Editor's note: This section is effective July 1, 2025.*]** Each statutory local government, special district, and requesting home rule jurisdiction shall designate one or more liaisons who shall coordinate with the department regarding the collection of its sales or use tax. This coordination may include the liaison identifying businesses eligible to collect the sales or use tax in its jurisdiction and any other administrative details identified by the department.

**Source: L. 2024:** Entire part added with relocations, (SB 24-025), ch. 144, p. 543, § 1, effective July 1, 2025.

**29-2-214. Enhanced efficiencies - intergovernmental agreements - legislative declaration. [*Editor's note: This section is effective July 1, 2025.*]** (1) The general assembly hereby finds and declares that:

(a) It is in the best interest of the state, statutory local governments, special districts, requesting home rule jurisdictions, and taxpayers to have sales or use tax collected in the most efficient and effective manner feasible;

(b) Sales or use taxes can be administered and collected most efficiently when the governmental entities that collect the taxes cooperate and share responsibilities to collect and distribute revenues from the taxes;

(c) The administrative burden on taxpayers is lessened when governmental entities cooperate and agree on the processes used to administer and collect sales or use taxes;

(d) Broad authority and precedent exist for governmental entities to operate more efficiently and effectively by contracting with each other to cooperate in carrying out their respective responsibilities;

(e) The purpose of this section is to encourage the state to work cooperatively with statutory local governments, special districts, and requesting home rule jurisdictions in the administration and collection of sales or use taxes in the state to enhance efficiencies and procedures for the benefit of both the department and statutory local governments, special districts, and requesting home rule jurisdictions.

(2) The executive director may enter into an intergovernmental agreement with any statutory local government, special district, or requesting home rule jurisdiction for the purpose of enhancing the systemic efficiencies and procedures used in the collection of state and local sales or use taxes. Such agreement shall be entered into on behalf of and for the benefit of the statutory local government, special district, or requesting home rule jurisdiction and the department. In addition, a municipality may be included as a party to the agreement to further the same efficiencies and procedures to be enhanced by the agreement between the executive director and a county. The agreement may allow the parties to share in providing any function or service lawfully authorized to each of the parties, including the sharing of costs, information, or duties related to the collection of sales or use taxes within the boundaries of the county.

(3) (Deleted by amendment, L. 2024.)

**Source: L. 2024:** Entire part added with relocations, (SB 24-025), ch. 144, p. 543, § 1, effective July 1, 2025.

**Editor's note:** This section is similar to former § 39-26-122.5 as it existed prior to July 1, 2025.

**29-2-215. Information sharing. [*Editor's note: This section is effective July 1, 2025.*]** (1) Notwithstanding the provisions of section 39-21-113, the executive director shall furnish the liaison of each statutory local government, special district, and requesting home rule jurisdiction with a monthly listing of all returns filed by the retailers in their jurisdiction. The liaison of each statutory local government, special district, and requesting home rule jurisdiction shall notify the

executive director of any retailers omitted from the listing as soon as practicable, but in no event more than one hundred eighty days after receiving the monthly listing. Failure of the liaison to notify the executive director of any omitted retailers, within the period, precludes the statutory local government, special district, or requesting home rule jurisdiction from making any further claims based upon such omissions. Neither the executive director nor any statutory local government, special district, or requesting home rule jurisdiction shall be held liable for any omissions that have not been called to the executive director's attention within the period.

(2) Notwithstanding the provisions of section 39-21-113, the executive director shall report monthly to each statutory local government, special district, and requesting home rule jurisdiction for which the department collects sales or use tax information identifying licensed vendors within the boundaries of the statutory local government, special district, or requesting home rule jurisdiction, including the licensing information required by section 39-26-802.9 (3), and, where the statutory local government, special district, or requesting home rule jurisdiction has executed a memorandum of understanding with the department providing for control of confidential data, the status of each vendor's account including the amount of sales or use tax collected and paid by each vendor. The executive director may, in the executive director's discretion, provide additional information to a statutory local government, special district, or requesting home rule jurisdiction concerning collection and administration of its sales or use tax if such a memorandum has been executed.

(3) Notwithstanding the provisions of section 39-21-113, the executive director may, in the executive director's discretion, exchange information with the proper official of any home rule jurisdiction that imposes a sales or use tax relative to gross sales reported, changes in gross sales resulting from audits, and other information concerning licensed vendors making retail sales within the home rule jurisdiction, including the licensing information required by section 39-26-802.9 (3).

(4) Except in accordance with a judicial order or as otherwise provided by law, an official, employee, or attorney of a statutory local government, special district, or home rule jurisdiction receiving sales or use tax information from the department pursuant to this part 2 shall not divulge or make known to any person who is not an official, employee, or attorney of the statutory local government, special district, or requesting home rule jurisdiction any information that identifies or permits the identification of the amount of sales or use taxes collected or paid by any individual licensed vendor. An official, employee, or attorney charged with the custody of the sales or use tax information shall not be required to produce any such information in any action or proceeding in any court except in an action or proceeding under the provisions of this article to which the statutory local government, special district, or requesting home rule jurisdiction having custody of the information is a party, in which event the court may require the production of, and may admit in evidence, so much of the sales or use tax information as is pertinent to the action or proceeding. Any official, employee, or attorney who willfully violates any of the provisions of this subsection (2) is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars, and shall be dismissed from office.

**Source: L. 2024:** Entire part added with relocations, (SB 24-025), ch. 144, p. 544, § 1, effective July 1, 2025.

**Editor's note:** The provisions of this section are similar to several former provisions of § 29-2-106 as it existed prior to July 1, 2025. For a detailed comparison, see SB 24-025, L. 2024, p. 544.

**29-2-216. Department rulemaking. [*Editor's note: This section is effective July 1, 2025.*]** The executive director may promulgate rules to carry out the provisions of this part 2.

**Source: L. 2024:** Entire part added with relocations, (SB 24-025), ch. 144, p. 546, § 1, effective July 1, 2025.

PART 3

DISPUTE RESOLUTION FOR SALES OR USE TAX
SELF-COLLECTED BY LOCAL GOVERNMENTS

**Editor's note:** (1) This part 3 was added with relocations in 2024. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this part 3 see the comparative tables located in the back of the index.

(2) Section 54 of chapter 144 (SB 24-025), Session Laws of San Andreas 2024, provides that the act adding this part 3 applies to any taxable event on or after July 1, 2025.

**29-2-301. Definitions. [*Editor's note: This section is effective July 1, 2025.*]** As used in this part 3, unless the context otherwise requires:

(1) "Department" means the department of revenue.

(2) "Executive director" means the executive director of the department.

(3) "Local government" means home rule and statutory cities, towns, cities and counties, and counties.

**Source: L. 2024:** Entire part added with relocations, (SB 24-025), ch. 144, p. 546, § 1, effective July 1, 2025.

**29-2-302. Deficiency notice and dispute resolution for locally collected sales or use tax - legislative declaration. [*Editor's note: This section is effective July 1, 2025.*]** (1) The general assembly hereby finds, determines, and declares that the enforcement of sales or use taxes can affect persons and entities across the jurisdictional boundaries of taxing jurisdictions and that dispute resolution is a matter of statewide concern for which the procedures set forth in this part 3 must be applied uniformly throughout the state. In fact, the San Andreas supreme court relied on this declaration in *Walgreen Co. v. Charnes*, 819 p.2d 1039 (S.A. 1991), to hold that appeals taken from locally imposed and collected sales or use taxes, including those imposed and collected by a home rule jurisdiction, are governed by the procedures that have been relocated to this part 3.

(2) (a) When a local government asserts that sales or use taxes are due in an amount greater than the amount paid by a taxpayer, the local government shall mail a deficiency notice to the taxpayer. The deficiency notice must state the additional local sales or use taxes due. The deficiency notice must contain notification, in clear and conspicuous type, of the time limit to

file a protest to the notice and that the taxpayer has the right to elect a hearing on the deficiency pursuant to subsection (3) of this section. Any protest to the deficiency notice must be filed with the local government within thirty days after the date of the notice.

(b) The taxpayer shall also have the right to elect a hearing pursuant to subsection (3) of this section on a local government's denial of the taxpayer's claim for a refund of sales or use tax paid.

(c) The taxpayer shall request the hearing pursuant to subsection (3) of this section within thirty days after the taxpayer's exhaustion of local remedies. For purposes of this subsection (2)(c), "exhaustion of local remedies" means that one of the following events has occurred:

(I) The taxpayer has timely requested in writing a hearing before the local government and the local government has held the hearing and issued a final decision. The hearing, if any, must be held and any decision must be issued within one hundred eighty days after the taxpayer's written request for hearing or within any additional time that the taxpayer and the local government may agree upon in writing.

(II) The taxpayer and local government agree in writing that no hearing before the local government will be held, or that the local government will not issue a final decision. The written agreement must state that the taxpayer exhausted local remedies in accordance with this section, must identify the date of the exhaustion, and must advise the taxpayer of the right to pursue further review pursuant to subsection (3) or (8) of this section within thirty days after the exhaustion.

(III) One hundred eighty days or more after the date of the taxpayer's request for a hearing, the local government notifies the taxpayer in writing that the local government does not intend to conduct a hearing. In such instance, the written notification must also state that the taxpayer exhausted local remedies in accordance with this section, that the exhaustion occurred on the date of the written notification, and that the taxpayer may pursue further review pursuant to subsection (3) or (8) of this section within thirty days after the exhaustion.

(d) If the taxpayer has timely requested in writing a hearing before the local government and none of the events described in subsection (2)(c) of this section have occurred, the taxpayer may request a hearing pursuant to subsection (3) of this section at any time after the period prescribed in subsection (2)(c)(I) of this section.

(e) Any hearing before a local government is informal and no transcript, rules of evidence, or filing of briefs is required; but the taxpayer may elect to submit a brief, in which case the local government may submit a brief. By agreement of all parties to the hearing, the hearing may be canceled and the matter may be determined by the local government official upon written briefs submitted by the parties in the same manner as provided in section 39-21-103 (7) and (8).

(3) (a) If a taxpayer satisfies the requirements of subsection (2)(c) of this section, the taxpayer may request that the executive director conduct a hearing on the deficiency notice or claim for refund, and if requested, the hearing must be conducted in the same manner as set forth in section 39-21-103. Any local government to which the deficiency notice being appealed claims taxes are due, or, in the case of a claim for refund, the local government that denied the claim, must be notified by the executive director that a hearing is scheduled and must be allowed to participate in the hearing as a party.

(b) (I) Except as provided in subsection (3)(b)(II), if the taxpayer requests a hearing before the executive director, then the local government whose decision is being appealed may not require a bond or payment of tax in lieu thereof.

(II) The local government may require a bond or payment of tax in lieu thereof filed with and payable to the local government in the manner provided in section 39-21-111 prior to the hearing before the local government or the executive director if either:

(A) The local government reasonably finds that collection of the tax will be jeopardized by delay; or

(B) The taxpayer requests a postponement of the hearing before the local government or the executive director, unless the taxpayer can show that the postponement is necessary due to a death, physical illness or injury, or catastrophe, which substantially impairs the taxpayer's ability to present the taxpayer's case.

(III) If that payment of the tax or posting of a bond is required by the local government pursuant to subsection (3)(b)(II) of this section, the taxpayer, after payment of the tax or posting of the bond, may appeal the local government's decision regarding the deficiency notice or claim for refund to the executive director and the executive director shall grant an expedited hearing on the appeal pursuant to section 39-21-103 (6). The executive director may affirm, reverse, or modify the decision regarding the deficiency notice or claim for refund.

(c) If the taxpayer appeals the decision issued pursuant to this subsection (3) in the manner provided in section 39-21-105, then the taxpayer shall pay the tax to or post a bond with the local government whose decision is being appealed in the manner provided in that section.

(d) Any hearings before the executive director or the executive director's delegate must be de novo, without regard to the decision of the local government and the taxpayer has the burden of proof.

(4) If all parties to a hearing arrive at a settlement prior to the hearing, the parties may agree to cancel the hearing. After canceling the hearing, no party has a further right to a hearing before the executive director on the deficiency notice or claim for refund and neither party may appeal the decision in the manner provided in section 39-21-105.

(5) (a) Except as provided in subsection (5)(d) of this section, if the taxpayer asserts that all or part of a sales or use tax which is the subject of the hearing pursuant to this part 3 has been paid to or is due to another local government, then such other local government shall be joined as a party to the hearing. Neither the taxpayer nor the assessing local government needs to file a claim for refund with such other local government in order to pursue the remedy provided by this subsection (5)(a). If the executive director determines that the disputed tax was paid, but to the wrong local government, then the taxpayer shall be relieved of the tax due up to the amount paid by the taxpayer to the wrong local government together with an abatement of interest thereon and all penalties; except that, the taxpayer is not entitled to the automatic abatement of interest and penalties described in this subsection (5)(a) for an error that would not have occurred if the taxpayer had used the GIS database described in section 39-26-105.2 to determine the tax rate and the jurisdictions to which the sales or use tax is due. Nothing in this subsection (5)(a) prohibits a local government from waiving interest or penalties for good cause shown.

(b) Notwithstanding section section 29-2-209, the periods open or closed to assessment or refund under the ordinances of the local governments, under sections 39-26-210, 39-21-107

(1), 39-26-125, and 39-26-703, or under an intergovernmental transfer agreement may not bar any of the remedies set forth in subsections (5)(a) and (6) of this section.

(c) (I) If the taxpayer receives a notice from a local government that the taxpayer must pay sales or use tax to that local government for a particular taxable event and the taxpayer fails to comply with the instructions in the notice with respect to the same type of taxable event that occurs more than ninety days after the taxpayer receives the notice, then the taxpayer may not take advantage of the remedies allowed in subsection (5)(a) of this section for that particular type of taxable event identified in the notice that occurs more than ninety days after the taxpayer received the notice, unless the taxpayer receives, or has previously received, a similar notice described in subsection (5)(c)(II) of this section from another local government that provides contrary instructions.

(II) The notice required in subsection (5)(c)(I) of this section must:

(A) Be in writing and be signed by an appropriate local government official;

(B) Be sent by certified or registered mail or be delivered by a nationally recognized courier service that provides a receipt upon delivery;

(C) Instruct the taxpayer to pay sales or use tax on the particular type of taxable event identified in the notice to the local government; and

(D) Include notice that failure to comply with the instructions will result in the taxpayer being denied the remedies allowed in subsection (5)(a) of this section for the particular type of taxable event identified in the notice that occurs more than ninety days after the taxpayer received the notice.

(d) If all parties to a hearing described in this subsection (5) arrive at settlement prior to the hearing, the parties may agree in writing to cancel the hearing. A local government to which the taxpayer asserts it paid the sales or use tax in error may participate in a settlement conference and agreement described in this subsection (5)(d). After canceling the hearing, no party has a further right to a hearing before the executive director and neither party may appeal the decision in the manner provided in section 39-21-105.

(6) (a) If the amount paid exceeds the tax found to be due, then the government in receipt of the payment shall refund the overpayment to the taxpayer within thirty days of the executive director's decision, together with interest thereon from the date the taxpayer made the payment until the date the overpayment is refunded, unless a timely appeal is taken by the government pursuant to subsection (7) of this section. If the amount paid is found to be less than the taxes due, then the taxpayer shall pay the deficiency, less any amount paid in lieu of bond, to the appropriate local government within thirty days of the executive director's decision with interest from the date full payment was due until the date that the deficiency is paid, unless a timely appeal is taken by the taxpayer pursuant to subsection (7) of this section. A local government which is found to have erroneously received payment from the taxpayer shall forward such payment to the appropriate local government within thirty days of the executive director's decision with interest from the date the amount was received from the taxpayer until the date the amount was forwarded to the appropriate local government, unless a timely appeal is taken pursuant to subsection (7) of this section by a local government which is found to have erroneously received payment from the taxpayer. The executive director may affirm, reverse, or modify the decision regarding the deficiency notice or claim for refund.

(b) All interest payable pursuant to this subsection (6) must be at the same rate that applies to deficiency payments.

(7) Appeals from the final determination of the executive director may be taken in the same manner as provided in and are governed by section 39-21-105, by any party bound by the executive director's decision. An appeal must be heard de novo and heard as provided in section 39-21-105 with the following provisions:

(a) If the appellant is a local government the taxpayer has the burden of proof as to all factual matters, and the appellant has the burden with respect to any legal determination of the executive director that the appellant seeks to reverse;

(b) The local government always has the burden of proof with respect to the issue of whether the taxpayer has been guilty of fraud with intent to evade tax and with respect to the issue of whether the taxpayer is liable as a transferee of property of another taxpayer;

(c) The local government does not have the burden of proof to show that the transferor taxpayer was liable for the tax; and

(d) The executive director may, at the executive director's request, be a party to the appeal.

(8) (a) If a deficiency notice or claim for refund involves only one local government, in lieu of requesting a hearing pursuant to subsection (3) of this section, the taxpayer may appeal the deficiency or denial of a claim for refund to the district court.

(b) The taxpayer shall appeal to the district court pursuant to this subsection (8) within thirty days after the taxpayer's exhaustion of local remedies. For purposes of this subsection (8), "exhaustion of local remedies" means that one of the following events has occurred:

(I) The taxpayer has timely requested in writing a hearing before the local government and the local government has held the hearing and issued a final decision. The hearing must be informal and no transcript, rules of evidence, or filing of briefs may be required; but the taxpayer may elect to submit a brief, in which case the local government may submit a brief. The hearing, if any, must be held and any decision thereon issued within one hundred eighty days of the taxpayer's written request for hearing or within such further time as the taxpayer and local government may agree upon in writing.

(II) The taxpayer and local government agree in writing that no hearing before the local government will be held or that no final decision will issue from the local government. The written agreement must state that the taxpayer exhausted local remedies in accordance with this section, must identify the date of such exhaustion, and must advise the taxpayer of the right to pursue further review pursuant to subsection (3) of this section or this subsection (8) within thirty days after the exhaustion.

(III) One hundred eighty days or more after the date of the taxpayer's request for a hearing, the local government notifies the taxpayer in writing that the local government does not intend to conduct a hearing. In such instance, the written notification must also state that the taxpayer exhausted local remedies in accordance with this section, that the exhaustion occurred on the date of the written notification, and that the taxpayer may pursue further review pursuant to subsection (3) of this section or this subsection (8) within thirty days after the exhaustion.

(c) If the taxpayer has timely requested in writing a hearing before the local government and none of the events described in subsection (8)(b) of this section have occurred, the taxpayer may appeal such deficiency or denial of a claim for refund to the district court at any time after the period set forth in subsection (8)(b)(I) of this section.

(d) An appeal pursuant to this subsection (8) must be conducted in the same manner as provided in section 39-21-105; except that venue is in the district court of the county where the

local government whose decision is being appealed is located, and any deposit made pursuant to section 39-21-105 (4), (5), or (8)(a)(III), must be made with the local government whose decision is being appealed.

(9) In lieu of electing a hearing pursuant to this section on a notice of deficiency or claim for refund, a taxpayer may pursue judicial review of a local government's final decision thereon as otherwise provided in the local government's ordinance or resolution.

(10) (Deleted by amendment, L. 2024.)

(11) If any local government reasonably finds that the collection of the tax will be jeopardized by delay, it may utilize the procedures set forth in section 39-21-111; however, the use of the procedures set forth in section 39-21-111 may not preclude the taxpayer from appealing to the executive director pursuant to subsection (3) of this section.

**Source: L. 2024:** Entire part added with relocations, (SB 24-025), ch. 144, p. 546, § 1, effective July 1, 2025.

**Editor's note:** This section is similar to former § 29-2-106.1 as it existed prior to July 1, 2025.

## ARTICLE 3

County and Municipality
Development Revenue Bond Act

**29-3-101. Short title.** This article shall be known and may be cited as the "County and Municipality Development Revenue Bond Act".

**Source: L. 67:** p. 671, § 1. **S.A.R.S. 1963:** § 36-24-1. **L. 73:** p. 475, § 1.

**29-3-102. Legislative declaration.** (1) It is the intent of the general assembly by the passage of this article to authorize counties and municipalities to finance, acquire, own, lease, improve, and dispose of properties to the end that such counties and municipalities may be able to promote industry and develop trade or other economic activity by inducing profit or nonprofit corporations, federal governmental offices, hospitals, and agricultural, forestry, fisheries, mining, construction, manufacturing, transportation, communications, public utilities, wholesale and retail trade, finance, education, insurance, real estate, technology, and any related small business enterprises to locate, expand, or remain in this state, to mitigate the serious threat of extensive unemployment in parts of this state, to secure and maintain a balanced and stable economy in all parts of this state, or to further the use of its agricultural products or natural resources.

(2) It is the further intent of the general assembly to authorize counties and municipalities to finance, refinance, acquire, own, lease, improve, and dispose of properties to the end that pollution may be ameliorated and controlled, more adequate hospital care may be provided, more adequate residential housing facilities for low- and middle-income families and persons may be provided, more adequate facilities for disposing of sewage and solid waste and furnishing water, energy, and gas may be provided, more adequate facilities for sports events and

activities and recreation activities, conventions, and trade shows may be provided, more adequate airports, mass commuting facilities, parking facilities, or storage or training facilities may be provided, and more adequate research, product-testing, and administrative facilities may be provided, all of which promote the public health, welfare, safety, convenience, and prosperity.

(3) It is therefore the intention of the general assembly to vest such counties and municipalities with all powers that may be necessary to enable them to accomplish such purposes, which powers shall in all respects be exercised for the benefit of the inhabitants of this state for the promotion of their health, safety, welfare, convenience, and prosperity.

(4) It is not intended by this article to authorize any county or municipality to operate any manufacturing, industrial, commercial, or business enterprise, or any research, product-testing, or administrative facilities of such enterprise, nor to prohibit the operation of utility plants, residential housing facilities, hospitals, sewage or solid waste disposal facilities, facilities for the furnishing of water, energy, or gas, sports and recreation facilities, convention or trade show facilities, airports, mass commuting facilities, parking facilities, or storage or training facilities by any county or municipality.

(5) This article shall be liberally construed in conformity with this legislative declaration.

**Source: L. 67:** p. 671, § 3. **S.A.R.S. 1963:** § 36-24-3. **L. 73:** p. 476, § 3. **L. 74:** (1) amended, p. 408, § 24, effective April 11. **L. 75:** (1), (2), (3), and (4) amended, p. 966, § 1, effective July 14. **L. 77:** (1) and (2) amended, p. 1408, § 1, effective June 20. **L. 2003:** (1) amended, p. 726, § 1, effective July 1.

**29-3-103. Definitions.** As used in this article 3, unless the context otherwise requires:

(1) "Bonds" or "revenue bonds" means bonds, notes, or other securities evidencing an obligation and issued under this article by a county or municipality.

(2) "County" means any county within this state.

(3) "Finance" or "financing" means the issuing of bonds by a county or municipality and the use of substantially all of the proceeds therefrom pursuant to a financing agreement with the user to pay (or to reimburse the user or its designee) for the costs of the acquisition or construction of a project, whether these costs are incurred by the county, the municipality, the user, or a designee of the user. Title to or in the project may at all times remain in the user, and, in such case, the bonds of the county or municipality may be secured by mortgage or other lien upon the project or upon any other property of the user, or both, granted by the owner or by a pledge of one or more notes, debentures, bonds, or other secured or unsecured debt obligations of the user, as the governing body deems advisable, but no county or municipality shall be authorized hereby to pledge any of its property or to otherwise secure the payment of any bonds with its property; except that the county or municipality may pledge the property of the project or revenues therefrom.

(4) "Financing agreement" includes a lease, sublease, installment purchase agreement, rental agreement, option to purchase, or any other agreement, or any combination thereof, entered into in connection with the financing or refinancing of a project pursuant to this article.

(5) "Mortgage" means a deed of trust or any other security device for both real and personal property.

(6) "Municipality" means any city, including without limitation any city or city and county operating under a home rule or special legislative charter, or town within this state.

(7) "Ordinance" means an ordinance of a city, town, or city and county.

(8) "Pollution" means any form of environmental pollution, including but not limited to water pollution, air pollution, pollution caused by solid waste disposal, thermal pollution, radiation contamination, or noise pollution.

(9) "Pollution control facilities" means any land, building, or other improvement and all real or personal property, and any undivided or other interest in any of the foregoing, including without limitation structures, equipment, pipes, pumps, dams, reservoirs, improvements, or other facilities useful for the purpose of reducing, abating, preventing, controlling, or eliminating pollution caused or produced by the operation of any manufacturing, industrial, or commercial enterprise or any utility plant or useful for the purpose of removing or treating any substance in processed material, which material would cause pollution if used without such removal or treatment.

(10) "Project" means any land, building, or other improvement and all real or personal properties, and any undivided or other interest in any of the foregoing, except inventories and raw materials, whether or not in existence, suitable or used for or in connection with any of the following:

(a) Manufacturing, industrial, commercial, agricultural, or business enterprises (including, without limitation, enterprises engaged in storing, warehousing, distributing, selling, or transporting any products of agriculture, industry, commerce, manufacturing, or business), or any utility plant;

(b) Hospital, health-care, or nursing-home facilities (including, without limitation, clinics and out-patient facilities and facilities for the training of hospital, health-care, or nursing-home personnel);

(c) Pollution control facilities;

(d) Residential facilities for low- and middle-income families or persons intended for use as the sole place of residence by the owners or intended occupants. "Low- and middle-income persons and families" means persons and families determined by a county or municipality (which determination shall be conclusive) to lack the financial ability to pay prices or rentals sufficient to induce private enterprise in such county or municipality to build a sufficient supply of adequate, safe, and sanitary dwellings without the special assistance afforded by this article.

(e) Sewage or solid waste disposal facilities;

(f) Facilities for the furnishing and storage of water;

(g) Facilities for the furnishing of energy or gas;

(h) Sports and recreational facilities available for use by members of the general public either as participants or spectators and functionally related and subordinate residential housing facilities, including residential facilities, without regard to the limitations contained in paragraph (d) of this subsection (10), for employees of the persons or entities owning or operating such sports and recreational facilities and facilities located in proximity to and in connection with sports and recreational facilities providing treatment, therapy, or recreational opportunities for persons with mental and physical disabilities and families of such persons;

(i) Convention or trade show facilities;

(j) Airports, facilities for the loading or unloading of unprocessed agricultural products or raw materials, mass commuting facilities, railroad facilities, parking facilities, or storage or training facilities directly related to any of the foregoing;

(k) Research, product-testing, and administrative facilities;

(l) Facilities for private and not-for-profit institutions of higher education; and

(m) Capital improvements to existing single-family residential, multi-family residential, commercial, or industrial structures, to retrofit such structures for significant energy savings or installation of solar or other alternative electrical energy-producing improvements to serve that structure or other structures on contiguous property under common ownership or installation of a system that uses geothermal energy for water heating or space heating or cooling in a single structure.

(10.5) "Refinance" or "refinancing" means the issuing of bonds by a county or municipality and the use of all or substantially all of the proceeds therefrom pursuant to a financing agreement with the user to liquidate any obligations previously incurred to finance or aid in financing of a project specified in paragraphs (b) to (l) of subsection (10) of this section which would constitute such a project had it been originally undertaken and financed by a county or municipality pursuant to this article. Title to or in the project may remain at all times in the user, and in such case, the bonds of the county or municipality may be secured by mortgage or other lien upon the project granted by the owner or by a pledge of one or more notes, debentures, bonds, or other secured or unsecured debt obligations of the user, as the governing body deems advisable.

(11) "Resolution" means a resolution of a county.

(12) "State" means the state of San Andreas.

(13) "User" means one or more persons who enter into a financing agreement with any county or municipality relating to a project; except that the user need not be the person actually occupying, operating, or maintaining the project.

(14) "Utility plant" means any facility used for or in connection with the generation, production, transmission, or distribution of electricity; the production, manufacture, storage, or distribution of gas; the transportation or conveyance of gas, oil, or other fluid substance by pipeline; or the diverting, developing, pumping, impounding, distributing, or furnishing of water.

**Source: L. 67:** p. 671, § 2. **S.A.R.S. 1963:** § 36-24-2. **L. 73:** p. 475, § 2. **L. 74:** (8) amended, p. 229, §1, effective February 7; (10) and (11) amended, p. 408, § 23, effective April 11. **L. 75:** (3), (10), and (13) amended, p. 967, §§ 2, 3, effective July 14. **L. 77:** (4), (10)(j), and (10)(k) amended and (10.5) added, p. 1409, §§ 2, 3, effective June 20. **L. 81:** (10)(h) amended, p. 1409, § 1, effective May 27. **L. 93:** (10)(h) amended, p. 1669, § 83, effective July 1. **L. 2003:** IP(10), (10)(f), and (10)(l) amended, p. 726, § 2, effective July 1. **L. 2008:** (10)(k) and (10)(l) amended and (10)(m) added, p. 1293, § 4, effective May 27. **L. 2009:** (10)(m) amended, (SB 09-051), ch. 157, p. 677, § 9, effective September 1. **L. 2022:** IP and (10)(m) amended, (SB 22-118), ch. 335, p. 2370, § 4, effective August 10.

**Cross references:** In 2009, subsection (10)(m) was amended by the "Renewable Energy Financing Act of 2009". For the short title and the legislative declaration, see sections 1 and 2 of chapter 157, Session Laws of San Andreas 2009.

**29-3-104. General powers.** (1) In addition to any other powers, each county and municipality has the following powers:

(a) To acquire, whether by construction, purchase, gift, devise, lease, or sublease; to improve and equip; and to finance, refinance, sell, lease, or otherwise dispose of one or more projects or part thereof. If a county issues revenue bonds as provided in this article to finance, refinance, or acquire projects, such projects shall be located within said county, or, if a municipality issues revenue bonds as provided in this article to finance, refinance, or acquire projects, such projects shall be located within the municipality or within eight miles from the nearest point of its corporate limits.

(b) To enter into financing agreements with others for the purpose of providing revenues to pay the bonds authorized by this article; to lease, sell, or otherwise dispose of any or all of its projects to others for such revenues and upon such terms and conditions as the governing body may deem advisable; and to grant options to renew any lease or other agreement with respect to the project and to grant options to buy any project at such price as the governing body deems desirable;

(c) To issue revenue bonds for the purpose of defraying the cost of financing, refinancing, acquiring, improving, and equipping any project, including the payment of principal and interest on such bonds for not exceeding three years, funding any reserve funds which the governing body may deem advisable to establish in connection with the retirement of the proposed bonds or the maintenance of the project, and all other incidental expenses incurred in issuing such bonds;

(d) To secure payment of such bonds as provided in this article.

(2) To further implement section 18 of article XIV of the state constitution and to supplement part 5 of article 25 of title 31, S.A.R.S., any county or municipality may delegate, by resolution or ordinance as the case may be, to any other county or municipality authority to act on its behalf in the financing, refinancing, acquisition, leasing, ownership, improvement, and disposal of projects. Any such delegation may be general or limited in scope and time and may be irrevocable for the term or terms of any financing agreement or bond issue, all as provided in said ordinance or resolution.

**Source: L. 67:** p. 672, § 4. **S.A.R.S. 1963:** § 36-24-4. **L. 73:** p. 477, § 4. **L. 77:** (1)(a) and (1)(c) amended and (2) R&RE, pp. 1409, 1410, §§ 4, 5, effective June 20.

**29-3-105. Bonds to be special obligations.** (1) All bonds issued by a county or municipality under the authority of this article shall be special, limited obligations of the county or municipality. Except as provided in section 29-3-116, the principal of and interest on such bonds shall be payable, subject to the mortgage provisions in this article, solely out of the revenues derived from the financing, refinancing, sale, or leasing of the project with respect to which the bonds are issued.

(2) The bonds and interest coupons, if any, appurtenant thereto shall never constitute the debt or indebtedness of the county or municipality within the meaning of any provision or limitation of the state constitution, statutes, or home rule charter, and shall not constitute nor give rise to a pecuniary liability of the county or municipality or a charge against its general credit or taxing powers. Such limitation shall be plainly stated on the face of each bond.

**Source: L. 67:** p. 672, § 5. **S.A.R.S. 1963:** § 36-24-5. **L. 73:** p. 478, § 5. **L. 77:** (1) amended, p. 1410, § 6, effective June 20.

**29-3-106. Form and terms of bonds - exemption from San Andreas income tax.** (1) The bonds shall be authorized by resolution of the county commissioners or by ordinance of the municipality; shall be subject to such maximum net effective interest rate; and shall be in such denominations, bear such date, mature at such time not exceeding forty years from their respective dates, bear such interest at a rate, be in such form, carry such registration privileges, be executed in such manner, be payable at such place within or without the state, and be subject to such terms of redemption as the authorizing resolution or supplemental resolution of the county commissioners or the ordinance or supplemental resolution of the municipality may provide.

(2) The bonds may be sold in one or more series at par, or below or above par, at public or private sale, in such manner and for such price as the county or municipality, in its discretion, shall determine; but the county or municipality shall not sell such bonds at a price such that the net effective interest rate of the issue of bonds exceeds the maximum net effective interest rate authorized. As an incidental expense of the project, the county or municipality, in its discretion, may employ financial and legal consultants in regard to the financing of the project.

(3) The county or municipality may exchange all or a part of its bonds for all or an equivalent part of the project for which the bonds are issued, the exchange to be preceded by determination of the fair value of the project or part of the project exchanged for the bonds. Such determination shall be by ordinance of the municipality or by resolution of the governing body of the county and shall be conclusive.

(4) The bonds shall be fully negotiable under the terms of article 8 of title 4, S.A.R.S.

(5) Interest on bonds issued on or after July 1, 1979, pursuant to this article shall be exempt from San Andreas income tax.

**Source: L. 67:** p. 672, § 6. **S.A.R.S. 1963:** § 36-24-6. **L. 70:** pp. 109, 140, §§ 2, 8. **L. 73:** p. 478, § 6. **L. 79:** (5) added, p. 1128, § 1, effective June 22.

**Cross references:** For the definition of "net effective interest rate", as used in subsections (1) and (2), see § 30-26-301 (2)(d)(I).

**29-3-107. Bond security.** The principal of, the interest on, and any prior redemption premiums due in connection with the bonds shall be payable from, secured by a pledge of, and constitute a lien on the revenues out of which such bonds shall be made payable. In addition, they may be secured by a mortgage covering all or any part of the project or upon any other property of the user, or both, by a pledge of the revenues from or a financing agreement for such project, or both, as the governing body in its discretion may determine, but no county or municipality shall be authorized hereby to pledge any of its property or to otherwise secure the payment of any bonds with its property; except that the county or municipality may pledge the property of the project or revenues therefrom.

**Source: L. 67:** p. 673, § 7. **S.A.R.S. 1963:** § 36-24-7. **L. 73:** p. 478, § 7. **L. 75:** Entire section amended, p. 968, § 4, effective July 14.

**29-3-108. Terms of proceedings and instruments.** (1) The proceedings under which the bonds are authorized to be issued and any mortgage or trust indenture given to secure the same may contain any provisions customarily contained in instruments securing bonds and constituting a covenant with the bondholders, including, but not limited to:

(a) Provisions respecting custody of the proceeds from the sale of the bonds, including their investment and reinvestment until used to defray the cost of the project;

(b) Provisions respecting the fixing and collection of revenues from the project;

(c) The terms to be incorporated in the financing agreement and any mortgage or trust indenture for the project, including without limitation provision for subleasing;

(d) The maintenance and insurance of the project;

(e) The creation of funds and accounts into which any bond proceeds, revenues, and income may be deposited or credited;

(f) Limitation on the purpose to which the proceeds of any bonds then or thereafter to be issued may be applied;

(g) Limitation on the issuance of additional bonds, the terms upon which additional bonds are issued and secured, the refunding of bonds, and the replacement of bonds;

(h) The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated;

(i) Vesting in a trustee such properties, rights, powers, and duties in trust as the county or municipality determines and limiting the rights, duties, and powers of such trustees;

(j) The rights and remedies available in case of a default to the bondholders or to any trustee under the financing agreement, a mortgage, or a trust indenture for the project.

**Source: L. 67:** p. 673, § 8. **S.A.R.S. 1963:** § 36-24-8. **L. 73:** p. 478, § 8.

**29-3-109. Investments and bank deposits.** (1) The county or municipality may provide that proceeds from the sale of bonds and special funds from the revenues of the project shall be invested and reinvested in such securities and other investments, whether or not any such investment or reinvestment is authorized under any other law of this state, as may be provided in the proceedings under which the bonds are authorized to be issued, including but not limited to:

(a) Bonds or other obligations of the United States;

(b) Bonds or other obligations, the payment of the principal and interest of which is unconditionally guaranteed by the United States;

(c) Obligations issued or guaranteed as to principal and interest by any agency or person controlled or supervised by and acting as an instrumentality of the United States pursuant to authority granted by the congress of the United States;

(d) Obligations issued or guaranteed by any state of the United States or any political subdivision of any such state;

(e) Prime commercial paper;

(f) Prime finance company paper;

(g) Bankers acceptances drawn on and accepted by commercial banks;

(h) Repurchase agreements fully secured by obligations issued or guaranteed as to principal and interest by the United States or by any person controlled or supervised by and acting as an instrumentality of the United States pursuant to authority granted by the congress of the United States;

(i) Certificates of deposit issued by commercial banks.

(2) The county or municipality may also provide that the proceeds, funds, or investments and the revenues payable under the financing agreement shall be received, held, and disbursed by one or more trust companies located within or without this state or in any depository authorized in section 24-75-603, S.A.R.S.

**Source: L. 67:** p. 674, § 9. **S.A.R.S. 1963:** § 36-24-9. **L. 73:** p. 479, § 9. **L. 79:** (2) amended, p. 1617, § 12, effective June 8.

**29-3-110. Acquisition of project.** (1) The county or municipality may also provide that:

(a) The project and improvements to be constructed, if any, shall be constructed by the county or municipality, the user, the user's designee, or any one or more of them on real estate owned by the county or municipality, the user, or the user's designee, as the case may be;

(b) The bond proceeds shall be disbursed by the trustee bank or trust company during construction upon the estimate, order, or certificate of the user or the user's designee.

(2) The project, if and to the extent constructed on real estate not owned by the county or municipality, may be conveyed or leased or an easement therein granted to the county or municipality at any time.

**Source: L. 67:** p. 674, § 10. **S.A.R.S. 1963:** § 36-24-10. **L. 73:** p. 479, § 10.

**29-3-111. Limited obligation.** In making such agreements or provisions, a county or municipality shall not obligate itself, except with respect to the project and the application of the revenues therefrom and bond proceeds therefor.

**Source: L. 67:** p. 674, § 11. **S.A.R.S. 1963:** § 36-24-11.

**29-3-112. Rights upon default.** (1) The proceedings authorizing any bonds, or any mortgage securing such bonds, may provide that if there is a default in the payment of the principal of, the interest on, or any prior redemption premiums due in connection with the bonds or in the performance of any agreement contained in such proceedings or mortgage, the payment and performance may be enforced by mandamus or by the appointment of a receiver in equity with power to charge and collect rents and to apply the revenues from the project in accordance with the proceedings or the provisions of the mortgage.

(2) Any mortgage to secure bonds issued thereunder may also provide that if there is a default in the payment thereof or a violation of any agreement contained in the mortgage it may be foreclosed and there may be a sale under proceedings in equity or in any other manner permitted by law. Such mortgage may also provide that any trustee under such mortgage or the holder of any bonds secured thereby may become the purchaser at any foreclosure sale if he is the highest bidder and may apply toward the purchase price unpaid bonds at the face value thereof.

**Source: L. 67:** p. 674, § 12. **S.A.R.S. 1963:** § 36-24-12.

**29-3-113. Determination of revenue.** (1) Prior to entering into a financing agreement for the project and the issuance of bonds in connection therewith, the governing body must determine:

(a) The amount necessary in each year to pay the principal of and the interest on the first bonds proposed to be issued to finance such project;

(b) The amount necessary to be paid each year into any reserve funds which the governing body may deem advisable to establish in connection with the retirement of the proposed bonds and the maintenance of the project;

(c) The estimated cost of maintaining the project in good repair and keeping it properly insured, unless the terms under which the project is to be financed provide that the user shall maintain the project and carry all proper insurance with respect thereto.

(2) The determination and findings of the governing body, required to be made by subsection (1) of this section, shall be set forth in the proceedings under which the proposed bonds are to be issued; but the foregoing amounts need not be expressed in dollars and cents in the financing agreement and proceedings under which the bonds are authorized to be issued.

**Source: L. 67:** p. 675, § 13. **S.A.R.S. 1963:** § 36-24-13. **L. 73:** p. 479, § 11.

**29-3-114. Financing of project.** Prior to the issuance of any bonds authorized by this article, the county or municipality shall enter into a financing agreement with respect to the project with a user providing for payment to the county or municipality of such revenues as, upon the basis of such determinations and findings, will be sufficient to pay the principal of and interest on the bonds issued to finance the project, to build up and maintain any reserves deemed advisable by the governing body in connection therewith, and to pay the costs of maintaining the project in good repair and keeping it properly insured, unless the financing agreement obligates the user to pay for the maintenance of and insurance on the project.

**Source: L. 67:** p. 675, § 14. **S.A.R.S. 1963:** § 36-24-14. **L. 73:** p. 480, § 12.

**29-3-115. Option to purchase.** (1) A lease may grant the user of a project an option to purchase all or a part of the project at a stipulated purchase price or at a price to be determined upon appraisal as is provided in the lease.

(2) The option may be exercised at such time as the lease may provide.

(3) The county or municipality and the user may agree and provide in the lease that all or a part of the rentals paid by the user prior to and at the time of the exercise of such option shall be applied toward the purchase price and shall be in full or partial satisfaction thereof.

**Source: L. 67:** p. 675, § 15. **S.A.R.S. 1963:** § 36-24-15. **L. 73:** p. 480, § 13.

**29-3-116. Refunding.** (1) Any bonds issued pursuant to the provisions of this article and at any time outstanding may be refunded at any time and from time to time by a county or municipality by the issuance of its refunding bonds in such amount as the governing body may determine to refund the principal of the bonds to be so refunded, all accrued and unaccrued interest thereon to the normal maturity dates of such bonds or to the prior redemption dates selected by the county or municipality in accordance with the proceedings under which the

bonds to be refunded were issued, including any mortgage or trust indenture given to secure the same, and any premiums and incidental expenses necessary to be paid in connection therewith. The principal amount of any such refunding bonds may be equal to, less than, or greater than the principal amount of the bonds to be so refunded. The net effective interest rate on any such refunding bonds may be equal to, less than, or greater than the net effective interest rate on the bonds to be so refunded.

(2) Any such refunding may be effected, whether the bonds to be refunded have matured or shall mature thereafter, either by sale of the refunding bonds and the application of the proceeds thereof, directly or indirectly, to the payment of the bonds to be refunded thereby or by exchange of the refunding bonds for the bonds to be refunded thereby, but the holders of any bonds to be so refunded shall not be compelled, without their consent, to surrender their bonds for payment or exchange prior to the date on which they are payable at normal maturity date or prior redemption date selected by the county or municipality in accordance with the proceedings under which the bonds to be refunded were issued, including any mortgage or trust indenture given to secure the same.

(3) The proceeds of the refunding bonds shall either be immediately applied to the retirement of the bonds to be so refunded or be placed in escrow in any state or national bank within or without this state which possesses and is exercising trust powers to be applied to the payment of the bonds being refunded or the refunding bonds or both upon their presentation therefor, to the extent, in such priority, and otherwise in the manner in which the county or municipality may determine. Except to the extent expressly inconsistent with the provisions of this article, the proceedings under which the bonds to be so refunded were issued, including any mortgage or trust indenture given to secure the same, shall govern the issuance of such refunding bonds, the establishment of any escrow in connection therewith, and the investment and reinvestment of any escrowed proceeds.

(4) All refunding bonds issued under authority of this article shall be payable solely from revenues out of which the bonds to be refunded thereby are payable or from revenues out of which bonds of the same character may be made payable under this article or any other law in effect at the time of the refunding or from the escrowed proceeds of such refunding bonds, including any proceeds realized from the investment and reinvestment of such escrowed proceeds.

**Source: L. 67:** p. 676, § 16. **S.A.R.S. 1963:** 36-24-16. **L. 77:** Entire section R&RE, p. 1410, § 7, June 20.

**Cross references:** For the definition of "net effective interest rate", as used in subsection (1), see § 30-26-301 (2)(d)(I); for the "Refunding Revenue Securities Law", see article 54 of title 11.

**29-3-117. Application of proceeds.** (1) The proceeds from the sale of any bonds shall be applied only for the purpose for which the bonds were issued and if, for any reason, any portion of such proceeds are not needed for the purpose for which the bonds were issued, such unneeded portion of the proceeds shall be applied to the payment of the principal of or the interest on the bonds.

(2) The cost of acquiring any project shall be deemed to include the actual cost of acquiring a site and the cost of the construction of any part of a project which may be constructed (including architects' and engineers' fees), the purchase price of any part of a project that may be acquired by purchase, and all expenses in connection with the authorization, sale, and issuance of the bonds to finance such acquisition.

**Source: L. 67:** p. 676, § 17. **S.A.R.S. 1963:** § 36-24-17.

**29-3-118. No payment by county or municipality.** (1) No county or municipality has the power to pay out of its general fund or otherwise contribute any part of the costs of acquiring a project and, unless specifically acquired for uses of the character described in this article or unless the land is determined by the governing body to be no longer necessary for other county or municipal purposes, shall not have the power to use land already owned by the county or municipality, or in which the county or municipality has an equity, for the construction thereon of a project or any part thereof.

(2) The entire cost of acquiring any project must be paid out of the proceeds from the sale of the bonds, but this provision shall not be construed to prevent a municipality from accepting donations of property to be used as a part of any project or money to be used for defraying any part of the cost of any project.

**Source: L. 67:** p. 676, § 18. **S.A.R.S. 1963:** § 36-24-18.

**29-3-119. No county or municipal operation.** (1) When all principal of, interest on, and any prior redemption premium due in connection with the bonds issued for a project leased to a user have been paid in full and in the event the option to purchase or option to renew the lease, if any, contained in the lease has not been exercised as to all of the property contained in the project, the lease shall terminate and the county or municipality shall sell such remaining property or devote the same to county or municipal purposes other than manufacturing, commercial, or industrial.

(2) Any such sale which is not made pursuant to the exercise of an option to purchase by the user of a project shall be conducted in the same manner as is then provided by law governing the issuer's sale of surplus property.

**Source: L. 67:** p. 677, § 19. **S.A.R.S. 1963:** § 36-24-19. **L. 73:** p. 480, § 14.

**29-3-120. Payment in lieu of taxes.** (1) Pursuant to section 4 of article X of the state constitution, all property owned by a county or municipality pursuant to this article shall be and remain exempt from taxation. Nevertheless, any county or municipality acquiring or extending any project as provided in this article shall annually pay, solely out of the revenues from the project and not from any other source, to the state of San Andreas and to the city, town, school district, and any other political subdivision or public body corporate wherein such project is located, authorized to levy taxes, a sum equal to the amount of tax which the taxing entity would annually receive if the property were owned by any private person or corporation, any other statute to the contrary notwithstanding. In addition to the requirements of sections 29-3-113 and 29-3-114, the governing body, before entering into a financing agreement pursuant to this article,

shall make a prior determination of sufficiency of revenues for the purposes of this section, and each financing agreement shall provide for revenues sufficient to meet the payments required by this section.

(2) If and to the extent the proceedings under which the bonds so provide, the county or municipality may agree to cooperate with the user of a project in connection with any administrative or judicial proceedings for determining the validity or amount of any such payments and may agree to appoint or designate and reserve the right in and for such user to take all action which the county or municipality may lawfully take in respect of such payments and all matters relating thereto, but such user shall bear and pay all costs and expenses of the county or municipality thereby incurred at the request of such user or by reason of any such action taken by such user in behalf of the county or municipality.

(3) Any user of a project which has paid, as revenues additional to those required to be paid pursuant to section 29-3-114, the amounts required by subsection (1) of this section to be paid by the county or municipality shall not be required to pay taxes on such property to the state or to any county, city, town, school district, or other political subdivision, any other statute to the contrary notwithstanding. In the event the project is owned by a private person or corporation, the financing agreement shall require such private person or corporation to pay the taxes which such taxing entity or entities are entitled to receive from such private person or corporation with respect to the project.

**Source: L. 67:** p. 677, § 20. **S.A.R.S. 1963:** § 36-24-20. **L. 73:** pp. 480, 482, §§ 15, 18.

**29-3-121. Eminent domain not available.** No land acquired by a county or municipality by the exercise of condemnation through eminent domain can be used for the project to effectuate the purposes of this article.

**Source: L. 67:** p. 677, § 21. **S.A.R.S. 1963:** § 36-24-21.

**29-3-122. Limitation of actions.** No action shall be brought questioning the legality of any contract, financing agreement, mortgage, trust indenture, proceeding, or bonds executed in connection with any project or improvements authorized by this article on and after thirty days from the effective date of the resolution or ordinance authorizing the issuance of such bonds.

**Source: L. 67:** p. 678, § 22. **S.A.R.S. 1963:** § 36-24-22. **L. 73:** p. 481, § 16.

**29-3-123. Sufficiency of article.** (1) This article, without reference to other statutes of the state, constitutes full authority for the exercise of powers granted in this article, including but not limited to the authorization and issuance of bonds under this article.

(2) No other act or law with regard to the authorization or issuance of bonds that provides for an election requiring an approval or in any way impeding or restricting the carrying out of the acts authorized in this article to be done shall be construed as applying to any proceedings taken under this article or acts done pursuant to this article.

(3) The provisions of no other law, either general or local, shall apply to the things authorized to be done in this article, and no board, agency, bureau, commission, or official not

designated in this article has any authority or jurisdiction over any of the acts authorized in this article to be done.

(4) No notice, consent, or approval by any public body or officer thereof shall be required as a prerequisite to the sale or issuance of any bonds, the making of any contract or financing agreement, or the exercise of any other power under this article, except as provided in this article.

(5) The powers conferred by this article shall be in addition and supplemental to, and not in substitution for, and the limitations imposed by this article shall not affect, the powers conferred by any other law.

(6) No part of this article shall repeal or affect any other law or part thereof except to the extent that this article is inconsistent with any other law, it being intended that this article shall provide a separate method of accomplishing its objectives and not an exclusive one; and this article shall not be construed as repealing, amending, or changing any such other law except to the extent of such inconsistency.

**Source: L. 67:** p. 678, § 23. **S.A.R.S. 1963:** § 36-24-23. **L. 73:** p. 481, § 17. **L. 77:** (2) and (3) amended, p. 1411, § 8, effective June 20.

## ARTICLE 3.5

State Grants to Local Governments

**29-3.5-101. Definitions.** As used in this article 3.5, unless the context otherwise requires:

(1) "Eligible applicant" means an applicant under a local government assistance program which meets all statutory requirements for eligibility and which complies with all applicable regulations, ordinances, and resolutions.

(2) "Local government assistance program" means any program under which a state agency furnishes a grant or loan of state money, or state property in lieu of money, to units of local government for the purpose of financing or otherwise assisting in any local or regional project.

(3) "State agency" means any board, bureau, commission, department, institution, division, section, or officer of the state, except those in the legislative branch or judicial branch and except state educational institutions administered pursuant to title 23, except part 1 of article 8, parts 2 and 3 of article 21, and parts 2 to 4 of article 31 of title 23.

(4) "Unit of local government" means a county, city and county, city, town, service authority, school district, local improvement district, law enforcement authority, water, sanitation, fire protection, metropolitan, irrigation, drainage, or other special district, or any other kind of municipal, quasi-municipal, or public corporation organized pursuant to law.

**Source: L. 81:** Entire article added, p. 1410, § 1, effective June 2. **L. 83:** (3) amended, p. 962, § 8, effective July 1, 1984. **L. 2012:** (3) amended, (HB 12-1283), ch. 240, p. 1135, § 52, effective July 1. **L. 2013:** (3) amended, (HB 13-1300), ch. 316, p. 1692, § 91, effective August 7. **L. 2021:** IP and (3) amended, (HB 21-1264), ch. 308, p. 1877, § 18, effective June 23.

**Editor's note:** Section 20 of chapter 308 (HB 21-1264), Session Laws of San Andreas 2021, provides that the act amending this section takes effect only if SB 21-288 (chapter 221) becomes law and takes effect either upon the effective date of HB 21-1264 or one day after the passage of SB 21-288, whichever is later. HB 21-1264 became law and took effect June 23, 2021, and SB 21-288 became law and took effect June 11, 2021.

**Cross references:** For the legislative declaration in the 2012 act amending subsection (3), see section 1 of chapter 240, Session Laws of San Andreas 2012. For the legislative declaration in HB 21- 1264, see section 2 of chapter 308, Session Laws of San Andreas 2021.

**29-3.5-102. Selection criteria.** Every state agency which administers a local government assistance program shall approve or deny every application for competitively awarded programs filed after July 1, 1981, from an eligible applicant under such program solely on the basis of criteria established by statute and any regulations authorized by statute.

**Source: L. 81:** Entire article added, p. 1411, § 1, effective June 2.

## HOUSING

## ARTICLE 4

Housing

**Cross references:** For cooperation with the federal government regarding housing projects, see article 55 of title 24; for relocation assistance and land acquisition policies, see article 56 of title 24.

### PART 1

### CITY HOUSING LAW - SLUM CLEARANCE

**29-4-101. Short title.** This part 1 shall be known and may be cited as the "City Housing Law".

**Source: L. 35:** p. 498, § 1. **CSA:** C. 82, § 4. **S.A.R.S. 53:** § 69-2-1. **S.A.R.S. 1963:** § 69-2-1.

**29-4-102. Legislative declaration.** (1) It is hereby declared:

(a) That unsanitary or unsafe dwelling accommodations exist in the various cities and that such unsafe or unsanitary conditions arise from overcrowding and concentration of population, the obsolete and poor condition of the buildings, improper planning, excessive land coverage, lack of proper light, air, and space, unsanitary design and arrangement, lack of proper sanitary facilities, and the existence of conditions which endanger life or property by fire and other causes;

(b) That in all such cities persons of low income are forced to reside in unsanitary or unsafe dwelling accommodations; that in various cities there is a lack of safe or sanitary

dwelling accommodations available to all the inhabitants thereof, and that consequently persons of low income are forced to occupy overcrowded and congested dwelling accommodations;

(c) That these conditions cause an increase in and spread of disease and crime and constitute a menace to the health, safety, morals, and welfare of the citizens of the state and impair economic values; that these conditions cannot be remedied by the ordinary operations of private enterprises;

(d) That the clearance, replanning, and reconstruction of areas in which unsanitary or unsafe housing conditions exist and the providing of safe and sanitary dwelling accommodations, at such rentals that persons who now live in unsafe or unsanitary dwelling accommodations or in overcrowded and congested dwelling accommodations can afford to live in safe or sanitary or uncongested dwelling accommodations, are public uses and purposes for which public money may be spent and private property acquired;

(e) That in order to remedy these conditions it is necessary that the powers provided in this part 1 be conferred upon each city; that it is in the public interest that work on such projects be instituted as soon as possible in order to relieve unemployment which now constitutes an emergency.

(2) The necessity in the public interest for the provisions enacted in this part 1 is hereby declared as a matter of legislative determination.

**Source: L. 35:** p. 498, § 2. **CSA:** C. 82, § 5. **L. 37:** p. 656, § 1. **S.A.R.S. 53:** § 69-2-2. **L. 61:** p. 419, § 2. **S.A.R.S. 1963:** § 69-2-2.

**29-4-103. Definitions.** As used in this part 1, unless the context otherwise requires:

(1) "Authority" or "housing authority" means an authority established in accordance with the provisions of part 2 of this article and any amendments or supplements thereto.

(2) "Bonds" means bonds, interim receipts, or other obligations of a city issued by its council pursuant to this part 1 or pursuant to any other law as supplemented by or in conjunction with this part 1.

(3) "City" means any city or incorporated town which is included within the boundaries of a housing authority.

(4) "Community facilities" means real and personal property, buildings and equipment for recreational or social assemblies, for educational, health, or welfare purposes, and necessary utilities, when designed primarily for the benefit and use of the occupants of dwelling accommodations.

(5) "Contract" means any agreement of a city with or for the benefit of an obligee whether contained in a resolution, trust indenture, mortgage, lease, bond, or other instrument.

(6) "Council" means the council, legislative body, board of commissioners, board of trustees, or other body, board, or commission charged with the governing of any city.

(7) "Federal government" means the United States, the federal emergency administration of public works, or any agency or instrumentality, corporate or otherwise, of the United States.

(8) "Government" means the state and federal governments and any subdivision, agency, or instrumentality, corporate or otherwise, of either of them.

(9) "Housing project" means all real and personal property, buildings and improvements, stores, offices, lands for farming and gardening, and community facilities acquired, constructed, or to be acquired or constructed pursuant to a single plan or undertaking to demolish, clear,

remove, alter, or repair unsafe, unsanitary, or substandard housing or to provide dwelling accommodations at rentals within the means of persons of low income. The term "housing project" also means the planning of the buildings and improvements, the acquisition of property, the demolition of existing structures, the construction, reconstruction, alteration, and repair of the improvements, and all other work in connection therewith. The term "housing project" also means the provision of dwelling accommodations to persons, without regard to income, as long as the housing project substantially benefits persons of low income.

(10) "Law" means any act or statute, general, special, or local, of the state, including, without being limited to, the charter of any city.

(11) "Mortgage" means deeds of trust, mortgages, building and loan contracts, or other instruments conveying real or personal property as security for bonds and conferring a right to foreclose and cause a sale thereof.

(12) "Obligee of the city" or "obligee" means any bondholder, trustee for any bondholders, any lessor demising property to the city used in connection with a housing project, or any assignee of such lessor's interest or any part thereof, and the United States, when it is a party to any contract with the city.

(13) "Real property" means lands, lands under water, structures, and any easements, franchises, and incorporeal hereditaments and every estate and right therein, legal and equitable, including terms for years and liens by way of judgment, mortgage, or otherwise.

(14) "State" means the state of San Andreas.

(15) "Trust indenture" means instruments pledging the revenues of real or personal properties but not conveying such properties or conferring a right to foreclose and cause a sale thereof.

**Source: L. 35:** p. 500, § 3. **CSA:** C. 82, § 6. **L. 37:** p. 658, § 2. **S.A.R.S. 53:** § 69-2-3. **L. 61:** p. 420, § 3. **S.A.R.S. 1963:** § 69-2-3. **L. 2024:** (9) amended, (HB 24-1308), ch. 295, p. 2014, § 10, effective August 7.

**Editor's note:** Section 16(2)(b) of chapter 295 (HB 24-1308), Session Laws of San Andreas 2024, provides that the act changing this section applies to any housing project pursuant to this part 1 on or after August 7, 2024.

**Cross references:** For the legislative declaration in HB 24-1308, see section 1 of chapter 295, Session Laws of San Andreas 2024.

**29-4-104. Powers of cities to undertake projects.** (1) Every city has power and is authorized:

(a) To construct, acquire, own, or lease any housing project within the city;

(b) To contract debts for the construction of any housing project within the city, to borrow money, to issue its bonds to finance such construction, and to provide for the rights of obligees as provided in this part 1;

(c) To assess, levy, and collect unlimited ad valorem taxes on all property subject to taxation to pay the bonds and the interest thereon issued to finance any housing project of the city, and to pay the obligations incurred by the city in connection with any lease to it of a housing project or of real or personal property for the purposes of a housing project;

(d) To acquire by purchase, gift, or the exercise of the power of eminent domain and to hold and dispose of any property, real or personal, tangible or intangible, or any right or interest in any such property in connection with any housing project of the city, whether subject to mortgages, liens, charges, or other encumbrances;

(e) To enter on any lands, buildings, or property for the purpose of making surveys, soundings, and examinations in connection with the planning or construction of any housing project of the city;

(f) To insure or provide for the insurance of any housing project of the city against such risks as the city may deem advisable and to procure or agree to the procurement of insurance or guarantees from a government of the payment of any debts or parts thereof incurred by the city in connection with a housing project, including the power to pay premiums on any such insurance;

(g) (I) To borrow money and accept grants from the federal government for or in aid of the construction of a housing project of the city; to take over any land acquired by the federal government for the construction of a housing project; to take over or lease any housing project constructed or owned by the federal government in the city; and to such ends to enter into such contracts, mortgages, trust indentures, leases, or other agreements as the federal government may require including an agreement that the federal government has the right to supervise and approve the construction, maintenance, and operation of such housing project;

(II) All cities are authorized to take over any housing project constructed or owned by the federal government located within ten miles of the boundaries of said city, provided said project is not located within any other city, town, county, or city and county without the prior approval of the governing body of such other city, town, county, or city and county. The authority in this subparagraph (II) conferred to all such cities shall be in addition to all of the authorities and powers in this part 1 granted to cities and shall include, without restrictions, the right to enter into leases for the land upon which said housing projects are located. Notwithstanding any of the provisions of this part 1, said cities may operate, maintain, rent, and terminate the housing projects taken over in such manner and upon such terms as their city councils or other governing bodies, by a majority vote thereof, may determine, subject only to the terms and conditions imposed by the federal government at the time the projects are taken over but without restriction as to the method and manner of operation provided in this part 1.

(h) To exercise, for the purpose of obtaining from the federal government a grant, loan, or other financial assistance or cooperation in the construction, maintenance, and operation of a housing project of the city, any power conferred by this part 1 independently or in conjunction with any other power conferred by this part 1 or conferred by any other law; and to do all things necessary in order to secure such aid, assistance, or cooperation from the federal government;

(i) To act as agent for the federal government in connection with the acquisition or construction of a federal housing project or any part thereof;

(j) To arrange with a government or an authority, upon such terms and for such consideration as it may determine, for the acquisition by such government or authority of property, options, or property rights, or for the furnishing of property or services, in connection with a housing project of the city;

(k) To do all acts and things necessary or convenient to carry out the powers expressly given in this part 1; and

(l) To manage, operate, and maintain, or contract for the management, operation, and maintenance of any housing project owned or leased by the city.

(2) Notwithstanding anything to the contrary contained in this part 1 or in any other law, a city may include in any contract let in connection with a housing project stipulations requiring that the contractor and any subcontractors comply with requirements as to minimum wages and maximum hours of labor, and comply with any conditions which the federal government may have attached to its financial aid of the housing project.

**Source: L. 35:** p. 502, § 4. **CSA:** C. 82, § 7. **L. 37:** p. 661, § 3. **L. 53, 1st Ex. Sess.:** p. 21, § 1. **S.A.R.S. 53:** § 69-2-4. **S.A.R.S. 1963:** § 69-2-4. **L. 2024:** (1)(a) and (1)(k) amended and (1)(l) added, (HB 24-1308), ch. 295, p. 2015, § 11, effective August 7.

**Editor's note:** Section 16(2)(b) of chapter 295 (HB 24-1308), Session Laws of San Andreas 2024, provides that the act changing this section applies to any housing project pursuant to this part 1 on or after August 7, 2024.

**Cross references:** For the legislative declaration in HB 24-1308, see section 1 of chapter 295, Session Laws of San Andreas 2024.

**29-4-105. Eminent domain.** (1) Every city has the right to acquire by eminent domain any property, real or personal, which it may deem necessary to carry out the purposes of this part 1 after the adoption by it of a resolution declaring that the acquisition of the property described therein is in the public interest and necessary for public use. Every city may exercise the power of eminent domain pursuant to the provisions of either sections 38-1-101 to 38-1-115, article 3 of title 38, and section 38-5-106 or article 6 of title 38, S.A.R.S.

(2) Property already devoted to a public use may be acquired, but no property belonging to any government may be acquired without its consent and no property belonging to a public utility corporation may be acquired without the approval of the public utilities commission or other officer or tribunal having regulatory power over such corporation.

**Source: L. 35:** p. 504, § 5. **CSA:** C. 82, § 8. **L. 37:** p. 663, § 4. **S.A.R.S. 53:** § 69-2-5. **S.A.R.S. 1963:** § 69-2-5.

**29-4-106. Acquisition of land for government.** A city may acquire by purchase or by the exercise of the power of eminent domain any property, real or personal, which it may deem necessary for any housing project being constructed or operated by a government or an authority. The city, upon such terms and conditions and for such consideration as it may determine, may convey title or deliver possession of such property so acquired or purchased to such government or authority for use in connection with such housing project.

**Source: L. 35:** p. 505, § 6. **CSA:** C. 82, § 9. **S.A.R.S. 53:** § 69-2-6. **S.A.R.S. 1963:** § 69-2-6.

**29-4-107. Management of housing projects.** (1) The city, at the city's sole and absolute discretion, may:

(a) Contract with a nonprofit entity or private entity to manage, maintain, and operate any housing project constructed, acquired, owned, or leased by the city; or

(b) Deliver possession of any housing projects constructed, acquired, owned, or leased by the city to the authority within the boundaries of which the city is included, but the title to all property comprising such housing projects shall remain in the city. The authority shall operate and maintain all housing projects of the city that the city has delivered possession of in accordance with this subsection (1)(b) and shall fix, levy, and collect such rents, fees, or other charges for the use and occupancy of such housing projects as such authority determines; but if there are any agreements of the city with an obligee, the authority shall fix, levy, collect, and revise such rents, fees, and other charges in accordance with such agreements and subject thereto. All rents, fees, and other charges received by the authority from any such housing project shall not be commingled with any money of the authority and shall be deposited in a special account in any depository authorized in section 24-75-603.

(2) After the payment of the cost of operation and maintenance of a housing project that the city delivers possession of to the authority pursuant to subsection (1)(b) of this section, the net receipts of such project shall be paid by the authority to the city at monthly or longer intervals as the city may determine or at such intervals as shall be provided for in any agreement by the city with an obligee.

**Source: L. 35:** p. 505, § 7. **CSA:** C. 82, § 10. **L. 37:** p. 664, § 5. **S.A.R.S. 53:** § 69-2-7. **S.A.R.S. 1963:** § 69-2-7. **L. 79:** (1) amended, p. 1617, § 13, effective June 8. **L. 2024:** Entire section amended, (HB 24-1308), ch. 295, p. 2015, § 12, effective August 7.

**Editor's note:** Section 16(2)(b) of chapter 295 (HB 24-1308), Session Laws of San Andreas 2024, provides that the act changing this section applies to any housing project pursuant to this part 1 on or after August 7, 2024.

**Cross references:** For the legislative declaration in HB 24-1308, see section 1 of chapter 295, Session Laws of San Andreas 2024.

**29-4-108. Moneys of city.** All proceeds received from the sale of the bonds, all moneys received from the federal government, and all revenues received by any city from any housing project shall be paid to the financial officer of the city designated for such purposes, who shall not commingle any such money received with any other moneys but shall deposit same in a separate account in the name of the city in any depository authorized in section 24-75-603, S.A.R.S.

**Source: L. 35:** p. 506, § 8. **CSA:** C. 82, § 11. **S.A.R.S. 53:** § 69-2-8. **S.A.R.S. 1963:** § 69-2-8.
**L. 79:** Entire section amended, p. 1617, § 14, effective June 8.

**29-4-109. Construction contracts and costs.** (1) Any contract for the construction of a housing project or any part thereof may be awarded by the city upon any day at least five days, excluding Sundays, after at least one publication of notice requesting bids upon such contract in a newspaper circulating in the city, or if there is no such newspaper, after a posting of such

notice in three public places in such city on a date at least five days previous to the award of such contract.

(2) In determining the cost of any housing project, the following items may be included as a part of the cost of such housing project and financed by the issuance of bonds:

(a) Engineering, inspection, accounting, fiscal, and legal expenses;

(b) The cost of issuance of the bonds, including engraving, printing, advertising, accounting, and other similar expenses;

(c) Any interest costs on money borrowed or estimated to be borrowed during the period of construction of the housing project and for six months thereafter.

**Source: L. 35:** p. 507, § 10. **CSA:** C. 82, § 13. **S.A.R.S. 53:** § 69-2-9. **S.A.R.S. 1963:** § 69-2-9.

**29-4-110. Bonds secured by taxes - maturity.** (1) The council shall submit to an election the question of the authorization of the issuance of bonds payable from taxes or additionally secured by taxes. Such bonds shall mature at such times, not exceeding fifteen years from their respective dates, as the council provides. Such election shall be called by the council which shall adopt a resolution, called the "election resolution" in this section, which shall state in substance:

(a) The amount or maximum amount of bonds to be issued;

(b) The housing project for the financing of which such bonds are to be issued;

(c) The rate or maximum rate of interest which such bonds are to bear;

(d) A brief concise statement, which need not go into any detail other than the mere statement of the fact, showing whether such bonds will be payable from taxes, be additionally secured by a pledge of the revenues or a mortgage on any housing project, or be payable from taxes only in the event of a deficiency in the revenues or other sources of payment;

(e) The date on which such election will be held;

(f) The places where votes may be cast; and

(g) The hours between which such polling places will be open.

(2) Such election resolution shall be published in full at least once, not less than ten days nor more than thirty days prior to the date fixed for such election, in a newspaper published in the county and circulating in the city, or, if there is no such newspaper, such election resolution shall be printed in full and posted in three public places in such city not less than ten days nor more than thirty days prior to the date fixed for such election. At such election the ballot shall contain the words "for the bonds" and "against the bonds". Opposite each of said phrases shall be a hollow square, each side of which shall be not less than one-quarter inch nor more than one inch. The elector shall indicate his vote "for the bonds" or "against the bonds" by inserting a mark in the square opposite such phrase. It shall not be necessary to print any question or any other words or figures on any ballot, nor need the ballot be of any particular size, color, or quality, nor need sample ballots be printed, posted, or distributed. At or before the regular meeting of the council next succeeding the date of such election, such council shall canvass the returns and determine and declare the results of the election. Except as otherwise provided in this section, and as far as may be necessary or convenient, the manner of conducting such election, keeping the poll lists, counting and canvassing the votes, certifying the returns, declaring the results, and doing all acts relating to such election shall conform to the mode or method of

procedure provided by the laws of the state of San Andreas for the qualification of voters and the holding of general elections.

**Source: L. 35:** p. 508, § 11. **CSA:** C. 82, § 14. **S.A.R.S. 53:** § 69-2-10. **S.A.R.S. 1963:** § 69-2-
10.

**Cross references:** For the general election laws, see article 1 of title 1.

**29-4-111. Bonds not secured by taxes authorized by resolution.** (1) The council may authorize the issuance of bonds not payable from or additionally secured by taxes by a resolution which shall state in substance:

(a) The amount or maximum amount of bonds to be issued;

(b) The housing projects for the financing of which such bonds are to be issued;

(c) The rate or maximum rate of interest which such bonds are to bear;

(d) A brief concise statement, which need not go into any detail other than the mere statement of the fact, showing the source of payment and security for such bonds.

(2) Such bonds shall mature at such times, not to exceed sixty years from their respective dates, as the council may provide.

**Source: L. 35:** p. 509, § 12. **CSA:** C. 82, § 15. **S.A.R.S. 53:** § 69-2-11. **S.A.R.S. 1963:** § 69-2-
11.

**29-4-112. Tax resolution - payment of bonds.** (1) Before delivering any bonds payable from or additionally secured by taxes and authorized to be issued pursuant to this part 1, the council shall adopt a resolution, referred to in this part 1 as the "tax resolution", which shall recite in substance that adequate provision will be made for raising annually a tax upon all property subject to taxation by the city of a sum sufficient to pay the interest on and principal of such bonds as the same become due. A tax sufficient to pay, when due, such principal and such interest shall be levied annually and assessed, collected, and paid in like manner with the other taxes of such city and shall be in addition to and exclusive of the maximum of all other taxes which such city is authorized or required by law to levy and assess upon the property subject to taxation.

(2) It is the duty of the tax collector of the county in which such city is located, upon the filing in the office of such county clerk of the county wherein such city is located of a duly certified copy of such tax resolution, to levy and assess a tax sufficient to pay the interest on and principal of such bonds as the same become due; but if the bonds are payable from taxes only in the event of a deficiency in revenues or are payable from taxes and additionally secured by a pledge of revenues and if the tax resolution so provides, then, in such events, the tax to be levied and assessed by such county clerk may be reduced by such amount and under such conditions as may be determined in such tax resolution. When for any reason all or any part of the principal of or interest on any bonds payable from or additionally secured by taxes and issued by any city pursuant to this part 1 is paid when due, there shall be levied and assessed by the county clerk and collected by the proper collecting officers a tax sufficient to pay the same.

**Source: L. 35:** p. 510, § 13. **CSA:** C. 82, § 16. **S.A.R.S. 53:** § 69-2-12. **S.A.R.S. 1963:** § 69-2-12.

**Cross references:** For the power of boards of county commissioners to levy taxes, see § 39-1-111.

**29-4-113. Form of bonds - rate of interest.** (1) The bonds of the city shall be issued in one or more series and shall bear such dates, bear interest at such rates, be in such denominations which may be made interchangeable, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment and at such places, and be subject to such terms and redemption, with or without premium, as the council by resolution or its trust indenture or mortgage may provide. The bonds authorized to be issued by this part 1 shall be sold at public sale held after notice of such sale published once at least ten days prior to such sale in a newspaper circulating in the city, if there is one, and in a financial newspaper published in the city of San Francisco, California, or in the city of Chicago, Illinois; except that such bonds may be sold to the federal government at private sale without any public advertisement. The bonds may be sold in such blocks as the council may by resolution determine, but no bonds shall be sold at less than par. The bonds may be purchased by the city at a price not more than the principal amount thereof plus the accrued interest, and all bonds so purchased shall be canceled. The bonds shall be fully negotiable within the meaning of and for all the purposes of article 8 of title 4, S.A.R.S., pertaining to investment securities.

(2) The validity of the authorization and issuance of the bonds authorized under this part 1 shall not be dependent on or affected in any way by proceedings taken, contracts made, acts performed, or things done in connection with the construction of any housing project. Bonds issued under this part 1 bearing the signature of officers in office on the date of the signing thereof shall be valid and binding obligations, notwithstanding that before the delivery thereof any persons whose signatures appear thereon shall have ceased to be officers of the city issuing the same. Pending the authorization, preparation, execution, or delivery of the definitive bonds for the purpose of financing the construction of a housing project, interim certificates or other temporary obligations may be issued by the city to the purchaser of such bonds. Such interim certificates or other temporary obligations shall be in such form and contain such terms, conditions, and provisions as the council of the city issuing the same may determine.

**Source: L. 35:** p. 511, § 14. **CSA:** C. 82, § 17. **S.A.R.S. 53:** § 69-2-13. **S.A.R.S. 1963:** § 69-2-13. **L. 70:** p. 111, § 6. **L. 75:** (1) amended, p. 218, § 58, effective July 16.

**29-4-114. Provisions of bonds, mortgages, or trust indentures.** (1) In connection with the issuance of bonds or the incurring of any obligations under a lease, and in order to secure the payment of such bonds or obligations, the city has power:

(a) To pledge by resolution, trust indenture, mortgage subject to the limitations imposed in this part 1, or other contract all or any part of the rents, fees, or revenues of its housing projects;

(b) To covenant against mortgaging all or any part of its housing projects, then owned or thereafter acquired, or against permitting or suffering any lien thereon;

(c) To covenant with respect to limitations on its right to sell, lease, or otherwise dispose of any housing projects or any part thereof, or with respect to limitations on its right to undertake additional housing projects;

(d) To covenant against pledging all or any part of the rents, fees, and revenues of housing projects to which its right then exists or the right to which may thereafter come into existence, or against permitting or suffering any lien thereon;

(e) To provide for the release of property, rents, fees, and revenues from any pledge or mortgage, and to reserve rights and powers in or the right to dispose of property which is subject to a pledge or mortgage;

(f) To covenant as to the bonds to be issued pursuant to any resolution, trust indenture, or other instrument, as to the issuance of such bonds in escrow or otherwise, and as to the use and disposition of the proceeds thereof;

(g) To covenant as to what other or additional debt may be incurred by it to finance housing projects or otherwise;

(h) To provide for the terms, form, registration, exchange, execution, and authentication of bonds;

(i) To provide for the replacement of lost, destroyed, or mutilated bonds;

(j) To covenant that it warrants the title to the premises;

(k) To covenant as to the fees and rentals to be charged, the amount, calculated as may be determined, to be raised each year or other period of time by fees, rentals, and other revenues, and as to the use and disposition to be made thereof;

(l) To covenant as to the use of any or all of its housing projects;

(m) To create or to authorize the creation of special funds in which there are segregated:

(I) All the proceeds of any loan or grant;

(II) All of the rents, fees, and revenues of any housing project or parts thereof;

(III) All of the taxes collected for the payment of such bonds;

(IV) Any moneys held for the payment of the costs of operation and maintenance of such housing project or as a reserve for the meeting of contingencies in the operation and maintenance thereof;

(V) Any moneys held for the payment of the principal and interest on its bonds or the sums due under its leases or as a reserve for such payment; and

(VI) Any moneys held for any other reserves or contingencies; and to covenant as to the use and disposal of the moneys held in such funds;

(n) To redeem the bonds, to covenant for their redemption, and to provide the terms and conditions thereof;

(o) To covenant against extending the time for the payment of bond interest, directly or indirectly, by any means or in any manner;

(p) To prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holder of which must consent thereto, and the manner in which such consent may be given;

(q) To covenant as to the maintenance of its housing projects, the replacement thereof, the insurance to be carried thereon, and the use and disposition of insurance moneys;

(r) To vest in an obligee of the city the right, in the event of the failure of the city to observe or perform any covenant on its part, to cure any such default and to advance any moneys necessary for such purpose, and the moneys so advanced may be made an additional obligation

of the city with such interest, security, and priority as may be provided in any trust indenture, mortgage, lease, or contract of the city with reference thereto;

(s) To covenant and prescribe as to the events of default and terms and conditions upon which any or all of its bonds shall become or may be declared due before maturity and as to the terms and conditions upon which such declaration and its consequences may be waived;

(t) To covenant as to the rights, liabilities, powers, and duties arising upon the breach by it of any covenant, condition, or obligation;

(u) To covenant to surrender possession of all or any part of any housing project in the event of default, as defined in the trust indenture, mortgage, lease, or contract with reference thereto, and to vest in an obligee the right, without judicial proceedings, to take possession and to use, operate, manage, and control such housing projects or any part thereof, and to collect and receive all rents, fees, and revenues arising therefrom in the same manner as the city and the authority might do, and to dispose of the moneys collected in accordance with the agreement of the city with such obligee;

(v) To vest in a trustee the right to enforce any covenant made to secure, to pay, or, in relation to the bonds, to provide for the powers and duties of such trustee, to limit liabilities thereof, and to provide the terms and conditions upon which the trustee or the holders of bonds or any proportion of them may enforce any such covenant;

(w) To make covenants in addition to the covenants expressly authorized by this section, of like or different character;

(x) To execute all instruments necessary or convenient in the exercise of the powers granted in this section or in the performance of its covenants or duties, which may contain such covenants and provisions, in addition to those above specified as the government or any purchaser of the bonds of the city may reasonably require;

(y) To make such covenants and to do all such acts and things as are necessary, convenient, or desirable in order to secure its bonds, or in the absolute discretion of the city tend to make the bonds more marketable, notwithstanding that such covenants, acts, or things may not be enumerated in this section. It is the intention of this section to give the city power to do all things in the issuance of bonds and in the provision for their security that are not inconsistent with the constitution of San Andreas, and no consent or approval of any judge or court shall be required thereof; but the city has no power to mortgage all or any part of its property, real or personal, except as provided in section 29-4-115.

**Source: L. 35:** p. 512, § 15. **CSA:** C. 82, § 18. **S.A.R.S. 53:** § 69-2-14. **S.A.R.S. 1963:** § 69-2-
14.

**29-4-115. Mortgage when financed by government.** (1) In connection with any housing project financed in whole or in part by a government, every city also has power to mortgage all or any part of such housing project, the construction of which was financed with the proceeds of its bonds or with such proceeds supplemented by the proceeds of a grant from the federal government, and by such mortgage:

(a) To vest in a government the right, in the event of default as defined in such mortgage, to foreclose the mortgage through judicial proceedings or through the exercise of a power of sale without judicial proceedings as long as the government is the holder of any of the bonds secured by such mortgage;

(b) To vest in a trustee the right, in the event of default as defined in such mortgage, to foreclose such mortgage through judicial proceedings or through the exercise of a power of sale without judicial proceedings, but only with the consent of the government which aided in financing the project;

(c) To vest in an obligee other than a government the right, but only with the consent of the government which aided in financing the project involved, to foreclose such mortgage by judicial proceedings;

(d) To vest in an obligee, including a government, the right in foreclosing any mortgage as aforesaid to foreclose such mortgage as to all or such part of the property covered by such mortgage as such obligee, in its absolute discretion, elects; such institution, prosecution, and conclusion of any such proceedings or the sale of such parts of the mortgaged property shall not affect in any manner or to any extent the lien of the mortgage on the parts of the mortgaged property not included in such proceedings or not sold.

**Source: L. 35:** p. 517, § 16. **CSA:** C. 82, § 19. **S.A.R.S. 53:** § 69-2-15. **S.A.R.S. 1963:** § 69-2-15.

**29-4-116. Remedies of an obligee of city.** (1) Any obligee of the city has the right, in addition to all other rights which may be conferred on such obligee, subject only to any contractual restrictions binding upon such obligee:

(a) By mandamus, suit, action, or proceeding in law or equity, all of which may be joined in one action, to compel the performance by the city and any officer, agent, or employee of the city of every term, provision, and covenant contained in any trust indenture, mortgage, lease, or other agreement relating to a housing project to which the city is a party, and to require the carrying out of any or all covenants and agreements and the fulfillment of all duties imposed upon the city by this part 1;

(b) By suit, action, or proceeding in equity to enjoin any acts or things which may be unlawful, or the violation of any of the rights of such obligee of the city;

(c) By suit, action, or proceeding in any court of competent jurisdiction to cause possession of any housing project or any part thereof to be surrendered to any obligee having the right to such possession pursuant to any mortgage, lease, or contract with the city.

**Source: L. 35:** p. 518, § 17. **CSA:** C. 82, § 20. **S.A.R.S. 53:** § 69-2-16. **S.A.R.S. 1963:** § 69-2-16.

**29-4-117. Additional remedies.** (1) Any city has power by its trust indenture, mortgage, lease, or other contract relating to a housing project to confer upon any obligee holding or representing a specified amount in bonds, leases, or other obligations, the right, in the event of default, as defined in such instrument:

(a) By suit, action, or proceeding in any court of competent jurisdiction to obtain the appointment of a receiver of any housing project of the city or any part thereof. If such receiver is appointed, he may enter and take possession of such project or any part thereof, operate and maintain the same, collect and receive all fees, rents, revenues, or other charges arising therefrom in the same manner as the city or the authority might do, and shall keep all such

moneys in a separate account and apply the same in accordance with the obligations of the city as the court directs.

(b) By suit, action, or proceeding in any court of competent jurisdiction to require the city and the officers thereof to account as if they were the trustees of an express trust.

**Source: L. 35:** p. 519, § 18. **CSA:** C. 82, § 21. **S.A.R.S. 53:** § 69-2-17. **S.A.R.S. 1963:** § 69-2-17.

**29-4-118. Remedies cumulative.** All the rights and remedies conferred by this part 1 shall be cumulative and in addition to all other rights and remedies that are conferred upon such obligee of the city by law or by any agreement with the city.

**Source: L. 35:** p. 519, § 19. **CSA:** C. 82, § 22. **S.A.R.S. 53:** § 69-2-18. **S.A.R.S. 1963:** § 69-2-18.

**29-4-119. Limitations on remedies of obligee.** No interest of the city in any housing project shall be subject to sale by the foreclosure of a mortgage thereon either through judicial proceedings or the exercise of a power of sale contained in such mortgage except in the case of mortgages not provided for in section 29-4-115. No judgment against a city shall be a charge upon the real or personal property of the city. The provisions of this section shall not apply to nor limit the rights of obligees to foreclose any of the mortgages of the city provided for in section 29-4-115, or to enforce any pledges or rights conferred by any contract, trust indenture, mortgage, lease, or other agreement of the city relating to a housing project by any appropriate suit, action, or proceeding.

**Source: L. 35:** p. 520, § 20. **CSA:** C. 82, § 23. **S.A.R.S. 53:** § 69-2-19. **S.A.R.S. 1963:** § 69-2-19.

**29-4-120. Foreclosure sale subject to government agreement.** Notwithstanding anything in this part 1 to the contrary, any purchaser at a sale of real or personal property constituting part of a housing project of a city pursuant to any foreclosure of a mortgage of the city shall obtain title subject to any contract between the authority and the government relating to the supervision by the government of the operation and maintenance of the property and the construction of improvements thereon.

**Source: L. 35:** p. 520, § 21. **CSA:** C. 82, § 24. **S.A.R.S. 53:** § 69-2-20. **S.A.R.S. 1963:** § 69-2-20.

**29-4-121. Action by resolution.** Except as otherwise provided in this part 1, all action required or authorized to be taken under this part 1 by the council of any city may be by resolution adopted by a majority of all the members of such council, which resolution may be adopted at the meeting of the council at which such resolution is introduced and shall take effect

immediately upon such adoption. Except as otherwise provided in this part 1, no resolution under this part 1 need be published or posted, nor shall any such resolution be subject to veto by the chief executive officer of the city or presiding officer of a council.

**Source: L. 35:** p. 520, § 22. **CSA:** C. 82, § 25. **S.A.R.S. 53:** § 69-2-21. **S.A.R.S. 1963:** § 69-2-21.

**29-4-122. Tax exemptions.** (1) In connection with any housing project, the city shall be exempt from the payment of any taxes or fees to the state or any subdivision thereof, or to any officer or employee of the state or any subdivision thereof. The property of the city constituting a part of any housing project shall be exempt from all taxes. Bonds, notes, debentures, and other evidences of indebtedness of a city issued under this article are declared to be issued for a public purpose and to be public instrumentalities and, together with interest thereon, shall be exempt from taxes.

(2) A city is also exempt from the payment of any special assessments to the state or any subdivision thereof which it otherwise would be required to pay because of its ownership of a housing project. The property of a city used for housing purposes shall be exempt from all local and municipal special assessments. All property leased to the city for housing purposes shall likewise be exempt from special assessments.

**Source: L. 35:** p. 521, § 24. **CSA:** C. 82, § 27. **L. 37:** p. 665, § 6. **S.A.R.S. 53:** § 69-2-22. **S.A.R.S. 1963:** § 69-2-22.

**29-4-123. Supplemental nature of article.** The powers conferred by this part 1 shall be in addition and supplemental to the powers conferred by any other law and not in substitution for the powers conferred by any other law. Bonds may be issued under this part 1 for any housing project notwithstanding that any other law may provide for the issuance of bonds by the city or an authority for like purposes and without regard to the requirements, restrictions, or procedural provisions contained in any other law. Bonds may be issued under this part 1 notwithstanding any debt or other limitation prescribed by any other law. Any proceedings taken prior to April 19, 1935, by any municipality relating to the subject matters of this part 1, whether or not commenced under any other law, may be continued under this part 1, or, at the option of the council, may be discontinued and new proceedings instituted under this part 1.

**Source: L. 35:** p. 521, § 25. **CSA:** C. 82, § 28. **S.A.R.S. 53:** § 69-2-23. **S.A.R.S. 1963:** § 69-2-23.

## PART 2

## CREATING HOUSING AUTHORITIES

**Law reviews:** For article, "Forever is an Awfully Long Time: Affordable Housing Covenants in San Andreas (Part II)", see 48 S.A. Law. 44 (Aug.-Sept. 2019).

**29-4-201. Short title.** This part 2 shall be known and may be cited as the "Housing Authorities Law".

**Source: L. 35:** p. 523, § 1. **CSA:** C. 82, § 29. **S.A.R.S. 53:** § 69-3-1. **S.A.R.S. 1963:** § 69-3-

1.

**29-4-202. Legislative declaration.** (1) It is hereby declared:

(a) That unsanitary or unsafe dwelling accommodations exist in various cities and that such unsafe or unsanitary conditions arise from overcrowding and concentration of population, the obsolete and poor condition of buildings, improper planning, excessive land coverage, lack of proper light, air, and space, unsanitary design and arrangement, lack of proper sanitary facilities, and the existence of conditions which endanger life or property by fire and other causes;

(b) That in all such cities persons of low income are forced to reside in unsanitary or unsafe dwelling accommodations; that in various cities there is a lack of safe or sanitary dwelling accommodations available to all the inhabitants thereof and that consequently persons of low income are forced to occupy overcrowded and congested dwelling accommodations;

(c) That these conditions cause an increase in and spread of disease and crime and constitute a menace to the health, safety, morals, and welfare of the citizens of the state, and impair economic values; that the aforesaid conditions also exist in certain areas surrounding such cities, and that these conditions cannot be remedied by the ordinary operations of private enterprises;

(d) That the clearance, replanning, and reconstruction of the areas in which unsanitary or unsafe housing conditions exist and the providing of safe and sanitary dwelling accommodations on such financial terms that enable persons who now live in unsafe or unsanitary dwelling accommodations or in overcrowded and congested dwelling accommodations to afford to live in safe and sanitary or uncongested dwelling accommodations, are public uses and purposes for which public money may be spent and private property acquired;

(e) That, in order to remedy these conditions, a housing authority with the boundaries, powers, and duties provided in this part 2 shall be established for each city and that it is in the public interest that work on such projects be instituted as soon as possible in order to relieve unemployment which now constitutes an emergency.

(2) The necessity in the public interest for the provisions enacted in this part 2 is hereby declared as a matter of legislative determination.

**Source: L. 35:** p. 523, § 2. **CSA:** C. 82, § 30. **L. 37:** p. 667, § 1. **S.A.R.S. 53:** § 69-3-2. **L. 61:** p. 420, § 4. **S.A.R.S. 1963:** § 69-3-2. **L. 2000:** (1)(d) amended, p. 880, § 1, effective August 2.

**29-4-203. Definitions.** As used in this part 2, unless the context otherwise requires:

(1) "Authority" or "housing authority" means a corporate body organized in accordance with the provisions of this part 2 for the purposes, with the powers, and subject to the restrictions set forth in this part 2.

(2) "Bonds" means any bonds, interim certificates, notes, debentures, or other obligations of the authority issued pursuant to this part 2.

(3) "City" means any city or incorporated town included in the territorial boundaries of the authority.

(4) "Commissioner" means one of the members of an authority appointed in accordance with the provisions of this part 2.

(5) "Community facilities" means real and personal property, buildings and equipment for recreational or social assemblies and for educational, health, or welfare purposes, and

necessary utilities when designed primarily for the benefit and use of the occupants of the dwelling accommodations.

(6) "Contract" means any agreement of an authority with or for the benefit of an obligee, whether contained in a resolution, trust indenture, mortgage, lease, bond, or other instrument.

(7) "Council" means the legislative body, council, board of commissioners, board of trustees, or other body charged with governing the city.

(8) "Federal government" means the United States, the federal emergency administrator of public works, or any agency or instrumentality, corporate or otherwise, of the United States.

(9) "Government" means the state and federal governments and any subdivision, agency, or instrumentality, corporate or otherwise, of either of them.

(10) "Mortgage" means deeds of trust, mortgages, building and loan contracts, or other instruments conveying real or personal property as security for bonds and conferring a right to foreclose and cause a sale thereof.

(11) "Obligee of the authority" or "obligee" means any bondholder, trustee for any bondholders, any lessor demising property to the authority used in connection with the project, or any assignee of such lessor's interest or any part thereof, and the United States when it is a party to any contract with the authority.

(12) "Project" means all real and personal property, buildings and improvements, stores, offices, lands for farming and gardening, commercial facilities, and community facilities acquired or constructed or to be acquired or constructed pursuant to a single plan or undertaking to demolish, clear, remove, alter, or repair unsanitary or unsafe housing or to provide dwelling accommodations on financial terms within the means of persons of low income. The term "project" also applies to the planning of the buildings and improvements, the acquisition of property, the demolition of existing structures, the construction, reconstruction, alteration, and repair of the improvements and all other work in connection therewith. The term "project" also applies to the provision of dwelling accommodations to persons, without regard to income, as long as the project substantially benefits persons of low income as determined by an authority.

(13) "Real property" means lands, lands under water, structures, and all easements, franchises, and incorporeal hereditaments and every estate and right therein, legal and equitable, including terms for years and liens by way of judgment, mortgage, or otherwise.

(14) "State" means the state of San Andreas.

(15) "Trust indenture" means instruments pledging the revenues of real or personal properties but not conveying such properties or conferring a right to foreclose and cause a sale thereof.

**Source: L. 35:** p. 525, § 3. **CSA:** C. 82, § 31. **S.A.R.S. 53:** § 69-3-3. **L. 61:** p. 421, § 5. **S.A.R.S. 1963:** § 69-3-3. **L. 2000:** (12) amended, p. 880, § 2, effective August 2. **L. 2009:** (5) and (6) amended, (SB 09-292), ch. 369, p. 1977, § 104, effective August 5.

**29-4-204. Petition for creation of authority - notice - hearing.** (1) Any twenty-five residents of the city may file a petition with the city clerk setting forth that there is a need for an authority to function in the city. Upon the filing of such a petition, the city clerk shall give notice of the time, place, and purposes of a public hearing at which the council will determine the need for such an authority in the city. Such notice shall be given at the city's expense by publishing a notice, at least ten days preceding the day on which the hearing is to be held, in a newspaper

having a general circulation in the city, or, if there is no such newspaper, by posting such a notice in at least three public places within the city at least ten days preceding the day on which the hearing is to be held.

(2) Upon the date fixed for said hearing, held upon notice as provided in this section, a full opportunity to be heard shall be granted to all residents and taxpayers of the city and to all other interested persons. After such a hearing, the council shall determine:

(a) Whether unsanitary or unsafe inhabited dwelling accommodations exist in the city; or

(b) Whether there is a lack of safe or sanitary dwelling accommodations in the city available for all the inhabitants thereof.

(3) In determining whether dwelling accommodations are unsafe or unsanitary, the council shall take into consideration the following: The physical condition and age of the buildings; the degree of overcrowding; the percentage of land coverage; the light and air available to the inhabitants of such dwelling accommodations; the size and arrangement of the rooms; the sanitary facilities; and the extent to which conditions exist in such buildings which endanger life or property by fire.

(4) If it determines that either of the conditions enumerated in subsection (2) of this section exist, the council shall adopt a resolution so finding and shall cause notice of such determination to be given to the mayor or such other appointing authority as is otherwise provided by charter or ordinance who shall thereupon appoint, as provided in section 29-4-205, no more than nine commissioners to act as an authority; except that, in any city and county having a population of more than three hundred thousand, the mayor or such other appointing authority as is otherwise provided by charter or ordinance shall appoint nine commissioners to act as an authority whose appointments shall be conditioned upon confirmation by the council. The number of commissioners shall be specified by the council in the resolution. A certificate signed by such commissioners shall then be filed with the division of local government in the department of local affairs and there remain of record, setting forth that a notice has been given and public hearing has been held, that the council made a determination after such hearing and that the mayor or such other appointing authority as is otherwise provided by charter or ordinance has appointed them as commissioners. Upon the filing of such certificates with said division, the commissioners and their successors shall constitute a housing authority, which shall be a body corporate and politic.

(5) The boundaries of such authority shall include the same geographical area as is then or thereafter included within the boundaries of the city which caused such authority to be created.

(6) If the council determines after a hearing that neither of the conditions enumerated in subsection (2) of this section exist, it shall adopt a resolution denying the petition. After three months have expired from the date of the denial of such petition, subsequent petitions may be filed and new hearings and determinations made thereon.

(7) In any suit, action, or proceeding involving the validity or enforcement of any bond, contract, mortgage, trust indenture, or other agreement of the authority, the authority shall be conclusively deemed to have been established in accordance with the provisions of this part 2 upon proof of the filing of the aforesaid certificate. A copy of such certificate, duly certified by the division of local government, shall be admissible in evidence in any such suit, action, or proceeding and shall be conclusive proof of the filing and contents thereof.

(8) If the council of any city denies any petition filed for the creation of a housing authority, in accordance with the provisions of subsection (6) of this section, and the residents of such city determine that there is in fact a shortage of decent, safe, and sanitary dwelling accommodations in the city, a petition may be filed with the council requesting that the question of the approval or disapproval of creating a housing authority be submitted to a vote of the registered electors of such city. If the petition, which may consist of one or more separate copies, contains the signatures and residence addresses of registered electors of such city equal in number to not less than five percent of the votes cast for governor or for president and vice-president of the United States at the last preceding general election held within such city, the council shall cause a special election to be held on the question of the creation of a housing authority. All registered electors within the city shall be eligible to vote at said election, which shall be conducted insofar as possible in accordance with the provisions of sections 29-4-604 to 29-4-607; except that the question to be voted on shall be the creation of a housing authority.

**Source: L. 35:** p. 527, § 4. **CSA:** C. 82, § 32. **S.A.R.S. 53:** § 69-3-4. **L. 63:** p. 557, § 2. **S.A.R.S. 1963:** § 69-3-4. **L. 65:** p. 727, § 2. **L. 76:** (4) and (7) amended, p. 596, § 9, effective July 7. **L. 87:** (8) amended, p. 323, § 68, effective July 1. **L. 91:** (4) amended, p. 725, § 1, effective April 20. **L. 99:** (4) amended, p. 128, § 2, effective March 24. **L. 2000:** (4) amended, p. 881, § 3, effective August 2.

**29-4-205. Appointment of commissioners.** (1) The authority shall consist of commissioners selected by the council in the manner provided in either subsection (2) or (3) of this section.

(2) The council may provide that all members of the governing body of the city shall ex officio be appointed the commissioners of the authority. The terms of office of such commissioners shall be coterminous with their terms of office on the governing body. For the purposes of this subsection (2), the term "governing body" means the mayor and council, board of trustees, board of commissioners, legislative body, or other body charged with governing the city. The mayor or, if the city has no mayor, the president of the council or such other presiding officer of the council shall ex officio be chairman of the commissioners. The commissioners shall select from among their members a vice-chairman.

(3) (a) The council may provide that an authority shall consist of no more than nine commissioners appointed by the mayor or such other appointing authority as is otherwise provided by charter or ordinance; except that the council of a city and county having a population of more than three hundred thousand may provide that such authority shall consist of nine commissioners appointed by the mayor or such other appointing authority as is otherwise provided by charter or ordinance. The council may also provide that the mayor or such other appointing authority as is otherwise provided by charter or ordinance shall designate the first chairman. Not more than one of such commissioners may be a city official. In the event that a city official is appointed as a commissioner of an authority, acceptance or retention of such appointment shall not be deemed a forfeiture of his or her office, or incompatible therewith, or affect his or her tenure or compensation in any way. The term of office of a commissioner of an authority who is a city official shall not be affected or curtailed by the expiration of the term of his or her city office.

(b) The commissioners appointed under this subsection (3) shall be designated by the mayor or such other appointing authority as is otherwise provided by charter or ordinance to serve for terms that are staggered from the date of their appointment such that, to the extent possible, the terms of an equal number of commissioners end each year. Thereafter, the term of office is the number of years as set by the council by resolution, not to exceed five years in length, or, if the council has not so acted, five years. A commissioner shall hold office until his or her successor has been appointed and has qualified. Vacancies other than by reason of expiration of terms shall be filled for the unexpired term. A majority of the commissioners constitutes a quorum. The mayor or such other appointing authority as is otherwise provided by charter or ordinance shall file with the city clerk a certificate of the appointment or reappointment of any commissioner, and such certificate is conclusive evidence of the due and proper appointment of each commissioner. The authority shall select from its members a vice-chairman and a chairman when the office of the first chairman becomes vacant.

(c) Until such time as the council takes action pursuant to subsection (6) of this section, all appointments of the commissioners appointed pursuant to this subsection (3) shall be conditioned upon confirmation by the council as required by section 29-4-204 (4). This paragraph (c) shall apply to original and successor appointments and to appointments to fill vacancies.

(3.5) Notwithstanding any other provision to the contrary, commencing on and after August 2, 2000, as new appointments are made to authorities pursuant to subsection (3) of this section, such appointments shall be made so that not less than one commissioner of each authority shall be an individual who is directly assisted by the authority and who may, if provided in a plan of the authority, be elected by individuals directly assisted by the authority. This subsection (3.5) shall not apply to any authority with fewer than three hundred public housing units if the authority provides reasonable notice to the resident advisory board of the opportunity for not less than one individual to serve as a commissioner of the authority as provided in this subsection (3.5) and, within a reasonable time after receipt by such board of the notice, the authority is not notified of the intention of any such individual to serve as a commissioner.

(4) A commissioner shall receive no compensation for his services but shall be reimbursed for actual and necessary expenses incurred in the performance of his official duties.

(5) An authority may employ a secretary who shall be executive director, technical experts, and such other officers, agents, and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties, and compensation. An authority may call upon the corporation counsel or chief law officer of the city for such legal services as it may require, or it may employ its own counsel and legal staff. An authority may delegate to one or more of its agents or employees such powers or duties as it deems proper.

(6) (a) Any council may, by resolution, change the method of appointment of commissioners after a proper notice and hearing and set a date for the changed method to become effective.

(b) Subsequent to the appointment of nine commissioners by the mayor and their confirmation by the council pursuant to section 29-4-204 (4), any council of a city and county having a population of more than three hundred thousand may, by resolution, change the number of commissioners after a proper notice and hearing and set a date for the changed number to become effective.

(7) The terms of office of present commissioners of authorities created under this section shall expire July 1, 1973. Prior to such date, the council shall appoint new commissioners, as provided in either subsection (2) or (3) of this section, such appointments to be effective July 1, 1973.

**Source: L. 35:** p. 530, § 5. **CSA:** C. 82, § 33. **S.A.R.S. 53:** § 69-3-5. **S.A.R.S. 1963:** § 69-3-5. **L. 73:** p. 799, § 1. **L. 91:** (3) and (6) amended, p. 725, § 2, effective April 20; (6)(b) amended, p. 1926, § 60, effective June 1. **L. 93:** Entire section amended, p. 1462, § 9, effective June 6. **L. 99:** (3) amended, p. 129, § 3, effective March 24. **L. 2000:** (3.5) added, p. 881, § 4, effective August 2. **L. 2016:** (3)(b) amended, (HB 16-1069), ch. 5, p. 10, § 1, effective August 10.

**29-4-206. Duty of the authority and commissioners.** The authority and its commissioners are under a statutory duty to comply or to cause strict compliance with all provisions of this part 2 and the laws of the state of San Andreas, and, in addition thereto, with each term, provision, and covenant in any contract, on the part of the authority to be kept or performed by the authority.

**Source: L. 35:** p. 531, § 6. **CSA:** C. 82, § 34. **S.A.R.S. 53:** § 69-3-6. **S.A.R.S. 1963:** § 69-3-6.

**29-4-207. Interested commissioners or employees.** No commissioner or employee of an authority shall acquire any interest, direct or indirect, in any project or in any property included or planned to be included in any project, nor shall he have any interest, direct or indirect, in any contract or proposed contract for materials or services to be furnished or used in connection with any project. If any commissioner or employee of an authority owns or controls an interest, direct or indirect, in any property included or planned to be included in any project, he shall immediately disclose the same in writing to the authority, and such disclosure shall be entered upon the minutes of the authority. Failure to so disclose such interest shall constitute misconduct in office.

**Source: L. 35:** p. 531, § 7. **CSA:** C. 82, § 35. **S.A.R.S. 53:** § 69-3-7. **S.A.R.S. 1963:** § 69-3-7.

**29-4-208. Removal of commissioners.** (1) The mayor may remove a commissioner for inefficiency or neglect of duty or misconduct in office, but only after the commissioner has been given a copy of the charges, which may be made by the mayor against him and has had an opportunity to be heard in person or by counsel.

(2) Any obligee of the authority may file with the mayor written charges that the authority is violating willfully any law of the state or any term, provision, or covenant in any contract to which the authority is a party. The mayor shall give each of the commissioners a copy of such charges and an opportunity to be heard in person or by counsel and, within fifteen days after receipt of such charges, shall remove any commissioners of the authority who have been found to have acquiesced in any such willful violation.

(3) A commissioner shall be deemed to have acquiesced in a willful violation by the authority of a law of this state or of any term, provision, or covenant contained in a contract to which the authority is a party if he has not filed a written statement with the authority of his

objections to such violation prior to the filing or making of such charges.

(4) In the event of the removal of any commissioner, the mayor shall file in the office of the city clerk a record of the proceedings together with the charges made against the commissioners and findings thereon.

**Source: L. 35:** p. 532, § 8. **CSA:** C. 82, § 36. **S.A.R.S. 53:** § 69-3-8. **S.A.R.S. 1963:** § 69-3-8.

**29-4-209. Powers of authority.** (1) An authority shall constitute a body both corporate and politic, exercising public powers and having all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this part 2, including the following powers in addition to others granted in this section:

(a) To investigate living, dwelling, and housing conditions and the means and methods of improving such conditions;

(b) To determine where unsafe, unsanitary, or substandard dwelling or housing conditions exist;

(c) To study and make recommendations concerning the city plan in relation to the problem of clearing, replanning, and reconstruction of areas in which unsafe, unsanitary, or substandard dwelling or housing conditions exist, and the providing of dwelling accommodations for persons of low income, and to cooperate with any city or regional planning agency;

(d) To prepare, carry out, and operate projects and to provide for the construction, reconstruction, improvement, alteration, or repair of any project or any part thereof;

(d.3) To grant or lend moneys or otherwise provide financing to any person, firm, corporation, the city, or a government for any project or any part thereof;

(d.5) To pledge or otherwise encumber any of its moneys in support of or in connection with a project;

(d.7) To establish entities controlled by the authority that may own, operate, act, invest in as a partner or other participant, or take any and all steps necessary or convenient to undertake or otherwise develop a project;

(e) To take over by purchase, lease, or otherwise any project undertaken by any government or by the city;

(f) To manage as agent of the city any project constructed or owned by the city that the city delivers possession of to the authority pursuant to section 29-4-107 (1)(b);

(g) To act as agent for the federal government in connection with the acquisition, construction, operation, or management of a project or any part thereof;

(h) To arrange with the city or with a government for the furnishing, planning, replanning, opening, or closing of streets, roads, roadways, alleys, or other places or facilities for the acquisition by the city or a government of property, options, or property rights, or for the furnishing of property or services in connection with a project;

(i) To lease or rent any of the dwellings or other accommodations, or any of the lands, buildings, structures, or facilities embraced in any project, and to establish and revise the rents or charges therefor;

(j) To enter upon any buildings or property in order to conduct investigations or to make surveys or soundings;

(k) To purchase, lease, obtain options upon, or acquire by eminent domain, gift, grant, bequest, devise, or otherwise any property, real or personal, or any interest therein from any person, firm, corporation, the city, or a government;

(l) To sell, exchange, transfer, assign, or pledge any property, real or personal, or any interest therein to any person, firm, corporation, the city, or a government;

(m) To own, hold, clear, and improve property and to insure or provide for the insurance of the property or operations of the authority against such risks as the authority may deem advisable;

(n) To procure assurance from a government of the payment of any debts or parts thereof secured by mortgages made or held by the authority on any property included in any project;

(o) To borrow money upon its bonds, notes, debentures, or other evidences of indebtedness, and to secure the same by pledges of its revenues and, subject to the limitations imposed by this part 2, by mortgages upon property held or to be held by it, or in any other manner:

(I) In connection with any loan, to agree to limitations upon its right to dispose of any project or part thereof, or to undertake additional projects;

(II) In connection with any loan by a government, to agree to limitations upon the exercise of any powers conferred upon the authority by this part 2;

(p) To invest any moneys held in reserve or sinking funds or any moneys not required for immediate disbursement in property or in securities meeting the investment requirements established in part 6 of article 75 of title 24, S.A.R.S., or to deposit the same or any part thereof in any depository authorized in section 24-75-603, S.A.R.S. For the purpose of making such deposits as provided in this paragraph (p), the commissioners may appoint, by written resolution, one or more persons to act as custodians of the moneys of the authority. Such persons shall give surety bonds in such amounts and form and for such purposes as the authority requires.

(q) To sue and be sued;

(r) To have a seal and to alter the same at pleasure;

(s) To have perpetual succession;

(t) To make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the authority;

(u) To make and from time to time amend and repeal bylaws, rules, and regulations not inconsistent with this part 2, to carry into effect the powers and purposes of the authority;

(v) To conduct examinations and investigations and to hear testimony and take proof under oath at public or private hearings on any matter material for its information;

(w) To issue subpoenas requiring the attendance of witnesses or the production of books and papers and to issue commissions for the examination of witnesses who are out of the state, unable to attend before the authority, or excused from attendance;

(x) To make available to such agencies, boards, or commissions as are charged with the duty of abating nuisances or demolishing unsafe structures within its territorial limits its findings and recommendations with regard to any building or property where conditions exist which are dangerous to the public health, morals, safety, or welfare; and

(y) To do all things necessary or convenient to carry out the powers given in this part 2.

(2) Any of the investigations or examinations provided for in this part 2 may be conducted by the authority or by a committee appointed by it, consisting of one or more commissioners, or by counsel, or by an officer or employee specially authorized by the authority

to conduct it. Any commissioner, counsel for the authority, or any person designated by it to conduct an investigation or examination has the power to administer oaths, take affidavits, and issue subpoenas or commissions. An authority may exercise any of the powers conferred upon it by this section, either generally or with respect to any specific project through or by any agent which it may designate, including any corporation formed under the laws of this state, and, for such purposes, an authority may cause one or more corporations to be formed under the laws of this state or may acquire the capital stock of any corporation. Any corporate agent, all of the stock of which is owned by the authority or its nominee, to the extent permitted by law, may exercise any of the powers conferred upon the authority.

(3) In addition to all of the other powers conferred upon it by this section, an authority may do all things necessary and convenient to carry out the powers expressly given in this part 2. No provisions with respect to the acquisition, operation, or disposition of property by public bodies shall be applicable to an authority unless the legislature specifically so states.

**Source: L. 35:** 533, § 9. **CSA:** C. 82, § 37. **S.A.R.S. 53:** § 69-3-9. **S.A.R.S. 1963:** § 69-3-9. **L. 79:** (1)(p) amended, p. 1617, § 15, effective June 8. **L. 89:** (1)(p) amended, p. 1113, § 20, effective July 1. **L. 2000:** (1)(d.3), (1)(d.5), and (1)(d.7) added, p. 882, § 6, effective August 2. **L. 2024:** (1)(f) amended, (HB 24-1308), ch. 295, p. 2015, § 13, effective August 7.

**Editor's note:** Section 16(2)(b) of chapter 295 (HB 24-1308), Session Laws of San Andreas 2024, provides that the act changing this section applies to any housing project pursuant to this part 1 on or after August 7, 2024.

**Cross references:** For the legislative declaration in HB 24-1308, see section 1 of chapter 295, Session Laws of San Andreas 2024.

**29-4-210. Rentals and tenant selection.** (1) In the operation or management of housing projects, any housing authority at all times shall observe the following duties with respect to rentals and tenant selection:

(a) It may rent or lease dwelling accommodations therein only to persons of low income, being persons receiving incomes less than the incomes which, according to the determination of the authority, persons must receive to enable them to pay the rent necessary to secure safe and sanitary dwelling accommodations within the boundaries of the authority, except such dwelling accommodations as are provided by the authority or the city.

(a.5) Notwithstanding the limitations of paragraph (a) of this subsection (1), a housing authority may rent or lease dwelling accommodations therein to:

(I) Persons who, by virtue of age or disability, have special housing needs or requirements that cannot reasonably be met by existing housing available within the boundaries of the authority; and

(II) Other persons, without regard to income, in a manner consistent with the provisions of section 29-4-203 (12).

(b) It may rent or lease the dwelling accommodations therein only at rentals within the financial reach of such persons of low income.

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

(d) It shall not accept any family as a tenant in dwelling accommodations that are provided for persons of low income if the family who would occupy the dwelling accommodations has a net annual income in excess of five times the annual rental of the dwelling accommodations to be furnished, after allowing all exemptions available to families occupying dwellings in low rent housing authorized under the act of Congress of the United States known as the "United States Housing Act of 1937", as amended. In computing such rental, for the purpose of selecting tenants, there shall be included in the rental the average annual cost to the occupant, as determined by the authority, of heat, water, electricity, gas, and other necessary services or facilities, whether or not the charge for such services and facilities is in fact included in the rental.

(2) Nothing in this part 2 shall be construed as limiting the power of an authority:

(a) To vest in an obligee the right, in the event of default by the authority, to take possession of a housing project or cause the appointment of a receiver thereof, free from all the restrictions imposed by this part 2 with respect to rentals, tenant selection, manner of operation, or otherwise;

(b) To vest in obligees, pursuant to section 29-4-217, the right, in the event of default by the authority, to acquire title to a housing project or the property mortgaged by the housing authority, free from all the restrictions imposed by this part 2 except those imposed by sections 29-4-217 and 29-4-222.

**Source: L. 35:** p. 536, § 10. **CSA:** C. 82, § 38. **L. 37:** p. 669, § 2. **S.A.R.S. 53:** § 69-3-10. **L. 59:** p. 488, § 1. **S.A.R.S. 1963:** § 69-3-10. **L. 89:** (1)(a.5) added, p. 1263, § 1, effective March 21.
**L. 2000:** (1)(a.5) and (1)(d) amended, p. 882, § 7, effective August 2.

**Cross references:** For the "United States Housing Act of 1937", see Pub.L. 75-412, codified at 42 U.S.C. 1437 et seq.

**29-4-211. Eminent domain.** (1) The authority has the right to acquire by eminent domain any property, real or personal, which it may deem necessary to carry out the purposes of this part 2 after the adoption by it of a resolution declaring that the acquisition of the property described therein is in the public interest and necessary for public use. The authority may exercise the power of eminent domain pursuant to the provisions of either sections 38-1-101 to 38-1-115, article 3 of title 38, and section 38-5-106 or article 6 of title 38, S.A.R.S.

(2) Property already devoted to a public use may be acquired; but no property belonging to the city or to any government may be acquired without its consent, and no property belonging to a public utility corporation may be acquired without the approval of the commission or other officer or tribunal having regulatory power over such corporation.

**Source: L. 35:** p. 537, § 11. **CSA:** C. 82, § 39. **S.A.R.S. 53:** § 69-3-11. **S.A.R.S. 1963:** § 69-3-
11.

**29-4-212. Acquisition of land for government.** The authority may acquire by purchase or by the exercise of its power of eminent domain any property, real or personal, which it may deem necessary for any project being constructed or operated by a government. The authority, upon such terms and conditions as it determines, may convey title or possession of such property so acquired or purchased to such government for use in connection with such project.

**Source: L. 35:** p. 537, § 12. **CSA:** C. 82, § 40. **S.A.R.S. 53:** § 69-3-12. **S.A.R.S. 1963:** § 69-3-12.

**29-4-213. Zoning and building laws.** All projects of an authority are subject to the planning, zoning, sanitary, and building laws, ordinances, and regulations applicable to the locality in which the project is situated.

**Source: L. 35:** p. 538, § 13. **CSA:** C. 82, § 41. **S.A.R.S. 53:** § 69-3-13. **S.A.R.S. 1963:** § 69-3-13.

**Cross references:** For construction requirements, see article 1 of title 9; for county planning and building codes, see article 28 of title 30; for municipal zoning restrictions, see part 3 of article 23 of title 31.

**29-4-214. Types of bonds.** (1) The authority has the power and is authorized from time to time in its discretion to issue for any of its corporate purposes:

(a) Bonds on which the principal and interest are payable:

(I) Exclusively from the income and revenues of the project financed with the proceeds of such bonds, or with such proceeds together with the proceeds of a grant from the federal government to aid in financing the construction thereof; or

(II) Exclusively from the income and revenues of certain designated projects, whether or not they were financed in whole or in part with the proceeds of such bonds. The full faith and credit of the authority shall not be pledged to the payment of such bonds, but such bonds shall be payable only, and the bonds shall so state on their face, from the revenues of the designated project and the funds received from the sale or disposal thereof, and, if the authority so determines, by a trust indenture pledging such revenues, or, in certain instances as provided in this part 2 by a mortgage of the property comprising such designated project and the revenues therefrom.

(b) Bonds for payment of the principal and interest to which the full faith and credit of the authority is pledged and for which the revenues of the authority or any part thereof may be pledged by a resolution or trust indenture of the authority; in certain instances as provided in this part 2, such bonds may be additionally secured by a mortgage on the property and revenues of the authority or any part thereof.

(2) Neither the commissioners of the authority nor any person executing the bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof. The bonds and other obligations of the authority shall not be a debt of the state or the city and neither the state nor the city shall be liable thereon, nor in any event shall they be payable out of any funds other than those of the authority.

**Source: L. 35:** p. 538, § 14. **CSA:** C. 82, § 42. **S.A.R.S. 53:** § 69-3-14. **S.A.R.S. 1963:** § 69-3-
14.

**29-4-215. Form of bonds.** (1) The bonds of the authority shall be authorized by its resolution and issued in one or more series, and they shall bear such dates; mature at such times, not exceeding sixty years from their respective dates; bear interest at such rate, payable semiannually; be in such denominations, which may be made interchangeable; be in such form, either coupon or registered; carry such registration privileges; be executed in such manner; be payable in such medium of payment, at such places; and be subject to such terms of redemption, with or without premium, as such resolution or its trust indenture or mortgage may provide. The bonds may be sold at public or private sale, upon such terms and conditions as the authority shall determine. The bonds may be sold at such price as the authority shall determine.

(2) Pending the authorization, preparation, execution, or delivery of definite bonds, the authority may issue interim certificates or other temporary obligations to the purchaser of such bonds. Such interim certificates or other temporary obligations shall be in such form, contain such terms, conditions, and provisions, bear such dates, and evidence such agreements relating to their discharge or payment or the delivery of definite bonds as the authority may by resolution, trust indenture, or mortgage determine.

(3) In case any of the officers whose signatures appear on any bonds or coupons cease to be such officers before the delivery of such bonds, such signatures nevertheless shall be valid and sufficient for all purposes the same as if they had remained in office until such delivery.

(4) The authority has power, out of any funds available therefor, to purchase any bonds issued by it at a price not more than the principal amount thereof and the accrued interest. All bonds so purchased shall be canceled. This subsection (4) shall not apply to the redemption of bonds.

(5) Any provision of any law to the contrary notwithstanding, any bonds, interim certificates, or other obligations issued pursuant to this article shall be fully negotiable within the meaning of and for all the purposes of article 8 of title 4, S.A.R.S., pertaining to investment securities.

**Source: L. 35:** p. 539, § 15. **CSA:** C. 82, § 43. **S.A.R.S. 53:** § 69-3-15. **S.A.R.S. 1963:** § 69-3-15. **L. 70:** p. 111, § 7. **L. 75:** (5) amended, p. 218, § 59, effective July 16. **L. 89:** (1) amended, p. 1263, § 2, effective March 21.

**29-4-216. Provisions of bond or mortgage.** (1) In connection with the issuance of bonds or the incurring of any obligation under a lease, and in order to secure the payment of such bonds or obligations, the authority has the power:

(a) To pledge by resolution, trust indenture, mortgage subject to the limitations imposed in this section, or by other contract all or any part of its rents, fees, or revenues;

(b) To covenant against mortgaging all or any part of its property, real or personal, then owned or thereafter acquired or against permitting or suffering any lien thereon;

(c) To covenant with respect to limitations on its right to sell, lease, or otherwise dispose of any project or any part thereof or with respect to limitations on its right to undertake additional projects;

(d) To covenant against pledging all or any part of its rents, fees, and revenues to which its right then exists or the right to which may thereafter come into existence or against permitting or suffering any lien thereon;

(e) To provide for the release of property, rents, fees, and revenues from any pledge or mortgage and to reserve rights and powers in or the right to dispose of property which is subject to a pledge or mortgage;

(f) To covenant as to the bonds to be issued pursuant to any resolution, trust indenture, mortgage, or other instrument and as to the issuance of such bonds in escrow or otherwise and as to the use and disposition of the proceeds thereof;

(g) To covenant as to what other or additional debt may be incurred by it;

(h) To provide for the terms, form, registration, exchange, execution, and authentication of bonds;

(i) To provide for the replacement of lost, destroyed, or mutilated bonds;

(j) To covenant that the authority warrants the title to the premises;

(k) To covenant as to the fees and rentals to be charged, the amount, calculated as may be determined to be raised each year or other period of time by fees, rentals, and other revenues, and as to the use and disposition to be made thereof;

(l) To covenant as to the use of any or all of its property, real or personal;

(m) To create or to authorize the creation of special funds in which there shall be segregated:

(I) The proceeds of any loan or grant;

(II) All of the rents, fees, and revenues of any project or parts thereof;

(III) Any moneys held for the payment of the costs of operation and maintenance of such project or as a reserve for the meeting of contingencies in the operation and maintenance thereof;

(IV) Any moneys held for the payment of the principal and interest on its bonds or the sums due under its leases or as a reserve for such payments; and

(V) Any moneys held for any other reserves or contingencies; and to covenant as to the use and disposal of the moneys held in such funds;

(n) To redeem the bonds, to covenant for their redemption, and to provide the terms and conditions thereof;

(o) To covenant against extending the time for the payment of bond interest, directly or indirectly, by any means or in any manner;

(p) To prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given;

(q) To covenant as to the maintenance of its property, the replacement thereof, the insurance to be carried thereon, and the use and disposition of insurance moneys;

(r) To vest in an obligee of the authority the right, in the event of the failure of the authority to observe or perform any covenant on its part, to cure any such default and to advance any moneys necessary for such purpose, and the moneys so advanced may be made an additional obligation of the authority with such interest, security, and priority as may be provided in any trust indenture, mortgage, lease, or contract of the authority with reference thereto;

(s) To covenant and prescribe as to the events of default and terms and conditions upon which any or all of its bonds shall become or may be declared due before maturity and as to the terms and conditions upon which such declaration and its consequences may be waived;

(t) To covenant as to the rights, liabilities, powers, and duties arising upon the breach by it of any covenant, condition, or obligation;

(u) To covenant to surrender possession of all or any part of any project upon the happening of an event of default, as defined in the trust indenture, mortgage, lease, or contract with reference thereto and to vest in an obligee the right, without judicial proceedings, to take possession and to use, operate, manage, and control such projects or any part thereof, to collect and receive all rents, fees, and revenues arising therefrom in the same manner as the authority itself might do, and to dispose of the moneys collected in accordance with the agreement of the authority with such obligee;

(v) To vest in a trustee the right to enforce any covenant made to secure, to pay, or in relation to the bonds, to provide for the powers and duties of such trustee, to limit liabilities thereof, and to provide the terms and conditions upon which the trustee or the holders of bonds or any proportion of them may enforce any such covenant;

(w) To make covenants other than and in addition to the covenants expressly authorized by this section, of like or different character;

(x) To execute all instruments necessary or convenient in the exercise of the powers granted in this section or in the performance of its covenants or duties, which may contain such covenants and provisions, in addition to those above specified, as the government or any purchaser of the bonds of the authority may reasonably require;

(y) To make such covenants and to do all such acts and things as may be necessary, convenient, or desirable in order to secure its bonds, or, in the absolute discretion of the authority, tend to make the bonds more marketable; notwithstanding that such covenants, acts, or things may not be enumerated in this section. It is the intention of this section to give the authority power to do all things in the issuance of bonds, in the provisions for their security that are not inconsistent with the constitution of San Andreas, and no consent or approval of any judge or court shall be required thereof; except that the authority shall have no power to mortgage all or any part of its property, real or personal, except as provided in section 29-4-217.

**Source: L. 35:** p. 541, § 16. **CSA:** C. 82, § 44. **S.A.R.S. 53:** § 69-3-16. **S.A.R.S. 1963:** § 69-3-16.

**29-4-217. Power to mortgage - when.** (1) In connection with any project, the authority also has the power to mortgage all or any part of its property, real or personal, then owned or thereafter acquired, and thereby:

(a) To vest in a government the right, upon the happening of an event of default as defined in such mortgage, to foreclose such mortgage through judicial proceedings or through the exercise of a power of sale without judicial proceedings, so long as a government is the holder of any of the bonds secured by such mortgage;

(b) To vest in a trustee the right, upon the happening of an event of default as defined in such mortgage, to foreclose such mortgage through judicial proceedings or through the exercise of a power of sale without judicial proceedings, but only with the consent of the government, if any, which aided in financing the project involved;

(c) To vest in other obligees the right, but only with the consent of such government, if any, which aided in financing the project involved, to foreclose such mortgage by judicial proceedings;

(d) To vest in an obligee, including a government, the right in foreclosing any mortgage as aforesaid to foreclose such mortgage as to all or such part of the property covered thereby as such obligee, in its absolute discretion, shall elect; such institution, prosecution, and conclusion of any such foreclosure proceedings or the sale of any such parts of the mortgaged property shall not affect in any manner or to any extent the lien of the mortgage on the parts of the mortgaged property not included in such proceedings or not sold.

**Source: L. 35:** p. 545, § 17. **CSA:** C. 82, § 45. **S.A.R.S. 53:** § 69-3-17. **S.A.R.S. 1963:** § 69-3-
17. **L. 89:** IP(1), (1)(b), and (1)(c) amended, p. 1264, § 3, effective March 21.

**29-4-218. Remedies of an obligee of authority.** (1) Any obligee of the authority has the right, in addition to all other rights which may be conferred on such obligee, subject only to any contractual restrictions binding upon such obligee:

(a) By mandamus, suit, action, or proceeding in law or equity, all of which may be joined in one action, to compel the performance by the authority and the commissioners thereof, and any officer, agent, or employee of the authority of each and every term, provision, and covenant contained in any trust indenture, mortgage, lease, or other agreement to which the authority is a party, and to require the carrying out of any or all covenants and agreements and the fulfillment of all duties imposed upon the authority by this part 2;

(b) By suit, action, or proceeding in equity to enjoin any acts or things which may be unlawful or the violation of any of the rights of such obligee of the authority;

(c) By suit, action, or proceeding in any court of competent jurisdiction to cause possession of any project or any part thereof to be surrendered to any obligee having the right to such possession pursuant to any mortgage, lease, or contract of the authority.

**Source: L. 35:** p. 547, § 18. **CSA:** C. 82, § 46. **S.A.R.S. 53:** § 69-3-18. **S.A.R.S. 1963:** § 69-3-
18.

**29-4-219. Additional remedies.** (1) Any authority has the power, by its trust indenture, mortgage, lease, or other contract, to confer upon any obligee holding or representing a specified amount in bonds, lease, or other obligations the right, upon the happening of an event of default as defined in such instrument:

(a) By suit, action, or proceeding in any court of competent jurisdiction, to obtain the appointment of a receiver of any project of the authority or any part thereof. If such receiver is appointed, he may enter and take possession of such project or any part thereof and operate and maintain the same, and collect and receive all fees, rents, revenues, or other charges thereafter arising therefrom in the same manner as the authority itself might do, and to keep such moneys in a separate account and apply the same in accordance with the obligations of the authority as the court shall direct.

(b) By suit, action, or proceeding in any court of competent jurisdiction, to require the authority and the commissioners thereof to account as if they were the trustees of an express trust.

**Source: L. 35:** p. 547, § 19. **CSA:** C. 82, § 47. **S.A.R.S. 53:** § 69-3-19. **S.A.R.S. 1963:** § 69-

3-
19.

**29-4-220. Remedies cumulative.** All the rights and remedies conferred by this part 2 are cumulative and in addition to all other rights and remedies that may be conferred upon such obligee of the authority by law or by any agreement with the authority.

**Source: L. 35:** p. 548, § 20. **CSA:** C. 82, § 48. **S.A.R.S. 53:** § 69-3-20. **S.A.R.S. 1963:** § 69-3-
20.

**29-4-221. Limitations on remedies of obligee.** No interest of the authority in any property, real or personal, shall be subject to sale by the foreclosure of a mortgage thereon, either through judicial proceedings or the exercise of a power of sale contained in such mortgage, except in the case of the mortgages provided for in section 29-4-217. All property of the authority is exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the same. No judgment against the authority shall be a charge or lien upon its property, real or personal. The provisions of this section shall not apply to or limit the rights of obligees to foreclose any mortgage of the authority provided for in section 29-4-217, and, in case of a foreclosure sale thereunder, to obtain a judgment or decree for any deficiency due on the indebtedness secured thereby which was issued on the full faith and credit of the authority. Such deficiency judgment or decree shall be a lien and charge upon the property of the authority which may be levied on and sold by virtue of an execution or other judicial process for the purpose of satisfying such deficiency judgment or decree.

**Source: L. 35:** p. 548, § 21. **CSA:** C. 82, § 49. **S.A.R.S. 53:** § 69-3-21. **S.A.R.S. 1963:** § 69-3-
21.

**29-4-222. Sale subject to government agreement.** Notwithstanding anything in this part 2 to the contrary, any purchaser at a sale of real or personal property of the authority pursuant to any foreclosure of a mortgage of the authority shall obtain title subject to any contract between the authority and the government relating to the supervision by the government of the operation and maintenance of such property and the construction of improvements thereon.

**Source: L. 35:** p. 549, § 22. **CSA:** C. 82, § 50. **S.A.R.S. 53:** § 69-3-22. **S.A.R.S. 1963:** § 69-3-
22.

**29-4-223. Contracts with federal government.** (1) In addition to the powers conferred upon the authority by other provisions of this part 2, the authority is empowered:

(a) To borrow money from the federal government to finance the construction of any project which such authority is authorized by this part 2 to undertake;

(b) To take over any land acquired by the federal government for the construction of a project; and

(c) To take over, lease, or manage any project so constructed or owned by the federal government and, to that end, to enter into any such contracts, mortgages, trust indentures, leases, or other agreements as the federal government may require in such connection.

(2) Such contracts, mortgages, trust indentures, leases, or other agreements may provide that the federal government has the right to supervise and approve the construction, maintenance, and operation of such project.

(3) It is the purpose and intent of this part 2 to authorize such authority to accept the cooperation of the federal government in the construction, maintenance, and operation and in the financing of the construction of any project which the authority is empowered by this part 2 to undertake. Such authority has full power to do all things necessary in order to secure such aid, assistance, and cooperation.

**Source: L. 35:** p. 549, § 23. **CSA:** C. 82, § 51. **S.A.R.S. 53:** § 69-3-23. **S.A.R.S. 1963:** § 69-3-
23.

**29-4-224. Wage and labor conditions.** Notwithstanding anything to the contrary contained in the housing authorities law or in any other provision of law, any housing authority is empowered to include in any construction contract let in connection with a housing project, as defined in said housing authorities law, stipulations requiring that the contractor and any subcontractors comply with requirements as to minimum wages and maximum hours of labor and with any conditions or regulations which the federal government has imposed as a condition to its financial aid to said housing project.

**Source: L. 37:** p. 670, § 3. **CSA:** C. 82, § 55(1). **S.A.R.S. 53:** § 69-3-24. **S.A.R.S. 1963:** § 69-
3-24.

**29-4-225. Insurance.** A housing authority, in addition to its other powers, has the power to procure or agree to the procurement of insurance or guarantees from the federal government for the payment of any debts or parts thereof incurred by said authority, including the power to pay premiums on any such insurance.

**Source: L. 37:** p. 670, § 4. **CSA:** C. 82, § 55(2). **S.A.R.S. 53:** § 69-3-25. **S.A.R.S. 1963:** § 69-
3-25.

**29-4-226. Exemption from special assessments.** (1) Except as otherwise provided in subsection (2) of this section, the following are exempt from the payment of any special assessments to the state, any county, city and county, municipality, or other political subdivision of the state:

(a) A housing authority;

(b) The property of a housing authority;

(c) All property leased to a housing authority; and

(d) The portion of a project that is not used as a store, office, or other commercial facility that is occupied by persons of low income and that is owned by or leased to an entity:

(I) That is wholly owned by an authority;

(II) In which an authority has an ownership interest; or

(III) In which an entity wholly owned by an authority has an ownership interest.

(2) The exemptions from the payment of special assessments set forth in subsection (1) of this section do not preclude a housing authority, the owner of property that is leased to or

from a housing authority, or an entity in which an authority has an ownership interest from voluntarily applying to include its eligible real property, as defined in section 32-20-103 (4), into the boundaries of the San Andreas new energy improvement district created in section 32-20-104
(1) and accepting the levying by the district of a special assessment, as defined in section 32-20-103 (14), against the eligible real property.

**Source: L. 37:** p. 671, § 5. **CSA:** C. 82, § 55(3). **S.A.R.S. 53:** § 69-3-26. **S.A.R.S. 1963:** § 69-3-26. **L. 2000:** Entire section amended, p. 883, § 8, effective August 2. **L. 2019:** IP(1) amended and (2) added, (HB 19-1272), ch. 358, p. 3288, § 2, effective August 2.

**29-4-227. Tax exemptions.** (1) (a) Except for the administrative fees collectible in connection with the inclusion of property within the boundaries of the San Andreas new energy improvement district as authorized by section 29-4-226 (2), an authority is exempt from the payment of any taxes or fees to the state or any county, city and county, municipality, or other political subdivision of the state. All property of an authority is exempt from all local and municipal taxes. Bonds, notes, debentures, and other evidences of indebtedness of an authority are declared to be issued for a public purpose and to be public instruments, and, together with interest thereon, are exempt from taxes. All property leased to an authority for the purposes of a project is also exempt from taxation, as is the income derived from the authority by the lessor under the lease.

(b) A project that is owned by, leased to, or under construction by an entity that is wholly owned by an authority, an entity in which an authority has an ownership interest, or an entity in which an entity wholly owned by an authority or of which an authority is the sole member has an ownership interest is exempt from both property tax and, during construction, from the payment of sales tax and use tax to the state or any county, city and county, municipality, or other political subdivision of the state in proportion to the percentage of the project that is for occupancy by persons of low income. The determination by an authority of the percentage of the project that qualifies for the exemptions from payment of property taxes and sales and use taxes may be made on the basis of either the relative square footage or cost and is presumed valid absent manifest error.

(2) This section, as amended, applies to property owned by or leased to an authority and property owned by, leased to, or under construction by an entity in which an authority has an ownership interest, or an entity in which an entity wholly owned by an authority or of which an authority is the sole member has an ownership interest on or after August 2, 2000. Nothing in this section, as amended, entitles or shall be interpreted to entitle any entity to a refund of taxes from the state for any period beginning before January 1, 2013, or to a refund of taxes from any county, city and county, municipality, or other political subdivision of the state paid prior to August 10, 2016. Notwithstanding the provisions of section 39-26-703 (2)(d), S.A.R.S., from August 10, 2016, until December 31, 2016, an entity may file a claim for a refund of all state taxes overpaid under this section for the period from January 1, 2013, to August 10, 2016. On and after January 1, 2017, all claims for refund under this section are subject to the provisions of section 39-26-703 (2)(d), S.A.R.S.

**Source: L. 35:** p. 552, § 28. **CSA:** C. 82, § 56. **S.A.R.S. 53:** § 69-3-27. **S.A.R.S. 1963:** § 69-3-27. **L. 2000:** Entire section amended, p. 883, § 9, effective August 2. **L. 2016:** Entire section

amended, (HB 16-1006), ch. 177, p. 609, § 2, effective August 10. **L. 2019:** (1)(a) amended, (HB 19-1272), ch. 358, p. 3289, § 3, effective August 2.

**Cross references:** For the legislative declaration in HB 16-1006, see section 1 of chapter 177, Session Laws of San Andreas 2016.

**29-4-228. Reports.** The authority shall, at least once a year, file with the mayor of the city a report of its activities for the preceding year and shall make any recommendations with reference to any additional legislation or other action that may be necessary in order to carry out the purposes of this part 2.

**Source: L. 35:** p. 552, § 29. **CSA:** C. 82, § 57. **S.A.R.S. 53:** § 69-3-28. **S.A.R.S. 1963:** § 69-3-
28.

**29-4-229. Low rentals.** It is the purpose and intent of this part 2 to authorize and impose a duty on the authority to provide safe and sanitary dwelling accommodations at such rentals that persons of low income can afford to live in such dwelling accommodations. To this end, the authority from time to time shall reduce its rents and other charges for such dwelling accommodations to the extent that it deems such action expedient; but the authority shall not reduce its rents or other charges if such action is in violation of any contract between the authority and an obligee or would result in an insufficiency of revenues from the project to meet the costs of the operation and maintenance thereof, to meet all obligations of the authority as same mature, and to create reasonable reserves for such contingencies as the authority determines.

**Source: L. 35:** p. 552, § 30. **CSA:** C. 82, § 58. **S.A.R.S. 53:** § 69-3-29. **S.A.R.S. 1963:** § 69-3-
29.

**29-4-230. Previous housing authorities validated.** The creation and organization of housing authorities pursuant to this part 2 together with all proceedings, acts, and things undertaken, performed, or done prior to May 17, 1939, with reference thereto are validated, ratified, confirmed, approved, and declared legal in all respects, notwithstanding any want of statutory authority or any defect or irregularity therein.

**Source: L. 39:** p. 417, § 1. **CSA:** C. 82, § 59. **S.A.R.S. 53:** § 69-3-30. **S.A.R.S. 1963:** § 69-3-
30.

**29-4-231. Contracts and undertakings validated.** All contracts, agreements, obligations, and undertakings of such housing authorities entered into prior to May 17, 1939, relating to financing or aiding in the development, construction, maintenance, or operation of any housing project, or to obtaining aid therefor from the United States housing authority including, without limiting the generality of the foregoing, loan and annual contributions contracts with the United States housing authority, agreements with municipalities or other

public bodies, including those which are pledged or authorized to be pledged for the protection of the holders of any notes or bonds issued by such housing authorities or which are otherwise

made a part of the contract with such holders of notes or bonds relating to cooperation and contributions in aid of housing projects, payments, if any, in lieu of taxes, furnishing of municipal services and facilities, and the elimination of unsafe and unsanitary dwellings, and contracts for the construction of housing projects, together with all proceedings, acts, and things undertaken, performed, or done prior to May 17, 1939, with reference thereto, are validated, ratified, confirmed, approved, and declared legal in all respects, notwithstanding any want of statutory authority or any defect or irregularity therein.

**Source: L. 39:** p. 417, § 2. **CSA:** C. 82, § 60. **S.A.R.S. 53:** § 69-3-31. **S.A.R.S. 1963:** § 69-3-
31.

**29-4-232. Notes and bonds validated.** All proceedings, acts, and things undertaken, performed, or done prior to May 17, 1939, in or for the authorization, issuance, execution, and delivery of notes and bonds by housing authorities for the purpose of financing or aiding in the development or construction of a housing project and all notes and bonds issued by housing authorities prior to May 17, 1939, are validated, ratified, confirmed, approved, and declared legal in all respects, notwithstanding any want of statutory authority or any defect or irregularity therein.

**Source: L. 39:** p. 418, § 3. **CSA:** C. 82, § 61. **S.A.R.S. 53:** § 69-3-32. **S.A.R.S. 1963:** § 69-3-
32.

## PART 3

## REHABILITATION ACT OF 1945

**Law reviews:** For article, "Forever is an Awfully Long Time: Affordable Housing Covenants in San Andreas (Part II)", see 48 S.A. Law. 44 (Aug.-Sept. 2019).

**29-4-301. Short title.** This part 3 shall be known and may be cited as the "Rehabilitation Act of 1945".

**Source: L. 45:** p. 617, § 2. **CSA:** C. 82, § 63. **S.A.R.S. 53:** § 69-4-2. **S.A.R.S. 1963:** § 69-4-2.

**29-4-302. Legislative declaration.** It is determined and declared that there exist within the state of San Andreas substandard and unsanitary areas, occasioned by inadequate planning, excessive land coverage, lack of proper light, air, and open space, defective design and arrangement of buildings, lack of proper sanitary facilities, and the existence of buildings, which, by reason of age, obsolescence, or physical deterioration, have become economic and social liabilities; that such conditions are conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, and crime; and that such conditions impair the economic value of wide areas, infecting them with economic blight which results in inability to pay reasonable taxes. It is hereby declared that the remedying of such conditions is in the public interest, and

this part 3 is enacted to provide means whereby said areas may be redeveloped by private

enterprise with such assistance from public funds as may be furnished in accordance with the provisions of this part 3.

**Source: L. 45:** p. 617, § 1. **CSA:** C. 82, § 62. **S.A.R.S. 53:** § 69-4-1. **S.A.R.S. 1963:** § 69-4-1.

**29-4-303. Definitions.** As used in this part 3, unless the context otherwise requires:

(1) "Area" means that portion of a municipality for which a plan of rehabilitation is adopted by the city council of a municipality as set out in this part 3.

(2) "Authority" means the agency created by ordinance of the city council of a municipality to carry out the development plan adopted for the area.

(3) "City attorney" means the official designated by the general laws of San Andreas or by the charter of a municipality to be responsible for the handling of its legal affairs.

(4) "City auditor" means the official of a municipality who has charge of auditing the financial affairs of a municipality.

(5) "City council" means the city council of a city or the board of trustees of an incorporated town or the legislative body of a municipality, by whatever name said legislative body is designated by statute or by city charter.

(6) "City treasurer" means the official who is the custodian of the funds of a municipality.

(7) "Development plan" means the plan adopted by the city council of a municipality for the development of an area.

(8) "Mortgage" means any mortgage, deed of trust, pledge, or other instrument in writing by which any property, the proceeds thereof, or the income therefrom is made security for the repayment of any advance or loan of money as set out in this part 3.

(9) "Municipality" means any incorporated town or city of the state of San Andreas whether organized under general laws or under special charter.

(10) "Planning commission" means the board or commission of the municipality whose duty it is under the statutes, charter, or ordinances to make plans for the growth and development of the municipality or to advise the executive officers of the municipality in the matter of planning.

(11) "Public grounds" of an area means those portions of the area set aside, as provided in this part 3, for streets, alleys, parks, playgrounds, and other public uses.

(12) "Reconstruction agency" means any corporation, copartnership, or person contracting to carry out in whole or in part the rebuilding under a development plan for an area.

**Source: L. 45:** p. 618, § 3. **CSA:** C. 82, § 64. **S.A.R.S. 53:** § 69-4-3. **S.A.R.S. 1963:** § 69-4-3.

**29-4-304. Preparation of development plan.** (1) The planning commission of a municipality either on its own initiative or at the request of the city council of a municipality may prepare a suggested plan for the rehabilitation of any substandard or unsanitary area as defined in section 29-4-302.

(2) The preparation of the suggested plan shall include but shall not be limited to:

(a) Making a survey of the locality under consideration to determine its needs;

(b) Making a preliminary determination of the lands to be included in the proposed area;

(c) Making a suggested plan for the development of the proposed area;

(d) Preparing estimates of the cost of the acquisition of the land in the proposed area, of demolishing the structures thereon, and of doing the necessary improvement of the public grounds to be included therein;

(e) Making the necessary plans for the financing of the proposed enterprise, including contacting and negotiating with agencies which might be interested in the financing thereof; and

(f) The preparation of a report to the city council of the municipality on the proposed area.

**Source: L. 45:** p. 619, § 4. **CSA:** C. 82, § 65. **S.A.R.S. 53:** § 69-4-4. **S.A.R.S. 1963:** § 69-4-4.

**29-4-305. Assistance in preparation of plan.** In the preparation of a suggested development plan for a proposed area, the planning commission is authorized to accept assistance from governmental and private agencies but has no power to provide for the repayment of such assistance unless expressly authorized to do so by ordinance of the city council of the municipality.

**Source: L. 45:** p. 619, § 5. **CSA:** C. 82, § 66. **S.A.R.S. 53:** § 69-4-5. **S.A.R.S. 1963:** § 69-4-5.

**29-4-306. Action on setting up of authority.** (1) When the planning commission has completed its report on a suggested development plan for a proposed area and has presented the same to the city council of a municipality, such city council, if it deems the suggested plan desirable in whole or in part, by ordinance, may proceed to take the following steps, but the enumeration of such steps shall not be exclusive and shall not prevent the city council from taking the following steps:

(a) Define the area by adopting in whole or in part or modifying the area outlined in the suggested plan;

(b) Adopt the suggested plan, with such modifications as the city council determines, and make it the development plan for the area;

(c) Set up an authority for the area and provide for the number of persons who shall constitute the authority and for the method of appointment and term thereof, including the filling of vacancies. The members of the authority may be either regular officials of the municipality or private persons; and in the case of private persons, the city council shall fix the compensation, if any, they are to receive.

(d) Give the authority a name which shall include the words "rehabilitation authority" with some other word or words descriptive of the area (that is, each authority shall be designated the "..... Rehabilitation Authority"), filling in the blank space by the appropriate designation.

(2) Any such authority has the power, in the name of the municipality, to institute and defend all litigation affecting its powers and duties or in relation to the area and the property and rights connected therewith or incidental thereto and also has and may exercise the power of eminent domain on behalf of the municipality in the acquisition of real property in the area.

**Source: L. 45:** p. 619, § 6. **CSA:** C. 82, § 67. **S.A.R.S. 53:** § 69-4-6. **S.A.R.S. 1963:** § 69-4-6.

**29-4-307. Additional powers of authority.** (1) In addition to the powers contained in section 29-4-306, the city council of a municipality may, by ordinance, give the authority of an area any or all of the additional powers set out in this section; and the enumeration of the following powers shall not be taken as a denial of the right of the city council to give the authority such other powers as the city council may determine to be expedient in order to enable the authority to carry out the purposes set out in section 29-4-302 and outlined in the development plan for the area:

(a) The power to acquire, in the name of the municipality, the land in the area by purchase, gift, condemnation, or otherwise;

(b) The power to designate and set aside such part or parts of the area as may be necessary or desirable for public grounds;

(c) The power to vacate existing plats of the area or parts thereof and to replat the same and, with the aid of the proper municipal officials, to lay out, open, change, and establish streets, alleys, parks, playgrounds, or other public grounds;

(d) The power to remove or cause to be removed some or all of the existing structures in the area so as to permit reconstruction and the power to construct or arrange for the construction of public improvements on the public grounds of the area;

(e) The power to secure the necessary funds for the acquisition of the land in the area, the demolition of the existing structures, and the improvement of the public grounds; and for these purposes to borrow money, receive grants, and obtain financial assistance by such other means or methods as may be provided in the development plan for the area;

(f) The power to issue bonds or debentures in payment of moneys borrowed. Such bonds or debentures may be issued either with or without general municipal liability, but general liability bonds may only be issued after being authorized in the manner provided by the general laws of San Andreas or by the charter of the municipality. A mortgage may be given on the property in an area, except the public grounds, and the proceeds thereof and the rents therefrom to secure the debentures.

(g) The power and the duty promptly to sell or give long-term leases on all or any part of the property in the area except the public grounds to a reconstruction agency, with the obligation upon the reconstruction agency to improve the property in accordance with the development plan of the area. All deeds or leases shall be executed in the name of the municipality, at the request of the authority, by the officers of the authority, unless some other method of execution is prescribed by the general laws of San Andreas or by the charter of the municipality. The authorities shall not have power to construct improvements upon the said property other than public grounds and public buildings thereon, if any.

(h) The power to make such contracts, in the name of the municipality, as may be incidental to the execution of the other powers conferred upon the authority;

(i) The power to initiate and prosecute proceedings, under the general laws of San Andreas or under the charter of the municipality, for the assessment of part of the cost of the land in the area to other property specially benefited by the rehabilitation of the area; and

(j) The power to deposit moneys of the authority not then needed in the conduct of its affairs in any depository authorized in section 24-75-603, S.A.R.S. For the purpose of making such deposits, the authority may appoint, by written resolution, one or more persons to act as custodians of the moneys of the authority. Such persons shall give surety bonds in such amounts and form and for such purposes as the authority requires.

**Source: L. 45:** p. 620, § 7. **CSA:** C. 82, 68. **S.A.R.S. 53:** § 69-4-7. **S.A.R.S. 1963:** § 69-4-7. **L.**
**79:** (1)(j) added, p. 1618, § 16, effective June 8.

**29-4-308. Organization of authority.** (1) The authority of an area shall proceed to organize for the performance of the duties for which it is created, and such organization shall include, but shall not be limited to, the following unless otherwise provided by the ordinance creating the authority:

(a) The adoption of bylaws which shall provide that a majority of the members of the authority constitutes a quorum for the transaction of business;

(b) The election from the members of the authority of a president and vice-president and the appointment of a secretary and, if desirable, an assistant secretary. Neither of the latter need be members of the authority.

(c) The adoption of a seal for the authority.

(2) The city treasurer of the municipality shall be the treasurer of the authority. If the municipality has a city auditor, he shall be the auditor of the authority. Otherwise, the authority may appoint an auditor. The city attorney shall be the attorney for the authority. If the additional work cast upon the city treasurer, city auditor, or city attorney by reason of the affairs of the authority shall be so heavy as to require the employment of additional persons by any of said city officials, the expense of the employment of such additional persons shall be borne by the authority.

**Source: L. 45:** p. 622, § 8. **CSA:** C. 82, § 69. **S.A.R.S. 53:** § 69-4-8. **S.A.R.S. 1963:** § 69-4-8.

**29-4-309. Condemnation for a superior use.** The purpose of condemnation for the rehabilitation of an area under this part 3 is declared to be for a superior public use, and property already devoted to one public use may be condemned for the purposes of this part 3.

**Source: L. 45:** p. 622, § 9. **CSA:** C. 82, § 70. **S.A.R.S. 53:** § 69-4-9. **S.A.R.S. 1963:** § 69-4-9.

**29-4-310. Area not wholly in one municipality.** If a substandard or unsanitary area, as described in section 29-4-302, extends into two or more municipalities, such municipalities, by contract between the municipalities, may provide for the redevelopment of the area and for the part of the work to be done by each of the municipalities.

**Source: L. 45:** p. 622, § 10. **CSA:** C. 82, § 71. **S.A.R.S. 53:** § 69-4-10. **S.A.R.S. 1963:** § 69-4-
10.

**29-4-311. Termination of an authority.** The city council, by ordinance, may terminate an authority and provide for its remaining duties to be taken over by some other agency of the municipality.

**Source: L. 45:** p. 623, § 11. **CSA:** C. 82, § 72. **S.A.R.S. 53:** § 69-4-11. **S.A.R.S. 1963:** § 69-

4-
11.

**29-4-312. Appropriations by municipality.** The rehabilitation of a substandard or unsanitary area, as defined in section 29-4-302, may be aided by appropriations to be made from time to time by the city council of a municipality from the general revenues of the municipality.

**Source: L. 45:** p. 623, § 12. **CSA:** C. 82, § 73. **S.A.R.S. 53:** § 69-4-12. **S.A.R.S. 1963:** § 69-4-
12.

**29-4-313. Taxation.** Every development plan for an area shall provide that the purchaser of any of the property of the area shall pay taxes thereon as upon any other property and shall also provide that the lessee of any part of the area shall pay taxes on the improvements erected by the lessee on the leased land, and such development plan shall include a requirement that the lessee, in addition, shall pay to the county treasurer annually a sum equal to what would have been the taxes on the land in case of an outright purchase thereof.

**Source: L. 45:** p. 623, § 13. **CSA:** C. 82, § 74. **S.A.R.S. 53:** § 69-4-13. **S.A.R.S. 1963:** § 69-4-
13.

**29-4-314. Supervision of reconstruction agency.** It is the duty of the authority to keep informed as to the performance by any reconstruction agency of its obligations in the rehabilitation work, and the authority, in the name of and on behalf of the municipality, shall take any legal or other steps deemed by it advisable in case the reconstruction agency fails in the performance of its obligations.

**Source: L. 45:** p. 623, § 14. **CSA:** C. 82, § 75. **S.A.R.S. 53:** § 69-4-14. **S.A.R.S. 1963:** § 69-4-
14.

## PART 4

## VETERANS' HOUSING

**29-4-401. Existing statutes no bar to creation of housing authority.** Nothing in any existing statute of the state of San Andreas shall prevent cities and towns, however organized, from creating veterans' housing authorities by ordinance.

**Source: L. 47:** p. 882, § 1. **CSA:** C. 82, § 76. **S.A.R.S. 53:** § 69-5-1. **S.A.R.S. 1963:** § 69-5-1.

**29-4-402. Cities and towns empowered to create housing authorities.** All cities and towns, however organized, by ordinance may create veterans' housing authorities and provide their duties and powers and give preferences to veterans as to all housing constructed, purchased, or leased by or under the direction of such veterans' housing authorities.

**Source: L. 47:** p. 882, § 2. **CSA:** C. 82, § 77. **S.A.R.S. 53:** § 69-5-2. **S.A.R.S. 1963:** § 69-5-

2.

**L. 2003:** Entire section amended, p. 914, § 20, effective August 6.

**29-4-403. Veterans of world war II defined. (Repealed)**

**Source: L. 47:** p. 882, § 3. **CSA:** C. 82, § 78. **S.A.R.S. 53:** § 69-5-3. **S.A.R.S. 1963:** § 69-5-3.

**L. 2003:** Entire section repealed, p. 914, § 21, effective August 6.

## PART 5

## COUNTY HOUSING AUTHORITY

**29-4-501. Legislative declaration.** (1) It is hereby declared:

(a) That there exists a housing shortage for agricultural workers, their families, and other families of low income in the state of San Andreas with the result that many agricultural and other low income workers and their families are unable to find decent, safe, and sanitary housing;

(b) That such condition constitutes a menace to the health, safety, and welfare of the citizens of this state; and

(c) That it is in the public interest to authorize the organization of county housing authorities to provide housing facilities for agricultural and other low income workers and their families.

(2) The necessity in the public interest for the provisions enacted in this part 5 is declared a matter of legislative determination.

**Source: L. 51:** p. 444, § 1. **CSA:** C. 82, § 79. **S.A.R.S. 53:** § 69-6-1. **L. 61:** p. 422, § 1. **S.A.R.S. 1963:** § 69-6-1.

**29-4-502. Definitions.** As used in this part 5, unless the context otherwise requires:

(1) "Authority" or "housing authority" means any of the county housing authorities created by this part 5.

(2) "Board" means the board of county commissioners of any county.

(3) "County" means any county within the state of San Andreas.

(4) "Federal government" means the United States, the federal emergency administrator of public works, or any other agency or instrumentality, corporate or otherwise, of the United States.

(5) "Project" means all real and personal property, buildings and improvements, stores, offices, lands for farming and gardening, commercial facilities, and community facilities acquired or constructed or to be acquired or constructed pursuant to a single plan or undertaking, to demolish, clear, remove, alter, or repair unsanitary or unsafe housing or to provide dwelling accommodations on financial terms within the means of persons of low income. The term "project" also applies to the planning of the buildings and improvements, the acquisition of property, the demolition of existing structures, the construction, reconstruction, alteration, and repair of the improvements, and all other work in connection therewith. The term "project" also applies to the provision of dwelling accommodations to persons, without regard to income, as long as the project substantially benefits persons of low income as determined by an authority.

(6) "State" means the state of San Andreas.

**Source: L. 51:** p. 444, § 2. **CSA:** C. 82, § 80. **S.A.R.S. 53:** § 69-6-2. **L. 61:** p. 422, § 2. **S.A.R.S. 1963:** § 69-6-2. **L. 2002:** (4) and (5) amended, p. 1937, § 2, effective June 7.

**29-4-503. Creation of housing authority.** (1) Any twenty-five residents of the county may file a petition with the clerk of the board of county commissioners setting forth that there is a need for an authority to function in the county. Upon the filing of such petition, the clerk of the board shall give notice of the time, place, and purpose of a public hearing at which the board will determine the need for such an authority in the county. Such notice shall be given at the county's expense by publishing a notice at least ten days preceding the day on which the hearing is to be held in a newspaper having a general circulation in the county or, if there is no newspaper, by posting such notice in at least three public places within the county at least ten days preceding the day on which the hearing is to be held.

(2) Upon the date fixed for said hearing, held upon notice as provided in this section, a full opportunity to be heard shall be granted to all residents and taxpayers of the county and to all other interested persons. After such a hearing, the board shall determine whether there is a shortage of decent, safe, and sanitary dwelling accommodations in the county available to persons engaged in agricultural work, their families, and other low income families. If the board determines that such condition of shortage exists, the board shall adopt a resolution so finding and shall cause notice of such determination to be given to the chairman of the board, who shall thereupon appoint commissioners, as provided in either subsection (2) or (3) of section 29-4-504, to act as an authority. A certificate signed by such commissioners so appointed by the chairman of the board shall then be filed with the division of local government in the department of local affairs, and there remain of record, setting forth that a notice has been given and a public hearing has been held as aforesaid; that the board made a determination of such shortage after such hearing; and that the chairman of the board has appointed them as commissioners to act as an authority. Upon the filing of such certificate with said division, the commissioners and their successors shall constitute a housing authority, which shall be a body corporate and politic.

(3) If the board, after a hearing, determines that there is not a shortage of decent, safe, and sanitary dwelling accommodations in the county available to persons engaged in agricultural work, to their families, and to other families of low income, it shall adopt a resolution denying the petition. After three months have expired from the denial of the petition, subsequent petitions may be filed and new hearings and determinations made thereon.

(4) In any suit, action, or proceeding involving the validity or enforcement of any contract, mortgage, trust indenture, or other agreement of the authority or involving any action taken by the authority, the authority shall be conclusively deemed to have been established in accordance with the provisions of this part 5 upon proof of the filing of the aforesaid certificate. A copy of such certificate, duly certified by the director of the division of local government, shall be admissible in evidence in any such suit, action, or proceeding and shall be conclusive proof of the filing and the contents thereof.

(5) If the board of county commissioners denies any petition filed for the creation of a housing authority in accordance with the provisions of subsection (3) of this section and the residents of such county determine that there is in fact a shortage of decent, safe, and sanitary dwelling accommodations in the county, a petition may be filed with the board requesting that the question of the approval or disapproval of creating a housing authority be submitted to a vote of the qualified electors of such county. If the petition, which may consist of one or more separate copies, contains the signatures and residence addresses of qualified electors of such county equal in number to not less than five percent of the votes cast for governor or for president and vice president of the United States at the last preceding general election held

within such county, the board shall cause the question of the creation of a housing authority to be submitted at the next general election. All registered electors within the county shall be eligible to vote on the question, which shall be conducted, insofar as possible, in accordance with the provisions of sections 29-4-604 to 29-4-607; except that the question to be voted on shall be the creation of a housing authority, and the provisions of the "Uniform Election Code of 1992" shall apply.

**Source: L. 51:** p. 445, § 3. **CSA:** C. 82, § 81. **S.A.R.S. 53:** § 69-6-3. **L. 61:** p. 423, § 3. **S.A.R.S. 1963:** § 69-6-3. **L. 65:** p. 728, § 3. **L. 73:** p. 800, § 2. **L. 76:** (2) and (4) amended, p. 597, § 10, effective July 1. **L. 80:** (5) amended, p. 410, § 16, effective January 1, 1981. **L. 92:** (5) amended, p. 873, § 100, effective January 1, 1993.

**Cross references:** For the "Uniform Election Code of 1992", see articles 1 to 13 of title 1.

**29-4-504. Appointment of commissioners.** (1) The authority shall consist of commissioners appointed by the board in the manner provided in either subsection (2) or (3) of this section.

(2) The board may provide that the members of the board shall ex officio be appointed the commissioners of the authority. The terms of office of such commissioners shall be coterminous with their terms of office on the board. The chairman of the board shall ex officio be chairman of the commissioners, and the commissioners shall select from their members a vice-chairman.

(3) (a) The board may provide that an authority shall consist of no more than eleven commissioners appointed by the chairman of the board, who shall designate the first chairman. Not more than one of such commissioners may be a county official. In the event that a county official is appointed as a commissioner of an authority, acceptance or retention of such appointment shall not be deemed a forfeiture of his or her office, or incompatible therewith, or affect his or her tenure or compensation in any way. The term of office of a commissioner of an authority who is a county official shall not be affected or curtailed by the expiration of the term of his or her county office.

(b) The commissioners who are appointed under the provisions of this subsection (3) shall be designated by the chairman of the board to serve for terms that are staggered from the date of their appointment such that, to the extent possible, the terms of an equal number of commissioners end each year. Thereafter, the term of office shall be five years. A commissioner shall hold office until his or her successor has been appointed and has qualified. Vacancies other than by reason of expiration of terms shall be filled for the unexpired term. A majority of the commissioners shall constitute a quorum. The chairman of the board shall file with the county clerk and recorder a certificate of the appointment or reappointment of any commissioner, and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner. The authority shall select from its members a vice-chairman and a chairman when the office of the first chairman becomes vacant.

(3.5) Notwithstanding any other provision to the contrary, commencing on and after August 2, 2000, as new appointments are made to authorities pursuant to subsection (3) of this section, such appointments shall be made so that not less than one commissioner of each

authority shall be an individual who is directly assisted by the authority and who may, if provided in a plan of the authority, be elected by individuals directly assisted by the authority. This subsection (3.5) shall not apply to any authority with fewer than three hundred public housing units if the authority provides reasonable notice to the resident advisory board of the opportunity for not less than one individual to serve as a commissioner of the authority as provided in this subsection (3.5) and, within a reasonable time after receipt by such board of the notice, the authority is not notified of the intention of any such individual to serve as a commissioner.

(4) A commissioner shall receive no compensation for his services, but shall be reimbursed for actual and necessary expenses incurred in the performance of his official duties.

(5) An authority may employ a secretary who shall be executive director, technical experts, and such other officers, agents, and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties, and compensation. An authority may call upon the corporation counsel or county attorney for such legal services as it may require, or it may employ its own counsel and legal staff. An authority may delegate to one or more of its agents or employees such powers or duties as it may deem proper.

(6) The board may, by resolution, change the method of appointment of commissioners after a proper notice and hearing, and set a date for the changed method to become effective.

(7) No commissioner or employee of an authority shall acquire any interest, direct or indirect, in any project or in any property included or planned to be in any project, nor shall he have any interest, direct or indirect, in any contract or proposed contract for materials or services to be furnished or used in connection with any project. If any commissioner or employee of an authority owns or controls an interest, direct or indirect, in any property included or planned to be included in any project, he shall immediately disclose the same in writing to the authority, and such disclosure shall be entered upon the minutes of the authority. Failure to so disclose such interest shall constitute misconduct in office. Upon disclosure such commissioner or employee shall not be allowed to participate in any action by the authority for acquisition of such property or making such contract.

(8) For inefficiency or neglect of duty or misconduct in office, a commissioner of an authority may be removed by the board, but only after a hearing and after he has been given a copy of the charges at least ten days prior to such hearing and an opportunity to be heard in person or by counsel. In the event of the removal of any commissioner, a record of the proceedings together with the charges and findings thereon shall be filed in the office of the clerk of the board.

(9) The terms of office of present commissioners of authorities created under this section shall expire July 1, 1973. Prior to such date, the board shall appoint new commissioners, as provided in subsections (2) and (3) of this section, such appointments to be effective July 1, 1973.

**Source: L. 51:** p. 447, § 4. **CSA:** C. 82, § 82. **S.A.R.S. 53:** § 69-6-4. **L. 61:** p. 425, § 4. **S.A.R.S. 1963:** § 69-6-4. **L. 73:** p. 801, § 3. **L. 95:** (5) amended, p. 1105, § 44, effective May 31.
**L. 99:** (3) amended, p. 130, § 4, effective March 24. **L. 2000:** (3.5) added, p. 881, § 5, effective August 2.

**29-4-505. Powers of authority.** (1) A housing authority shall constitute a public body, corporate and politic, exercise public and essential governmental functions, and have all the powers necessary and convenient to carry out and effectuate the purposes and provisions of this part 5 (but not the power to levy and collect taxes or special assessments), including the following powers:

(a) To sue and be sued;

(b) To have a seal and to alter the same at pleasure;

(c) To have perpetual succession;

(d) To make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the authority;

(e) To make and from time to time amend and repeal bylaws, rules, and regulations not inconsistent with this part 5 to carry into effect the powers and purposes of the authority;

(f) To exercise any of the public powers granted to city housing authorities under part 2 of this article;

(g) To do all acts and things necessary or convenient to carry out the powers given in this part 5 or the purposes hereof.

**Source: L. 51:** p. 448, § 5. **CSA:** C. 82, § 83. **S.A.R.S. 53:** § 69-6-5. **L. 61:** p. 426, § 5. **S.A.R.S. 1963:** § 69-6-5.

**29-4-506. Policy of authority.** (1) It is declared to be the policy of this state that each authority shall manage and operate its projects in an efficient manner so as to enable it to fix the rentals or payments for dwelling accommodations at low rates consistent with providing adequate dwelling accommodations for persons of low income.

(2) To this end the authority shall fix the rentals or payments for dwellings in its projects at no higher rates than it finds to be necessary in order to produce revenues which, together with all other available moneys, revenues, income, and receipts of the authority from whatever sources derived including federal financial assistance necessary to maintain the low rent character of the projects, will be sufficient to cover:

(a) Reasonable and proper costs of management, operation, maintenance, and improvement of the projects;

(b) Payments in lieu of taxes as it determines are consistent with the maintenance of the low rent character of projects;

(c) The establishment of reasonable and proper reserves; and

(d) The payment of currently maturing installments of principal and interest on any indebtedness incurred in connection with the project by the authority.

(3) Rentals or payments for dwellings shall be established and the projects administered, insofar as possible, so as to assure that any federal financial assistance required shall be strictly limited to amounts and periods necessary to maintain the low rent character of the projects. In the operation or management of a project, the authority may enter into any agreement with the federal government respecting tenant eligibility.

**Source: L. 51:** p. 449, § 6. **CSA:** C. 82, § 84. **S.A.R.S. 53:** § 69-6-6. **L. 61:** p. 427, § 6. **S.A.R.S. 1963:** § 69-6-6.

**29-4-507. Exemption from special assessments - tax exemptions.** The authority and the property of the authority is exempt from all taxes and special assessments on the same basis and subject to the same conditions as provided for city housing authorities in sections 29-4-226 and 29-4-227. Like a city housing authority, an authority may voluntarily apply to include eligible real property, as defined in section 32-20-103 (4), in which it has an interest as described in section 29-4-226 (2) into the boundaries of the San Andreas new energy improvement district created in section 32-20-104 (1) and may accept the levying by the district of a special assessment, as defined in section 32-20-103 (14), against the eligible real property. In lieu of taxes on its property, the authority may agree to make such annual payments to the taxing bodies in which the projects are situated as it finds consistent with the maintenance of the low rent character of the projects or the achievement of the purposes of this part 5.

**Source: L. 51:** p. 449, § 7. **CSA:** C. 82, § 85. **S.A.R.S. 53:** § 69-6-7. **L. 61:** p. 428, § 7. **S.A.R.S. 1963:** § 69-6-7. **L. 2002:** Entire section amended, p. 1938, § 3, effective June 7. **L. 2019:** Entire section amended, (HB 19-1272), ch. 358, p. 3289, § 4, effective August 2.

**29-4-508. Boundaries of authority.** The boundaries of such authority shall be the boundaries of the county, but in no event shall they include the whole or a part of any city unless the governing body of said city passes a resolution authorizing the inclusion of said city within the boundaries of such authority nor may it include any area within the county which at the time of the organization of such housing authority was included within the boundaries of a housing authority previously established under part 2 of this article; but nothing in this section shall be deemed to prevent the organization of a housing authority subsequently established by any such city embracing any area within the county exclusive of the area of any project owned or operated by an authority organized under this part 5.

**Source: L. 51:** p. 449, § 8. **CSA:** C. 82, § 86. **S.A.R.S. 53:** § 69-6-8. **L. 61:** p. 428, § 8. **S.A.R.S. 1963:** § 69-6-8.

**29-4-509. Conformity with building laws.** All projects of an authority shall be subject to the planning, zoning, sanitary, and building laws, ordinances, and regulations applicable to the locality in which the project is situated.

**Source: L. 51:** p. 450, § 9. **CSA:** C. 82, § 87. **S.A.R.S. 53:** § 69-6-9. **L. 61:** p. 429, § 9. **S.A.R.S. 1963:** § 69-6-9.

**Cross references:** For county planning and building codes, see article 28 of title 30; for municipal zoning restrictions, see part 3 of article 23 of title 31.

## PART 6

## PUBLIC HOUSING - ELECTION

**29-4-601. Applicability of part 6.** For the purposes of this part 6, there shall be excluded from the term "project" or "housing project" any such project where there is in

existence on or after October 1, 1963, a contract for financial assistance between any city, city and county, authority, housing authority, or county housing authority, and the federal government in respect to such project. Notwithstanding any other provisions of this part 6, no vote of the registered electors shall be required in order to make expenditures for preliminary surveys and planning of projects or housing projects, or in order to authorize the reconstruction, replacement, restoration, or remodeling of any project or housing project, or part thereof, which has deteriorated or become damaged or destroyed, from any cause, nor shall such vote be required in order to authorize the acquisition of land for or the construction or erection of such service building, structures, or facilities as may be necessary or convenient for the efficient and proper operation or management of any authorized project or housing project.

**Source: L. 63:** p. 553, § 1. **S.A.R.S. 1963:** § 69-8-1. **L. 87:** Entire section amended, p. 323, § 69, effective July 1.

**29-4-602. Posting and publication of notice - petition.** (1) A city, city and county, authority, housing authority, or county housing authority shall not, on or after October 1, 1963, commence the construction of or acquire by purchase, lease, or otherwise any project, housing project, or addition to an existing project or housing project, unless it first posts notice of such proposed action, specifying the exact nature of the project to be undertaken, in the office of the city clerk of any city or of the county clerk and recorder of any county within which such project is proposed to be located and publishes a copy of such notice once each week for three successive weeks in some daily or weekly newspaper having a general circulation within the area of the city, city and county, authority, housing authority, or county housing authority within which the project is proposed to be located. If, within thirty days after the posting and the completion of the publication of such notice, a petition, as described in subsection (2) of this section, is filed with the governing body of the city, city and county, authority, housing authority, or county housing authority proposing such action requesting that the question of the approval or disapproval of the project be first submitted to a vote of the registered electors, such city, city and county, authority, housing authority, or county housing authority shall not commence the construction of or acquire such project or housing project until a majority of the votes cast by the registered electors of such city, city and county, authority, housing authority, or county housing authority has been cast in favor of such act at an election called for such purpose pursuant to the provisions of this part 6. If no such petition is filed within said thirty-day period, the authority may proceed with such project.

(2) The petition, one or more copies of which may be submitted and treated as one petition, shall be addressed by name to the city, city and county, authority, housing authority, or county housing authority proposing such action and shall contain: The identification of the project or action proposed as specified in the notice provided in subsection (1) of this section; a request that the question of the approval or disapproval of such proposed project be submitted to the registered electors of the city, city and county, authority, housing authority, or county housing authority proposing such action; and the signatures and residence addresses of registered electors of such city, city and county, authority, housing authority, or county housing authority equal in number to not less than five percent of the votes cast for governor or for president of the United States at the last preceding general election held within such city, city and county, authority, housing authority, or county housing authority; except that, in cities, cities and

counties, authorities, housing authorities, and county housing authorities having a population of more than three hundred thousand persons as determined by the last preceding federal census, only the signatures of registered electors equal in number to three percent of the votes cast at the last preceding general election for governor or president held within such city, city and county, authority, housing authority, or county housing authority shall be required on said petition in order to require an election as provided in this section.

**Source: L. 63:** p. 554, § 1. **S.A.R.S. 1963:** § 69-8-2. **L. 65:** p. 729, § 4. **L. 87:** Entire section amended, p. 324, § 70, effective July 1.

**29-4-603. Cooperative agreement - costs of election.** When, pursuant to the provisions of this part 6, an election is required in order to authorize an authority or housing authority to construct or acquire a project or housing project, the cooperation agreement between such authority or housing authority and the governing body of the city, city and county, or county from which such cooperation agreement must be obtained shall make provision for the payment of the costs of such election and all cities as defined in article 55 of title 24, S.A.R.S., and parts 1 and 2 of this article, and cities and counties and counties as defined in part 5 of this article shall have the power to assume and pay for the costs of such election or to lend or donate sufficient money to an authority or housing authority for such purpose.

**Source: L. 63:** p. 555, § 1. **S.A.R.S. 1963:** § 69-8-3.

**29-4-604. Election - resolution.** (1) When, pursuant to the provisions of this part 6, an election of the registered electors of a city, city and county, authority, housing authority, or county housing authority is required in order to authorize any proposed act, said election may be held either concurrently with any general election held under the laws of the state of San Andreas throughout the area of the city, city and county, authority, housing authority, or county housing authority calling the election or at a special election called for such purpose. The council, board of commissioners, or other governing body of the city, city and county, authority, housing authority, or county housing authority shall call such election by resolution, which resolution shall:

(a) Specify the objects and purposes of the election, including specifically the particular act which is proposed and which requires the approval of the registered electors;

(b) Specify the day and hours of such election, which day and hours may be the same as those of any concurrent general election;

(c) Provide for the appointment and compensation of judges of election, and if the election is to be held concurrently with a general election, the resolution shall recite that the judges of the concurrent general election shall serve as the judges for the election held in accordance with this part 6 and provide for the additional compensation, if any, which such persons are to receive as judges of the election held in accordance with this part 6;

(d) Designate the precincts and polling places for such election. All precincts and polling places for a concurrent general election which are located within the boundaries of the city, city and county, authority, housing authority, or county housing authority calling the election under this part 6 shall likewise be designated as the precincts and polling places of the election under this part 6. In the event that a portion of any precinct for the concurrent general election extends

beyond the boundaries of the city, city and county, authority, housing authority, or county housing authority calling the election under this part 6, and in the event that the polling place for such precinct is beyond such boundaries, such polling place may nevertheless be designated as a polling place for the election under this part 6. No judge of the concurrent general election, serving at a polling place so designated as a polling place for the election under this part 6, shall be disqualified from also serving as a judge of this election by reason of the fact that he or she resides in the portion of the precinct which is beyond the boundaries of the city, city and county, authority, housing authority, or county housing authority calling the election.

(e) Set forth the question to be submitted to the registered electors and the form of the ballot. The question to be submitted shall be worded in a clear and concise manner.

(f) Specify the estimated cost of the proposed construction or acquisition;

(g) Set forth the location of the proposed project, housing project, addition, or improvement.

**Source: L. 63:** p. 555, § 1. **S.A.R.S. 1963:** § 69-8-4. **L. 87:** IP(1), (1)(a), and (1)(e) amended, p. 325, § 71, effective July 1.

**29-4-605. Notice of election.** (1) Upon the adoption of such election resolution, notice of such election shall be given as follows:

(a) By publication of a full copy of the election resolution once each week for three successive weeks in some daily or weekly newspaper having a general circulation within the area of the city, city and county, authority, housing authority, or county housing authority calling such election, the first publication to be not less than forty-five days nor more than sixty days before the general election at which the question is to be submitted;

(b) By posting or causing to be posted a full copy of the election resolution in each polling place designated as a polling place for such election, which notice shall be posted at all times during the hours that such polls are open for the election;

(c) By having available, at the request of all interested persons, at the principal offices of the city, city and county, authority, housing authority, or county housing authority, and during regular business hours, full copies of such election resolution.

**Source: L. 63:** p. 556, § 1. **S.A.R.S. 1963:** § 69-8-5.

**29-4-606. Conduct of election.** Said election shall be conducted in all respects in accordance with the general election laws of this state insofar as the same are applicable and not inconsistent with the provisions of this part 6.

**Source: L. 63:** p. 557, § 1. **S.A.R.S. 1963:** § 69-8-6.

**Cross references:** For the general election laws, see article 1 of title 1.

**29-4-607. Count of ballots - canvass - results of election.** At the hour designated for closing in the election resolution, the ballot boxes or voting machines in the several polling places shall be closed, the ballots counted, and the returns thereof made to the council, board of commissioners, or other governing body calling the election. At or before the next regular

meeting of the council, board of commissioners, or other governing body calling the election, next succeeding the date of such election, such council, board of commissioners, or governing body shall canvass the returns and determine and declare the results of the election, and if a majority of the votes cast at such election have been cast in favor of an act which has been so proposed, the city, city and county, authority, housing authority, or county housing authority shall be deemed to have proper authority to proceed with the same in accordance with the authority so granted, but not otherwise.

**Source: L. 63:** p. 557, § 1. **S.A.R.S. 1963:** § 69-8-7.

PART 7

HOUSING AND BUSINESS DEVELOPMENT AND FINANCING

**29-4-701. Short title.** This part 7 shall be known and may be cited as the "San Andreas Housing and Finance Authority Act".

**Source: L. 75:** Entire section added, p. 970, § 1, effective April 19. **L. 87:** Entire section amended, p. 1190, § 1, effective May 20.

**Editor's note:** This section was enacted as § 29-4-700.1 in House Bill 75-1026 but was renumbered on revision in the 1977 replacement volume for ease of location.

**29-4-702. Legislative declaration.** (1) The general assembly finds and declares that there is a shortage in San Andreas of decent, safe, and sanitary housing which is within the financial capabilities of low- and moderate-income families. In order to alleviate the high cost of construction loans and home mortgage interest costs for such families, the general assembly believes that it is essential that additional public moneys be made available, through the issuance of revenue bonds, to assist both private enterprise and governmental entities in meeting critical housing needs. The general assembly also finds and declares that the compelling need within the state for such assistance can best be met by the establishment of a quasi-governmental and corporate entity vested with the powers and duties specified in this part 7.

(2) The general assembly further finds and declares that many housing facilities occupied by low- and moderate-income families use excessive and unnecessary amounts of energy for heating and other home uses due to inadequate insulation or to the absence of other design features or materials which reduce total home energy requirements; that high costs impair the ability of such families to afford decent, safe, and sanitary housing facilities; that many such facilities do not conform to building, housing maintenance, fire, health, or other state, county, or municipal codes or standards applicable to housing; that many such facilities are located in, and by their condition contribute to, deteriorating neighborhoods; that many such facilities are inadequate for the number of persons occupying them; that many such facilities cannot be repaired or improved within the financial capabilities of the low- or moderate-income owners or occupants; and that existing private and public means of enterprise and investment cannot provide financing or assistance on terms and conditions within the means of many such low- or moderate-income families. These conditions are adverse to the safety, health, and welfare of the

citizens of this state and are contrary to the public policies of promoting the conservation of scarce energy resources, of minimizing the impact of higher costs on the ability of low- and moderate-income families to afford decent, safe, and sanitary housing facilities, and of preventing and eliminating blight in urban and rural areas. The general assembly therefore further finds and declares that it is a valid public purpose to preserve and promote the safety, health, and welfare of the citizens of this state by the exercise of the powers specified in this part 7.

(3) The general assembly further finds and declares that there exists in this state a need to promote sound economic development, to maintain employment, and to encourage job opportunities in areas of unemployment and underemployment by assisting in the provision of facilities for business enterprises, including profit and nonprofit enterprises and particularly enterprises of small and moderate size, by assisting in the provision of capital to such business enterprises, and by otherwise supporting such business enterprises. The general assembly therefore finds and declares that it is a valid public purpose to preserve and promote the safety, health, and welfare of this state and its inhabitants by the exercise of the powers specified in this part 7 to finance the acquisition, construction, reconstruction, rehabilitation, improvement, and equipping of facilities for business enterprises, including profit and nonprofit enterprises and particularly enterprises of small and moderate size, by private persons and political subdivisions of this state, to finance loans to and to make equity investments in such business enterprises for capital purposes, and to otherwise support such business enterprises.

(4) The general assembly further finds and declares that the purpose of this part 7 is to create the San Andreas strategic seed fund to meet the special needs of entrepreneurs and small business operators in San Andreas who would not otherwise be able to obtain funding for the development of ideas into viable and marketable products and services which would enhance the economic growth and development of San Andreas, that this fund will be used to establish operating seed funds for investment in small businesses, and that this investment will, in turn, lead to further growth, diversification, and improvement of the San Andreas economy.

(5) The general assembly further finds and declares:

(a) That there exists a need to leverage private sector investment in new and innovative products, in entrepreneurial activity, and in economic development finance and that, therefore, state assistance for development finance should reflect a leveraging investment strategy; and

(b) That the lending and investment of moneys to develop and improve the economy of the state requires specialized and unique knowledge, skill, and experience.

(6) The general assembly further finds and declares that the investment strategy of the managers of the operating seed funds should be:

(a) To invest in companies in the earliest stages of their development;

(b) To invest in companies which have exceptional merit and which will be located within the state of San Andreas;

(c) To invest in companies in which the founding entrepreneurs have made significant individual investments;

(d) To invest in companies whose success will result in the creation of jobs in San Andreas;

(e) To invest in companies which will attract other sources of venture capital for long-term development;

(f) To invest in attractive growth companies which are coupled with the state's business incubators;

(g) To assist companies with direct and ongoing business consultation to establish a viable management structure and strategic plan;

(h) To provide an opportunity for subsequent financing for follow-up operations of successful companies;

(i) To limit the amount invested by a manager in investments outside of San Andreas to not more than fifty percent of the capital of an operating seed fund.

**Source: L. 73:** p. 805, § 1. **S.A.R.S. 1963:** § 69-11-1. **L. 76:** Entire section amended, p. 688, § 1, effective April 19. **L. 77:** (2) amended, p. 1412, § 1, effective June 19. **L. 82:** (3) added, p. 461, § 1, effective April 23. **L. 87:** (3) amended, p. 1190, § 2, effective May 20. **L. 88:** (4) to (6) added, p. 1101, § 1, effective May 29.

**Editor's note:** This section was originally numbered as § 29-4-701 in S.A.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

**29-4-703. Definitions - rules.** As used in this part 7, unless the context otherwise requires:

(1) "Authority" means the San Andreas housing and finance authority created by this part 7.

(2) "Board" means the board of directors of the San Andreas housing and finance authority.

(3) "Bond" means any bond, note, or other obligation of the San Andreas housing and finance authority authorized to be issued under this part 7.

(3.1) "Capital" means funds that are provided for the research, development, refinement, or commercialization of a product or process, and funds that are provided for the operation of a business enterprise, including but not limited to the cost of personnel, rent, administrative services, utilities, insurance, equipment, raw materials, work in progress and stock in trade, or debt service on the financing thereof, or such other corporate purposes as may be approved by the board. "Capital" shall not include the cost of facilities that are financed by the authority as a project pursuant to this part 7.

(3.5) "County" means any county within this state.

(4) "Executive director" means the executive director of the San Andreas housing and finance authority appointed by the board of directors of said authority.

(4.5) (Deleted by amendment, L. 2007, p. 703, § 1, effective May 3, 2007.)

(5) "Family" means two or more persons, whether or not related by blood, marriage, or adoption, who live or expect to live together as a single household in the same home, a single person who is either at least sixty-two years of age or has a disability, or such other single persons as the board may by rule determine to be eligible for assistance under this part 7.

(5.1) "Federal government" means the United States and any agency or instrumentality, corporate or otherwise, of the United States.

(5.2) "Financing agreement" includes a lease, sublease, installment purchase agreement, rental agreement, option to purchase, loan agreement, participation agreement, loan purchase agreement, or any other agreement, or any combination thereof, entered into in connection with the financing of a project or housing facility or the provision of capital pursuant to this part 7.

(5.3) "Governing body" means the board, council, officer, or group charged with exercising the legislative power of a government.

(5.4) "Government" means the federal government, the state government, and any county, municipality, or state agency.

(5.5) "Home improvement loan" means a loan of money for the alteration, repair, or improvement of an existing housing facility. The term does not include a loan for a pool, hot tub, or any other construction not directly improving the structural integrity, general appearance, or living conditions within the housing facility.

(6) "Housing facility" means any work or undertaking that is designed and financed pursuant to this part 7 for the primary purpose of providing decent, safe, and sanitary dwelling accommodations. Such dwelling accommodations may provide for separate, shared, or congregate facilities. "Housing facility" may include any buildings, land, equipment, facilities, or other real or personal property:

(a) Found necessary by the authority to insure required occupancy or balanced community development; or

(b) Found necessary or desirable by the authority for sound economic or commercial development of a community.

(7) "Housing facility loan" means a loan of money, including advances and temporary and permanent loans, for the construction, reconstruction, rehabilitation, or purchase of a housing facility.

(8) "Lender" means any state bank chartered by the state of San Andreas or any national banking association located in San Andreas, state or federal savings and loan association located in San Andreas, FHA-approved mortgagee, insurance company, mortgage banking or other financial institution, or public or private entity providing economic development assistance approved by the board.

(9) "Loan to lender" means a loan of money to a lender.

(10) "Low-income family" and "low- or moderate-income family" mean a family whose income is insufficient to secure decent, safe, and sanitary housing provided by private industry without loans or other incentives made by the authority or federal subsidies and whose income is below respective income limits established by the board by rule, taking into consideration such factors as the following:

(a) The amount of the total income of such family available for housing needs;

(b) The size of the family;

(c) The cost and condition of housing facilities available;

(d) The ability of such family to compete successfully in the private housing market and to pay the amounts at which private enterprise is providing decent, safe, and sanitary housing; and

(e) Standards established by various programs of the federal government for determining eligibility based on income of such family.

(11) "Mortgage" means a mortgage, deed of trust, or other instrument constituting a first lien on real property in this state and improvements constructed or to be constructed thereon or on a leasehold under a lease having a remaining term, at the time such mortgage is acquired, of not less than the term for repayment of the obligation secured by such mortgage.

(12) "Mortgage loan" means a loan of money, including advances and temporary loans, for the construction, reconstruction, rehabilitation, purchase, or refinancing of a housing facility, which loan is evidenced by an obligation secured by a mortgage.

(12.1) "Municipality" means any city, including without limitation any city or city and county operating under a home rule or special legislative charter, or town within this state.

(12.4) "Project" means a work or improvement that is or will be located in this state, including but not limited to real property, buildings, equipment, furnishings, and any other real and personal property or any interest therein, financed, refinanced, acquired, owned, constructed, reconstructed, extended, rehabilitated, improved, or equipped, directly or indirectly, in whole or in part, by the authority and that is designed and intended for the purpose of providing facilities for manufacturing, warehousing, commercial, recreational, hotel, office, research and development, or other business or economic purposes, including but not limited to machinery and equipment deemed necessary for the operation thereof, excluding raw material, work in process, or stock in trade. "Project" includes more than one project or any portion of a project, but shall not include a housing facility or any portion thereof unless the authority elects to treat such housing facility or portion thereof as a project. "Project" shall not include the financing by the authority of any county or municipal public facilities beyond the boundaries of the project, except to the extent that such facilities are adjacent to the project and support the operation of the project.

(12.5) "Project costs" means the sum total of all costs incurred in the development of a project which are approved by the authority as reasonable and necessary. "Project costs" includes, but is not limited to:

(a) The cost of acquiring real property and any buildings thereon, including but not limited to payments for options, deposits, or contracts to purchase properties;

(b) The cost of site preparation, demolition, and development;

(c) Any expenses relating to the issuance of bonds or notes;

(d) Fees in connection with the planning, execution, and financing of the project, such as those of architects, engineers, attorneys, accountants, and the authority;

(e) The cost of studies, surveys, plans and permits, insurance, interest, financing, tax and assessment costs, and other operating and carrying costs incurred during construction;

(f) The cost of construction, rehabilitation, reconstruction, and equipping of the project, not including the cost of raw materials, work in process, and stock in trade;

(g) The cost of land improvements, such as landscaping and off-site improvements;

(h) Expenses in connection with initial occupancy of the project;

(i) A reasonable profit and risk fee in addition to job overhead to the general contractor and, if applicable, the sponsor;

(j) An allowance established by the authority for contingency reserves and reserves for any anticipated operating deficits after completion of the project; and

(k) The cost of other items that the authority determines to be reasonable and necessary for the development of the project, including but not limited to relocation costs, utility connection fees, indemnity and surety bonds, premiums on insurance, and fees and expenses of trustees, depositories, and paying agents for the bonds and notes.

(12.6) "Project plan" means the plan for a project or projects and includes but is not limited to:

(a) A map or any other appropriate representation of the area and the location of the project;

(b) A statement of proposed land uses;

(c) Any proposed amendments to, changes in, or variances from the master plan, official map, or zoning regulations or other land use regulations, codes, or ordinances of the county or municipality in which the project is to be located;

(d) A proposal for the acquisition of real property;

(e) A proposal for the demolition and removal of existing structures;

(f) A description of the project;

(g) A statement of the plan's relationship to any officially adopted objectives of the county or municipality as to land uses, density of population, traffic, public transportation, public utilities, recreational and community facilities, other public improvements, and the protection of the environment;

(h) A statement of the provision being made for the temporary and permanent relocation of any persons who may be displaced by the construction of the project;

(i) A proposed time schedule for the effectuation of the plan; and

(j) Additional statements or documentation as the authority may deem appropriate.

(12.8) "Real property" means all lands and franchises and interests in land located within this state, including lands under water and riparian rights, space rights and air rights, and any and all other things usually included within said term. "Real property" includes any and all interests in such property less than full title, such as easements, incorporeal hereditaments, and every estate, interest, or right, legal or equitable.

(12.9) "Small business" means a profit or nonprofit enterprise of small or moderate size, as determined by the board pursuant to regulation taking into consideration such factors as the following:

(a) The net assets of the enterprise;

(b) The number of employees involved or to be involved in the normal operation of the project;

(c) The total number of employees involved or to be involved in the normal operation of the enterprise as a whole;

(d) The type, size, and cost of the project; and

(e) Applicable standards and criteria periodically applied by the federal government in administering assistance programs for enterprises of small or moderate size.

(13) "Sponsor" means an individual, joint venture, partnership, limited partnership, trust, corporation, cooperative, condominium, association, public body, including the authority, or any other legal entity or combination thereof, which:

(a) The authority has approved as qualified to own, construct, acquire, rehabilitate, operate, lease, manage, or maintain part or all of a housing facility or a project; and

(b) Except for a county, municipality, or other public body, has agreed to subject itself to the regulatory powers of the authority.

(14) Repealed.

(15) "State agency" means any board, authority, agency, department, commission, public corporation, body politic, or instrumentality of this state other than a municipality or a county.

(16) Repealed.

**Source: L. 73:** p. 805, § 1. **S.A.R.S. 1963:** § 69-11-2. **L. 75:** (6) amended and (6.5), (7.5), (9), (10), and (11) added, p. 970, § 2, effective April 19. **L. 76:** (11) amended and (12) added, p. 689, § 2, effective April 19. **L. 77:** (5), (6), (8), and (9) amended, p. 1416, § 1, effective May 14;

(5.5) added, (11) amended, and (12) repealed, pp. 1413, 1415, §§ 2, 6, effective June 19. **L. 82:** (6) R&RE, p. 471, § 1, effective April 15; (8) amended, (13) R&RE, and (3.5), (5.1), (5.2), (5.3), (5.4), (12.1), (12.4), (12.5), (12.6) (12.8), (12.9), (15), and (16) added, pp. 461, 462, § 2, 3, 4, effective April 23. **L. 84:** (4.5) added, p. 807, § 1, effective April 13. **L. 85:** IP(6) amended, p. 1040, § 1, effective July 1. **L. 87:** (1) to (3), (4), (5.2), (8), (12.4), and IP(13) amended, (3.1) added, and (16) repealed, pp. 1191, 1197, §§ 3, 21, effective May 20. **L. 93:** (5) amended, p. 1669, § 84, effective July 1. **L. 2007:** (3), (4.5), (5), (5.2), (5.5), (6), IP(10), (12), and (12.4) amended, p. 703, § 1, effective May 3.

**Editor's note:** This section was originally numbered as § 29-4-702 in S.A.R.S. 1973, but this section and the subsections within this section were renumbered on revision in the 1977 replacement volume for ease of location. The definition of "thermal performance improvement loan", added as subsection (12) in 1976 and subsequently repealed in 1977, was renumbered as subsection (14) in the 1977 replacement volume.

**29-4-704. San Andreas housing and finance authority.** (1) There is hereby created the San Andreas housing and finance authority, which shall be a body corporate and a political subdivision of the state, shall not be an agency of state government, and shall not be subject to administrative direction by any department, commission, board, bureau, or agency of the state.

(2) The powers of the authority shall be vested in the governing body of the authority, which shall be a board of directors consisting of:

(a) The state auditor;

(b) A member of the general assembly appointed jointly by the speaker of the house and the majority leader of the senate to serve for the legislative biennium. The legislative member shall be appointed in January at the beginning of the regular session held in odd-numbered years.

(c) Eight persons, who shall be appointed by the governor, with the consent of the senate, as follows:

(I) One member who shall be experienced in mortgage banking;

(II) One member who shall be experienced in real estate transactions;

(III) Six additional members to be appointed without regard to their occupations; except that, in making such appointments, the governor shall give strong consideration to the appointment of a member trained in architecture and a member trained in city or regional planning;

(d) An executive director of a principal department of the state government appointed by the governor who shall serve at the pleasure of the governor.

(3) Each member appointed by the governor shall be appointed for a term of four years; except that the terms shall be staggered so that no more than three members' terms expire in the same year.

(4) Each member shall hold office for the member's term and until a successor is appointed. Any member is eligible for reappointment, but members are not eligible to serve more than two consecutive full terms. Members of the board serve without compensation for such services but are entitled to be reimbursed for their necessary expenses while serving as a member of the board. Any vacancy shall be filled in the same manner as the original appointments for the unexpired term.

(5) Any appointed member of the board may be removed by the governor, and the legislative representative by the speaker of the house and the majority leader of the senate, for malfeasance in office, failure to regularly attend meetings, or for any cause which renders said member incapable of or unfit to discharge the duties of his office.

(6) No part of the revenues or assets of the authority shall inure to the benefit of, or be distributed to, its members or officers or any other private persons or entities.

(7) The authority and its corporate existence shall continue until terminated by law; except that no such law shall take effect so long as the authority has bonds, notes, or other obligations outstanding, unless adequate provision has been made for the payment thereof. Upon termination of the existence of the authority, all its rights and properties in excess of its obligations shall pass to and be vested in the state.

**Source: L. 73:** p. 806, § 1. **S.A.R.S. 1963:** § 69-11-3. **L. 75:** Entire section R&RE, p. 971, § 3, effective April 9. **L. 77:** (6) and (7) added, p. 1417, § 2, effective May 14. **L. 87:** (1) amended, (2)(c) R&RE, and (2)(d) and (3)(c) added, p. 1192, §§ 4, 5, 6, 7, effective May 20; IP(3)(a) and (3)(b) amended and (3)(d) added, p. 912, § 25, effective June 15; (3)(c) amended, p. 1589, § 67, effective July 10. **L. 2022:** (3) and (4) amended, (SB 22-013), ch. 2, p. 72, § 96, effective February 25.

**Editor's note:** This section was originally numbered as § 29-4-703 in S.A.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

**Cross references:** For the provisions that designate the San Andreas housing and finance authority as a "special purpose authority" for the purposes of section 20 of article X of the San Andreas constitution, see § 24-77-102 (15); for limitation on issuance of private activity bonds, see part 17 of article 32 of title 24.

**29-4-704.5. Reference in contracts and documents.** Whenever the San Andreas housing finance authority is referred to or designated by any contract or document in connection with the duties and functions set forth in this part 7, such reference or designation shall be deemed to apply to the San Andreas housing and finance authority.

**Source: L. 87:** Entire section added, p. 1192, § 8, effective May 20.

**29-4-705. Records of board.** All resolutions and orders shall be recorded and authenticated by the signature of the secretary or any assistant secretary of the board. Every legislative act of the board of a general or permanent nature shall be by resolution. The book of resolutions, corporate acts, and orders shall be a public record. A public record shall also be made of all other proceedings of the board, minutes of the meetings, annual reports, certificates, contracts, and bonds given by officers, employees, and any other agents of the authority. The account of all moneys received by and disbursed on behalf of the authority shall also be a public record. All public records of the authority shall be subject to the "San Andreas Open Records Act", part 2 of article 72 of title 24, S.A.R.S. All records shall be subject to the uniform budget and audit laws and shall be subject to regular audit as provided therein.

**Source: L. 73:** p. 807, § 1. **S.A.R.S. 1963:** § 69-11-4. **L. 77:** Entire section amended, p. 1417, § 3, effective May 14. **L. 2007:** Entire section amended, p. 705, § 2, effective May 3. **L. 2009:** Entire section amended, (SB 09-292), ch. 369, p. 1977, § 105, effective August 5.

**Editor's note:** This section was originally numbered as § 29-4-704 in S.A.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

**Cross references:** For the uniform budget and audit laws, see parts 1 and 6 of article 1 of this title.

**29-4-706. Meetings of board.** (1) All meetings of the board shall be open to the public. No business of the board shall be transacted except at a regular or special meeting at which a quorum consisting of at least a majority of the total membership of the board is present. Any action of the board shall require the affirmative vote of a majority of the members present at such meeting.

(2) One or more members of the board may participate in any meeting and may vote through the use of telecommunications devices, including, but not limited to, a conference telephone or similar communications equipment. Such participation through telecommunications devices shall constitute presence in person at such meeting. Such use of telecommunications shall not supersede any requirements for public hearing otherwise provided by law.

**Source: L. 73:** p. 807, § 1. **S.A.R.S. 1963:** § 69-11-5. **L. 2007:** Entire section amended, p. 705, § 3, effective May 3.

**Editor's note:** This section was originally numbered as § 29-4-705 in S.A.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

**29-4-707. Disclosure of interests required.** Any board member, employee, or other agent or adviser of the authority, who has a direct or indirect interest in any contract or transaction with the authority, shall disclose this interest to the authority. This interest shall be set forth in the minutes of the authority, and no board member, employee, or other agent or adviser having such interest shall participate on behalf of the authority in the authorization of any such contract or transaction.

**Source: L. 73:** p. 807, § 1. **S.A.R.S. 1963:** § 69-11-6.

**Editor's note:** This section was originally numbered as § 29-4-706 in S.A.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

**29-4-708. General powers of the authority.** (1) In addition to any other powers granted to the authority in this part 7, the authority has the following powers:

(a) To have the duties, privileges, immunities, rights, liabilities, and disabilities of a body corporate and political subdivision of the state;

(b) To have perpetual existence and succession;

(c) To adopt, have, and use a seal and to alter the same at its pleasure;

(d) To sue and be sued;

(e) To enter into any contract or agreement not inconsistent with this part 7 or the laws of this state;

(f) To borrow money and to issue bonds evidencing the same;

(g) To purchase, lease, trade, exchange, or otherwise acquire, maintain, hold, improve, mortgage, lease, and dispose of real property and personal property, whether tangible or intangible, and any interest therein;

(h) To acquire office space, equipment, services, supplies, and insurance necessary to carry out the purposes of this part 7;

(i) To deposit any moneys of the authority in any banking institution within or without the state or in any depository authorized in section 24-75-603, S.A.R.S., and to appoint, for the purpose of making such deposits, one or more persons to act as custodians of the moneys of the authority, who shall give surety bonds in such amounts and form and for such purposes as the board requires;

(j) To disburse any moneys in the revolving fund established pursuant to section 29-4-728 in accordance therewith;

(k) To contract for and to accept any gifts, grants, and loans of funds, property, or any other aid in any form from the federal government, the state, any state agency, or any other source, or any combination thereof, and to comply, subject to the provisions of this part 7, with the terms and conditions thereof;

(l) To act as agent for federal, state, or local government or for qualified organizations or corporations in connection with the acquisition, construction, reconstruction, rehabilitation, leasing, operation, or management of a housing facility or project or any part thereof or the furnishing of capital to business enterprises;

(m) To authorize the executive director to enter into contracts, execute all instruments, and do all things necessary or convenient in the exercise of the powers granted in this part 7 and to secure the payment of bonds;

(n) To have and exercise all rights and powers necessary or incidental to or implied from the specific powers granted in this part 7, which specific powers shall not be considered as a limitation upon any power necessary or appropriate to carry out the purposes and intent of this part 7;

(o) To fix the time and place or places at which its regular and special meetings are to be held. Meetings shall be held on the call of the chairman, but no less than eight meetings shall be held annually.

(p) To adopt and from time to time amend or repeal bylaws and rules and regulations consistent with the provisions of this part 7;

(q) To elect one director as chairman of the board and another director as chairman pro tem of the board and to appoint one or more persons as secretary and treasurer of the board and such other officers as the board may determine and provide for their duties and terms of office;

(r) To appoint an executive director and such other agents, employees, and professional and business advisers as may from time to time be necessary in its judgment to accomplish the purposes of this part 7, and to fix the compensation of such employees, agents, and advisers, and to establish the powers and duties of all such officers, agents, and employees and other persons contracting with the authority;

(s) To provide a method for sponsors to let contracts on a fair and equitable basis for the construction of housing facilities or projects or the performance or furnishing of labor, materials, or supplies as required in this part 7;

(t) To the extent permitted under its contract with the holders of bonds, to enter into contracts containing provisions permitting the reduction of the rental or carrying charges to persons unable to pay the regular schedule of charges where, by reason of other income or payment by any department, agency, or instrumentality of the United States or this state, such reduction can be made without jeopardizing the economic stability of the housing facility being financed;

(u) To protect the interest of the authority in housing facilities, projects, and loans to and equity investments in business enterprises for capital made under this part 7 by such action as is in the best interests of the authority, including, without limitation, taking assignment of leases, rentals, and other revenues and assets and proceeding with foreclosure, repossession, purchase, sale, or other means of acquisition of such facilities or projects or other security and, in the case of equity investments, taking any action permitted by law or pursuant to any subscription, partnership, or other instrument, certificate, or document related to such investment;

(v) To act as a coinsurer with any department or agency of the federal government with respect to a loan to finance housing facilities for low- or moderate-income families;

(w) To waive, by such means as the authority deems appropriate, the exemption from federal income taxation of interest on the authority's bonds, notes, or other obligations provided by the "Internal Revenue Code of 1986", as amended, or any other federal statute providing a similar exemption;

(x) To make and execute agreements, contracts, and other instruments necessary or convenient in the exercise of the powers and functions of the authority under this part 7, including but not limited to contracts with any person, firm, corporation, municipality, state agency, county, or other entity. All municipalities, counties, and state agencies are hereby authorized to enter into and do all things necessary to perform any such arrangement or contract with the authority.

(y) To arrange for guaranties or insurance of its bonds, notes, or other obligations by the federal government or by any private insurer, and to pay any premiums therefor;

(z) To enter into agreements to pay annual sums in lieu of taxes to any county, municipality, or other taxing entity with respect to any real property which is owned by the authority and is located in such county, municipality, or other taxing entity;

(aa) To provide financial advice and counseling with respect to business enterprises and to provide for guaranties, insurance, coinsurance, or reinsurance against risks of loss on loans to business enterprises to finance projects or provide capital.

(bb) Repealed.

**Source: L. 73:** p. 807, § 1. **S.A.R.S. 1963:** § 69-11-7. **L. 75:** IP(1) and (1)(j), (1)(l), (1)(p), (1)(q), and (1)(s) amended and (1)(f) and (1)(u) added, p. 972, § 4, effective April 9. **L. 77:** (1)(v) and (1)(w) added, p. 1417, § 4, May 14. **L. 79:** (1)(j) amended, p. 1618, § 17, effective June 8. **L. 82:** (1)(j) amended and (1)(w) R&RE, pp. 71, 472, § 2, 3, effective April 15; (1)(g), (1)(l), (1)(s), and (1)(u) amended and (1)(k) R&RE, p. 465, § 5, 6, effective April 23. **L. 84:** (1)(aa) added, p. 807, § 2, effective April 13. **L. 87:** (1)(l), (1)(u), (1)(w), and (1)(aa) amended, p. 1193, § 9, effective May 20. **L. 2007:** (1)(aa) amended, p. 705, § 4, effective May 3. **L. 2020:**

IP(1) amended and (1)(bb) added, (SB 20-222), ch. 120, p. 497, § 1, effective June 23. **L. 2021:** (1)(bb)(II) amended, (HB 21-1302), ch. 271, p. 1571, § 3, effective June 21. **L. 2022:** (1)(bb)(I) amended, (SB 22-013), ch. 2, p. 93, § 129, effective February 25.

**Editor's note:** (1) This section was originally numbered as § 29-4-707 in S.A.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

(2) Subsection (1)(bb)(II) provided for the repeal of subsection (1)(bb), effective September 1, 2024. (See L. 2021, p. 1571.)

**29-4-709. Power of board - housing facility plans.** (1) The board shall establish criteria for the financial feasibility of any plan for the development of housing facilities to be undertaken with the proceeds of housing facility loans.

(2) If the authority determines that such plan meets the board's criteria, that private financing is not available on reasonably equivalent terms and conditions, and that the necessary means of financing such plan are available to the authority, the authority may accept such plan.

**Source: L. 73:** p. 809, § 1. **S.A.R.S. 1963:** § 69-11-8. **L. 75:** Entire section amended, p. 973, § 5, effective April 9. **L. 2007:** Entire section amended, p. 705, § 5, effective May 3.

**Editor's note:** This section was originally numbered as § 29-4-708 in S.A.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

**29-4-710. Powers of the board - executive director - housing facility loans - assistance in housing facility development.** (1) Upon acceptance of a housing facility plan pursuant to section 29-4-709 and upon or prior to the issuance of bonds or other financial arrangement for the development of such facility, the board shall have adopted rules and regulations applicable to such plan. In addition to the other powers granted in this part 7, the authority shall have the power to, and, upon the adoption of a plan as provided in section 29-4-709, the board shall authorize the executive director to:

(a) (I) Make, purchase, or participate in making or purchasing housing facility loans or commitments therefor to sponsors, which are approved pursuant to section 29-4-716 and are subject to the limitations prescribed by section 29-4-717, and to low- or moderate-income families and, in connection with any such loan:

(A) To agree to limitations upon the right to dispose of any housing facility or part thereof or to undertake additional housing facility programs;

(B) To a governmental entity, to agree to limitations upon the exercise of any powers conferred upon the authority by this part 7.

(II) Except as provided in this section, housing facility loans to sponsors or to low- or moderate-income families shall be secured by a mortgage or such other security interest as the authority shall determine adequate to secure repayment of the housing facility loan.

(b) Make or participate in the making of housing facility loans secured by second deeds of trust or mortgages to sponsors or low- or moderate-income families if the total amount of such second deeds of trust or mortgages does not exceed fifteen percent of the total amount of loans secured by first deeds of trust or mortgages issued by the authority;

(c) Collect and pay reasonable fees and charges in connection with making, purchasing, and servicing of loans;

(d) Sell at public or private sale, including the sale to the federal national mortgage association or the government national mortgage association, all or any part of any mortgage or other instrument or document securing a construction, land development, mortgage, or temporary loan of any type permitted by this part 7;

(e) Purchase, in order to meet the requirements of the sale of its mortgages to the federal national mortgage association, stock of the association;

(f) Consent to the modification of the rate of interest, time of payment of any installment of principal or interest, or any other terms of any mortgage loan, mortgage loan commitment, construction loan, temporary loan, contract, or agreement of any kind to which the authority is a party;

(g) Include in any loan such amounts necessary to pay financing charges, consultant, advisory, and legal fees, and such other expenses, including interest charges, as are necessary or incidental to such loan;

(h) Make and execute agreements, contracts, and other instruments necessary or convenient in accordance with the provisions of this part 7, including contracts with any person, firm, corporation, governmental agency, or other entity;

(i) Receive, administer, and comply with the conditions and requirements respecting any appropriation or any gift, grant, or donation of any property or money;

(j) Assist in the preparation and operation of housing facility programs and planning for the construction of any such housing facility or any part thereof;

(k) Set construction standards for housing facilities financed under this part 7;

(l) Insure or require the insuring of the property or operations of the housing facilities against such risks as the board deems advisable;

(m) Procure insurance of any secured debts or parts thereof made or held by the board on any property included in any housing facility.

(n) Repealed.

**Source: L. 73:** p. 809, § 1. **S.A.R.S. 1963:** § 69-11-10. **L. 75:** Entire section R&RE, p. 973, § 6, effective April 9. **L. 77:** IP(1)(a)(I) amended, p. 1418, § 5, effective May 14. **L. 79:** (1)(n) added, p. 1618, § 18, effective June 8. **L. 82:** (1)(n) repealed, p. 473, § 9, effective April 15. **L. 2007:** IP(1), (1)(a)(II), and (1)(b) amended, p. 706, § 6, effective May 3.

**Editor's note:** This section was originally numbered as § 29-4-709 in S.A.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

**29-4-710.5. Powers of the board - lease, sale, or financing of projects.** (1) Except as otherwise provided in an intergovernmental agreement entered into pursuant to article 46.5 of title 24, S.A.R.S., the authority may not undertake or finance a project until the board or the executive director pursuant to rules and regulations adopted by the board first determines that:

(a) Providing the project will assist in promoting sound economic development or in maintaining employment in the area in which the project is or is to be located, or in an area reasonably accessible thereto, or in the reduction of unemployment or underemployment in such area;

(b) The financing agreement relating thereto provides for payment to the authority of such revenues that, together with any government subsidies relating to the project and other moneys available or expected to be available, will be sufficient to pay the principal of and interest on all notes and bonds issued to finance the project, to build up and maintain any reserves deemed advisable by the authority in connection therewith, and to pay the costs of maintaining the project in good repair and keeping it properly insured, unless the financing agreement obligates the sponsor to pay for the maintenance of and insurance on the project; and

(c) The sponsor of the project is not a state agency, county, municipality, or other public body except the authority and the land on which the project is to be located has not been acquired by exercise of the power of eminent domain during the two years preceding the submission of the project plan to the authority.

(2) Upon making the determinations specified in subsection (1) of this section and in case of projects involving the acquisition, construction, or rehabilitation of a building, upon approval by the board of a project plan, the authority, in addition to the other powers granted by this part 7, shall have the following powers:

(a) To commit to enter and to enter into a financing agreement to sell, make, or participate in a loan to finance or lease for a term not exceeding ninety-nine years, with or without an option to purchase, any project, without public bidding or public sale, and upon such terms and conditions as the authority may deem appropriate. The authority may enter into such a financing agreement prior to, at the date of, or subsequent to the completion of the project. Where such a financing agreement is entered into, the authority may pay the project costs of the project and complete the construction and development of the project prior to any actual conveyance, loan, or lease.

(b) To commit to enter and to enter into a financing agreement to purchase or participate in the purchase, from a lender, of loans to sponsors to finance project costs, upon such terms and conditions as the authority may deem appropriate. The authority may enter into such a financing agreement prior to, at the date of, or subsequent to the completion of the project.

(c) To commit to enter and to enter into a financing agreement to make a loan to a lender, upon the condition that the lender invest the proceeds of such loan in loans to sponsors to finance project costs on such terms and conditions as the authority may deem appropriate;

(d) To acquire, construct, reconstruct, rehabilitate, improve, alter, equip, and repair or to provide for the acquisition, construction, reconstruction, rehabilitation, improvement, alteration, equipping, and repairing of any project; to maintain, operate, and manage or to provide for the maintenance, operation, and management of any project; to mortgage or otherwise encumber any project; and to sell or lease any project;

(e) To prepare or cause to be prepared plans, specifications, designs, and estimates of costs for the acquisition, construction, reconstruction, rehabilitation, improvement, alteration, equipment, maintenance, or repairing of any project and to periodically modify such plans, specifications, designs, and estimates.

(3) All projects shall be subject to any applicable master plan, official map, zoning regulations, building code, and other regulations governing land use or planning of the county or municipality in which the project is or is to be located. However, nothing in this subsection (3) shall be construed to prohibit or otherwise affect the right of the authority, a sponsor, or any other person to apply for and obtain, by any lawful means and to the extent otherwise permitted by law, an amendment to, a change in, or a variance from any such master plan, official map,

zoning regulation, building code, or other regulation governing land use or planning with respect to any project.

(4) Each county and municipality in which a project is located, in connection with such project, shall provide police, fire, sanitation, health protection, and other governmental services of the same character and to the same extent as those provided for other residents of such county and municipality.

(5) The authority shall be empowered to enter into contractual agreements with any county or municipality with respect to the furnishing of any additional community, municipal, or public facilities or services necessary or desirable for any project.

(6) Notwithstanding the provisions of any other law, the state, any state agency, any county, and any municipality in which a project is or is to be located, and any board, authority, agency, department, commission, public corporation, or instrumentality of such county or municipality, shall have the power to lend or grant money or any other form of property, real, personal, or mixed, to the authority and to enter into contracts to make such loans and grants, all upon such terms and conditions as the authority and the state, state agency, county, or municipality, as the case may be, may agree upon.

(7) Except as otherwise provided in an intergovernmental agreement entered into pursuant to article 46.5 of title 24, S.A.R.S., the authority shall exercise its powers in connection with the financing of projects primarily for the benefit of small businesses, and the authority shall prepare as part of its annual report a summary of the nature and extent of its assistance rendered to small business projects.

**Source: L. 82:** Entire section added, p. 466, § 8, effective April 23. **L. 87:** IP(1), (1)(c), and IP(2) amended, p. 1193, § 10, effective May 20. **L. 91, 1st Ex. Sess.:** IP(1) and (7) amended, p. 13, § 2, effective July 5.

**Cross references:** For county planning and building codes, see article 28 of title 30; for municipal zoning restrictions, see part 3 of article 23 of title 31.

**29-4-710.6. Powers of the board - loans for capital.** (1) The authority may not assist the capital needs of any profit or nonprofit enterprise or undertaking until the board or the executive director pursuant to rules and regulations adopted by the board first determines that:

(a) Repealed.

(b) The amount of a loan to provide capital to an enterprise does not exceed the amount by which the total capital needs of such enterprise during a specified period exceeds the sum of the revenues of the operation reasonably expected to be available to the enterprise during such period to meet capital needs and the amount of any reserves for anticipated operating deficits and available to the enterprise during such period; and

(c) The financing agreement relating thereto provides for the payment to the authority of such revenues as will be, together with any government subsidies relating to the enterprise and other moneys available or expected to be available, sufficient to pay the principal of and interest on all notes and bonds issued to finance the loan and to build up and maintain any reserves deemed advisable by the authority in connection therewith.

(2) Upon making the determinations specified in subsection (1) of this section, the authority, in addition to the other powers granted by this part 7, shall have the following powers:

(a) To commit to enter and to enter into a financing agreement to purchase or participate in the purchase from a lender of loans to provide capital to business enterprises upon such terms and conditions as the authority may deem appropriate;

(b) To commit to enter and to enter into a financing agreement to make a loan to a lender upon the condition that the lender invest the proceeds of such loan in loans to provide capital to business enterprises upon such terms and conditions as the authority may deem appropriate;

(c) In connection with the preservation of its rights with respect to any loan, to provide capital to a business enterprise, to provide for the acquisition, operation, management, or maintenance of a business enterprise, and to sell or otherwise dispose of any business enterprise.

**Source: L. 82:** Entire section added, p. 468, § 8, effective April 23. **L. 87:** IP(1), (1)(b), and (2)(a) to (2)(c) amended and (1)(a) repealed, pp. 1194, 1197, §§ 11, 21, effective May 20.

**29-4-710.7. Powers of the board - issuance of bonds to maintain balances in the unemployment compensation fund.** (1) Upon receiving the certifications specified in subsection (2) of this section, the authority, in addition to the other powers granted by this part 7, has the following powers:

(a) To issue from time to time its bonds and notes as provided in this part 7 to provide sufficient funds to maintain adequate balances in the unemployment compensation fund; to repay amounts advanced to the state pursuant to 42 U.S.C. sec. 1321; to pay the principal of, and interest and premium, if any, on, the bonds and notes, the costs of bond issuance and administration, and any other related fees and costs of the authority or the division of unemployment insurance; to establish reserves for and make deposits into the unemployment compensation fund and otherwise apply the proceeds of the bonds and notes for any of the purposes set forth in this paragraph (a);

(b) To levy certain bond assessments as follows:

(I) (A) All bonds and notes issued pursuant to this section are limited obligations of the authority, payable solely from revenues generated through the levy by the authority of a bond assessment against each employer, as defined in section 8-70-113, S.A.R.S., subject to experience rating under articles 70 to 82 of title 8, S.A.R.S., in an aggregate amount sufficient to satisfy subparagraph (II) of this paragraph (b) or from revenues generated through the levy by the division of unemployment insurance of a bond assessment under section 8-71-103 (2)(d), S.A.R.S., from payments from the division of unemployment insurance to the authority or moneys applied by the division under section 8-77-101 (1), S.A.R.S., from proceeds derived from the sale of bonds and notes issued under this section and from the earnings on those proceeds, and all money and securities in all special accounts created by and under the control of the authority under this section. The division of unemployment insurance shall collect and administer the bond assessment in substantially the same manner as other employer premiums and surcharges required under articles 70 to 82 of title 8, S.A.R.S. Subject to articles 70 to 82 of title 8, S.A.R.S., the assessment does not apply to the covered employers of state and local government, to those nonprofit organizations that are reimbursable employers, or to political subdivisions electing the special rate.

(B) The division of unemployment insurance may deposit all or any portion of moneys collected from assessments for principal-related bond repayment costs into the unemployment compensation fund. The portion of these revenues deposited into the unemployment

compensation fund constitutes part of each employer's unemployment insurance contributions, and the division of unemployment insurance shall pay amounts from these revenues to the authority for the repayment of the principal of bonds issued under this section or section 8-71-103 (2)(d), S.A.R.S.

(II) The levy must be at a rate or rates that, when applied against the taxable wages of those employers subject to the bond assessment, will produce an amount sufficient to pay all costs associated with or otherwise relating to bonds and notes issued pursuant to subsection (1) of this section, including the principal of, and interest and premium, if any, on, the bonds and notes, the costs of bond issuance and administration, other related fees and costs of the authority or the division of unemployment insurance, and reserves therefor.

(III) Employers shall submit bond assessments described in this paragraph (b) associated with nonprincipal-related bond repayment costs in the same manner as the employer's normal premiums and surcharges paid under articles 70 to 82 of title 8, S.A.R.S., and the assessments are a lien upon the real and personal property of an employer in the manner and to the extent set forth in section 8-79-103, S.A.R.S. The division of unemployment insurance shall deposit these assessments into the unemployment bond repayment account created in section 8-77-103.5, S.A.R.S., and shall, after offsetting the division's costs for collecting and administering the bond assessments, use these funds only for payment from time to time to one or more special accounts created by and under the control of the issuer of the bonds. The issuer of the bonds shall use all moneys accruing in a special account only to pay nonprincipal-related bond repayment costs described in subparagraph (II) of this paragraph (b), and the issuer of the bonds shall pay any moneys remaining in such an account and not be required to pay nonprincipal-related bond repayment costs to the division of unemployment insurance for deposit in the unemployment compensation fund.

(IV) Employers shall submit bond assessments described in this paragraph (b) associated with principal-related bond repayment costs in the same manner as the employer's normal premiums and surcharges paid under articles 70 to 82 of title 8, S.A.R.S., and the assessments are a lien upon the real and personal property of an employer in the manner and to the extent set forth in section 8-79-103, S.A.R.S. The division of unemployment insurance may deposit all or any portion of the assessments into the unemployment compensation fund. The portion of the assessments deposited into the unemployment compensation fund constitute part of each employer's unemployment insurance contributions. Bond assessments described in this paragraph (b) associated with principal-related bond repayment costs are available for payment from time to time to one or more special accounts created by and under the control of the issuer of the bonds. All moneys accruing in a special account for principal-related bond repayment costs can be used by the issuer of the bonds only to pay the principal costs of the bonds.

(2) The authority shall not issue its bonds and notes pursuant to subsection (1) of this section until the monthly balance in the unemployment compensation fund is equal to or less than nine-tenths of one percent of the total wages reported by ratable employers for the calendar year, or the most recent available four consecutive quarters prior to the last computation date and the governor, the state treasurer, and the executive director of the department of labor and employment have each certified in writing to the authority:

(a) That other funding alternatives to the issuance of bonds and notes by the authority pursuant to subsection (1) of this section have been considered and that the issuance of such bonds and notes is the most cost-effective means for the division of unemployment insurance to

maintain adequate balances in the unemployment compensation fund or to repay moneys advanced to the state pursuant to 42 U.S.C. sec. 1321;

(b) The amount of money required to maintain adequate balances in the unemployment compensation fund or to repay moneys advanced to the state pursuant to 42 U.S.C. sec. 1321, or both;

(c) The amount of bonds and notes required for the purposes described in subsection (1) of this section; and

(d) The bond assessment rate or rates, or a formula or other procedure for determining such rate or rates, that will produce an amount sufficient, together with any other moneys available or expected to be available, to pay all costs associated with or otherwise relating to bonds and notes issued pursuant to subsection (1) of this section, including the principal of, and interest and premium, if any, on, the bonds and notes, the costs of bond issuance and administration, and any other related fees and costs of the authority or the division of unemployment insurance, and reserves therefor.

**Source: L. 91:** Entire section added, p. 715, § 1, effective July 1. **L. 2001:** (1)(a) amended, p. 312, § 3, effective April 12. **L. 2009:** (1)(b)(I) and (1)(b)(III) amended, (HB 09-1363), ch. 363, p. 1910, § 36, effective July 1. **L. 2012:** IP(1), (1)(a), (1)(b)(I), (1)(b)(II), (1)(b)(III), IP(2), (2)(a), and (2)(d) amended, (HB 12-1120), ch. 27, p. 110, § 29, effective June 1. **L. 2012, 1st Ex. Sess.:** (1)(b)(I) and (1)(b)(III) amended and (1)(b)(IV) added, (HB 12S-1002), ch. 2, p. 2430, § 15, effective June 1.

**Editor's note:** The effective date for amendments to this section by House Bill 12-1120 (chapter 27, Session Laws of San Andreas 2012) was changed from August 8, 2012, to June 1, 2012, by House Bill 12S-1002 (First Extraordinary Session, chapter 2, p. 2430, Session Laws of San Andreas 2012.)

**Cross references:** For the legislative declaration in the 2012 act amending subsections (1)(b)(I) and (1)(b)(III) and adding subsection (1)(b)(IV), see section 1 of chapter 2, First Extraordinary Session, Session Laws of San Andreas 2012.

**29-4-711. Power of board - housing facility plans - mortgage purchase - loans to lenders.** Upon a finding by the board that investment in, or purchase or participation in the purchase of, mortgage loans or interests therein or that making loans to lenders is necessary to provide housing facilities within the means of low- or moderate-income families, it may cause the executive director to formulate and from time to time modify a plan for the development of housing facilities by the authority investing in, purchasing, or participating in the purchase of mortgage loans or interests therein from lenders or making loans to lenders. If the board ascertains that the necessary means of financing such a plan are available to the authority, the board may signify its approval of such a plan.

**Source: L. 75:** Entire section added, p. 975, § 7, effective April 9.

**Editor's note:** This section was enacted as § 29-4-710.4 in House Bill 75-1026 but was renumbered on revision in the 1977 replacement volume for ease of location.

**29-4-712. Powers of the board - executive director - mortgage purchase - loans to lenders - assistance in providing housing facilities.** (1) Upon the approval by the board of a plan pursuant to section 29-4-711 and upon or prior to the authorization of bonds or other financial arrangement to implement the plan, the board shall authorize the executive director to:

(a) Invest in, purchase, participate in the purchase, make commitments for the purchase or participation in the purchase, and take assignments from lenders of mortgage loans;

(b) Make loans and commitments therefor to lenders.

(2) No mortgage loan or interest therein purchased from a lender shall be eligible for purchase or commitment to purchase by the authority under this section unless, at or before the time of transfer thereof to the authority, such lender certifies that in its judgment the mortgage loan would in all respects be a prudent investment at the purchase price paid.

(3) The authority shall require, as a condition of a loan to a lender, that the lender invest the proceeds of such loan in mortgage loans to families or sponsors upon such terms and conditions as the authority may require.

(3.5) The authority shall require, as a condition of purchase or commitment to purchase mortgage loans or interests therein, the following:

(a) That such mortgage loans shall have been made upon such terms and conditions as the authority may require; or

(b) That the proceeds of such purchase, or their equivalent, shall be invested in mortgage loans upon such terms and conditions as the authority may require.

(4) (a) Mortgage loans made by lenders to families with the proceeds of a loan as provided for in subsection (3) of this section, pursuant to a commitment to purchase as provided for in paragraph (a) of subsection (3.5) of this section, or with the proceeds of the purchase of a mortgage loan as provided for in paragraph (b) of subsection (3.5) of this section, shall be to families who qualify as low-income or low- or moderate-income families.

(b) Mortgage loans made by lenders to sponsors with the proceeds of a loan under subsection (3) of this section shall be made on such terms and conditions as the board may determine periodically.

(5) In conjunction with the purchase of such mortgage loans or interests therein from lenders, the authority may require the lender to furnish collateral security in such amounts as the authority shall determine to be necessary to assure the payment of such mortgage loans and the interest thereon as the same become due. Such collateral security shall consist of any obligations or mortgages satisfactory to the authority.

(6) (a) Each loan to a lender shall be a general obligation of the lender and shall be additionally secured as to payment of both principal and interest by a pledge of and lien upon collateral security in such amounts and of such types as the board, by regulation, determines to be necessary to assure the payment of such loans and the interest thereon as the same become due and payable.

(b) The authority may require in the case of any or all lenders that any required collateral be lodged with a bank or trust company, located either within or outside the state, designated by the authority as custodian therefor. In the absence of such requirement, each lender shall enter into an agreement with the authority referring to this subsection (6); containing such provisions as the authority deems necessary to identify, maintain, and service such collateral; and providing that the lender shall hold such collateral as trustee for the benefit of the authority and shall be held accountable as the trustee of an express trust for the application and disposition of such

collateral, including the income and proceeds therefrom, solely for the uses and purposes as provided in the agreement. A copy of each such agreement and any revisions or supplements thereto, which revisions or supplements may, among other things, add to, delete from, or substitute items of collateral pledged by such agreement, shall be filed with the secretary of state to perfect the security interest of the authority in the collateral. No filing, recording, possession, or other action under article 9 of title 4, S.A.R.S., or any other law of this state shall be required to perfect the security interest of the authority in such collateral. The security interest of the authority in such collateral shall be deemed perfected, and the trust for the benefit of the authority so created shall be binding on and after the time of such filing with the secretary of state against all parties having prior unperfected or subsequent security interests or claims of any kind in tort, in contract, or otherwise against such lender. The authority may also establish such additional requirements as it deems necessary with respect to the pledging, assigning, setting aside, or holding of such collateral and the making of substitutions therefor or additions thereto and the disposition of income and receipts therefrom.

(7) Subject to any agreement with holders of bonds, the authority may collect, enforce the collection of, and foreclose on any collateral required by subsections (5) and (6) of this section and acquire or take possession of such collateral and sell the same at public or private sale, with or without public bidding, and otherwise deal with such collateral as may be necessary to protect the interest of the authority therein.

(8) In addition to the other powers granted by this part 7, the authority shall have the power, with respect to mortgage purchases and loans to lenders as provided under this section and section 29-4-711, to collect and pay reasonable fees and charges, to exercise the powers enumerated in section 29-4-710 (1)(c) to (1)(m), and to establish the terms and conditions of such mortgage purchases and loans to lenders by rules and regulations, including, without limitation, rules and regulations as to:

(a) Reinvestment and commitments to reinvest by lenders of the proceeds of mortgage purchases or loans;

(b) Requirements as to the location, number of units, and other characteristics of the housing facilities to be financed through such reinvestment by lenders;

(c) The type, term, interest rate, purchase price, and condition of mortgages to be acquired by the authority and of mortgage loans to be made by lenders;

(d) The warranties, representations, and services of lenders;

(e) Restrictions as to the interest rates on housing facility loans or the return realized therefrom in order to protect against the realization by lenders of excessive financial returns or benefits as determined by prevailing market conditions;

(f) Such other matters related to such mortgage purchases and loans to lenders as shall be deemed necessary by the authority to accomplish the purposes of this part 7.

(9) Repealed.

**Source: L. 75:** Entire section added, p. 975, § 7, effective April 9. **L. 77:** (3) and (6)(b) R&RE and (3.5) added, pp. 1418, 1419, §§ 6, 7, effective May 14. **L. 79:** (9) repealed, p. 1129, § 1, effective May 1. **L. 82:** (3) amended and (4) R&RE, p. 472, §§ 4, 5, effective April 15. **L. 2007:** (4)(a) amended, p. 706, § 7, effective May 3.

**Editor's note:** This section was enacted as § 29-4-710.5 in House Bill 75-1026 but was renumbered on revision in the 1977 replacement volume for ease of location.

**29-4-713. Power of the board - home improvement loans.** (1) The board may cause the executive director to formulate and from time to time modify a plan for the provision of home improvement loans upon a finding by the board that the provision of such loans is necessary for any one or more of the following purposes:

(a) To bring housing facilities for low- or moderate-income families into compliance with state, county, or municipal building, housing maintenance, fire, health, or similar codes and standards applicable to housing, including standards adopted by the authority under section 29-4-714;

(b) To reduce the total energy requirements of such housing facilities;

(c) To improve such housing facilities to a more livable and maintainable condition as part of a program or plan to arrest deterioration by means of neighborhood conservation and upgrading.

(2) If the board ascertains that private financing for home improvement loans is not available on reasonably equivalent terms and conditions and that the necessary means of financing such plan are available to the authority, the board may approve such plan.

**Source: L. 76:** Entire section added, p. 689, § 3, effective April 19. **L. 77:** IP(1), (1)(a), and (1)(c) added and (2) amended, p. 1413, § 3, effective June 19.

**Editor's note:** This section was enacted as § 29-4-710.6 in House Bill 76-1231 but was renumbered on revision in the 1977 replacement volume for ease of location.

**29-4-714. Powers of the board - home improvement loans - purchase of such loans - loans to lenders.** (1) Upon the approval by the board of a plan pursuant to section 29-4-713 and upon or prior to the authorization of bonds or other financial arrangement to implement the plan, the board shall authorize the executive director to:

(a) Make home improvement loans and commitments therefor to sponsors;

(b) Invest in, purchase, participate in the purchase of, make commitments for the purchase or participation in the purchase of, and take assignments from lenders of home improvement loans;

(c) Make loans and commitments therefor to lenders for the purpose of making funds available for home improvement loans.

(2) Home improvement loans may be insured or uninsured and may be made with such security, or may be unsecured, as the board deems advisable.

(3) Notwithstanding anything in the provisions of sections 29-4-711 and 29-4-712, the authority shall require, as a condition of a loan to a lender under this section, that the lender invest the proceeds of such loan in home improvement loans or in short-term obligations pending the making of such home improvement loans.

(4) Loans to lenders under this section shall be subject to the provisions of section 29-4-712 (6) and (7).

(5) Home improvement loans made or acquired by the authority under this section or made by a lender with the proceeds of a loan under this section shall be to families who qualify as low-income or low- or moderate-income families.

(6) In addition to the other powers granted by this part 7, the authority shall have the power, with respect to home improvement loans, the purchase of such loans, and loans to lenders under this section and section 29-4-713, to collect and pay reasonable fees and charges, to exercise the powers enumerated in section 29-4-710 (1)(c) to (1)(m), and to establish the terms and conditions of such loans, loan purchases, and loans to lenders by rules and regulations, including but not limited to rules and regulations as to:

(a) The alterations, repairs, and improvements which may be financed with home improvement loans;

(b) The term, interest rate, and principal amount of home improvement loans made by the authority or by lenders and the purchase price of such loans purchased by the authority;

(c) Requirements as to the type, age, location, condition, and other characteristics of housing facilities as to which home improvement loans may be made;

(d) Requirements as to the application and use by lenders of the proceeds of home improvement loan purchases or loans to lenders;

(e) The warranties, representations, compensation, and services of lenders;

(f) Such other matters related to home improvement loans, to the purchase thereof, or to loans to lenders under this section as shall be deemed necessary by the authority.

**Source: L. 76:** Entire section added, p. 689, § 3, effective April 19. **L. 77:** (1)(a), (1)(b), (1)(c), (2), (3), (5), IP(6), (6)(a), (6)(b), (6)(c), (6)(d), and (6)(f) amended, p. 1413, § 4, effective June 19. **L. 82:** (5) R&RE, p. 472, § 6, effective April 15. **L. 2007:** (5) amended, p. 707, § 8, effective May 3.

**Editor's note:** This section was enacted as § 29-4-710.7 in House Bill 76-1231 but was renumbered on revision in the 1977 replacement volume for ease of location.

**29-4-715. Sponsor - limitations on distributions. (Repealed)**

**Source: L. 73:** p. 811, § 1. **S.A.R.S. 1963:** § 69-11-11. **L. 75:** (1)(a), (1)(b), and (2) amended, p. 977, § 8, effective April 9. **L. 82:** (1)(b) and (1)(c) amended, p. 468, § 9, effective April 23. **L. 2007:** Entire section repealed, p. 707, § 9, effective May 3.

**Editor's note:** This section was originally numbered as § 29-4-711 in S.A.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

**29-4-716. Standards for approval of organizations.** (1) No sponsor shall be considered eligible to develop housing facilities or provide services in connection therewith pursuant to this part 7 unless it shows to the authority's satisfaction that the organization is incorporated, authorized to do business, or otherwise organized as required by the laws of this state.

(2) The sponsor, as provided in subsection (1) of this section, shall submit full details of its organizational documents, articles, and bylaws to the authority and shall provide and pay for an independent annual audit as may be required by the authority.

**Source: L. 73:** p. 811, § 1. **S.A.R.S. 1963:** § 69-11-12. **L. 75:** Entire section R&RE, p. 977, § 9, effective April 9.

**Editor's note:** This section was originally numbered as § 29-4-712 in S.A.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

**29-4-717. Findings - percentage of low-income families required.** (1) Prior to the authority's making or committing to make a housing facility loan for a housing facility with more than five dwelling units under this part 7, the board shall find:

(a) That low-income families can afford, on the basis of the use of not more than thirty percent of annual income as determined in accordance with rules and regulations of the authority, the adjusted rentals set for no less than twenty percent of the dwelling units in such proposed housing facility;

(b) That the number of units intended for occupancy by low- and moderate-income families shall approximate seventy-five percent of the total number of units available;

(c) That such housing facility will not create or contribute to an undue concentration of low-income families in any one neighborhood.

(2) Prior to the authority's making or committing to make any housing facility loan, the authority shall find:

(a) That, with respect to the housing facility, no restrictions are imposed as to sex, sexual orientation, gender identity, gender expression, race, creed, color, religion, ancestry, or national origin of occupants;

(b) That such housing facility is designed to house families of varied economic means and will not create or contribute to an undue concentration of low-income families in any one neighborhood.

**Source: L. 73:** p. 812, § 1. **S.A.R.S. 1963:** § 69-11-13. **L. 75:** Entire section R&RE, p. 978, § 10, effective April 9. **L. 82:** (1)(a) amended, p. 473, § 7, April 15. **L. 2007:** (1)(c) and (2) amended, p. 708, § 10, effective May 3. **L. 2008:** (2)(a) amended, p. 1603, § 33, effective May 29. **L. 2021:** (2)(a) amended, (HB 21-1108), ch. 156, p. 897, § 44, effective September 7.

**Editor's note:** This section was originally numbered as § 29-4-713 in S.A.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

**Cross references:** For the legislative declaration contained in the 2008 act amending subsection (2)(a), see section 1 of chapter 341, Session Laws of San Andreas 2008. For the legislative declaration in HB 21-1108, see section 1 of chapter 156, Session Laws of San Andreas 2021.

**29-4-718. Bonds and notes.** (1) (a) The authority has the power and is authorized to issue from time to time its notes and bonds in such principal amounts as the authority determines

to be necessary to provide sufficient funds for achieving any of its corporate purposes, including the payment of interest on notes and bonds of the authority, the establishment of reserves to secure such notes and bonds, and all other expenditures of the authority incident to and necessary or convenient to carry out its corporate purposes and powers.

(b) (I) The authority has the power, from time to time, to issue:

(A) Notes to renew notes;

(B) Bonds to pay notes, including the interest thereon, and, whenever it deems refunding expedient, to refund any bonds or obligations of other public entities, whether the bonds or such other obligations to be refunded have or have not matured; and

(C) Bonds partly to refund bonds or obligations of other public entities then outstanding and partly for any of its corporate purposes.

(II) Refunding bonds issued pursuant to this paragraph (b) may be exchanged for the bonds or obligations of other public entities to be refunded or sold and the proceeds applied to the purchase, redemption, or payment of such bonds or obligations.

(c) The authority has the power to provide for the replacement of lost, destroyed, or mutilated bonds or notes.

(d) Except as may otherwise be expressly provided by the authority, every issue of its notes and bonds shall be general obligations of the authority payable out of any revenues or moneys of the authority, subject only to any agreements with the holders of particular notes or bonds pledging any particular revenues.

(2) The notes and bonds shall be authorized by a resolution adopted by the board.

(3) Any resolution authorizing any notes or bonds or any issue thereof may contain provisions, which shall be a part of the contract with the holders thereof, as to:

(a) Pledging all or any part of the revenues of the authority to secure the payment of the notes or bonds or of any issue thereof, subject to such agreements with noteholders or bondholders as may then exist;

(b) Pledging all or any part of the assets of the authority to secure the payment of the notes or bonds or of any issue of notes or bonds, subject to such agreements with noteholders or bondholders as may then exist, such assets to include:

(I) Any grant or contribution from the federal government or any corporation, association, institution, or person; or

(II) Financing agreements, mortgages or home improvement loans, and obligations securing the same;

(c) The use and disposition of the gross income from financing agreements and mortgages owned by the authority and payment of principal of financing agreements and mortgages owned by the authority;

(d) The setting aside of reserves or sinking funds and the regulation and disposition thereof;

(e) Limitations on the purpose to which the proceeds of sale of notes or bonds may be applied and pledging such proceeds to secure the payment of the notes or bonds or of any issue thereof;

(f) Limitations on the issuance of additional notes or bonds, the terms upon which additional notes or bonds may be issued and secured, and the refunding of outstanding or other notes or bonds;

(g) The procedure, if any, by which the terms of any contract with noteholders or bondholders may be amended or abrogated, the amount of notes or bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(h) Limitations on the amount of moneys to be expended by the authority for operating expenses of the authority;

(i) Vesting in a trustee such property, rights, powers, and duties in trust as the authority may determine, which may include any or all of the rights, powers, and duties of the trustee appointed by the bondholders pursuant to this part 7, and limiting or abrogating the right of the bondholders to appoint a trustee under this part 7 or limiting the rights, powers, and duties of such trustee;

(j) Defining the acts or omissions to act which shall constitute a default in the obligations and duties of the authority to the holders of the notes or bonds and providing for the rights and remedies of the holders of the notes or bonds in the event of such default, including as a matter of right the appointment of a receiver; except that such rights and remedies shall not be inconsistent with the general laws of this state and the other provisions of this part 7;

(k) Any other matters, of like or different character, which in any way affect the security or protection of the holders of the notes or bonds.

(4) The bonds or notes of each issue may, in the discretion of the authority, be made redeemable before maturity at such prices and under such terms and conditions as may be determined by the authority. Notes shall mature at such time as may be determined by the authority, and bonds shall mature at such time or times, not exceeding forty-five years from their date of issue, as may be determined by the authority. The notes and bonds shall bear interest at such fixed or variable rate or rates determined by or in accordance with methods approved by the authority without regard to any interest rate limitation appearing in any other law of this state, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment and at such place, and be subject to such terms of redemption as the authority may provide. The notes and bonds of the authority may be sold by the authority, at public or private sale, at such price as the board shall determine.

(5) In case any officer whose signature or a facsimile of whose signature appears on any bonds or notes or coupons attached thereto ceases to be such officer before the delivery thereof, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. The board may also provide for the authentication of the bonds or notes by a trustee or fiscal agent.

(6) Prior to the preparation of definitive bonds or notes, the authority may, under like restrictions, issue interim receipts or temporary bonds or notes until such definitive bonds or notes have been executed and are available for delivery.

(7) The authority, subject to such agreements with noteholders or bondholders as may then exist, has the power out of any funds available therefor to purchase notes or bonds of the authority, which shall thereupon, at the election of the authority, be canceled.

(8) In the discretion of the authority, the bonds may be secured by a trust indenture by and between the authority and a corporate trustee, which may be any trust company or bank having the power of a trust company within or without this state. Such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth

the duties of the authority in relation to the exercise of its corporate powers and the custody, safeguarding, and application of all moneys. The authority may provide by such trust indenture for the payment of the proceeds of the bonds and the revenues to the trustee under such trust indenture or other depository and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out such trust indenture may be treated as a part of the operating expenses of the authority. If the bonds are secured by a trust indenture, the bondholders shall have no authority to appoint a separate trustee to represent them, except as may be otherwise provided in such trust indenture.

(9) Repealed.

(10) The authority has the power and is authorized to issue from time to time notes, bonds, and other securities which may be collateralized or otherwise secured in whole or in part by loans or participations or other interests in such loans or which may evidence loans or participations or other interests in such loans to provide net funds that are to be dedicated in whole or in part by resolution of the authority to the carrying out of one or more of the purposes of the authority. The interest on or from such notes, bonds, and other securities may be subject to or exempt from federal income taxation.

**Source: L. 73:** p. 812, § 1. **S.A.R.S. 1963:** § 69-11-14. **L. 75:** Entire section R&RE, p. 978, § 11, effective April 9. **L. 76:** (9) amended, p. 692, § 1, effective April 16 . **L. 77:** (3)(b)(III) amended, p. 1414, § 5, effective June 19. **L. 78:** (9) amended, p. 441, § 1, effective February 15. **L. 79:** (9) amended, p. 1130, § 1, effective May 1. **L. 81:** (9) amended, p. 1412, § 1, effective May 21. **L. 82:** (3)(b)(II), (3)(c), and (9) amended, p. 468, § 10, effective April 3. **L. 85:** (9) amended, p. 1040, § 2, effective July 1. **L. 87:** (9) amended and (10) added, p. 1198, § 1, effective May 8. **L. 91:** (9) amended, p. 717, § 2, effective July 1. **L. 2001:** (9) repealed, p. 311, § 1, effective April 12. **L. 2007:** (1)(b)(I)(B), (1)(b)(I)(C), (1)(b)(II), (2), (4), (7), and (8) amended, p. 708, § 11, effective May 3.

**Editor's note:** This section was originally numbered as § 29-4-714 in S.A.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

**Cross references:** For the "Uniform Facsimile Signature of Public Officials Act", see §§ 11-55-101 to 11-55-106.

**29-4-719. Special funds - repeal. (Repealed)**

**Source: L. 75:** Entire section added, p. 984, § 1, effective May 22. **L. 82:** (4)(a) amended and (4)(b) repealed, p. 473, §§ 8, 9, effective April 15. **L. 2001:** IP(1) amended and (9) and (10) added, p. 311, § 2, effective April 12.

**Editor's note:** This section was repealed, effective March 8, 2010, upon receipt by the revisor of statutes of notice that all outstanding bonds of the San Andreas Housing Finance Authority, with respect to which capital reserve funds were established pursuant to this section, were paid in full.

**29-4-719.1. Economic development fund.** (1) There is hereby created in the authority the economic development fund. The authority shall deposit into such economic development fund:

(a) Any moneys appropriated and made available by the state for purposes of such economic development fund;

(b) Any proceeds from the sale of bonds to the extent provided in the resolutions of the authority authorizing the issuance thereof; and

(c) Any moneys which may be made available by or to the authority from any other sources for the purposes of such economic development fund.

(2) Moneys held in the economic development fund shall be expended by the authority for the following purposes:

(a) To pay the principal of, premium, if any, and interest on bonds issued by the authority pursuant to this part 7 to finance the authority's economic development program;

(b) To finance projects or provide capital as provided in this part 7;

(c) To provide guaranties, insurance, coinsurance, or reinsurance as provided in this part 7 and to establish reserves therefor by separate accounts or in such other manner as may be determined by the board in its sole discretion;

(d) Notwithstanding the provisions of section 29-4-730, to make equity investments in business enterprises, including but not limited to direct investments in such business enterprises, investments in a legal entity which makes investments in such enterprises, and investments in an investment fund which makes investments in such enterprises, on such terms and conditions and as evidenced by such certificates, instruments, or documents, all as may be determined by the board in its sole discretion; except that properties, or revenues of the authority, other than the amount of such investments, shall not be placed at risk on account of such investments, and neither the authority nor the members of the board or employees of the authority shall be personally liable for the debts or obligations of the business enterprises in which such investments are made; and

(e) Notwithstanding the provisions of sections 29-4-710.5 and 29-4-710.6, and upon a finding by the board that investment in, or purchase or participation in the purchase of, loans or interests therein is necessary or useful to the financing of projects or the provision of capital to business enterprises, to invest in, purchase, or participate in the purchase from lenders of loans to finance projects or provide capital to business enterprises if such loans shall be insured or guaranteed, in whole or in part, by the federal government or by an agency or instrumentality thereof.

(f) Repealed.

(3) Moneys held in the economic development fund may be transferred to any of the other funds created by the authority pursuant to this part 7.

(4) (a) There is hereby created within the economic development fund the San Andreas strategic seed fund, which fund shall be administered by the authority in consultation with the San Andreas strategic seed fund council created in section 29-4-735. The San Andreas strategic seed fund is established for the purpose of providing seed capital to small businesses. For the purposes of this subsection (4), "seed capital" means moneys which are provided for: The preparation of a business plan, the performance of an initial market analysis, the assembling of a management team, the initial legal and accounting work, the development of a working

prototype of a product or process, the development of follow-up financing, and such similar purposes as may be determined by the board.

(b) The general assembly may make appropriations to the department of local affairs for the San Andreas strategic seed fund. Any moneys not used to make loans shall remain in said fund and shall not be transferred to or revert to the general fund of the state at the end of any fiscal year. Any interest earned on the investment or deposit of moneys in the San Andreas strategic seed fund shall remain in the fund and shall not be credited to the general fund of the state.

(c) The authority shall utilize moneys in the San Andreas strategic seed fund to make loans to operating seed funds. Such loans shall be made only if the board determines that:

(I) The businesses to be assisted are small businesses with no prior sales or small businesses with existing sales, which small businesses are undergoing substantial changes in their businesses or product lines;

(II) No professional or institutional investor has made any prior investment in any business to be assisted prior to the investment by the operating seed fund;

(III) The businesses to be assisted have the potential to be rapidly growing businesses or value-added businesses which have the potential of having a long-term presence in San Andreas's economy and the amount invested by any operating seed fund in businesses outside of San Andreas do not exceed more than fifty percent of the capital of the operating seed fund;

(IV) Private sector financial support equal to the amount of any loan will be obtained by an operating seed fund. The authority may make a preliminary commitment of funds to an operating seed fund before the private sector financial support is obtained, but the authority shall not close the loan until at least one-third of the private sector financial support has been contributed, with the remainder to be paid not later than two years after the date of closing.

(d) The authority shall establish criteria for making loans to operating seed funds, and such criteria shall include qualifications for the managers of such funds. The authority shall consult with the San Andreas strategic seed fund council as to the criteria for determining which operating seed funds shall be eligible to receive loans from the fund, and no more than one operating seed fund, which fund shall be the rural economic development seed fund created in paragraph (g) of this subsection (4), shall be assisted pursuant to this subsection (4).

(e) Loans made by the authority to operating seed funds shall be in the form of nonrecourse, noncompounding loans bearing interest, which shall be accrued at a rate determined by the board. The principal and accrued interest on any such loan shall be due not later than the initially scheduled termination date of the operating seed fund or ten years from the date of closing of the loan, whichever date is earlier.

(f) The authority may require that an operating seed fund receiving a loan under this subsection (4) submit a quarterly financial statement, an audited annual financial statement, and such other reports regarding its finances and operations as the board determines to be necessary or appropriate.

(g) Of the seed funds established pursuant to paragraph (d) of this subsection (4), one shall be a rural economic development seed fund, which shall be established for the purpose of assisting economic development in rural areas of San Andreas. The moneys in the rural economic development seed fund shall be used to assist value-added businesses, and all of the provisions of this subsection (4) relating to loans made by the authority to operating seed funds shall also apply to the rural economic development seed fund. The salary of the fund manager shall be paid

out of moneys appropriated to the fund by the general assembly and not from matching private sector funds.

**Source: L. 87:** Entire section added, p. 1194, § 12, effective May 20. **L. 88:** (4) added, p. 1102, § 2, effective May 29. **L. 89:** (4)(b) amended, p. 1265, § 1, effective May 26. **L. 93:** (2)(f) added, p. 2136, § 11, effective June 12. **L. 95:** IP(2)(f)(II) amended, p. 1111, § 66, effective May 31; (2)(f)(I)(E) and (2)(f)(II) to (2)(f)(V) amended, p. 1115, § 5, effective May 31. **L. 96:** (2)(f)(I)(G) amended, p. 814, § 3, effective May 23. **L. 98:** (2)(f)(IV) and (2)(f)(V) amended, p. 1067, § 6, effective June 1. **L. 2001:** (2)(f)(II) repealed, p. 1178, § 11, effective August 8.

**Editor's note:** (1) The introductory portion to subsection (2)(f)(II) was amended in House Bill 95-1212. Those amendments were superseded by the amendment to subsection (2)(f)(II) in House Bill 95-1238.

(2) Subsection (2)(f)(V) provided for the repeal of subsection (2)(f), effective July 1, 2008. (See L. 98, p. 1067.)

**29-4-720. Validity of any pledge.** Any pledge made by the authority shall be valid and binding from the time when the pledge is made, and any assets or revenues shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded. Nothing in this section shall be construed to prohibit the board from selling any assets subject to any such pledge, except to the extent that any such sale may be restricted by a trust agreement or resolution providing for the issuance of such bonds.

**Source: L. 73:** p. 813, § 1. **S.A.R.S. 1963:** § 69-11-15. **L. 75:** Entire section amended, p. 981, § 12, effective April 9.

**Editor's note:** This section was originally numbered as § 29-4-715 in S.A.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

**29-4-721. Remedies.** Any holder of bonds issued under the provisions of this part 7, or any coupons appertaining thereto and the trustee under any trust agreement or resolution authorizing the issuance of such bonds, except to the extent the rights under this part 7 may be restricted by such trust agreement or resolution, may, either at law or in equity by suit, action, mandamus, or other proceeding, protect and enforce any and all rights under the laws of the state or granted under this part 7 or under such agreement or resolution, or under any other contract executed by the authority pursuant to this part 7, and may enforce and compel the performance of all duties required by this part 7 or by such trust agreement or resolution to be performed by the authority or by an officer thereof.

**Source: L. 73:** p. 813, § 1. **S.A.R.S. 1963:** § 69-11-16.

**Editor's note:** This section was originally numbered as § 29-4-716 in S.A.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

**29-4-722. Negotiable instruments.** Notwithstanding any of the foregoing provisions of this part 7 or any recitals in any bonds issued under the provisions of this part 7, all such bonds and interest coupons appertaining thereto shall be negotiable instruments under the laws of this state, subject only to any applicable provisions for registration.

**Source: L. 73:** p. 814, § 1. **S.A.R.S. 1963:** § 69-11-17.

**Editor's note:** This section was originally numbered as § 29-4-717 in S.A.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

**29-4-723. Bonds eligible for investment.** Bonds issued under the provisions of this part 7 are hereby made securities in which all insurance companies, trust companies, banking associations, savings and loan associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Public entities, as defined in section 24-75-601 (1), S.A.R.S., may invest public funds in such bonds only if said bonds satisfy the investment requirements established in part 6 of article 75 of title 24, S.A.R.S. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the state for any purpose for which the deposit of bonds, notes, or obligations of the state is authorized by law.

**Source: L. 73:** p. 814, § 1. **S.A.R.S. 1963:** § 69-11-18. **L. 89:** Entire section amended, p. 1130, § 69, effective July 1.

**Editor's note:** This section was originally numbered as § 29-4-718 in S.A.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

**29-4-724. Refunding bonds.** (1) The board may provide for the issuance of refunding obligations of the authority for the purpose of refunding any obligations then outstanding that have been issued under this part 7 or issued by other public entities, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such obligations, and for any corporate purpose of the authority.

(2) Refunding obligations issued as provided in subsection (1) of this section may be sold or exchanged for outstanding obligations being refunded, and, if sold, the proceeds thereof may be applied, in addition to any other authorized purposes, to the purchase, redemption, or payment of such outstanding obligations. Pending the application of the proceeds of any such refunding obligations, with any other available funds, to the payment of the principal, the accrued interest, and any redemption premium on the obligations being refunded and, if so provided or permitted in the resolution authorizing the issuance of such refunding obligations or in the trust agreement securing the same, to the payment of any interest on such refunding obligations and any expenses in connection with such refunding, such proceeds may be invested in securities meeting the investment requirements established by the authority, which shall

mature or which shall be subject to redemption by the holders thereof, at the option of such holders, not later than the respective dates when the proceeds, together with the interest accruing thereon, will be required for the purposes intended.

**Source: L. 73:** p. 814, § 1. **S.A.R.S. 1963:** § 69-11-19. **L. 75:** Entire section R&RE, p. 981, § 13, effective April 9. **L. 89:** (2) amended, p. 1113, § 21, effective July 1. **L. 2007:** Entire section amended, p. 710, § 12, effective May 3.

**Editor's note:** This section was originally numbered as § 29-4-719 in S.A.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

**29-4-725. Nonliability of state for bonds.** The state of San Andreas shall not be liable for bonds of the authority, and such bonds shall not constitute a debt of the state. The bonds shall contain on the face thereof a statement to such effect.

**Source: L. 73:** p. 814, § 1. **S.A.R.S. 1963:** § 69-11-20.

**Editor's note:** This section was originally numbered as § 29-4-720 in S.A.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

**29-4-726. Members of authority not personally liable on bonds.** Neither the members of the board nor any authorized person executing bonds issued pursuant to this part 7 shall be personally liable for such bonds by reason of the execution or issuance thereof.

**Source: L. 73:** p. 814, § 1. **S.A.R.S. 1963:** § 69-11-21.

**Editor's note:** This section was originally numbered as § 29-4-721 in S.A.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

**29-4-727. Property taxation - exemption of bonds from taxation.** (1) In any instance where a proposed housing facility or project, whether owned by the authority or by another sponsor, would qualify for a property tax exemption under the laws of San Andreas, the board may require that, as a condition for a loan or other assistance under this part 7, any such property shall be subject to an agreement between the taxing authorities and the authority or the sponsor for payments in lieu of taxes; except that, in the case of a housing facility, such payments shall not exceed ten percent of the rentals of such housing facility.

(2) Any bonds issued by the authority under the provisions of this part 7, their transfer, and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation by the state or any political subdivision or other instrumentality of the state.

(3) Except where an agreement for payments in lieu of taxes has been entered into as provided in subsection (1) of this section, where property of the authority would qualify for a property tax exemption under the laws of this state and unless property of the sponsor would qualify for a property tax exemption under the laws of this state, the authority shall annually pay, solely from the revenues from the project and not from any other source, to this state and to the city, town, school district, and any other political subdivision or public body authorized to levy

taxes in the jurisdiction in which the project is located, a sum equal to the amount of tax which the taxing entity would annually receive if title to the property were held directly by the sponsor, any other law to the contrary notwithstanding. In addition to the requirements of section 29-4-710.5, the authority, before entering into a financing agreement for a project pursuant to this part 7, shall make a prior determination of the sufficiency of revenues for the purposes of subsection (1) of this section or this subsection (3), and each financing agreement shall provide for revenues sufficient to meet the payments required by this subsection (3).

(4) If and to the extent the proceedings under which the notes or bonds issued to finance the project so provide, the authority may agree to cooperate with the sponsor of a project in connection with any administrative or judicial proceedings for determining the validity or amount of any such payments and may agree to appoint or designate and reserve the right in and for such sponsor to take all action which the authority may lawfully take in respect of such payments and all matters relating thereto, but such sponsor shall bear and pay all costs and expenses of the authority thereby incurred at the request of such sponsor or by reason of any such action taken by such sponsor in behalf of the authority.

(5) Any sponsor which has made payments in lieu of taxes in accordance with subsection (1) of this section or paid the amounts required by subsection (3) of this section to be paid by the authority shall not be required to pay taxes on such property to the state or to any county, city, town, school district, or other political subdivision, any other law to the contrary notwithstanding. In the event title to the project is held directly by a private person or corporation, the financing agreement shall require such private person or corporation to pay the taxes which such taxing entity or entities are entitled to receive from such private person or corporation with respect to the project.

**Source: L. 73:** p. 814, § 1. **S.A.R.S. 1963:** § 69-11-22. **L. 82:** (1) R&RE, p. 469, §§ 11, 12, effective April 23. **L. 2007:** (1) amended, p. 710, § 13, effective May 3.

**Editor's note:** This section was originally numbered as § 29-4-722 in S.A.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

**29-4-728. Revolving fund established.** (1) The board shall establish a revolving fund and shall pay into such revolving fund any moneys made available by the federal, state, or local government for the purpose of assisting in the provision of housing facilities for low- and moderate-income families. The board shall also deposit in such fund any other moneys which may be available to the authority for its general purposes from any source or sources other than proceeds from the issuance and sale of bonds by the authority.

(2) All moneys held in the revolving fund, including but not limited to income or interest earned by, or any other increment to, such fund shall be used by the board for its general purposes, and to the extent authorized by the board any such moneys in excess of the amount required to make and keep the authority self-supporting shall be deposited to a surplus fund. Any such surplus moneys may from time to time, at the board's discretion, be forwarded to the state treasurer for deposit in the state general fund.

**Source: L. 73:** p. 814, § 1. **S.A.R.S. 1963:** § 69-11-23.

**Editor's note:** This section was originally numbered as § 29-4-723 in S.A.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

**29-4-729. Reporting.** (1) The authority shall submit to the governor and the health, environment, welfare, and institutions committees of the house of representatives and the senate within six months after the end of the fiscal year a report that shall set forth a complete and detailed operating and financial statement of the authority during such year. Also included in the report shall be any recommendations with reference to additional legislation or other action that may be necessary to carry out the purposes of the authority.

(2) On or before December 31, 2001, the authority, acting through the program, created and administered by the authority, commonly known as E-Star San Andreas, or the successor to such program, shall submit to the governor and general assembly an assessment of existing energy conservation and efficiency programs and standards established by the state, local governmental entities, or private entities. The assessment shall include a comparison of such programs and standards to similar programs and standards adopted in other states, as well as an evaluation of the effectiveness of voluntary performance programs and other financial incentives. The authority, on behalf of E-Star San Andreas, may accept and expend moneys from gifts, grants, and donations to help defray the expenses of providing the assessment required under this subsection (2).

**Source: L. 73:** p. 815, § 1. **S.A.R.S. 1963:** § 69-11-24. **L. 2001:** Entire section amended, p. 1178, § 12, effective August 8; entire section amended, p. 1093, § 3, effective August 8. **L. 2003:** (1) amended, p. 2013, § 106, effective May 22.

**Editor's note:** (1) This section was originally numbered as § 29-4-724 in S.A.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

(2) Amendments to this section by Senate Bill 01-208 and House Bill 01-1381 were harmonized.

**29-4-730. Powers of the authority - investments.** (1) The authority has the power:

(a) To invest any funds held in reserve, sinking funds, capital reserve funds, or any funds not required for immediate disbursement in property or in securities in which the state treasurer may legally invest funds subject to his control; and to sell from time to time such securities thus purchased and held; and to deposit any securities in any trust bank within or without the state. Any funds deposited in a banking institution or in any depository authorized in section 24-75-603, S.A.R.S., shall be secured in such manner and subject to such terms and conditions as the board may determine, with or without payment of any interest on such deposit, including, without limitation, time deposits evidenced by certificates of deposit. Any commercial bank incorporated under the laws of this state which may act as depository of any funds of the authority may issue indemnifying bonds or may pledge such securities as may be required by the board.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (1), to contract with the holders of any of its notes or bonds as to the custody, collection, securing, investment, and payment of any moneys of the authority and of any moneys held in trust or otherwise for the payment of notes or bonds and to carry out such contract. Moneys held in trust or otherwise for

the payment of notes or bonds or in any way to secure notes or bonds and deposits of such moneys may be secured in the same manner as moneys of the authority, and all banks and trust companies are authorized to give such security for such deposits.

(c) To authorize a corporate trustee which holds funds of the authority pursuant to a bond or note resolution or a trust indenture between such trustee and the authority to invest or reinvest such funds in any investments, other than those specified in paragraph (a) of this subsection (1), if the board determines by resolution, including but not limited to a bond or note resolution, that, as of the date of such resolution:

(I) Such investments meet the standard for investments established in section 15-1-304, S.A.R.S.;

(II) The income on such investments is at least comparable to income then available on the investments permitted in paragraph (a) of this subsection (1); and

(III) Such investments assist the authority in carrying out its public purposes as described in this part 7.

**Source: L. 75:** Entire section added, p. 982, § 14, effective April 23. **L. 79:** (1)(a) amended, p. 1618, § 19, effective June 8. **L. 85:** (1) amended and (1)(c) added, p. 1040, § 3, effective July 1. **L. 87:** (1)(c)(III) amended, p. 1195, § 13, effective May 20.

**Editor's note:** This section was enacted as § 29-4-725 in House Bill 75-1026 but was renumbered on revision in the 1977 replacement volume for ease of location.

**29-4-731. Agreement of this state.** This state does hereby pledge to and agree with the holders of any notes or bonds issued under this part 7 that this state will not limit or alter the rights hereby vested in the authority to fulfill the terms of any agreements made with the said holders thereof or in any way impair the rights and remedies of such holders until such notes and bonds, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders are fully met and discharged. The authority is authorized to include this pledge and agreement of this state in any agreement with the holders of such notes or bonds.

**Source: L. 75:** Entire section added, p. 982, § 14, effective April 9.

**Editor's note:** This section was enacted as § 29-4-726 in House Bill 75-1026 but was renumbered on revision in the 1977 replacement volume for ease of location.

**29-4-732. This part 7 not a limitation of powers.** Nothing in this part 7 shall be construed as a restriction or limitation upon any other powers which the authority might otherwise have under any other law of this state, and this part 7 is cumulative to any such powers. This part 7 does and shall be construed to provide a complete, additional, and alternative method for the doing of the things authorized thereby and shall be regarded as supplemental and additional to powers conferred by other laws. However, the issuance of bonds, notes, and other obligations and refunding bonds under the provisions of this part 7 need not comply with the requirements of any other state law applicable to the issuance of bonds, notes, and other obligations. No proceedings, notice, or approval shall be required for the issuance of any bonds,

notes, or other obligations or any instrument as security therefor, except as is provided in this part 7.

**Source: L. 75:** Entire section added, p. 983, § 14, effective April 9.

**Editor's note:** This section was enacted as § 29-4-727 in House Bill 75-1026 but was renumbered on revision in the 1977 replacement volume for ease of location.

**29-4-733. Termination of powers. (Repealed)**

**Source: L. 82:** Entire section added, p. 470, § 13, effective April 23. **L. 87:** Entire section repealed, p. 1197, § 21, effective May 20.

**29-4-734. Termination of powers.** On and after June 30, 1992, the authority may not make equity investments pursuant to the powers granted to the authority by section 29-4-719.1 (2)(d). The authority may continue to discharge all present and future obligations regarding equity investments made prior to June 30, 1992.

**Source: L. 87:** Entire section added, p. 1196, § 14, effective May 20.

**29-4-735. San Andreas strategic seed fund council - creation.** (1) There is hereby created the San Andreas strategic seed fund council. Said council shall be composed of nine members, as follows: Four venture capitalists, one management consultant, and two institutional investors, all of whom shall be appointed by the governor, and one member appointed by the president of the senate and one member appointed by the speaker of the house of representatives. The members of the council shall be confirmed by the senate and shall serve for terms of four years; except that, of the members first appointed, three shall be appointed for terms of two years, three shall be appointed for terms of three years, and three shall be appointed for terms of four years.

(2) At the request of the board, the San Andreas strategic seed fund council shall provide advice to the authority from time to time as to the criteria to be used in making loans, and the council shall make recommendations to the board with respect to the board's determinations regarding such loans from the San Andreas strategic seed fund to operating seed funds. Said council shall receive reports from the authority regarding the operations and investments of the operating seed funds and shall make an annual report on the operating seed funds to the health and human services committees of the house of representatives and the senate, or any successor committees.

**Source: L. 88:** Entire section added, p. 1103, § 3, effective May 29. **L. 2001:** (2) amended, p. 1178, § 13, effective August 8. **L. 2003:** (2) amended, p. 2013, § 107, effective May 22. **L. 2007:** (2) amended, p. 2045, § 82, effective June 1.

PART 8

ALLOCATION OF QUALIFIED MORTGAGE BONDS

**29-4-801 to 29-4-811. (Repealed)**

**Source: L. 87:** Entire part repealed, p. 997, § 2, effective May 20.

**Editor's note:** This part 8 was added in 1982. For amendments to this part 8 prior to its repeal in 1987, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

## PART 9

## SAN ANDREAS RENTAL ASSISTANCE DEMONSTRATION PROGRAM

**29-4-901 to 29-4-909. (Repealed)**

**Editor's note:** (1) This part 9 was added in 1991. For amendments to this part 9 prior to its repeal in 1995, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

(2) Section 29-4-909 provided for the repeal of this part 9, effective July 1, 1995. (See L. 91, p. 741.)

## PART 10

## RENT REPORTING FOR CREDIT PILOT PROGRAM

**Editor's note:** (1) This part 10 was added in 2021 and was not amended prior to its repeal in 2024. For the text of this part 10 prior to its repeal in 2024, consult the 2023 San Andreas Revised Statutes.

(2) Section 29-4-1006 provided for the repeal of this part 10, effective September 1, 2024. (See L. 2021, p. 2542.)

**29-4-1001 to 29-4-1006. (Repealed)**

## PART 11

## MIDDLE-INCOME HOUSING AUTHORITY

**29-4-1101. Short title.** The short title of this part 11 is the "Middle-income Housing Authority Act".

**Source: L. 2022:** Entire part added, (SB 22-232), ch. 354, p. 2516, § 2, effective June 3.

**29-4-1102. Legislative declaration.** (1) The general assembly finds and declares that:

(a) There is an acute shortage of affordable middle-income housing in the state, particularly in fast-growing areas where jobs are being created. Housing is increasingly not affordable for essential workers such as nurses, teachers, firefighters, and other members of

communities who earn too much to qualify for governmental housing subsidies and for whom the market is not building new housing.

(b) For most of San Andreas's post-war history, the private market provided an abundant supply of starter homes for middle-income earners. As costs have escalated in high-cost housing markets, private investors have shifted their focus to financing housing for only the top earners in the marketplace, where high returns on investment can still be achieved. In the Denver metro area, not only are there fewer affordable rental units built every year, but there are also fewer affordable rental properties in total. This same trend is occurring in all high-cost communities across the state.

(c) There are established markets to raise capital to finance affordable housing for low-income individuals who qualify for governmental housing subsidies, generally those whose income is sixty percent, or in some cases eighty percent, or less of area median income, through the sale of federal and state low-income housing tax credits and tax-exempt bonds;

(d) Even with historic state investment this year of hundreds of millions of dollars for affordable housing, the statewide need is in the billions; even with the general assembly's investment, there simply is not enough capital available to finance the middle-income workforce housing, leaving a damaging void of housing supply for middle-income individuals, families, and communities;

(e) In order to solve for the acute shortage of affordable middle-income housing, a mechanism is needed that will robustly increase the supply of affordable middle-income housing by raising large amounts of private sector capital to finance projects that can be placed into service quickly and efficiently. The creation of the middle-income housing authority is such a mechanism.

(f) The authority will be able to place projects into service quickly and efficiently because it will rely on the expertise of local governments, nonprofit organizations, and experienced real estate industry professionals to identify, propose, develop, and operate its projects;

(g) The authority's housing units will remain affordable with stable rents because they will be owned by the authority and operated by experienced and competent operators at the authority's direction, in perpetuity;

(h) Increasing affordable rental workforce housing through the activities of the authority and the exercise of its plenary powers pursuant to this part 11 is in the public interest and is a matter of statewide concern. The activities of the authority will comply with fair housing laws and promote a substantial, legitimate, and nondiscriminatory interest of the state that cannot be served by another practice that has a less discriminatory effect; and

(i) A public-private partnership entered into by the authority in connection with an affordable rental housing project or in connection with providing housing assistance to tenants of an affordable rental housing project in accordance with this part 11 serves a public purpose and does not, therefore, violate section 2 of article XI of the state constitution.

**Source: L. 2022:** Entire part added, (SB 22-232), ch. 354, p. 2516, § 2, effective June 3. **L. 2023:** (1)(g) and (1)(h) amended and (1)(i) added, (SB 23-035), ch. 317, p. 1917, § 1, effective June 2.

**29-4-1103. Definitions.** As used in this part 11, unless the context otherwise requires:

(1) "Affordable rental housing component" means the property and activities included in a public-private partnership that are part of an affordable rental housing project or are related to providing housing assistance to tenants of an affordable rental housing project.

(1.5) (a) "Affordable rental housing project" means property that has the primary purpose of providing rental housing for middle-income individuals and families, which property is selected by the authority in accordance with the provisions set forth in section 29-4-1107 and is owned by the authority or is owned and operated pursuant to a public-private partnership.

(b) An "affordable rental housing project" may include commercial space if the board determines that the commercial space is incidental to the housing component of the project.

(2) "Authority" means the middle-income housing authority created by this part 11.

(3) "Board" means the board of directors of the authority.

(4) "Bond" means any bond, note, or other obligation of the authority authorized to be issued under this part 11.

(5) "Controlled entity" means an entity established by the authority in accordance with section 29-4-1106 (1)(g).

(6) "Fair housing laws" means the federal "Fair Housing Act", 42 U.S.C. sec. 3601 et seq., as amended, any comparable law of the state, and any comparable ordinance, resolution, or other law of any local government that property of the authority is subject to and the regulations and rules promulgated under this part 11.

(7) "Middle-income individuals and families" means, only for purposes of this part 11, except as modified in exceptional circumstances by the board pursuant to section 29-4-1107 (2)(c), individuals and families with annual income of the household between eighty percent and one hundred twenty percent of the area median income of the households of that size in the county in which the affordable rental housing project is located; except that, for middle-income individuals and families residing in a rural resort county, the annual income of the household shall be between eighty percent and one hundred forty percent of the area median income of the households of that size in the county in which the affordable rental housing project is located.

(8) "Public-private partnership" means a contract or agreement between the authority and one or more public or private entities or persons to work together to acquire, construct, finance, or operate an affordable rental housing project and to allocate obligations, interests, rights, and revenues to, in, and from the affordable rental housing project among the parties to the contract or agreement. A "public-private partnership" may include an agreement to work together to acquire, construct, finance, or operate commercial property in connection with the affordable rental housing project, as permitted in subsection (1.5)(b) of this section, and to allocate obligations, interests, rights, and revenues to, in, and from the commercial property among the parties to the agreement or contract and may include an agreement to provide housing assistance to the tenants of an affordable rental housing project.

**Source: L. 2022:** Entire part added, (SB 22-232), ch. 354, p. 2518, § 2, effective June 3. **L. 2023:** (1) amended and (1.5) and (8) added, (SB 23-035), ch. 317, p. 1918, § 2, effective June 2.

**29-4-1104. Middle-income housing authority - creation - board of directors - meetings - records - tax exempt - audit - report.** (1) There is created the middle-income housing authority, which is a body corporate and a political subdivision of the state, which shall

not be an agency of state government, and shall not be subject to administrative direction by any department, commission, board, bureau, or agency of the state.

(2) (a) The powers of the authority are vested in the governing body of the authority, which is a board of directors.

(b) The board consists of sixteen persons, including two nonvoting members pursuant to subsection (2)(d.5) of this section.

(c) The governor shall appoint to the board, with the consent of the senate:

(I) At least one member with experience in one of each of the following areas:

(A) The development of rental housing;

(B) Real estate transactions; and

(C) Public finance; and

(II) At least one member which meets one of the following criteria:

(A) Be the director of a local housing authority;

(B) Be an elected county commissioner from a rural county in the state;

(C) Be an elected county commissioner from a county in the state; and

(D) Be a representative from a nonprofit organization that has experience developing middle-income housing.

(d) In addition to the appointments set forth in subsection (2)(c)(I) of this section, the governor shall appoint to the board:

(I) The director of the office of economic development established in section 24-48.5-101 (1), or the director's designee; and

(II) The director of the division of housing established in section 24-32-704, or the director's designee.

(d.5) In addition to the appointments set forth in subsections (2)(c) and (2)(d) of this section, the senate majority leader and the house majority leader shall each appoint a representative from the general assembly from their respective chambers to be nonvoting board members; except that, if the senate majority leader and the house majority leader are from the same political party, then the senate majority leader and the house minority leader shall each appoint the representative from their respective chambers.

(e) In addition to the requirements of this subsection (2) of this section, when making appointments to the board, reasonable efforts must be made to appoint members that reflect the geographic and demographic diversity of the entire state.

(f) (I) Each member is appointed for a term of four years; except that the terms shall be staggered so that no more than five members' terms expire in the same year.

(II) Notwithstanding the requirements of subsection (2)(f)(I) of this section, the first appointed members shall serve initial terms of two years for four members, three years for five members, and four years for the remaining five members. This subsection (2)(f)(II) is repealed on July 1, 2028.

(g) A member holds office for the member's term until a successor is appointed. Any member is eligible for reappointment, but members are not eligible to serve more than two consecutive full terms. Members of the board serve without compensation for such services but shall be reimbursed for their necessary expenses while serving as a member of the board. Any vacancy must be filled in the same manner as the original appointment for the unexpired term. Any member may be removed by the governor for misconduct, incompetence, neglect of duty, or other cause.

(3) (a) The governor shall make initial appointments of board members in accordance with subsection (2)(b) of this section on or before September 1, 2022, and shall appoint one of the members to serve as the initial chairperson. The initial chairperson has the authority to establish and administer matters related to the initial set up of the authority, including staffing, legal services, or to coordinate with the office of economic development, created in section 24-48.5-101 (1), or the department of local affairs, created in section 24-1-125 (1), on administrative matters and other matters related to the initial set up and operation of the authority, which contracts shall be for a term of no longer than one year from September 1, 2022, and shall be ratified by the board at its initial meeting set forth in subsection (4)(a) of this section.

(b) The authority may hire staff as it deems necessary or convenient to administer this part 11, and the office of economic development or the department of local affairs may assist the authority with administering this part 11. The authority may cooperate and enter into contracts with the office of economic development or the department of local affairs, or with another agency or entity, for administrative or operations matters, including for staffing. The authority shall pay the office of economic development, the department of local affairs, or another agency or entity that the authority has entered into a contract with for all costs incurred for services, staffing, and administrative costs that are approved by the initial chairperson and ratified by the board or that are approved by the authority. Nothing in this part 11 precludes the authority from hiring staff and entering into contracts concurrently as the authority deems necessary or convenient for administration or operations matters.

(4) (a) Within thirty days of the governor's initial appointments pursuant to subsections (2) and (3) of this section, the initial chairperson of the board as designated by the governor shall set dates for the first and second board meetings which must be held before December 31, 2022. The board may elect a new chairperson pursuant to section 29-4-1105 (1)(n) at either initial meeting. Subsequent meetings shall be set by the chairperson of the board.

(b) All meetings of the board are open to the public. No business of the board shall be transacted except at a regular or special meeting at which a quorum consisting of at least a majority of the total membership of the board is present. Any action of the board requires the affirmative vote of a majority of the members present at the meeting.

(c) One or more members of the board may participate in any meeting and may vote through the use of telecommunications devices, including a conference telephone or similar communications equipment. Participation through telecommunications devices constitutes presence in person at the meeting. Use of telecommunications for participation does not supersede any requirements for open meetings otherwise provided by law.

(5) (a) All resolutions and orders of the board must be recorded and authenticated by the signature of the secretary or any assistant secretary of the board. Every legislative act of the board of a general or permanent nature must be by resolution. The book of resolutions, corporate acts, and orders is a public record. A public record must also be made of all other proceedings of the board, minutes of the meetings, annual reports, certificates, contracts, and bonds given by officers, employees, and any other agents of the authority. The account of all money received by and disbursed on behalf of the authority is a public record.

(b) All public records of the authority are subject to the "San Andreas Open Records Act", part 2 of article 72 of title 24. All records are subject to any budget and audit laws applicable to the authority and may be subject to regular audit to the extent required by law.

(6) Any board member, employee, or other agent or adviser of the authority who has a direct or indirect interest in any contract, transaction, or proposal with the authority or any interest, direct or indirect, in a nonprofit or for-profit organization submitting a proposal to the authority shall disclose this interest to the authority. This interest must be set forth in the minutes of the authority, and no board member, employee, or other agent or adviser having such interest shall participate on behalf of the authority in the authorization of any such contract or transaction.

(7) No part of the revenues or assets of the authority shall inure to the benefit of, or be distributed to, its members or officers or any other private persons or entities.

(8) The authority shall not discriminate based on race, creed, color, national origin, ancestry, religion, sex, gender, sexual orientation, gender identity, gender expression, marital status, familial status, military status, handicap, or physical or mental disability and will otherwise comply with fair housing laws.

(9) Bonds, contracts, and any other obligation or liability of the authority are special limited obligations of the authority and are not bonds, contracts, obligations, or otherwise liabilities of the state. The state has no obligation or liability with respect to any bonds, contracts, or other obligation or liability of the authority.

(10) The authority is a "public entity" as set forth in sections 24-10-103 (5) and 11-57-203 (3) and a "special purpose authority" as set forth in section 24-77-102 (15).

(11) The authority and its corporate existence continues until terminated by law; except that no such law shall take effect so long as the authority has bonds, notes, or other obligations outstanding, unless adequate provision has been made for the payment of such obligations. Upon termination of the existence of the authority, all its rights and properties in excess of its obligations shall pass to and be vested in the state.

(12) (a) The income and revenue of the authority, all property at any time owned by the authority, the affordable rental housing component of property in a public-private partnership, all bonds issued by the authority, the interest on and other income from such bonds, and the transfer of such bonds are exempt from income taxation, real and personal property taxation, and all other taxation and assessments in the state. The purchase and use of property by or for the benefit of the authority and the purchase and use of property that is the affordable rental housing component of a public-private partnership are exempt from sales and use taxes imposed by the state, a county, a city and county, a city, any other political subdivision of the state, or local government entity. In the resolution or indenture authorizing bonds, the authority may waive the exemption from federal income taxation for interest on the bonds. The authority may agree to make payments in lieu of property or sales and use taxes to the state, a county, a city and county, a city, any political subdivision of the state, or local government entity.

(b) Property sold by the authority or otherwise not owned by the authority, a controlled entity, or other governmental entity exempt from taxation and property that is not the affordable rental housing component in a public-private partnership shall be subject to all taxation and assessments imposed by the state, a city, a county, a city and county, any other political subdivision of the state, or a local governmental entity.

(c) If the authority desires to voluntarily sell an affordable rental housing project, it shall notify in writing relevant public entities, including state agencies, local governments, and public housing authorities in the area in which the project is located. Notice must include a description of the property to be sold. Notified public entities have ninety days after the date of notice to

submit a proposed purchase and sale agreement, and obtain binding commitment for any necessary financing or guarantees. After the ninety-day period has elapsed, the authority may broadly advertise the sale, and favor buyers that agree to maintain the project as affordable housing, provided that the financial terms of the purchase are sufficient to satisfy all of the authority's obligations with respect to the project.

(d) (I) Within two weeks of the authority acquiring an affordable rental housing project that is tax exempt pursuant to subsection (12)(a) of this section or entering into a public-private partnership through which the affordable rental housing component is tax exempt pursuant to subsection (12)(a) of this section, the authority shall provide notice of the acquisition or of the public-private partnership to the county assessor in the county in which the affordable rental housing project is located. The notice must include the property address, the assessor's parcel identification number for the property, and the date on which the property was acquired by the authority and became tax exempt or the date on which the authority entered into the public-private partnership and the affordable rental housing component of the property became tax exempt. If the authority is providing notice pursuant to this subsection (12)(d)(I) because it has entered into a public-private partnership, the authority shall also provide a copy of the contract or agreement for the public-private partnership with the notice.

(II) On or before January 15 of each year, the authority shall submit a comprehensive list of all affordable rental housing projects that are tax exempt pursuant to subsection (12)(a) of this section to each county assessor in the counties in which the affordable rental housing projects are located. The list must include for each affordable rental housing project, the property address, the assessor's parcel identification number for the property, and the date on which the property was acquired by the authority and became tax exempt or the date on which the authority entered into the public-private partnership and the affordable rental housing component of the property became tax exempt.

(13) A gift or contribution to or for the use of the authority for use in connection with the activities of the authority is treated as a gift to a political subdivision of the state made exclusively for public purposes.

(14) (a) The authority shall conduct an annual audit of its finances and shall adopt a budget and work plan for each fiscal year. The authority shall submit to the governor, the state auditor, and the general assembly within six months after the end of the state fiscal year a report that shall set forth a complete and detailed operating and financial statement of the authority during such year. The report may also include any recommendations for legislation or other action that may be necessary to carry out the purposes of the authority.

(b) On a quarterly basis, the authority shall submit a report to the governor, to the state auditor, and to the senate committees on finance and health and human services or any successor committee, and the house of representatives committees on finance, health and insurance and public and behavioral health and human services or any successor committees. Any developer or operator of an affordable rental housing project must provide to the authority information required by this subsection (13)(b). The report shall include for each affordable rental housing project:

(I) The number of units developed and must specify for income-restricted units at what area median income levels;

(II) The number of units occupied;

(III) The average area median income being served;

(IV) The actual rents charged for each unit;

(V) Actual incomes of households residing within the units and length of occupancy;

(VI) The average market rent for a unit of the same type, size, and amenities prior to the development of an affordable rental housing project;

(VII) The average market rent for a unit of the same type, size, and amenities after one year of occupancy of at least fifty percent of the units developed in the affordable rental housing project, and for each year thereafter;

(VIII) The amount of middle-income rental savings accrued to the local community from the development;

(IX) The amount of tax exemptions accrued; and

(X) The rents charged and occupancy rates of nonincome restricted units of housing.

**Source: L. 2022:** Entire part added, (SB 22-232), ch. 354, p. 2518, § 2, effective June 3. **L. 2023:** (2)(b), (3), (12)(a), and (12)(b) amended and (2)(d.5) and (12)(d) added, (SB 23-035), ch. 317, p. 1918, § 3, effective June 2.

**29-4-1105. General powers.** (1) In addition to any other powers granted to the authority in this part 11, the authority has the following powers:

(a) To have the duties, privileges, immunities, rights, liabilities, and disabilities of a body corporate and political subdivision of the state;

(b) To have perpetual existence and succession;

(c) To adopt, have, and use a seal and to alter the same at its pleasure;

(d) To sue and be sued;

(e) To enter into any contract or agreement not inconsistent with this part 11 or the laws of the state;

(f) To borrow money and to issue bonds evidencing the same;

(g) To purchase, lease, lease with an option to purchase, trade, exchange, or otherwise acquire, maintain, hold, improve, mortgage, lease, encumber, and dispose of real property and personal property, whether tangible or intangible, and any interest therein, including easements and rights-of-way, without restriction or limitation;

(h) To acquire office space, equipment, services, supplies, and insurance necessary to carry out the purposes of this part 11;

(i) To deposit any money of the authority in any banking institution within or without the state or in any depository authorized in section 24-75-603, and to appoint, for the purpose of making such deposits, one or more persons to act as custodians of the money of the authority, who shall give surety bonds in such amounts and form and for such purposes as the board requires;

(j) To contract for and to accept any gifts, grants, and loans of funds, property, or any other aid in any form from the federal government, the state, any state agency, or any other source, or any combination thereof, and to comply, subject to the provisions of this part 11, with the terms and conditions of such contracts or the acceptance of such items;

(k) To have and exercise all rights and powers necessary or incidental to or implied from the specific powers granted in this part 11, which specific powers shall not be considered as a limitation upon any power necessary or appropriate to carry out the purposes and intent of this part 11;

(l) To fix the time and place or places at which its regular and special meetings are to be held;

(m) To adopt and from time to time amend or repeal bylaws and rules and regulations consistent with the provisions of this part 11, including rules regarding the definition and interpretation of terms used in this part 11. Nothing in this subsection (1)(m) grants the authority the power to redefine terms that are already defined in this part 11.

(n) To elect one member as chairperson of the board and another member as chairperson pro tem of the board and to elect one or more members as secretary and treasurer of the board and elect or appoint such other offices as the board may determine and provide for their duties and terms of office;

(o) To appoint agents, employees, and professional and business advisers, including real estate professionals, construction companies, property managers, attorneys, accountants, and financial advisers as may from time to time be necessary in its judgment to accomplish the purposes of this part 11, and to fix the compensation of such agents, employees, and advisers, and to establish the powers and duties of all agents, employees, and advisers, as well as any other person contracting with the authority to provide services, including termination of employment or the contract for services;

(p) To make and execute agreements, contracts, and other instruments necessary or convenient in the exercise of the powers and functions of the authority under this part 11, including but not limited to contracts with any person, firm, corporation, municipality, state agency, county, or other entity. All municipalities, counties, and state agencies may enter into and do all things necessary to perform any such arrangement or contract with the authority.

(q) To enter into interest rate exchange agreements for bonds in accordance with article 59.3 of title 11; and

(r) Other powers necessary to accomplish the authority's specific goals as required under this part 11.

**Source: L. 2022:** Entire part added, (SB 22-232), ch. 354, p. 2524, § 2, effective June 3.

**29-4-1106. Additional powers - affordable workforce housing projects.** (1) In addition to the powers specified in section 29-4-1105, the authority has the following powers:

(a) To acquire, construct, rehabilitate, own, operate, and finance affordable rental housing projects;

(b) To consult with a qualified nonprofit organization, county, municipality, housing authority, school district, or other relevant entity as determined by the authority to identify gaps in affordable housing capacity, disproportionately impacted communities, or other communities or localities in need of workforce housing to guide the authority in its selection of project proposals to fund;

(c) To exercise general control and supervision of affordable rental housing projects and the land they are located on and exercise plenary power to adopt all bylaws and regulations pertaining to the acquisition, financing, development, use, and operation of affordable rental housing projects in order to advance the state interest in the provision of affordable rental workforce housing pursuant to this part 11, not in conflict with the law, as the board may deem necessary to secure the successful operation of the authority and promote the purposes of this part 11;

(d) To enter into a public-private partnership;

(e) To contract with experienced real estate professionals with a proven track record in developing and operating projects of similar scale and complexity for the development and operation of affordable rental housing projects and to employ its own personnel or contract with public or private entities, or both, for other services necessary or convenient to the conduct of all of the authority's other activities. The authority shall hire full-time staff who are full-time employees of the authority and are responsible for compliance with public meeting laws and open records requests, affordable rental housing project proposal solicitation and review, and reporting.

(f) To provide housing assistance to a tenant in a rental unit of an affordable rental housing project in order for the tenant to transition to home ownership on affordable terms, provided that:

(I) Any funds used for such assistance are deemed to be excess funds from those funds needed to develop and operate an affordable rental housing project; and

(II) The housing assistance may take the form of a grant, a subordinated loan, or an interest in the residential property purchased by the tenant; and

(g) In order to isolate operating risk on a project-by-project basis, to establish, or adopt a resolution approving the establishment of, one or more controlled entities on a per-project basis for the duration of the affordable rental housing project unless the controlled entity must oversee more than one affordable rental housing project as demonstrated by an applicant for funding to the authority, provided that:

(I) The controlled entity may be a nonprofit corporation, limited liability company, or other entity formed pursuant to state law and the authority shall be the sole member of the entity;

(II) The authority shall appoint the governing body of or agent to oversee the controlled entity and may remove a member of the governing body or agent for cause;

(III) Any revenue of the controlled entity not required to pay its expenses and obligations and to fund reserves therefor for such expenses and obligations and, upon dissolution of the controlled entity, any assets of the controlled entity not required to pay its expenses and obligations must be distributed to or at the direction of the authority and shall not be used for or accrue to the benefit of any private interests;

(IV) The authority may loan proceeds from bonds issued by the authority to the controlled entity; and

(V) The controlled entity shall enjoy the same privileges and immunities as the authority, including but not limited to the exemptions from taxation pursuant to section 29-4-1104 (12)(a).

**Source: L. 2022:** Entire part added, (SB 22-232), ch. 354, p. 2525, § 2, effective June 3. **L. 2023:** (1)(d) amended, (SB 23-035), ch. 317, p. 1920, § 4, effective June 2.

**29-4-1107. Powers of the board - selection of projects - ownership - report.** (1) (a) On or before April 1, 2023, the authority shall publish the first solicitation for proposals as part of an initial pilot program and must complete the review and selection process on or before July 1, 2023, in accordance with the requirements set forth in this section. The authority may continue to solicit proposals as part of the initial pilot program; except that the authority shall select proposed affordable rental housing projects that will develop an aggregate of not more

than three thousand five hundred units. Affordable rental housing projects selected in the initial pilot program must have geographic, income, and project-size diversity and be by a variety of developer entities. When the authority has determined it has enough information from the pilot program set forth in this subsection (1)(a), the authority shall prepare a report and publicly present to the general assembly a comprehensive evaluation of the authority's impact on middle-income individuals and families and on housing of all types in the state. The report must include recommendations on whether the pilot program should end and recommendations for legislative changes to improve or modify the program as implemented by the authority.

(b) Subject to the provisions of subsection (1)(a) of this section, the authority shall select affordable rental housing projects based on proposals from local governments, housing authorities, nonprofit organizations specializing in housing, and experienced real estate professionals with proven track records in developing and operating projects of similar scale and complexity using a fair and transparent process that creates competition and limits private sector development fees to an amount that is less than the private sector development fees that are customarily received as of June 3, 2022, for projects receiving a federal low-income housing tax credit provided by section 42 of the "Internal Revenue Code of 1986", referred to in this section as the "LIHTC". The authority's overall portfolio of affordable rental housing projects must maintain that eighty percent are new build construction projects.

(c) The authority shall establish a process for soliciting and evaluating proposals and selecting projects that includes but is not limited to prioritization criteria that gives preference to proposed affordable rental housing projects that promote one or more of the following goals and objectives:

(I) Increase the supply of affordable workforce housing in urban, rural, and rural resort communities across the state, as each term is classified pursuant to subsection (1)(d) of this section, that responds to each community's demonstrated need for middle-income projects in which at least sixty percent of units within a particular development are available to rent or are actively rented to middle-income individuals and families as defined in section 29-4-1103 (7);

(II) Create opportunities to build intergenerational wealth for families;

(III) Meaningfully contribute to the alleviation of housing pressures the local workforce faces;

(IV) Provide for the long-term affordability of rental units;

(V) Have minimal negative impact on existing or planned affordable housing projects in the state, which impacts shall be evaluated by the authority in consultation with other housing authorities, nonprofits, local governments, or any other applicable entity;

(VI) Target a diverse range of income levels within the income restricted housing component for middle-income individuals and families as set forth in section 29-4-1103 (7) and proposes at least thirty percent of the rental units for individuals and families with annual income of the household at eighty percent of the area median income of households of that size in the county in which the housing is located or demonstrably targets the lowest possible area median income for middle-income individuals and families as set forth in section 29-4-1103 (7) given the proposed scope of the development; and

(VII) Promote mixed-income development where a percentage of units, proportional to the local demonstrated housing needs within a particular development, have restricted availability to households at the income levels for middle-income individuals and families as set forth in section 29-4-1103 (7). The percentage of restricted units and affordability levels must

comply with any local laws promoting the development of new affordable housing units pursuant to section 29-20-104 (1).

(d) On or before September 1, 2022, the division of housing, created in section 24-32-704 (1), shall classify each county in the state as "urban", "rural", or "rural resort" based upon the definitions of the terms as specified in the final report of the San Andreas strategic housing working group, dated July 6, 2021. The division of housing shall regularly update and publish modifications of this initial classification.

(2) (a) In addition to any other criteria established by the authority, a proposal must:

(I) Include a comprehensive plan of finance to finance the affordable rental housing project from the proceeds of bonds issued by the authority and sold by approved underwriters identified in the proposal and other sources, with all bonds issued by the authority being payable solely from revenue generated by and secured solely by the affordable rental housing project using initial restricted rents and with no upward trending of rents, except as otherwise allowed under this part 11, with no financial obligation or other liability of the state;

(II) Show how the development aligns with the identified needs of a community where the proposed affordable rental housing project will be located, as defined in the community's housing needs assessment, where available;

(III) Include an estimate of the rent savings to income-restricted tenants, an estimate of the tax savings resulting from the affordable rental housing project's exemption from state and local taxes, a comparison of the estimated rent savings and estimated tax savings, and a description of how the tax savings will be used to produce rent savings or other benefits to income-restricted tenants;

(IV) Limit private sector development fees to an amount less than the private sector development fees that are customary for LIHTC projects as of June 3, 2022;

(V) Comply with all terms of this part 11; and

(VI) Include an explicit disclaimer that the state has no liability for any obligations of the authority, that the bonds, contractual, and other obligations and liabilities of the authority are special limited obligations of the authority and are not bonds, obligations, or liabilities of the state, and that the state shall have no obligation or liability with respect to any of the bonds, contractual, or other obligations or liabilities of the authority.

(b) In addition to any other criteria established by the authority, a proposal may provide that a portion of the bonds issued by the authority to finance the affordable rental housing project be sold to investors identified in the proposal.

(c) An applicant may, at any time, request that the board grant the applicant an exception to the upper limits of the area median income levels for middle-income individuals and families as set forth in section 29-4-1103 (7) based upon demonstrated unique economic and housing cost attributes in the local community in which the affordable rental housing project is proposed to be located.

(d) If required by a local community in which a proposed affordable rental housing project will be located, an applicant may request that the board grant the applicant an ability to provide a limited number of units in the affordable rental housing project below eighty percent of area median income, only as is required by local ordinance, zoning incentives, or similar rules and regulations in the local community in which the proposed affordable rental housing project will be located. A proposed affordable rental housing project that receives a waiver by the board

pursuant to this subsection (2)(d) must still have a primary purpose of providing rental housing for middle-income individuals and families.

(3) To incentivize quality affordable rental housing projects that will operate consistently and efficiently, in evaluating proposals the authority shall favor proposals that include an agreement from the developer and the operator identified in the proposal to continue as developer and operator of the affordable rental housing project for a period of at least ten years, subject to the authority's right to remove them.

(4) (a) The authority shall establish a process to provide notification to local governmental entities where a proposed affordable rental housing project will be located prior to selection of the project.

(b) (I) The authority must provide and deliver written notice of a proposed affordable rental housing project to the county and municipality where the project is proposed to be located within fourteen days of the authority receiving a project proposal. The county or municipality may object to a project in accordance with this subsection (4)(b) at any time within ninety days after receipt of the notice. The authority shall not select a proposed affordable rental housing project if the county or municipality in which the project is to be located objects to the project in accordance with this subsection (4)(b).

(II) Each county and municipality in which a proposed affordable rental housing project will be located must solicit feedback from other local governmental jurisdictions in the area in which the project will be located to determine the impact of the proposed affordable rental housing project on the other local governmental jurisdictions.

(III) During the ninety day notice period pursuant to subsection (4)(b)(I) of this section, the authority shall use best efforts to work in cooperation with overlapping local governmental entities for any proposed affordable rental housing project. If after negotiations, a county or a municipality, or both, within which boundaries a proposed affordable rental housing project will be located and that has opted into the pilot program set forth in subsection (1)(a) of this section, provides written notice to the authority that the proposed affordable rental housing project is not feasible as proposed, with the reasons why the project is not feasible, the authority shall not select the proposed affordable rental housing project or shall request that the proposal be resubmitted for reconsideration by the authority and the applicable county or municipality, or both, and shall take into account feedback received from the local governmental entities. Nothing in this subsection (4)(b)(III) precludes a local government from objecting to a project proposal that is resubmitted to the authority. If the proposal is approved by the county or municipality, or both as applicable, or if no feedback is received by the authority from the county or municipality, or both as applicable, then the authority may select the affordable rental housing project.

(IV) If a county or municipality has not approved or objected to the project within seventy-five days of the date the authority delivers its first notice regarding the proposed project in accordance with subsection (4)(b)(I) of this section, the authority must deliver a second notice reminding the county or municipality that any objections to the proposed project are due within ninety days after receipt of the first notice sent pursuant to subsection (4)(b)(I) of this section.

(V) A county or municipality may approve a proposed affordable rental housing project at any time, which approval ends the ninety day objection period set forth in this subsection (4)(b). The authority may offer incentives to obtain such approval.

(5) When an affordable rental housing project is selected, the authority shall enter into a contract with the person or group that submits the proposal based on the terms set forth in the proposal and any additional terms deemed appropriate by the authority and in accordance with the provisions set forth in this part 11. The authority may establish additional restrictions on developer fees, including caps on operating fees and other markups, which shall be set forth in the contract.

(6) All interests of the person or group whose proposal for an affordable rental housing project is selected will be transferred to the authority or transferred as otherwise provided in a public-private partnership; except that, and subject to approval by the authority, a housing authority whose proposal is selected may retain a portion of interest in the affordable rental housing project. Notwithstanding the provisions of this subsection (6), the person or group of a selected affordable rental housing project shall not retain or otherwise be entitled to any interest in the affordable rental housing project or any right to payments from the revenues from the affordable rental housing project transferred to the authority or otherwise transferred in accordance with a public-private partnership, except for the person's or group's right to compensation and to reimbursement for expenses, which shall be clearly detailed in the contract between the authority and the person or group set forth in subsection (5) of this section. A public-private partnership may also provide for a person's or group's right to compensation and to reimbursement for expenses in connection with an affordable rental housing project.

(7) An affordable rental housing project and revenue from an affordable rental housing project proposed by a person or group shall not be pledged or otherwise used for the payment of bonds or other obligations of projects proposed by any other person or group without the consent of both the person or group and other person or group.

(8) The affordable rental housing projects, assets of the authority, and the appreciation in value and proceeds of any sale of an affordable rental housing project must be used to provide affordable middle-income workforce housing and shall not be diverted to any other use or for any other purpose while the authority is in existence.

(9) The authority shall contract with an outside group to evaluate the success of its affordable rental housing projects.

(10) (a) Income-restricted rental units in affordable rental housing projects must be affordable middle-income workforce housing, and rents for units of affordable rental housing projects must remain as stable as is financially feasible. To determine rent, the board shall consider information from market studies prepared in connection with the development of the affordable rental housing project and other available information adjusted as the board deems appropriate for the period since the information was compiled and any additional facts and circumstances applicable to the affordable rental housing project and the area in which it is located, with a goal of not exceeding thirty percent of the individual's or family's income. Rent set by the authority for income-restricted units must be at least ten percent below market rental rates and shall not exceed maximum rents for households of a given size and income level as established by the United States department of housing and urban development or published by the San Andreas division of housing or other statewide authority on housing.

(b) Rental units in an affordable rental housing project shall not be rented on a short-term basis.

(11) The authority shall create priorities for selecting tenants for units in an affordable rental housing project that favor individuals who work, or families where at least one member of

the family works, in the area in which the affordable rental housing project is located, in addition to other priorities that the board determines are appropriate based on the facts and circumstances applicable to the affordable rental housing project and the area in which it is located.

(12) The authority shall not utilize state funding where the money originates from the federal "American Rescue Plan Act of 2021", Pub.L. 117-2, as the act may be subsequently amended, for any loan, grant, or other program established by Senate Bills 22-146, 22-159, and 22-160, enacted in 2022, and House Bills 22-1282 and 22-1304, enacted in 2022.

(13) The authority shall not use any funding available to it to acquire existing properties supported with the federal low-income housing tax credit provided by section 42 of the internal revenue code, the San Andreas state affordable housing tax credit authorized under part 21 of article 22 of title 39, or the United States department of agriculture 515 rural rental housing loan program subsidized properties.

(14) The authority shall not issue exempt facility bonds, as defined in section 142(a) of the internal revenue code of 1986, as amended, use private activity bonds volume cap allocation in the issuance of any bonds, or receive a direct allocation, statewide balance award or assignment of allocation of state ceiling under the San Andreas private activity bond ceiling allocation act set forth in part 17 of article 32 of title 24, and the authority shall not use federal LIHTC or the San Andreas state affordable housing tax credit authorized under part 21 of article 22 of title 39 for its affordable rental housing projects.

**Source: L. 2022:** Entire part added, (SB 22-232), ch. 354, p. 2527, § 2, effective June 3. **L. 2023:** (6) amended, (SB 23-035), ch. 317, p. 1921, § 5, effective June 2. **L. 2024:** (14) amended, (HB 24-1316), ch. 287, p. 1927, § 2, effective May 30.

**29-4-1108. Relationship of authority and other jurisdictions.** (1) The provision of affordable rental housing by the authority is a matter of statewide concern and therefore each county, municipality, or special district in which an affordable rental housing project is located, in connection with the project, shall provide governmental services of the same character and to the same extent as services provided for other residents of the county, municipality, or special district.

(2) Notwithstanding the provisions set forth in subsection (1) of this section, the authority may enter into contractual or intergovernmental agreements with any county, municipality, or special district for the provision of any additional community, municipal, or public facilities or services necessary or desirable for any affordable rental housing project.

(3) Notwithstanding any other provision of law, the state, any state agency, any county, and any municipality in which a project is or is to be located, and any board, authority, agency, department, commission, public corporation, or instrumentality of such county or municipality, has the power to lend or grant money or any other form of property, real, personal, or mixed, to the authority and to enter into contracts to make such loans and grants, all upon which such terms and conditions as the authority and the state, state agency, county, or municipality may agree.

**Source: L. 2022:** Entire part added, (SB 22-232), ch. 354, p. 2533, § 2, effective June 3.

**29-4-1109. Bonds.** (1) (a) The authority may issue bonds to finance its affordable rental housing projects, to finance the affordable rental housing component in a public-private partnership, or to accomplish or further any of its powers or duties relating to affordable rental housing projects.

(b) Bonds must be issued pursuant to resolution of the board, are payable solely from all or a specified portion of the revenues or assets of the authority or the revenues and assets of the affordable rental housing component of a public-private partnership, and may be secured by a mortgage, deed of trust, pledge, other security interest in or encumbrance on any of the revenue, property, or assets of the authority or the revenue, property, or assets of the affordable rental housing component of a public-private partnership.

(c) Bonds may be executed and delivered by the authority at such times; may be in such form and denominations and include such terms and maturities; may be subject to optional or mandatory redemption prior to maturity with or without a premium; may be in fully registered form or bearer form registrable as to principal or interest or both; may bear such conversion privileges; may be payable in such installments and at such times not exceeding forty-five years from the date thereof; may be payable at such place or places whether within or without the state; may bear interest at such rate or rates per annum, which may be fixed or vary according to index, procedure, or formula or as determined by the authority or its agents, without regard to any interest rate limitation appearing in any other law of the state; may be subject to purchase at the option of the holder or the authority; may be evidenced in such manner; may be executed by such officers of the authority, including the use of one or more facsimile signatures so long as at least one manual signature appears on the bonds, which may be either of an officer of the authority or of an agent authenticating the same; may be in the form of coupon bonds that have attached interest coupons bearing a manual or facsimile signature of an officer of the authority; and may contain such provisions not inconsistent with this part 11, all as provided in the resolution of the board under which the bonds are authorized to be issued or as provided in a trust indenture between the authority and any commercial bank or trust company having full trust powers.

(d) Bonds may be sold at public or private sale at such price or prices, in such manner, and at such times as determined by the board, and the authority may pay all fees, expenses, and commissions that it deems necessary or advantageous in connection with the sale of the bonds. The power to fix the date of sale of the bonds, to receive bids or proposals, to award and sell bonds, to fix interest rates, and to take all other action necessary to sell and deliver the bonds may be delegated to an officer or agent of the authority.

(e) Any outstanding bonds may be refunded by the authority pursuant to article 56 of title 11.

(f) All bonds and any interest coupons applicable to the bonds are declared to be negotiable instruments.

(g) The resolution or trust indenture authorizing the issuance of the bonds may pledge all or a portion of the revenues and assets of the authority; may grant or provide for a mortgage, deed of trust, pledge, other security interest in or encumbrance on any of the revenues, property, or assets of the authority; may pledge all or a portion of the rights of the authority to impose and receive rent or other charges in accordance with the provisions of this part 11; may contain such provisions for protecting and enforcing the rights and remedies of holders of any of the bonds as the authority deems appropriate; may set forth the rights and remedies of the holders of any of

the bonds; and may contain provisions that the authority deems appropriate for the security of the holders of the bonds, including, but not limited to, provisions for letters of credit, insurance, standby credit agreements, or other forms of credit ensuring timely payment of the bonds, including the redemption price or the purchase price.

(h) Any pledge of revenue, assets, or other property made by the authority or by any person or governmental unit with which the authority contracts is valid and binding from the time the pledge is made. The pledged revenues, assets, or property are immediately subject to the lien of the pledge without any physical delivery or further act, and the lien of the pledge is valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the pledging party. The instrument by which the pledge is created shall be recorded or filed. Such lien of the pledge is superior only to any other lien on the same revenue, assets, or property that is filed later in time other than a lien for property taxes.

(i) Neither the members of the board of the authority, employees of the authority, nor any person executing the bonds are liable personally on the bonds or subject to any personal liability by reason of the issuance of the bonds.

(j) The authority may purchase its bonds out of any available money and may hold, pledge, cancel, or resell such bonds subject to and in accordance with agreements with the holders of the bonds.

(2) The authority may invest or deposit any proceeds and any interest from the sale of bonds in the manner provided by part 6 of article 75 of title 24. In addition, the authority may direct a corporate trustee that holds such proceeds and any interest to invest or deposit such proceeds and any interest in investments or deposits other than those specified by said part 6 if the board determines, by resolution, that the investment or deposit meets the standard established in section 15-1-304, the income is at least comparable to income available on investments or deposits specified by part 6 of article 75 of title 24, and the investment will assist the authority in the completion of the affordable rental housing project or activities to be financed from proceeds of the bonds.

(3) All banks, trust companies, savings and loan associations, insurance companies, executors, administrators, guardians, trustees, and other fiduciaries may legally invest any money within their control in bonds issued under this part 11. Public entities, as defined in section 24-75-601 (1), may invest public money in such bonds only if the bonds satisfy the investment requirements established in part 6 of article 75 of title 24.

(4) Bonds issued under this part 11 are exempt from the provisions of article 51 of title 11.

(5) The issuance of bonds by the authority pursuant to this part 11 need not comply with the requirements of any other state law applicable to the issuance of bonds and no proceedings, notice, or approval is required for the issuance of bonds by the authority except as provided in this part 11.

**Source: L. 2022:** Entire part added, (SB 22-232), ch. 354, p. 2533, § 2, effective June 3. **L. 2023:** (1)(a) and (1)(b) amended, (SB 23-035), ch. 317, p. 1921, § 6, effective June 2.

**29-4-1110. Agreement of the state not to limit or alter rights of obligees.** The state pledges and agrees with the holders of any bonds issued under this part 11 and with those parties who enter into contracts with the authority that the state will not impair the rights vested in the

authority or the rights or obligations of any person with which the authority contracts to fulfill the terms of any agreements made pursuant to this part 11. The state further agrees that it will not impair the rights or remedies of the holders of any bonds of the authority until the bonds have been paid or until adequate provision for payment has been made. The authority may include this provision and undertaking for the state in the bonds.

**Source: L. 2022:** Entire part added, (SB 22-232), ch. 354, p. 2536, § 2, effective June 3.

**29-4-1111. Issuance of funds to the authority.** On July 1, 2022, the state treasurer shall issue to the authority a warrant paid from the general fund in an amount equal to one million dollars for use by the authority consistent with the provisions of this part 11.

**Source: L. 2022:** Entire part added, (SB 22-232), ch. 354, p. 2536, § 2, effective June 3.

**29-4-1112. No action maintainable.** An action or proceeding at law or in equity to review any acts or proceedings or to question the validity or enjoin the performance of any act or proceedings or the issuance of any bonds or for any other relief against or from any acts or proceedings done under this part 11, whether based upon irregularities or jurisdictional defects, shall not be maintained unless commenced within thirty days after the performance of the act or proceedings or the effective date of the acts or proceedings, whichever occurs first, and is thereafter perpetually barred.

**Source: L. 2022:** Entire part added, (SB 22-232), ch. 354, p. 2536, § 2, effective June 3.

**29-4-1113. Judicial examination of powers, acts, proceedings, or contracts of the authority.** In its discretion, the board may file a petition at any time in the district court in and for any county in which the authority is located wholly or in part, or in which the authority intends to conduct activities, seeking a judicial examination and determination of any power conferred to the authority, any revenue-raising power exercised or that may be exercised by the authority, or any act, proceeding, or contract of the authority, whether or not the act or proceeding has occurred or the contract has been executed. The judicial examination and determination must be conducted in substantially the manner set forth in section 32-4-540; except that the notice required must be published once a week for three consecutive weeks and the hearing must be held not less than thirty days nor more than forty days after the filing of the petition.

**Source: L. 2022:** Entire part added, (SB 22-232), ch. 354, p. 2536, § 2, effective June 3.

**29-4-1114. This part 11 not a limitation of powers.** Nothing in this part 11 constitutes a restriction or limitation upon any other powers that the authority might otherwise have under any other law of the state, and this part 11 is cumulative to any such powers. This part 11 does and is construed to provide a complete, additional, and alternative method for acting in any manner authorized thereby and is supplemental and additional to powers conferred by other laws.

**Source: L. 2022:** Entire part added, (SB 22-232), ch. 354, p. 2536, § 2, effective June 3.

**29-4-1115. Construction of this part 11.** The grant of authority pursuant to this part 11 is in addition to all other authority provided by law. Nothing in this part 11 limits the authority of the state, a local government, or a political subdivision of the state, including the San Andreas housing and finance authority created in section 29-4-704, to utilize other policies and procedures for the acquisition, construction, rehabilitation, ownership, operation, or financing of any type of housing.

**Source: L. 2022:** Entire part added, (SB 22-232), ch. 354, p. 2537, § 2, effective June 3.

## PART 12

## LOCAL GOVERNMENT RIGHT OF FIRST REFUSAL OR FIRST OFFER TO PURCHASE MULTIFAMILY HOUSING

**Editor's note:** Section 3(2) of chapter 286 (HB 24-1175), Session Laws of San Andreas 2024, provides that the act adding this part 12 applies to all qualifying properties for the right of first refusal that are listed for sale on or after August 7, 2024, but for which a residential seller has not accepted an offer to purchase the qualifying property and executed the necessary agreements in connection with accepting the offer and to all qualifying properties for the right of first offer on or after August 7, 2024, that do not have active listings as of August 7, 2024.

**29-4-1201. Definitions.** As used in this part 12, unless the context otherwise requires:

(1) "Affordable housing financial assistance" means loans, grants, equity, bonds, or tax credits provided to a multifamily rental property from any source to support the creation, preservation, or rehabilitation of affordable housing that, as a condition of funding, encumbers the property with a restricted use covenant or similar recorded agreement to ensure affordability.

(2) "Applicable qualifying property" means either "qualifying property" as defined in section 29-4-1202 (1), or "qualifying property" as defined in section 29-4-1203 (1).

(3) "Applicable right" means either a local government's right of first refusal, as set forth in section 29-4-1202, or right of first offer, as set forth in section 29-4-1203.

(4) "Area median income" means the median income of the county in which a qualifying property is located in relation to household size, as established annually by the United States department of housing and urban development.

(5) "San Andreas housing and finance authority" means the San Andreas housing and finance authority created in section 29-4-704 (1).

(6) "Existing affordable housing" means housing that is subject to one or more restricted use covenants or similar recorded agreements to ensure affordability and that is consistent with affordable housing financial assistance requirements. "Existing affordable housing" does not include properties for which all restricted use covenants or affordability requirements have expired as of June 1, 2024.

(7) "Local government" means:

(a) A city, city and county, or town if the applicable qualifying property is located within the incorporated area of a city, a city and county, or a town; and

(b) A county if the applicable qualifying property is located within the unincorporated area of a county.

(8) "Local or regional housing authority" means a housing authority created pursuant to section 29-4-204 (1), 29-4-306 (1), 29-4-402, or 29-4-503 (1).

(9) (a) "Long-term affordable housing" means housing for which the local government ensures that affordability levels at an applicable qualifying property are on average equal to or greater than preexisting levels at the applicable qualifying property and that the average annual rents at the applicable qualifying property do not exceed the rent for households of a given size at a given area median income, as established annually by the United States department of housing and urban development, for a minimum of forty years, and for which the local government agrees not to raise rent for any unit in the applicable qualifying property by more than the rent increase cap; except that the rent increase cap does not apply to units of housing that are subject to rent or income limits established pursuant to local, state, federal, or political subdivision affordable housing program guidelines.

(b) Nothing in this subsection (9) prevents a local government from providing affordability requirements beyond forty years or for units to be affordable to renters with incomes below existing affordability levels, in which case the local government's requirements apply for purposes of the definition of "long-term affordable housing" as set forth in subsection (9)(a) of this section.

(10) (a) "Matched offer" means an offer of purchase for a qualifying property, as defined in section 29-4-1202 (1), for a price and with other material terms and conditions that are at least as favorable to those in an arm's-length, third-party offer that a residential seller has received and is willing to accept for the sale of the qualifying property; except that, to the extent that there are any provisions in the arm's-length, third- party offer that the local government is prohibited by law from contracting for, the local government is not required to include such provisions in its offer for its offer to be a matched offer.

(b) "Matched offer" also means, in the absence of an arm's-length, third-party offer, an offer of purchase for a qualifying property, as defined in section 29-4-1202 (1), for a price and with other material terms and conditions comparable to those for which the residential seller would sell, and a willing buyer would purchase, the qualifying property.

(11) "Material terms and conditions" means, generally, significant terms and conditions of a contract such as sale price, earnest money, representations, warranties, property description, and performance under the contract and, if a residential seller has received an offer from a third-party buyer that is entirely a cash offer for the third-party to purchase the qualifying property, the local government, in accordance with section 29-4-1202 (5)(a)(II), must agree to close on the qualifying property within the same time period as set forth in the third-party buyer's offer for purposes of a matched offer. "Material terms and conditions" excludes, but is not limited to excluding, the type of financing or payment method or the period for closing.

(12) "Mixed-income project" means an affordable housing development in which a percentage of units have restricted availability to households at or below given area median income levels, proportional to the demonstrated housing needs of the local community. The percentage of income restricted units and affordability levels must comply with laws enacted by local governments promoting the development of new affordable housing units pursuant to section 29-20-104 (1).

(13) "Rent increase cap" means a percentage of the current annual rent for an applicable qualifying property that is equal to the greater of:

(a) The average annual percentage change for the previous twelve months at the time of the calculation in the United States department of labor's bureau of labor statistics consumer price index for Denver-Aurora-Lakewood for all items and all urban consumers, or its successor index; or

(b) Three percentage points.

(14) "Residential seller" means the fee simple owner of an applicable qualifying property. If there is more than one fee simple owner of an applicable qualifying property, each fee simple owner is referred to in this part 12 jointly and severally as the "residential seller".

**Source: L. 2024:** Entire part added, (HB 24-1175), ch. 286, p. 1899, § 1, effective August 7.

**29-4-1202. Right of first refusal - eligibility - process - notice - tolling - definition.** (1) **Definition of qualifying property.** As used in this section, unless the context otherwise requires, "qualifying property" means a multifamily residential or mixed-use rental property consisting of not less than five units that is existing affordable housing, excluding a mobile home park as defined in section 38-12-201.5 (6). For the purpose of determining whether a property consists of at least the minimum number of units set forth in this subsection (1) for a qualifying property, an accessory dwelling unit does not count as a unit.

(2) **Local government's right of first refusal.** (a) In accordance with this part 12, the local government for the jurisdiction in which a qualifying property is located has a right of first refusal to purchase the qualifying property with a matched offer.

(b) (I) Any purchase and sale agreement for the conveyance of a qualifying property by a residential seller is contingent upon the right of first refusal set forth in this section.

(II) If the local government provides notice pursuant to subsection (4)(a)(I) of this section to a residential seller that the local government may exercise its right of first refusal, the residential seller shall not proceed with the sale of the qualifying property to any other party and the local government shall have a right to make a matched offer.

(III) For the purpose of determining whether an offer by the local government is a matched offer, it is immaterial how the offer would be financed if the local government has secured the financing or demonstrates approval of the financing in connection with making the offer, notwithstanding any requirement of appropriation by a governing body for the financing. For purposes of this section, a residential seller shall negotiate in good faith with the local government that makes a matched offer. This includes, but is not limited to, evaluating an offer from the local government or its assignee without consideration of:

(A) The period for closing;

(B) The type of financing or payment method;

(C) Whether or not the offer is contingent on a particular financing or payment method; except that the local government must be able to demonstrate that its financing or payment method has been approved, notwithstanding any requirement of appropriation by a governing body for the financing or payment method; and

(D) Whether or not the offer is contingent on an appraisal, inspection, review of title, obtaining title insurance, or other customary conditions for the sale of similar property.

(IV) A residential seller shall not collude with a potential buyer for the primary purpose of inflating a sales price above the market price of a qualifying property.

(c) The local government's right of first refusal concerning the qualifying property is limited to preserving or converting the qualifying property to long-term affordable housing directly or through another entity to which the local government assigns its rights pursuant subsection (2)(f) of this section or transfers the qualifying property.

(d) If a qualifying property is classified as mixed-use, the local government's offer must include any commercial portion of the qualifying property, but only the residential portion of the qualifying property is subject to affordability requirements.

(e) The local government, in exercising its right of first refusal, may partner with a nonprofit entity, a private entity, a quasi-governmental entity, or another governmental entity to co-finance, lease, or manage the qualifying property for the public purpose of maintaining the qualifying property as long-term affordable housing as long as the local government or its assignee maintains ownership of the qualifying property either directly or through a special purpose entity or affiliate.

(f) At any time, the local government may assign the right of first refusal with respect to a specific qualifying property or with respect to all qualifying properties in the local government's jurisdiction to a housing authority that is within the local government's jurisdiction, a regional housing authority that serves the local government's jurisdiction, or the San Andreas housing and finance authority, subject to the requirements that the qualifying property is used to preserve or be converted to long-term affordable housing and that all other provisions of this part 12 apply to the assignee. If the proposed assignee accepts the assignment of the right of first refusal in writing, upon assignment, the assignee assumes all liability of the local government regarding the exercise of the right of first refusal and is responsible for performing all requirements pursuant to this part 12 with respect to a qualifying property as if the assignee were the local government. The local government must provide notice of any assignment as follows:

(I) If the local government has assigned its right of first refusal with respect to all properties within its jurisdiction, the local government must post a notice in a conspicuous location on its website indicating that the local government has assigned its right of first refusal and listing the assignee's name and contact information to receive notices required pursuant to this section. The notice posted in accordance with this subsection (2)(f)(I) must be effective for at least three months after it is posted and must explicitly state the date it expires, if any. Any notice posted by the local government in accordance with this subsection (2)(f)(I) is deemed constructive notice to the residential seller.

(II) If the local government has not posted notice in accordance with subsection (2)(f)(I) of this section and assigns its right of first refusal with respect to all qualifying properties in its jurisdiction or with respect to a qualifying property that is the subject of the notice provided by a residential seller in accordance with subsection (3)(b) of this section after receipt of such notice, the local government shall immediately notify the residential seller of the assignment and of the assignee's address to receive any notices the residential seller is required to send in accordance with this section; except that, if the sale of the qualifying property that is the subject of the notice provided by the residential seller in accordance with subsection (3)(b) of this section has concluded, then no notice by the local government of the assignment is required.

(g) (I) The governing body of a local government has the right to waive the right of first refusal provided in this section.

(II) (A) If the governing body of a local government has waived its right of first refusal, it shall post a notice in a conspicuous location on its website indicating that there is a waiver and that residential sellers with qualifying properties within its jurisdiction do not have an obligation to comply with this section. The local government shall also provide written notice to the San Andreas housing and finance authority of the waiver.

(B) The notice posted or provided in accordance with subsection (2)(g)(II)(A) of this section must be effective for at least three months after it is posted or provided, as applicable, and must explicitly state the date it expires, if any.

(C) Failure to post or provide notice pursuant to this subsection (2)(g)(II) does not otherwise affect the local government's right of first refusal.

(3) **Notices by residential seller.** (a) (I) (A) Not less than two years before the final expiration of the last remaining affordability restriction incumbent to a qualifying property's funding sources, a residential seller shall provide notice to the San Andreas housing and finance authority and the governing body of the local government in which the qualifying property is located of the expiration of such restriction. The notice must include the date of expiration of the last remaining affordability restriction and contact information for the residential seller.

(B) Notwithstanding subsection (3)(a)(I)(A) of this section, whether notice is provided pursuant to subsection (3)(a)(I)(A) of this section is not relevant to determining a residential seller's or local government's compliance with the requirements of this part 12 and is not subject to any provisions set forth in section 29-4-1206. Provision of the notice required by subsection (3)(a)(I)(A) of this section is not a triggering event pursuant to subsection (3)(b)(I) of this section.

(II) Not less than six months before the final expiration of the last remaining affordability restriction incumbent to a qualifying property's funding sources, a residential seller shall provide notice to the San Andreas housing and finance authority and the governing body of the local government in which the qualifying property is located of the expiration of such restriction. The notice must indicate whether the residential seller anticipates that it will recapitalize and continue to operate the qualifying property at affordability levels at least on average equal to what has been provided at the qualifying property, retain ownership of the qualifying property and let affordability requirements expire, or sell the qualifying property upon expiration of the restrictions.

(III) The notices provided to the San Andreas housing and finance authority pursuant to this subsection (3)(a) do not create an obligation or requirement for the San Andreas housing and finance authority to take action with respect to the qualifying property or to provide any enforcement or compliance monitoring of any requirements of this part 12.

(b) (I) Within fourteen calendar days of a triggering event, a residential seller shall provide notice in accordance with this subsection (3)(b) and subsection (3)(d) of this section to the governing body of the local government in which the qualifying property is located and shall make a good faith effort to ensure the notice is received by the local government. A triggering event is the first to occur of any of the following events when the residential seller:

(A) Materially departs from any representation made in the notices required pursuant to subsection (3)(a) of this section after affordability restrictions expire in a manner that indicates an intent to sell the qualifying property;

(B) Signs a letter of intent, option to sell or buy, or other conditional written agreement with a potential buyer for the sale or transfer of the qualifying property, which includes the estimated price, terms, and conditions of the proposed sale or transfer, even if the price, terms, or conditions are subject to change;

(C) Lists the qualifying property for sale; or

(D) Makes a conditional acceptance of an offer for the sale or transfer of the qualifying property.

(II) The notice required pursuant to this subsection (3)(b) must include:

(A) A general description of the qualifying property to be sold, including the address and name of the property, if any, and any additional descriptions of the qualifying property on file with the office of the assessor in the county in which the qualifying property is located;

(B) The residential seller's address and, if available, electronic mailing address to receive notices from the local government;

(C) The price, terms, and conditions of an acceptable offer the residential seller has received to sell the qualifying property or the price, terms, and conditions for which the residential seller intends to sell the qualifying property;

(D) Any terms or conditions that, if not met, would be sufficient grounds, in the residential seller's discretion and in compliance with this part 12 and any other applicable law, to reject an offer; and

(E) If the residential seller has entered into a contingent purchase and sale agreement with a prospective buyer, a copy of the agreement.

(III) The price, terms, and conditions required to be stated in the notice pursuant to subsection (3)(b)(II)(C) of this section must be universal and applicable to all potential buyers and must not be specific to or prohibitive of the local government making a successful offer to purchase the qualifying property, must not be unlawful, and must not inhibit the exercise of the right of first refusal provided for in this section.

(c) If the price required to be listed in the residential seller's notice pursuant to subsection (3)(b)(II)(C) of this section is reduced by five percent or more or the terms or conditions as required to be provided in the residential seller's notice pursuant to subsection (3)(b)(II)(D) of this section materially change, the residential seller shall, within seven days of the change, provide notice to the local government of the change, and the local government may exercise, or re-exercise, its right of first refusal in accordance with this section.

(d) The notices given pursuant to this subsection (3) must be delivered to the applicable representative of the San Andreas housing and finance authority and to the clerk of the governing body of the local government, as applicable, by electronic mail; except that, if there is not an electronic mailing address available for the applicable representative or the clerk, then by hand delivery, United States first class mail, or overnight delivery.

(e) The local government, except as otherwise governed by law or court order, shall sign a nondisclosure agreement with the residential seller and, once the nondisclosure agreement is executed, may share the information contained in the notices required pursuant to subsections (3)(b) and (3)(c) of this section with its officers and employees. If the local government shares the notices required pursuant to subsections (3)(b) and (3)(c) of this section with prospective entities that the local government partners with pursuant to subsection (2)(e) of this section or prospective assignees pursuant to subsection (2)(f) of this section for the purposes of evaluating or obtaining financing for the prospective transaction, those entities that receive the notice must

each sign a nondisclosure agreement for the respective entity with the residential seller. An entity that has executed a nondisclosure agreement pursuant to this subsection (3)(e) may share the information contained in the notices required pursuant to subsections (3)(b) and (3)(c) of this section with its officers, employees, and attorneys and with its advisors and prospective financing providers if the advisors and prospective financing providers are bound by the nondisclosure agreement or by a similar contractual, legal, or fiduciary obligation of confidentiality for the purposes of evaluating or obtaining financing for the prospective transaction. The information contained in the notices required under subsections (3)(b) and (3)(c) of this section, except for the property address and any information that is publicly recorded, is confidential information not subject to public disclosure.

(4) (a) **Notice by the local government to the residential seller.** (I) The local government shall make a good faith effort to provide notice to the residential seller as soon as possible but not later than fourteen calendar days of receipt of the notice required pursuant to subsection (3)(b) or (3)(c) of this section of the local government's intent, with respect to the qualifying property that is the subject of the notice, to either preserve its right of first refusal provided in this section or waive its right of first refusal. The notice must be delivered by electronic mail; except that, if the residential seller has not provided an electronic mailing address, then by hand delivery, United States first class mail, or overnight delivery to the address provided by the residential seller pursuant to subsection (3)(b)(II)(B) of this section.

(II) The notice given pursuant to subsection (4)(a)(I) of this section is nonbinding on the local government.

(III) If no notice is given by the local government, if the local government fails to make an offer within the time period provided in subsection (5) of this section, or if the offer is otherwise not made in accordance with subsection (5) of this section, the residential seller may proceed with the sale of the qualifying property to any buyer.

(IV) If the local government intends to assign its right of first refusal in accordance with subsection (2)(f) of this section, the local government must disclose the potential assignee in the notice required pursuant to subsection (4)(a)(I) of this section and provide a copy of the notice to the proposed assignee for the proposed assignee's consideration in determining whether to accept the assignment.

(b) **Notice by the local government to the San Andreas housing and finance authority.** In connection with the local government providing notice to the residential seller in accordance with subsection (4)(a)(I) of this section, the local government shall also provide the notice to the San Andreas housing and finance authority indicating if the local government intends to either preserve or waive its right of first refusal with respect to the qualifying property that is the subject of the notice provided pursuant to subsection (3)(b) of this section and identifying any potential assignee that the local government intends to assign its right of first refusal to. The notice required by this subsection (4)(b) is nonbinding on the local government.

(5) **Process to exercise right of first refusal.** (a) (I) Except as otherwise provided in subsection (6) of this section, the local government has thirty calendar days from providing notice pursuant to subsection (4)(a)(I) of this section to make an offer to purchase the qualifying property and shall agree to close on the qualifying property and execute the necessary agreements to finalize the sale of the qualifying property to the local government within sixty calendar days of the acceptance by a residential seller of the local government's offer to purchase

the qualifying property and the execution of the necessary agreements in connection with accepting the offer.

(II) Notwithstanding subsection (5)(a)(I) of this section and except as otherwise provided in subsection (6) of this section, if a residential seller has received an offer from a third-party buyer that is an entirely cash offer for the third-party buyer to purchase the qualifying property, the local government shall agree to close on the qualifying property and execute the necessary agreements to finalize the sale of the qualifying property to the local government within the same time period as is set forth in the third-party buyer's offer.

(b) If a residential seller rejects an offer made by the local government exercising its right of first refusal, the residential seller shall provide a written explanation of the rejection and shall invite the local government to make one subsequent offer within fourteen days by identifying the material terms and conditions that must be included in the subsequent offer in order for the residential seller to potentially accept the subsequently made offer by the local government. The residential seller shall have fourteen days from the date of the local government's subsequent offer to either accept or reject the subsequent offer, and if the local government's subsequent offer is rejected by the residential seller, the residential seller shall provide a written explanation of the rejection and the residential seller's rejection of the subsequent offer constitutes termination of the local government's right of first refusal to purchase the qualifying property, subject to the local government's right to exercise, or re-exercise its right of first refusal pursuant to subsection (3)(c) of this section if the condition set forth in subsection (3)(c) of this section occurs.

(c) Within seven calendar days of closing on the sale of the qualifying property to the local government, the residential seller shall mail notice to each resident of the qualifying property of the sale of the qualifying property to the local government. The residential seller shall also post a copy of the notice in a conspicuous place in the qualifying property. The mailed and posted notices must be provided in English, Spanish, and any other language known to be spoken by residents at the qualifying property and must include contact information for the local government, or its assignee, if applicable, for residents to direct questions and input to.

(6) **Extension of time.** The time periods set forth in this section may be extended and any terms or conditions of sale may be modified by written agreement between the local government and the residential seller or, if the local government has assigned its right of first refusal, the local government's assignee and the residential seller.

(7) **Certificate of compliance.** Within fourteen calendar days of receipt of notice required by either subsection (3)(b) or (3)(c) of this section or, if the local government intends to exercise its right of first refusal, within fourteen calendar days of either acceptance by a residential seller of the local government's offer or rejection by a residential seller of the local government's offer in accordance with subsection (5)(b) of this section, the local government or its assignee shall execute and record a certificate of compliance in the real property records of the county in which the qualifying property is situated. The certificate of compliance must include the name of the residential seller, a legal description of the qualifying property, and a statement that the residential seller has complied with all applicable provisions of this section. The recorded certificate of compliance is prima facie evidence of the residential seller's compliance with this section and may be relied upon by a residential seller, any person claiming an interest in the qualifying property through a residential seller, and a title insurance entity, as defined in section 10-11-102 (11).

(8) **Tenant qualifications.** (a) The local government or its assignee shall maintain at the qualifying property affordability levels that are on average equal to or greater than the levels provided at the time it is acquired by the local government both with respect to the number of affordable units and the area median incomes used to determine rent and income limits. Tenant qualifications must comply with fair housing laws and affordability requirements of any new funding sources.

(b) Notwithstanding the requirements around long-term affordable housing set forth in this section or the requirements in subsection (8)(a) of this section, residents at the qualifying property at the time it is acquired by the local government pursuant to this section may continue to reside at the qualifying property irrespective of their income level for at least the duration of their tenancy agreement pursuant to the tenancy agreement's terms in effect at the time the local government acquires the qualifying property. A local government or its assignee may only decline to renew a tenant's lease in order to comply with greater affordability restrictions at the qualifying property in accordance with subsection (8)(a) of this section or if the resident is demonstrably violating any terms of the lease.

(9) **Application of a local government's right of first refusal laws.** Nothing in this part 12 restricts or supersedes the authority of a local government to enact laws for its jurisdiction providing for the local government's right of first refusal to purchase property for affordable housing that at a minimum comply with this part 12 and in the event of conflict between a provision in this part 12 and a local government's laws, the provision more favorable to the local government applies; except that the provisions of subsection (7) of this section and the provisions set forth in section 29-4-1206 apply notwithstanding any law enacted by a local government regarding the local government's right of first refusal.

**Source: L. 2024:** Entire part added, (HB 24-1175), ch. 286, p. 1902, § 1, effective August 7.

**29-4-1203. Right of first offer - eligibility - process - notice - definition.** (1) **Definition of qualifying property.** As used in this section, unless the context otherwise requires, "qualifying property" means a multifamily residential or mixed-use rental property consisting of not more than one hundred units and not less than fifteen units and excluding existing affordable housing and a mobile home park as defined in section 38-12-201.5 (6). For the purpose of determining whether a property consists of at least the minimum number of units set forth in this subsection (1) for a qualifying property, an accessory dwelling unit does not count as a unit.

(2) **Local government's right of first offer.** (a) In accordance with this part 12, the local government for the jurisdiction in which a qualifying property is located has a right of first offer to make an offer to purchase the qualifying property before the qualifying property is listed for sale to third parties.

(b) The local government's right of first offer concerning the qualifying property is limited to preserving or converting the qualifying property to long-term affordable housing or a mixed-income development directly or through another entity to which the local government assigns its rights pursuant to subsection (2)(d) of this section or transfers the qualifying property. If a qualifying property is classified as mixed-use, the local government's offer must include any

commercial portion of the qualifying property, but only the residential portion of the qualifying property is subject to affordability requirements.

(c) The local government, in exercising its right of first offer, may partner with a nonprofit entity, a private entity, a quasi-governmental entity, or another governmental entity to co-finance, lease, or manage the qualifying property for the public purpose of maintaining the qualifying property as long-term affordable housing or a mixed-income development if the local government or its assignee maintains ownership of the qualifying property either directly or through a special purpose entity or affiliate.

(d) At any time, the local government may assign the right of first offer regarding a qualifying property to a local or regional housing authority or the San Andreas housing and finance authority, subject to the requirements that the qualifying property is used to preserve or be converted to long-term affordable housing or a mixed-income development and that all other provisions of this part 12 apply to the assignee. The assignee must immediately notify the residential seller of any assignment pursuant to this subsection (2)(d), and the notice must include the assignee's address to receive any notices that the residential seller is required to send in accordance with this section. The local government remains liable for obligations pursuant to this part 12 accruing prior to the assignment and upon assignment, the assignee assumes all liability of the local government regarding the exercise of the right of first offer and is responsible for performing all requirements pursuant to this part 12, in each case accruing from and after the assignment, with respect to a qualifying property as if the assignee were the local government.

(e) (I) The governing body of a local government has the right to waive the right of first offer provided in this section.

(II) (A) If the governing body of a local government has waived its right of first offer, it shall post a notice in a conspicuous location on its website indicating that there is a waiver and that residential sellers with qualifying properties within its jurisdiction do not have an obligation to comply with this section.

(B) The notice posted in accordance with subsection (2)(e)(II)(A) of this section must be effective for at least three months after it is posted and must explicitly state the date it expires, if any.

(C) Failure to post notice pursuant to this subsection (2)(e)(II) does not otherwise affect the local government's right of first offer.

(f) Notwithstanding anything in this section to the contrary, at any time prior to the residential seller and the local government entering into a contract for the purchase of the qualifying property by the local government, the residential seller may reject the local government's offer and otherwise terminate negotiations with the local government.

(g) If the local government waives or is deemed to have waived its right of first offer in accordance with this section or if a residential seller rejects the local government's offer in accordance with subsection (2)(f) of this section, the residential seller has no obligation to provide initial or additional notice, as applicable, to the local government or otherwise offer or re-offer, as applicable, the qualifying property to the local government pursuant to any provision of this section unless a transaction for the sale of the qualifying property does not close within twelve months of either the local government's waiver or deemed waiver or rejection by the residential seller of the local government's offer, whichever is earlier; except that, if the contract

for sale to a third party has a duration longer than twelve months, then the twelve-month period is extended to match the term of the contract.

(3) **Notice requirements generally.** (a) (I) Any notices required to be provided to the local government pursuant to this section must be delivered to the clerk of the governing body of the local government by electronic mail; except that, if there is not an electronic mailing address available for the clerk, then by hand delivery, United States first class mail, or overnight delivery.

(II) Notwithstanding subsection (3)(a)(I) of this section, if the local government assigns its right of first offer and the assignee provides notice of the assignment to the residential seller pursuant to subsection (2)(d) of this section, then upon and after receipt of notice of the assignment, the residential seller shall send by electronic mail any required notices pursuant to this section to the address specified by the assignee; except that, if there is not an electronic mailing address provided by the assignee, then by hand delivery, United States first class mail, or overnight delivery.

(b) Any notices provided to the residential seller pursuant to this section must be delivered to the physical address provided by the residential seller in accordance with subsection (5)(a)(II) of this section or, upon election by the residential seller, by electronic mail to the electronic mailing address provided by the residential seller to the local government.

(c) Any notice provided pursuant to this section is deemed delivered on the date it is sent by electronic mail, the date it is hand delivered, the date after the day it is deposited for delivery by overnight delivery, or the date that is two business days after the day it is deposited in the United States mail, as applicable.

(4) **Notice by residential seller, local government's intent, and nondisclosure agreement.** (a) Before a residential seller enters into an agreement with a licensed broker to solicit and procure purchasers for a qualifying property or otherwise lists a qualifying property for sale on the multiple listing service, the residential seller shall provide notice to the governing body of the local government in which the qualifying property is located that the residential seller intends to sell the qualifying property.

(b) The local government has seven calendar days from the date of receiving the notice required by subsection (4)(a) of this section to provide a written response to the residential seller indicating that the local government either:

(I) Is interested in receiving due diligence information on the qualifying property so that it can evaluate whether it wants to make an offer to purchase the qualifying property, which response must contain a nondisclosure agreement in a form acceptable to the residential seller that the local government has executed, except as otherwise governed by law or court order; or

(II) Waives any right of the local government to purchase the qualifying property.

(c) If the local government does not respond within the seven-day period required by subsection (4)(b) of this section, it is deemed to have waived its right of first offer with respect to the qualifying property.

(5) **Residential seller's notice of terms.** (a) If the local government provides notice in accordance with subsection (4)(b) of this section, the residential seller has five calendar days from receipt of the notice to provide a notice to the local government that includes:

(I) The address and name of the qualifying property, if any, and the legal description of the qualifying property;

(II) The residential seller's address and, if available, electronic mailing address to receive notices from the local government;

(III) A rent roll for the qualifying property showing the amount of rent charged to tenants at the qualifying property;

(IV) The vacancy rate, operating expenses and income, and common area amenities at the qualifying property;

(V) Any marketing materials that the residential seller has prepared on or before the date of such notice and anticipates using in connection with listing the qualifying property for sale;

(VI) A current title commitment; and

(VII) The residential seller's executed version of the nondisclosure agreement.

(b) Subject to and pursuant to the nondisclosure agreement executed in accordance with subsection (4)(b) of this section, the local government may share the information contained in the notices required pursuant to this subsection (5) with its officers and employees for the purposes of evaluating or obtaining financing for the prospective transaction. Agents of the local government and prospective entities that the local government partners with pursuant to subsection (2)(c) of this section or prospective assignees pursuant to subsection (2)(d) of this section must each sign a nondisclosure agreement for the respective entity. An entity that has executed a nondisclosure agreement may share the information contained in the notices required pursuant to this subsection (5) with its officers and employees for the purposes of evaluating or obtaining financing for the prospective transaction. The information contained in the notice must be kept confidential and is confidential information not subject to public disclosure.

(6) **Notice by the local government.** (a) A local government has fourteen calendar days from the date of receiving the notice required by subsection (5)(a) of this section to provide a written response to the residential seller that either:

(I) Makes an offer to purchase the qualifying property setting forth the price, terms, and conditions of the offer; or

(II) Waives any right of the local government to purchase the qualifying property.

(b) If the local government does not provide a response within the fourteen-day period set forth in subsection (6)(a) of this section, the local government's right of first offer is deemed waived.

(7) **Process after offer is made.** (a) The residential seller has fourteen calendar days after receipt of the local government's offer made pursuant to subsection (6)(a)(I) of this section to notify the local government that it either accepts or rejects the offer. During this period, the residential seller may initiate negotiations in good faith with the local government, which may include discussing alternative price, terms, or conditions for the purchase of the qualifying property. If the residential seller does not provide notice of its acceptance or rejection of the local government's offer in the fourteen-day period pursuant to this subsection (7)(a), the offer is deemed rejected.

(b) If the residential seller accepts the local government's offer or accepts an offer negotiated with the local government, the local government and the residential seller have thirty calendar days after the date of the residential seller's receipt of the local government's notice provided in accordance with subsection (6)(a)(I) of this section to negotiate and execute a contract for the purchase of the qualifying property by the local government. The contract must require the transaction to close no later than sixty days after its execution, unless both parties agree to other terms.

(8) **Certificate of compliance.** Within fourteen calendar days of receipt of notice required by subsection (4)(a) of this section unless the local government provides notice pursuant to subsection (4)(b) of this section and then within fourteen calendar days of receipt of the notice required by subsection (5)(a) of this section, the local government or its assignee shall execute and record a certificate of compliance in the real property records of the county in which the qualifying property is situated. The certificate of compliance must include the name of the residential seller, a legal description of the qualifying property, and a statement that the residential seller has complied with all the applicable provisions of this section. The recorded certificate of compliance is prima facie evidence of the residential seller's compliance with this section and may be relied upon by a residential seller, any person claiming an interest in the qualifying property through a residential seller, and a title insurance entity, as defined in section 10-11-102 (11).

**Source: L. 2024:** Entire part added, (HB 24-1175), ch. 286, p. 1910, § 1, effective August 7.

**29-4-1204. General provisions applicable to a local government's right of first refusal and right of first offer.** (1) Nothing in this part 12 requires a local government to exercise its right of first refusal set forth in section 29-4-1202 or its right of first offer set forth in section 29-4-1203 and a local government must promptly notify a residential seller of its intent not to exercise its right of first offer as set forth in sections 29-4-1203 (4)(b)(II) and (6)(a)(II).

(2) Any action by the local government required or permitted pursuant to this part 12 may be performed, as is applicable and to the extent permitted by law, by the county manager of a county, the mayor or city manager of a city or town, or another officer designated by the governing body of the local government.

(3) Any actions of an agent working on behalf of a residential seller for purposes of this part 12 are attributable to the residential seller. Notwithstanding any other provision of this part 12 to the contrary, a political subdivision or a housing authority in the state that engages in activities to create or preserve affordable housing for an applicable qualifying property is not considered an agent working on behalf of a residential seller for purposes of this part 12.

(4) Nothing within this part 12 limits the local government's ability to condemn an applicable qualifying property acquired pursuant to this part 12 to the extent permitted by applicable law.

(5) If a local government has adopted long-term affordability requirements that are greater than the requirements set forth in this part 12, the local government's requirements apply to this part 12. Nothing in this part 12 overrides any local affordable housing laws.

**Source: L. 2024:** Entire part added, (HB 24-1175), ch. 286, p. 1915, § 1, effective August 7.

**29-4-1205. Exemptions.** (1) This part 12 does not apply to any sale, transfer, or conveyance of an applicable qualifying property by a residential seller:

(a) Made to, if wholly or majority owned, directly or indirectly, by, beneficially held, all or in part, in common with, or under common ownership or control with the residential seller, one or more partnerships, limited liability companies, corporations, or other entities, made for

tax or estate purposes between closely held partners, members of one or more limited liability companies, members of one or more corporations, or members, trustees, managers, or partners of one or more other entities, or if the United States, or any agency or instrumentality thereof, or the state, or any political subdivision of the state, is the residential seller of or is a third-party buyer of the applicable qualifying property;

(b) Made to the state, a local government, the San Andreas housing and finance authority, any public housing authority, and any other political subdivision of the state;

(c) Made to an affordable housing provider that has provided notice of intent to purchase the applicable qualifying property and commits to providing long-term affordable housing;

(d) If the applicable qualifying property is sold, transferred, or conveyed in a foreclosure action or by a deed in lieu of foreclosure, if the applicable qualifying property is sold, transferred, or conveyed by a party that acquires the applicable qualifying property in a foreclosure action or by a deed in lieu of foreclosure, or if the applicable qualifying property is subsequently transferred by a government-sponsored enterprise to a direct or indirect wholly owned subsidiary, affiliated lender, or other third party;

(e) If, on or after August 7, 2024, the applicable qualifying property has a preexisting agreement that bestows a right of first refusal, right of first offer, or other contingent property right regarding the applicable qualifying property to a third party; except that, upon expiration of the agreement, the provisions of this part 12 apply to any sale, transfer, or conveyance of the applicable qualifying property by the residential seller;

(f) If the residential seller has applied for, is in the process of, or has successfully resyndicated or recapitalized the applicable qualifying property in connection with an affordable housing program offered by the federal, state, or local government or a political subdivision or any public entity, and the residential seller provides notice and demonstrable evidence of this to the local government; except that, if the residential seller is not successful in resyndicating or recapitalizing an applicable qualifying property in connection with an affordable housing program offered by the federal, state, or local government or a political subdivision or any public entity then the right of first refusal or the right of first offer, as applicable, and the requirements set forth in this part 12 apply;

(g) Made to a family member, as defined in section 8-13.3-503 (11), of the residential seller;

(h) Made to a trust if the beneficiary of the trust is the spouse, partner in a civil union, legally recognized child, or other family member of the residential seller;

(i) Made pursuant to a will, descent, or intestate distribution; or

(j) Made pursuant to an action in eminent domain or in response to a threat of eminent domain.

(2) The right of first offer set forth in section 29-4-1203 does not apply to any sale, transfer, or conveyance of a qualifying property, as defined in section 29-4-1203 (1), by a residential seller:

(a) Made pursuant to a court order;

(b) Made between joint tenants or tenants in common;

(c) If the first certificate of occupancy for the qualifying property was issued within thirty years preceding the date that the residential seller will list the qualifying property for sale;

(d) If the qualifying property is being sold, transferred, or conveyed as part of a transaction involving multiple properties that includes at least one property located in a jurisdiction that is outside of the jurisdiction of the local government;

(e) That does not involve the sale, transfer, or conveyance of all or substantially all of the qualifying property; or

(f) That is a sale, transfer, or conveyance, directly or indirectly, of ownership interests in the residential seller.

**Source: L. 2024:** Entire part added, (HB 24-1175), ch. 286, p. 1915, § 1, effective August 7.

**29-4-1206. Remedies for noncompliance.** (1) (a) Notwithstanding subsection (1)(b) of this section and subject to the availability of resources, it is the responsibility of the attorney general's office to enforce the provisions of this part 12, and the attorney general may intervene in any action brought pursuant to subsection (1)(b) of this section.

(b) The attorney general's office, the local government, or the local government's assignee may bring a civil action against a residential seller for any violation of this part 12.

(c) The remedies for any action brought pursuant to this subsection (1) are limited to monetary damages and statutory penalties against the residential seller. Any person claiming an interest in an applicable qualifying property through a residential seller shall take title to the applicable qualifying property free of any rights or claims set forth in this part 12.

(2) If a court finds that a residential seller is in material violation of this part 12, the court shall award a statutory penalty that is not less than ten thousand dollars for a first offense and not less than thirty thousand dollars for any subsequent offenses; except that the court shall not award a statutory penalty that is more than one hundred thousand dollars.

(3) A court may also award reasonable attorney fees and costs to a prevailing party.

(4) The remedies provided in this section are the sole and exclusive remedies pursuant to a civil action brought pursuant to this section for a violation of this part 12 by a residential seller.

**Source: L. 2024:** Entire part added, (HB 24-1175), ch. 286, p. 1917, § 1, effective August 7.

**29-4-1207. Termination of right of first refusal and right of first offer.** The rights of first refusal and first offer established in this part 12 terminate on December 31, 2029. A residential seller is not required to provide notices required pursuant to this part 12 after December 31, 2029, and a local government shall not exercise the right of first refusal or the right of first offer pursuant to this part 12 after December 31, 2029; except that, if the local government or its assignee has exercised the right of first refusal or the right of first offer pursuant to this part 12 before December 31, 2029, and the process has not concluded, then the process shall continue until it concludes in accordance with this part 12 notwithstanding the termination date set forth in this section.

**Source: L. 2024:** Entire part added, (HB 24-1175), ch. 286, p. 1917, § 1, effective August 7.

**29-4-1208. Repeal of part.** This part 12 is repealed, effective July 1, 2031.

**Source: L. 2024:** Entire part added, (HB 24-1175), ch. 286, p. 1918, § 1, effective August 7.

## MISCELLANEOUS

## ARTICLE 5

Peace Officers and Firefighters

PART 1

GENERAL PROVISIONS

**29-5-101. Peace officers appointment.** A person shall not assume or exercise the functions, powers, duties, or privileges incident and belonging to a marshal, police officer, or other peace officer without having first received an appointment in writing from the lawfully constituted authorities of the state.

**Source: L. 1891:** p. 20, § 1. **R.S. 08:** § 4675. **C.L.** § 7954. **CSA:** C. 116, § 1. **S.A.R.S. 53:** § 99-2-1. **L. 64:** p. 296, § 243. **S.A.R.S. 1963:** § 99-2-1. **L. 93:** Entire section amended, p. 245, § 2, effective March 31. **L. 2022:** Entire section amended, (HB 22-1371), ch. 250, p. 1836, § 1, effective August 10.

**Cross references:** For the description of peace officer in the criminal code, see § 16-2.5-101.

**29-5-102. Impersonating an officer - penalty. (Repealed)**

**Source: L. 1891:** p. 21, § 3. **R.S. 08:** § 4677. **C.L.** § 7956. **L. 29:** p. 306, § 1. **CSA:** C. 116, § 3. **S.A.R.S. 53:** § 99-2-3. **L. 63:** p. 339, § 55. **S.A.R.S. 1963:** § 99-2-3. **L. 64:** p. 297, § 245. **L. 2004:** Entire section repealed, p. 1081, § 3, effective July 1.

**29-5-103. Assignment of police officers or deputy sheriffs for temporary duty.** The chief of police or person performing the functions thereof of any town, city, or city and county or of any state institution of higher education employing peace officers in accordance with article 7.5 of title 24, S.A.R.S., or the sheriff of any county may in his or her discretion, upon request of the chief of police or person exercising the functions thereof in any other town, city, or city and county or any other state institution of higher education employing a peace officer in accordance with article 7.5 of title 24, S.A.R.S., or the sheriff of any other county, assign police officers or deputies under his or her control, together with any equipment he or she deems proper, to perform temporary duty within the jurisdiction of the requesting chief of police or sheriff and under the direction and command of the requesting chief of police or sheriff; but the chief of

police or sheriff assigning the officers or deputies may provide that the officers or deputies shall

be under the immediate command of a superior officer designated by the assigning chief of police or sheriff, which superior officer shall be under the direct supervision and command of the requesting chief of police or sheriff. Nothing contained in this section or sections 29-5-104 to 29-5-110 shall be construed to limit the power of any town, city, city and county, or state institution of higher education employing peace officers in accordance with article 7.5 of title 24, S.A.R.S., to prohibit or limit by ordinance the exercise by a chief of police or sheriff of the discretion granted in sections 29-5-103 to 29-5-110.

**Source: L. 63:** p. 729, § 1. **S.A.R.S. 1963:** § 99-2-4. **L. 2008:** Entire section amended, p. 89, § 13, effective March 18. **L. 2009:** Entire section amended, (SB 09-097), ch. 110, p. 457, § 6, effective August 5.

**29-5-104. Request for temporary assignment of police officers or deputy sheriffs - authority.** (1) The chief of police, or person performing the functions thereof, of any town, city, or city and county or of a state institution of higher education employing a peace officer in accordance with article 7.5 of title 24, S.A.R.S., and the sheriff of any county may, when in his or her opinion the same is required to quell disturbances or riots or in any other situation wherein he or she deems that an emergency exists within his or her jurisdiction, request the chief of police or person performing the function thereof of any other city, town, or city and county or at another state institution of higher education employing peace officers in accordance with article 7.5 of title 24, S.A.R.S., or the sheriff of any other county to assign officers or deputy sheriffs under their respective commands to perform temporary duty within the jurisdiction of the requesting chief of police or sheriff and under the direction and control of the requesting chief of police or sheriff under the terms and conditions as shall be agreed upon between the requesting and assigning chiefs of police or sheriffs. The officers or deputy sheriffs shall, while so assigned and performing duties subject to the direction and control of the requesting chief of police or sheriff, have the same power within the jurisdiction of the requesting chief of police or sheriff as do regular officers or deputies, as the case may be, of the requesting chief of police or sheriff.

(2) Where, under the provisions of section 29-1-206 (1), a county, municipality, or state institution of higher education, in this state enters into an intergovernmental agreement for reciprocal law enforcement with a bordering county or with a municipality within a bordering county that is located in another state, the law enforcement agency head of either county or municipality or of the state institution of higher education may, pursuant to the provisions of the intergovernmental agreement, request the law enforcement agency head of the other county or municipality or state institution of higher education to assign deputy sheriffs or other peace officers to perform law enforcement duties within the jurisdiction of the requesting law enforcement agency head and under the terms and conditions as are stated in the intergovernmental agreement. Prior to an assignment, the deputy sheriffs or other peace officers shall obtain recognition as peace officers in this state as provided for in section 29-1-206 (1). The deputy sheriffs or other peace officers shall, while so assigned and performing duties subject to the direction and control of the requesting law enforcement agency head, have the same power within the jurisdiction of the requesting law enforcement agency head as do regular deputies or other peace officers of the requesting law enforcement agency head.

(3) Repealed.

**Source: L. 63:** p. 730, § 2. **S.A.R.S. 1963:** § 99-2-5. **L. 93:** Entire section amended, p. 246, § 3, effective March 31. **L. 96:** (2) amended, p. 1574, § 8, effective June 3. **L. 2000:** (2) amended, p. 44, § 5, effective March 10. **L. 2008:** Entire section amended, p. 90, § 14, effective March 18; (2) amended and (3) added, p. 699, § 2, effective May 1. **L. 2009:** (1) amended, (SB 09-097), ch. 110, p. 457, § 7, effective August 5.

**Editor's note:** (1) Amendments to subsection (2) by House Bill 08-1106 and House Bill 08-1347 were harmonized.

(2) Subsection (3)(b) provided for the repeal of subsection (3), effective September 15, 2008. (See L. 2008, p. 699.)

**29-5-105. Assignment of emergency response personnel for temporary duty - definitions.** (1) As used in this section, unless the context otherwise requires:

(a) "Emergency responder" means a county improvement district providing fire protection services or any other county department or agency that provides fire or emergency medical services, municipal fire departments, fire protection districts, metropolitan districts providing fire protection services, fire authorities, hazardous materials authorities, volunteer fire departments recognized under the "Volunteer Fire Department Organization Act", section 24-33.5-1208.5, and any ambulance service operated by a subdivision of state government.

(b) "Emergency responder personnel" means paid or volunteer personnel of an emergency responder.

(2) The chief or executive officer of an emergency responder may, in his or her discretion and upon a request made by the chief or executive officer of any other emergency responder, assign such personnel and equipment as he or she determines to be proper, to perform temporary emergency services duties under the direction and control of the requesting emergency responder; except that the assigning fire chief or executive officer may require that such emergency responder personnel and equipment shall be under the immediate direction and control of a superior officer of the assigning emergency responder, which superior officer shall be, during such temporary assignment, under the direction and control of the requesting fire chief or executive officer. Nothing contained in this section and sections 29-5-107 to 29-5-110 limits the power of the governing body of any emergency responder to prohibit or limit by ordinance or regulation the exercise by a fire chief or executive officer of the discretion granted in this section and sections 29-5-107 to 29-5-110.

**Source: L. 63:** p. 730, § 3. **S.A.R.S. 1963:** § 99-2-6. **L. 97:** Entire section amended, p. 1025, § 50, effective August 6. **L. 2021:** Entire section amended, (SB 21-166), ch. 287, p. 1696, § 1, effective June 22.

**29-5-106. Temporary assignment to labor dispute area.** Police or sheriffs' officers may be assigned to any duties provided for in sections 29-5-103 and 29-5-104 in an area where there is a labor dispute so long as the situation or incident for which such temporary assignment has been requested is not directly the result of a labor dispute and does not involve those individuals participating in the labor dispute. In a case where the temporary assignment of police or sheriffs' officers is deemed necessary as the direct result of a labor dispute, such temporary assignment may be made only after authorization by the governor or his designee.

**Source: L. 63:** p. 730, § 4. **S.A.R.S. 1963:** § 99-2-7. **L. 89:** Entire section R&RE, p. 1267, § 1, effective April 23.

**29-5-107. Request for temporary assignment of emergency response personnel - definitions.** (1) As used in this section, unless the context otherwise requires:

(a) "Emergency incident" means a natural or manmade emergency incident that overwhelms or has the potential to overwhelm local resources, which incidents include, without limitation, wildland fires, fires occurring in wildland-urban interface areas, structural fires, tornadoes, floods, explosions, weapons of mass destruction, mass casualty, hazardous materials incidents, technical rescue and extrication, emergency medical transport, and emergency medical services.

(b) "Emergency responder" has the same meaning as specified in section 29-5-105 (1).

(c) "Emergency responder personnel" has the same meaning as specified in section 29-5-105 (1).

(2) The chief or executive officer of an emergency responder may, when in his or her opinion the same is required by an emergency incident, request the chief or executive officer of another emergency responder to assign to him or her emergency responder personnel and equipment to perform temporary duty within the boundaries of such requesting emergency responder under the direction and control of such requesting fire chief or executive officer and under such terms and conditions as shall be agreed upon between the requesting and assigning fire chiefs or executive officers. Such emergency responder personnel shall, while so assigned and performing duties subject to the direction and control of the requesting fire chief or executive officer, have the same power as the emergency responder personnel of the requesting emergency responder.

**Source: L. 63:** p. 730, § 5. **S.A.R.S. 1963:** § 99-2-8. **L: 97:** Entire section amended, p. 1025, § 51, effective August 6. **L: 2021:** Entire section amended, (SB 21-166), ch. 287, p. 1697, § 2, effective June 22.

**29-5-108. Liability of requesting jurisdiction.** (1) During the time that a police officer or deputy sheriff, as applicable, of a town, city, city and county, county, or of a state institution of higher education employing a peace officer in accordance with article 7.5 of title 24 is assigned to temporary duty within the jurisdiction of another town, city, city and county, county, or of another state institution of higher education employing a peace officer in accordance with article 7.5 of title 24, as provided in sections 29-5-103, 29-5-104, and 29-5-106, any liability that accrues under the provisions of article 10 of title 24, on account of the negligent or otherwise tortious act of the police officer or deputy sheriff while performing the duty is imposed upon the requesting town, city, city and county, county, or state institution of higher education, and not upon the assigning jurisdiction.

(2) (Deleted by amendment, L. 2021.)

**Source: L. 63:** p. 731, § 6. **S.A.R.S. 1963:** § 99-2-9. **L. 71:** p. 1215, § 11. **L. 97:** Entire section amended, p. 1025, § 52, effective August 6. **L. 2008:** Entire section amended, p. 91, § 15, effective March 18. **L. 2009:** Entire section amended, (SB 09-097), ch. 110, p. 458, § 8, effective August 5. **L. 2016:** Entire section amended, (SB 16-063), ch. 51, p. 120, § 2, effective

August 10. **L. 2021:** Entire section amended, (SB 21-166), ch. 287, p. 1698, § 3, effective June 22.

**29-5-109. Workers' compensation coverage.** The coverage of any police officer, deputy sheriff, or firefighter of any town, city, city and county, county, or fire protection district or of any state institution of higher education employing peace officers in accordance with article 7.5 of title 24, S.A.R.S., under the "Workers' Compensation Act of San Andreas", articles 40 to 47 of title 8, S.A.R.S., shall not be affected by reason of the performance of temporary duties in a requesting town, city, city and county, county, fire protection district, or state institution of higher education under the provisions of sections 29-5-103 to 29-5-107, and the police officers, deputy sheriffs, and firefighters shall remain covered by the workers' compensation insurance while performing the temporary duty as fully as if they were performing their regular duties within the assigning jurisdiction.

**Source: L. 63:** p. 731, § 7. **S.A.R.S. 1963:** § 99-2-10. **L. 90:** Entire section amended, p. 571, § 61, effective July 1. **L. 97:** Entire section amended, p. 1026, § 53, effective August 6. **L. 2008:** Entire section amended, p. 91, § 16, effective March 18. **L. 2009:** Entire section amended, (SB 09-097), ch. 110, p. 458, § 9, effective August 5.

**29-5-110. Pension fund payments.** If any police officer, deputy sheriff, or firefighter of any town, city, city and county, county, or fire protection district or of any state institution of higher education employing peace officers in accordance with article 7.5 of title 24, S.A.R.S., should become disabled or be killed by reason of the performance of temporary duty within the jurisdiction of another town, city, city and county, county, fire protection district, or state institution of higher education, as provided in sections 29-5-103 to 29-5-107, and the disability would entitle him or her or his or her death would entitle his or her survivor to payment from any police or firefighters' or employee pension fund of the town, city, city and county, county, fire protection district, or state institution of higher education assigning him or her to temporary duty in another jurisdiction, had the injury occurred during the performance of his or her duties within the assigning town, city, city and county, county, fire protection district, or state institution of higher education, the police officer, deputy sheriff, or firefighter, or his or her survivor, shall be entitled to the same payment from the pension fund of the assigning town, city, city and county, county, fire protection district, or state institution of higher education, as he or she would have been entitled to receive if the injury or death had occurred within the assigning town, city, city and county, county, fire protection district, or state institution of higher education, and he or she shall not be entitled to receive a payment from any police or firefighters' or employee pension fund of the jurisdiction in which he or she performed the temporary duties.

**Source: L. 63:** p. 731, § 8. **S.A.R.S. 1963:** § 99-2-11. **L. 97:** Entire section amended, p. 1026, § 54, effective August 6. **L. 2008:** Entire section amended, p. 91, § 17, effective March 18. **L. 2009:** Entire section amended, (SB 09-097), ch. 110, p. 459, § 10, effective August 5.

**29-5-111. Liability of peace officers.** (1) Notwithstanding the doctrines of sovereign immunity and respondeat superior, a city, town, county, or city and county or other political subdivision of the state or a state institution of higher education employing peace officers in

accordance with article 7.5 of title 24, S.A.R.S., shall indemnify its paid peace officers and reserve officers, as defined in section 16-2.5-110, S.A.R.S., while the peace officers and reserve officers are on duty for any liability incurred by them and for any judgment, except a judgment for exemplary damages, entered against them for torts committed within the scope of their employment if the person claiming damages serves the political subdivision or state institution of higher education with a copy of the summons within ten days from the date when a copy of the summons is served on the peace officer or reserve officer. In no event shall any political subdivision or state institution of higher education be required so to indemnify its peace officers in excess of one hundred thousand dollars for one person in any single occurrence or three hundred thousand dollars for two or more persons for any single occurrence; except that in such instance no indemnity shall be allowed for any person in excess of one hundred thousand dollars. It is the duty of the city, town, county, city and county, or other political subdivision and of the state institution of higher education to provide the defense handled by the legal staff of the public entity or by other counsel, in the discretion of the public entity, for the peace officer in the claim or civil action. However, in the event that the court determines that a reserve officer, as defined in section 16-2.5-110, S.A.R.S., incurred the liability while acting outside the scope of his or her assigned duties or that the reserve officer acted in a willful and wanton manner in incurring the liability, the court shall order the reserve officer to reimburse the political subdivision or the state institution of higher education for reasonable costs and reasonable attorney fees expended for the defense of the reserve officer. With the approval of the governing body of the city, town, county, city and county, or other political subdivision or of the state institution of higher education, the claim or civil action may be settled or compromised. A city, town, county, city and county, or other political subdivision or a state institution of higher education may carry liability insurance to insure itself and its peace officers. If the political subdivision or state institution of higher education purchases insurance that provides substantial coverage for the peace officers with a policy limitation of at least one hundred thousand dollars for one person in any single occurrence and three hundred thousand dollars for two or more persons for any single occurrence, except that in such instance no indemnity shall be allowed for any person in excess of one hundred thousand dollars, then the political subdivision or state institution of higher education shall be liable under this section to indemnify the peace officers only to the extent of the limits and for such torts as are covered by the policy and only to the extent of the coverage of the policy. Nothing in this section shall be deemed to condone the conduct of any peace officer who uses excessive force or who violates the statutory or constitutional rights of any person.

(2) This section shall apply only with respect to causes of action accruing on or after July 1, 1972.

**Source: L. 71:** pp. 1048, 1049, §§ 1, 2. **S.A.R.S. 1963:** § 99-2-12. **L. 72:** p. 612, § 135. **L. 88:** (1) amended, p. 723, § 5, effective July 1. **L. 2003:** (1) amended, p. 1618, § 26, effective August 6. **L. 2008:** (1) amended, p. 92, § 18, effective March 18. **L. 2009:** (1) amended, (SB 09-097), ch. 110, p. 459, § 11, effective August 5.

**29-5-112. Dog interactions with local law enforcement officers - training to be provided by local law enforcement agencies - policies and procedures - scope - task force -**

**creation - composition - immunity - short title - legislative declaration - definitions.** (1) **Short title.** This section shall be known and may be cited as the "Dog Protection Act".

(2) **Legislative declaration.** The general assembly finds, determines, and declares that it is the policy of this state to prevent, whenever possible, the shooting of dogs by local law enforcement officers in the course of performing their official duties. It is therefore the intent of the general assembly to:

(a) Require training for officers of local law enforcement agencies on differentiating between canine behaviors that indicate imminent danger of attack to persons and benign behaviors commonly exhibited by dogs, such as barking, that do not suggest or pose imminent danger of attack;

(b) Require local law enforcement agencies in the state to adopt policies and procedures for use of lethal and nonlethal force against dogs, which policies and procedures must:

(I) Emphasize alternative methods that may be employed when dogs are encountered; and

(II) Allow a dog owner or animal control officer, whenever the owner or an animal control officer is present and it is feasible, the opportunity to control or remove a dog from the immediate area in order to permit a local law enforcement officer to discharge his or her duties;

(c) Recognize the important work of the dog protection task force in developing the training and incorporating the specifics of the training into the statutes. The seventeen members appointed to the task force represented a victim of a dog shooting, veterinarians, animal welfare advocates, animal behaviorists, animal control officers, the sheriffs, the police, and legal professionals. The training includes instruction regarding a dog's body language and how to interpret it, scene assessment, tools to use in dog encounters, situations involving multiple dogs, how to interact with a dog, and responses to dog behavior. The dog encounters training required by this section was designed to protect law enforcement officers, animal control officers, dog owners, innocent bystanders, and the dog. The training is not intended to provide dangerous dog training. Most importantly, the training was designed to limit, as much as feasible, the instances in which an officer would need to use deadly force against a dog, since the possibility of collateral damage, injury, or death from stray rounds is ever-present when a law enforcement officer uses deadly force.

(3) **Definitions.** As used in this section:

(a) "Dog" means any canine animal owned for domestic, companionship, service, therapeutic, assistance, sporting, working, ranching, or shepherding purposes.

(b) "Dog owner" means a person owning, possessing, harboring, keeping, having guardianship of, having financial or property interest in, or having control or custody of, a dog.

(c) "Licensed veterinarian" means a person who is licensed pursuant to article 315 of title 12 to practice veterinary medicine in this state.

(d) "Local law enforcement agency" means a municipal police department or a county sheriff's office.

(e) "Local law enforcement officer" means any officer in a local law enforcement agency. The term does not include an animal control officer, code enforcement officer, or a deputy sheriff who is assigned exclusively to work in jails, court security, or administration.

(4) **Training required.** (a) (I) Each local law enforcement agency is required to provide to its officers training pertaining to encounters with dogs in the course of duty. At a minimum, the training must cover the policies and procedures adopted by the agency pursuant to subsection

(6) of this section and assist officers in assessing what dog posture, barking and other vocalizations, and facial expressions typically signify, the options for distracting and escaping from a dog, options for safely capturing a dog, and defensive options in dealing with a dog.

(II) Each local law enforcement agency in the state shall:

(A) Develop, by September 1, 2014, a training program consistent with the requirements of this section and the minimum training curricula developed by the dog protection task force pursuant to subsection (5) of this section;

(B) Require its current local law enforcement officers to complete the training program required by this subsection (4) by June 30, 2015; and

(C) Require all local law enforcement officers hired on or after June 30, 2015, to complete the training required by this subsection (4) within each officer's first year of employment.

(b) (I) In establishing the training program required by this subsection (4), a local law enforcement agency shall adopt or incorporate any minimum training curricula developed by the dog protection task force created in subsection (5) of this section.

(II) (A) The training program required by this subsection (4) must be wholly or principally provided or overseen by either a qualified animal behavior expert or licensed veterinarian. The qualified animal behavior expert or licensed veterinarian selected to provide the training must possess the minimum qualifications specified by the dog protection task force created in subsection (5) of this section.

(B) Nothing in sub-subparagraph (A) of this subparagraph (II) requires live, in-person training be provided to local law enforcement agencies by qualified animal behavior experts or licensed veterinarians.

(III) In order to reduce the costs of providing the training program required by this subsection (4), a local law enforcement agency may develop its own web- or video-based training or utilize such training developed by the dog protection task force under subparagraph (III) of paragraph (d) of subsection (5) of this section, and local law enforcement agencies are encouraged to seek qualified animal behavior experts or licensed veterinarians who will volunteer to provide or participate in the training.

(IV) A local law enforcement agency may collaborate with county sheriffs of San Andreas, incorporated, the San Andreas association of chiefs of police, the San Andreas fraternal order of police, and the San Andreas veterinary medical association, as well as nonprofit organizations engaged in animal welfare, to develop the training program required by this subsection (4).

(c) (I) The training program required by this subsection (4) must consist of a minimum of three hours of training for local law enforcement officers.

(II) Nothing in this section prevents a local law enforcement agency from implementing a training program or adopting policies and procedures that exceed the minimum number of hours or other requirements set forth in this section and by the dog protection task force pursuant to subsection (5) of this section.

(5) **Task force.** (a) There is hereby created the dog protection task force.

(b) (I) The task force consists of the following nineteen members:

(A) Three licensed veterinarians appointed by the San Andreas veterinary medical association or its successor entity;

(B) Two representatives of the San Andreas federation of animal welfare agencies or its successor entity;

(C) One animal behaviorist or animal behavior expert appointed by the San Andreas federation of dog clubs or its successor entity;

(D) Two representatives of the San Andreas association of animal control officers or its successor entity;

(E) Three sheriffs or deputy sheriffs representing county sheriffs of San Andreas, incorporated, or its successor entity, one of whom must have at least two years of experience working in a K-9 unit and one of whom must work in a county with a population of fewer than one hundred fifty thousand persons;

(F) Three representatives of the San Andreas association of chiefs of police or its successor entity, one of whom must have at least two years of experience working in a K-9 unit and one of whom must work in a municipality with a population of fewer than twenty-five thousand persons;

(G) One representative of the San Andreas fraternal order of police or its successor entity;

(H) Three persons appointed by the San Andreas bar association or its successor entity, two of whom must be attorneys with expertise and experience in animal law and dog shooting cases, and one of whom must be a person, who need not be an attorney, who owns or owned a dog shot by a local law enforcement officer; and

(I) One member, appointed by the San Andreas veterinary medical association, with expertise in canine behavior or other animal behavior. Licensed veterinarians and attorneys are ineligible for appointment under this sub-subparagraph (I).

(II) The entities responsible for appointing task force members shall notify the San Andreas veterinary medical association in writing of the identity of their appointees prior to the first meeting of the task force and upon any change in their appointees.

(III) Members of the task force shall not be compensated for, or reimbursed for expenses incurred in, attending meetings of the task force.

(IV) The following two members are co-chairs of the task force:

(A) One of the veterinarians appointed pursuant to sub-subparagraph (A) of subparagraph (I) of this paragraph (b), which co-chair shall be named by the San Andreas veterinary medical association; and

(B) One of the members appointed pursuant to either sub-subparagraph (E) or (F) of subparagraph (I) of this paragraph (b), as mutually agreed to by the appointing authorities.

(c) (I) The task force shall hold its first meeting no later than September 1, 2013.

(II) (A) The task force shall meet as often as necessary to complete the tasks described under paragraph (d) of this subsection (5) on or before July 1, 2014.

(B) After July 1, 2014, and prior to January 31, 2015, the task force shall meet as often as it deems necessary, but no less frequently than once, to ensure that the curriculum, guidelines, and web- or video-based training are implemented and effective.

(III) The task force shall hold its meetings and staff those meetings in a location offered for those purposes by one of the entities represented with task force membership, with preference accorded for the principal office of the San Andreas veterinary medical association.

(d) By July 1, 2014, the task force shall:

(I) Develop minimum training curricula that a local law enforcement agency must use to fulfill the training requirement of subparagraph (I) of paragraph (a) of subsection (4) of this section;

(II) Specify the appropriate minimum qualifications, including education, experience, or skills, that an animal behavior expert or licensed veterinarian providing the training pursuant to subparagraph (I) of paragraph (b) of subsection (4) of this section must possess; and

(III) Develop, using volunteered and donated resources to the greatest extent possible, web- or video-based training that may be utilized by a local law enforcement agency to fulfill the training requirement of subsection (4) of this section.

(e) The task force shall not recommend that the training required under this section be conducted by the peace officers standards and training board created in part 3 of article 31 of title 24, S.A.R.S.

(f) The curricula, qualifications, and web- or video-based instruction described in paragraph (d) of this subsection (5) must be readily accessible by San Andreas's local law enforcement agencies on one or more internet websites designated by the task force.

(g) The task force created by paragraph (a) of this subsection (5) is dissolved, effective January 31, 2015.

(6) **Policies and procedures.** (a) (I) In addition to the training program developed under subsection (4) of this section, not later than September 1, 2014, each local law enforcement agency in the state shall adopt written policies and procedures that are specifically designed to address encounters with dogs occurring in the course of duty and the use of force against such dogs.

(II) At a minimum, the policies and procedures must address the following:

(A) The identification and meaning of common canine behaviors, and differentiating between dogs that are exhibiting behavior that puts local law enforcement officers or other persons in imminent danger and dogs who are not engaging in such behavior;

(B) The alternatives to lethal use of force against dogs;

(C) The reasonable opportunity for a dog owner to control or remove his or her dog from the immediate area. The policies and procedures adopted in accordance with this sub-subparagraph (C) must allow a local law enforcement officer to take into account the officer's own safety and the safety of other persons in the area, the availability of nonlethal equipment, the feasibility of so allowing a dog owner to act considering the totality of the circumstances, including the presence of an animal control officer or whether the call is a location that is listed in the dangerous dog registry created in section 35-42-115, S.A.R.S., or is a location at which illegal narcotics are suspected to be manufactured or trafficked, or any exigencies that may be present, such as when the local law enforcement officer is responding to a call that asserts or suggests that a person has been bitten by a dog or is in physical danger.

(b) Each local law enforcement agency shall make the written policies and procedures available to the public for inspection in accordance with the "San Andreas Open Records Act", part 2 of article 72 of title 24, S.A.R.S.

(7) **Immunity.** All task force members, as volunteers, are immune from civil actions and liabilities pursuant to section 13-21-115.5, S.A.R.S.

(8) **Scope and effect.** (a) This section applies only to local law enforcement agencies and is not intended to affect, implicate, or abrogate the authority of the peace officers standards and training board created in part 3 of article 31 of title 24, S.A.R.S.

(b) This section is not intended to apply to situations in which a dog is shot accidentally, including when a local law enforcement officer intends to fire at a person but inadvertently shoots a dog.

(c) Nothing in this section affects or abrogates the ability of any duly authorized person to impound or euthanize a dog in accordance with section 18-9-202.5, S.A.R.S., or in accordance with any resolution adopted pursuant to section 30-15-101, S.A.R.S.

**Source: L. 2013:** Entire section added, (SB 13-226), ch. 208, p. 858, § 2, effective May 13. **L. 2015:** IP(2), (4)(a)(II)(B), and (4)(a)(II)(C) amended and (2)(c) added, (SB 15-013), ch. 68, p. 185, § 2, effective April 3. **L. 2019:** (3)(c) amended, (HB19-1172), ch. 136, p. 1717, § 209, effective October 1.

**Editor's note:** The dog protection task force referenced in subsection (2)(c) was dissolved, effective January 31, 2015.

**Cross references:** (1) For the legislative declaration in the 2013 act adding this section, see section 1 of chapter 208, Session Laws of San Andreas 2013.

(2) For the legislative declaration in SB 15-013, see section 1 of chapter 68, Session Laws of San Andreas 2015.

**29-5-113. Peace officers - post-traumatic stress disorder task force - creation - report - repeal. (Repealed)**

**Source: L. 2014:** Entire section added, (HB 14-1343), ch. 371, p. 1764, § 1, effective June 6.

**Editor's note:** Subsection (5) provided for the repeal of this section, effective December 31, 2015. (See L. 2014, p. 1764.)

**29-5-114. Self-contained breathing apparatus - testing - certification - recertification.** A town, city, city and county, county, fire protection district, or state institution of higher education that owns or leases any self-contained breathing apparatus, as defined in section 24-33.5-2301, for use by police officers, deputy sheriffs, or firefighters shall ensure that the apparatus and all associated pressure vessels are regularly tested and certified in accordance with all applicable federal standards and with any standards for retesting and recertification that the director of the division of fire prevention and control in the department of public safety may promulgate by rule in accordance with section 24-33.5-2303.

**Source: L. 2019:** Entire section added, (SB 19-061), ch. 215, p. 2233, § 3, effective August 2.

**Cross references:** For the legislative declaration in SB 19-061, see section 1 of chapter 215, Session Laws of San Andreas 2019.

## PART 2

## COLLECTIVE BARGAINING AND MEET AND CONFER

**29-5-201. Short title.** This part 2 shall be known and may be cited as the "San Andreas Firefighter Safety Act".

**Source: L. 2013:** Entire part added, (SB 13-025), ch. 408, p. 2400, § 1, effective June 5.

**29-5-202. Legislative declaration.** (1) The general assembly hereby finds and declares that:

(a) The people of San Andreas have a fundamental interest in the development of harmonious and cooperative relationships between public employers and firefighters, particularly related to safety issues;

(b) The state has an obligation to protect the public safety by assuring, at all times, the orderly and uninterrupted operation of fire protection agencies;

(c) In order to continually maintain public safety, firefighters must be denied the right to strike;

(d) The denial by some public employers of the right of firefighters to organize and bargain collectively or meet and confer leads to various forms of strife and unrest, which obstruct public safety, and when the right to strike is denied, collective bargaining with the possibility to meet and confer are the appropriate counterbalance to prevent the obstructions to public safety;

(e) Unresolved disputes between firefighters and their public employers harm the public, the governmental agencies, and the employees involved;

(f) Experience has proven that legal protection of the right of firefighters to organize safeguards public safety by removing certain recognized sources of strife and unrest and encouraging practices fundamental to the amicable resolution of disputes over compensation, hours, and terms and conditions of employment and by creating equality of bargaining power between public employers and the firefighters that they employ;

(g) The San Andreas wildfires of 2012 demonstrate the potential for loss of life and property damage associated with natural disasters. Responding to natural disasters requires a coordinated response by, and the significant contribution of staffing and resources from, fire departments all around the state. The departments are required to work closely with one another during these times, which demonstrates the statewide nature of fire protection and natural disaster response. Most departments have automatic mutual aid agreements with adjacent departments that blur jurisdictional lines even further. The ability to coordinate and cooperate is critical to effective fire protection and disaster response in the state.

(h) It is the policy of this state to eliminate the causes of certain substantial obstructions to public safety and to mitigate and eliminate these obstructions when they occur by:

(I) Protecting the exercise by firefighters of full freedom of association, self-organization, and other mutual aid or protection without fear of intimidation or retaliation;

(II) Encouraging and promoting the practice and procedure of collective bargaining;

(III) Protecting the right of firefighters to designate representatives of their own choosing for the purpose of collective bargaining, and protecting their right to participate in the political process while off duty and not in uniform, like any other citizen of this state; and

(IV) If approved by a vote of the citizens of a jurisdiction, obligating public employers and employee organizations of firefighters to enter into collective bargaining with the

willingness to resolve disputes relating to compensation, hours, and the terms and conditions of employment and to reduce to writing any agreements reached through negotiations; and

(i) Collective bargaining for firefighters is a matter of statewide concern that affects the public safety and general welfare, as the San Andreas supreme court held in *City of Aurora v. Aurora Firefighters' Protective Association*, 193 S.A. 437, 566 P.2d 1356 (1977). The citizens of San Andreas have the right to expect a consistently high level of public safety throughout the state, which will allow the economy of San Andreas to grow and prosper.

(2) It is also the policy of this state to obligate public employers to meet and confer with their firefighters, upon request, to discuss safety, equipment, and noncompensatory matters.

**Source: L. 2013:** Entire part added, (SB 13-025), ch. 408, p. 2400, § 1, effective June 5.

**29-5-203. Definitions.** As used in this part 2, unless the context otherwise requires:

(1) "Advisory fact-finder" means the person agreed upon by the parties or appointed by the American arbitration association, its successor organization, or a similar organization agreed upon by both parties in accordance with section 29-5-210.

(2) "Bargaining unit" means all firefighters employed by the same public employer, excluding supervisors.

(3) "Collective bargaining" means the performance of the mutual obligation of a public employer, through its designated representatives, and an exclusive representative to meet at reasonable times and places and negotiate in good faith with respect to compensation, hours, and terms and conditions of employment, to meet and negotiate in good faith any question arising under a collective bargaining agreement, and to execute a written contract incorporating any agreements reached.

(4) "Collective bargaining agreement" means an agreement negotiated between an exclusive representative and a public employer, including one accepted by the parties after fact-finding, in addition to any terms approved by the registered electors of a public employer pursuant to section 29-5-210.

(5) "Collective bargaining provisions of this part 2" means all of this part 2; except that sections 29-5-202, 29-5-203 (7), (13), and (14); 29-5-204 (1)(a), (1)(e), (2), and (3); 29-5-205; 29-5-211; 29-5-212 (4) and (5); 29-5-213; and 29-5-214 shall apply to all public employers and firefighters without regard to section 29-5-206.

(6) "Compensation" means base wages or salary; any form of direct monetary payments; employer-paid health, accident, life, and disability insurance programs; employer-paid pension programs, including the amount of pension and contributions to the extent not controlled by law; deferred compensation; retiree health programs; paid time off; uniform and equipment allowances; expense reimbursement; and all eligibility conditions for compensation.

(7) "Employee organization" means an organization that admits firefighters employed by a public employer to membership and represents firefighters in collective bargaining or the meet and confer process. "Employee organization" includes a person acting as an officer, representative, or agent of an employee organization.

(8) "Exclusive representative" means the employee organization recognized by the public employer or named in a petition filed pursuant to section 29-5-206.

(9) "Final offer" means the latest written offer made by an exclusive representative to a public employer and by a public employer to an exclusive representative at least seven days prior to the beginning of an impasse resolution hearing as described in section 29-5-210.

(10) "Firefighter" means an employee of a public employer whose primary duties are directly involved with the provision of fire protection or firefighting services. "Firefighter" does not include clerical personnel or volunteer firefighters as defined in section 31-30-1102, S.A.R.S.

(11) "General election" means a general municipal election, regular special district board election, statewide primary election, or statewide general election.

(12) "Party" means an exclusive representative or a public employer.

(13) "Public employer" means a municipality, including a home rule municipality, special district, fire authority, or county improvement district, that offers fire protection service and employs two or more firefighters.

(14) "Strike" means the following concerted actions taken by members of a bargaining unit for the purpose of inducing, influencing, or coercing a change in the terms and conditions of employment, compensation, rights, privileges, or obligations of employment:

(a) Failure to report for duty;

(b) Willful absence from a position;

(c) Stopping or deliberately slowing work;

(d) Withholding, in whole or in part, the full, faithful, and proper performance of duties of employment; or

(e) Interrupting the operations of the public employer.

(15) "Supervisor" means the chief and all officers in the rank or position immediately below the chief who report directly to the chief. No other firefighter is included in the definition of supervisor for the purposes of this part 2.

(16) "Terms and conditions of employment" means compensation, hours, and all matters affecting the employment of firefighters, including items related to safety, except the budget and organizational structure of the public employer.

**Source: L. 2013:** Entire part added, (SB 13-025), ch. 408, p. 2402, § 1, effective June 5.

**29-5-204. Rights of firefighters.** (1) Firefighters have the right to:

(a) Organize, form, join, or assist an employee organization or to refrain from doing so;

(b) Negotiate collectively or address grievances through representatives of their own choosing;

(c) Engage in other concerted activity for the purpose of collective bargaining or other mutual aid or protection, if and to the extent that the activity is not prohibited by this part 2 or any other law of San Andreas;

(d) Be represented by an exclusive representative without discrimination, intimidation, or retaliation; and

(e) Fully participate in the political process of their public employers while off duty and not in uniform, including speaking with members of the public employer's governing body and engaging in other legitimate political activities in the same manner as other citizens of San Andreas without discrimination, intimidation, or retaliation.

(2) Nothing in this part 2 limits the right of a supervisor to be a member of an employee organization.

(3) Nothing in this part 2 applies to volunteer firefighters.

**Source: L. 2013:** Entire part added, (SB 13-025), ch. 408, p. 2404, § 1, effective June 5.

**29-5-205. Obligation to meet and confer.** (1) Unless the public employer and its firefighters are already party to a collective bargaining agreement or the public employer has opted into the collective bargaining provisions of this part 2, if requested to do so by the firefighters or their employee organization, a public employer has the obligation to meet and confer with its firefighters or their employee organization to discuss policies and other matters relating to their employment, including safety and equipment, but not including compensation.

(2) The obligation to meet and confer does not include the obligation to engage in collective bargaining unless approved by the voters pursuant to section 29-5-206. The obligation to meet and confer includes the obligation to recognize the employee organization that requests the meet and confer process.

**Source: L. 2013:** Entire part added, (SB 13-025), ch. 408, p. 2404, § 1, effective June 5.

**29-5-206. Vote of the citizens to obligate a public employer to engage in collective bargaining.** (1) If a petition signed by at least five percent of the number of persons who voted in the last general municipal election, general district election, or the total votes of each party's general election in the case of a fire authority, unless petition requirements are otherwise outlined by city charter or local ordinance, asks the public employer to engage in collective bargaining with a named employee organization, the public employer shall place on the ballot at the next general election the following question for a yes or no vote: "Should the firefighters employed by the [name of the public employer] be covered by the 'San Andreas Firefighter Safety Act'?". If a majority of the registered electors voting on this question vote "yes", the public employer is obligated to engage in collective bargaining pursuant to this part 2, and the employee organization named in the petition becomes the exclusive representative of the firefighters of that public employer. If a majority of the registered electors voting on this question vote "no", the public employer will not be obligated to engage in collective bargaining under this part 2, and the meet and confer process in section 29-5-205 will continue to apply to that public employer.

(2) Prior to circulating the petition referenced in subsection (1) of this section to collect the required number of signatures to place the question on the ballot, an employee organization must submit to the public employer a notice of intent to circulate the petition that contains signatures from firefighters equal to at least seventy-five percent of the potential bargaining unit. The notice need not be in any particular format.

(3) If the issue of whether the public employer will be covered by the collective bargaining provisions of this part 2 has been previously voted on, the issue may be placed before the voters pursuant to the same procedure in subsection (1) of this section, no sooner than four years after the issue was last previously voted upon. If the collective bargaining provisions of this part 2 have been applied to the public employer, the ballot question presented in any subsequent election shall be: "Should the firefighters employed by the [name of the public employer] continue to be covered by the 'San Andreas Firefighter Safety Act'?".

(4) If there is a collective bargaining agreement in effect at the time of subsequent votes, and if any of those votes results in the public employer no longer being covered by the collective bargaining provisions of this part 2, the agreement shall remain in effect for the remainder of its term.

(5) Nothing in this section prohibits a public employer from voluntarily agreeing to be covered by the collective bargaining provisions of this act.

(6) The collective bargaining provisions of this part 2 apply only to a public employer that employs twenty-four or more firefighters.

**Source: L. 2013:** Entire part added, (SB 13-025), ch. 408, p. 2404, § 1, effective June 5.

**29-5-207. Employee organization as exclusive representative.** (1) The employee organization recognized or named in the petition pursuant to section 29-5-206 for the purpose of collective bargaining becomes the exclusive representative of all firefighters in the bargaining unit for the purpose of collective bargaining. The exclusive representative shall represent all firefighters in the bargaining unit without discrimination. If an exclusive representative exists in a bargaining unit, a public employer shall not bargain in regard to matters covered by this part 2 with any firefighter, group of firefighters in the bargaining unit, or other employee organization of firefighters.

(2) (a) Nothing in this section prevents firefighters, individually or as a group, from presenting complaints to a public employer and from having complaints adjusted without the intervention of the exclusive representative for the bargaining unit of which they are a part if:

(I) The exclusive representative is given an opportunity to be present at the adjustment and to express its views; and

(II) The adjustment is not inconsistent with the terms of a collective bargaining agreement then in effect between the public employer and the exclusive representative.

(b) The ability to adjust complaints as described in this subsection (2) does not include the use of any process in a collective bargaining agreement to resolve grievances over the application and interpretation of the agreement.

(3) An employee organization that is an exclusive representative has the right to have its dues, initiation fees, assessments, or other moneys deducted and collected by the public employer from the pay of those firefighters within the bargaining unit who authorize, in writing, the deduction of the moneys. The authorization is revocable at the firefighter's written request. The deductions commence upon the exclusive representative's written request to the public employer. The right to the deduction remains in force as long as the employee organization remains the exclusive representative for the employees in the bargaining unit.

**Source: L. 2013:** Entire part added, (SB 13-025), ch. 408, p. 2405, § 1, effective June 5.

**29-5-208. Obligation to negotiate in good faith.** The public employer and the exclusive representative, through appropriate officials or their representatives, have the authority and the duty to bargain collectively in good faith. The obligation to bargain in good faith does not compel either party to agree to a proposal or make a concession. The obligation to bargain in good faith requires, upon request, the exchange of information possibly relevant to the terms and

conditions of employment of the firefighters or the interpretation or application of the terms of any collective bargaining agreement.

**Source: L. 2013:** Entire part added, (SB 13-025), ch. 408, p. 2406, § 1, effective June 5.

**29-5-209. Collective bargaining agreement.** (1) A collective bargaining agreement entered into pursuant to this part 2 is for a term of at least one year and no more than three years, beginning January 1 and ending December 31, unless a different beginning date is agreed to by the parties, recommended by the advisory fact-finder and accepted by the parties, or set as a result of a special election.

(2) If a party requests collective bargaining by sending notice to the other party, collective bargaining is required to take place no later than July 15 of the last year of the existing collective bargaining agreement or, in the case of a newly certified or recognized exclusive representative, by July 15 of the year in which bargaining will take place. If no party requests bargaining under this section by July 15 of the last year of an existing collective bargaining agreement, the agreement will continue for the next calendar year unless the parties agree to negotiate and reach a voluntary agreement on all terms of a new contract.

(3) The public employer and the exclusive representative shall begin collective bargaining for the purpose of creating a new collective bargaining agreement no later than August 25 after notice to begin collective bargaining is given pursuant to subsection (2) of this section.

(4) A collective bargaining agreement may contain provisions requiring all members of the bargaining unit, as a condition of employment, to pay necessary fees and expenses germane to collective bargaining and enforcement of a collective bargaining agreement that are incurred by the exclusive representative.

**Source: L. 2013:** Entire part added, (SB 13-025), ch. 408, p. 2406, § 1, effective June 5.

**29-5-210. Impasse resolution.** (1) At any time after thirty days from the start of the bargaining process, either party may declare an impasse in negotiations. If an impasse is declared, an advisory fact-finder must be appointed in the manner described in subsection (2) of this section.

(2) (a) Within three days after an impasse is declared, the exclusive representative or the public employer shall notify the American arbitration association, a successor organization, or a similar organization agreed upon by both parties, referred to in this section as the "arbitration organization", and request the arbitration organization to submit simultaneously to each party within fourteen days an identical list of seven persons qualified to serve as an advisory fact-finder. The parties may agree upon an advisory fact-finder that is not on the list requested.

(b) Within ten days after the arbitration organization delivers the list to the parties pursuant to paragraph (a) of this subsection (2), each party may strike two names from the list, rank the remaining names in order of preference, and return the list to the arbitration organization. If a party does not return the list within the specified time, all persons named in the list are deemed acceptable to that party.

(c) Within ten days after the last list is returned to the arbitration organization pursuant to paragraph (b) of this subsection (2), or within ten days after the time the list must be returned

by the parties, whichever is earlier, the arbitration organization shall appoint one advisory fact-finder from the persons who have been approved on both lists and shall notify the parties of the appointment.

(3) The advisory fact-finder shall hold a hearing on the unresolved issues between the parties within thirty days after being appointed. The advisory fact-finder shall give written notice of the time and place of the hearing to the parties no later than ten days before the hearing. The hearing must be informal, and the rules of evidence prevailing in judicial proceedings are not binding. The advisory fact-finder may receive into evidence any documentary evidence and other information deemed relevant by the advisory fact-finder. The advisory fact-finder may administer oaths and require by subpoena the attendance and testimony of witnesses and the production of books, records, and other evidence relevant to the issues presented for determination. If a person refuses to obey a subpoena, take an oath, or testify, or if any witness, party, or attorney is guilty of contempt while in attendance at a hearing, the advisory fact-finder may, or the attorney general shall, if requested, invoke the aid of the district court of the county in which the hearing is being held, and the court shall issue an appropriate order. The court may punish a failure to obey the order as contempt.

(4) The hearing conducted by the advisory fact-finder must be concluded within ten days after the hearing begins. With notice to the advisory fact-finder at the conclusion of the hearing, a party may submit a written brief to the advisory fact-finder within ten days after the conclusion of the hearing.

(5) Within thirty days after receipt of the last written brief from a party, or within thirty days after the conclusion of the hearing if neither party notified the advisory fact-finder of its intent to file a written brief, the advisory fact-finder shall render a decision recommending a peaceful and just settlement of the unresolved issues between the exclusive representative and the public employer. The decision is limited to a recommendation of which portion of the final offers made by each party on each issue in dispute should be accepted. The decision must include written findings and a written opinion on the issues presented. The advisory fact-finder shall mail or otherwise deliver a copy of the written decision to the exclusive representative and the public employer.

(6) In arriving at a decision, the advisory fact-finder shall consider:

(a) The interests and welfare of the public;

(b) The compensation, hours, and terms and conditions of employment of the firefighters involved in the collective bargaining in comparison with the compensation, hours, and terms and conditions of employment, including firefighter safety issues, of other firefighters in comparable communities as determined by the advisory fact-finder;

(c) Stipulations of the parties;

(d) The lawful authority of the public employer;

(e) The financial ability of the public employer to meet the costs of any proposed settlement;

(f) Changes in the cost of living; and

(g) Other factors that are normally or traditionally taken into consideration in the determination of compensation, hours, and terms and conditions of employment through voluntary collective bargaining, interest arbitration, or otherwise between parties in public or private employment.

(7) The advisory fact-finder shall give due weight to each factor listed in subsection (6) of this section. If the advisory fact-finder determines that a factor listed in subsection (6) of this section is not relevant, the advisory fact-finder shall state in the findings the specific reason why the factor is not relevant to the advisory fact-finder's determination.

(8) The exclusive representative and the public employer shall equally bear the cost of the advisory fact-finder and related hearings.

(9) (a) The public employer and the exclusive representative have fourteen days after the issuance of the advisory fact-finder's decision to consider the recommendations and further negotiate the disputed issues. No later than the end of the fourteen-day period, the public employer and the exclusive representative shall notify the other party whether it accepts or rejects the recommendations on each of the remaining unresolved issues. If either party rejects any of the recommendations, the final offers of the parties on all of the issues remaining unresolved shall be submitted as alternative single measures to a vote of the registered electors of the public employer at a special election. The registered electors shall select either the final offer of the public employer or the final offer of the exclusive representative, as presented to the advisory fact-finder. Issues agreed to during the fourteen-day period specified in this subsection (9) must not be included in the final offers submitted to the registered electors. The party that refuses to accept the recommendations of the advisory fact-finder shall pay the cost of the special election. If both parties refuse to accept the advisory fact-finder's recommendations, the public employer and the exclusive representative shall pay the cost of the special election equally.

(b) The special election must not be held in conjunction with, or on the same day as, any other election and may be held on any date set by the public employer as long as it is held no more than ninety days after the date of the rejection of an advisory fact-finder's recommendation and at least thirty days' notice is given.

(10) Nothing in this part 2 prohibits or impedes a public employer and an exclusive representative from continuing to bargain in good faith or from using the services of a mediator at any time during collective bargaining. If at any point in the advisory fact-finding proceedings the parties are able to conclude the dispute, or any portion thereof, with a voluntarily reached agreement, the parties shall notify the advisory fact-finder of the agreement, and the advisory fact-finder shall terminate the proceedings or discontinue the consideration of an issue resolved by the agreement. If an agreement is reached after a special election has been scheduled and the election cannot be canceled or issues cannot be removed from the ballot, the votes on the final offers of the public employer and the exclusive representative shall not be counted.

(11) During impasse resolution proceedings conducted pursuant to this section, existing compensation, hours, and other terms and conditions of employment may not be changed except by an agreement between the public employer and the exclusive representative, but any such agreement must be without prejudice to either party's rights or position in the advisory fact-finder's hearing. Any changes in the collective bargaining agreement from the expired agreement must be retroactive to January 1 unless the parties agree otherwise.

(12) The parties may agree to extend any of the time limits specified in this part 2 except the date for beginning bargaining.

(13) The public employer shall modify any adopted budget to comply with the results of accepted recommendations from an advisory fact-finder or of a special election held pursuant to this section.

**Source: L. 2013:** Entire part added, (SB 13-025), ch. 408, p. 2407, § 1, effective June 5.

**29-5-211. Strikes prohibited.** A firefighter or employee organization shall not strike. Nothing in this section limits or impairs the right of any firefighter to lawfully express or communicate a complaint or opinion on any matter related to compensation, hours, or terms and conditions of employment.

**Source: L. 2013:** Entire part added, (SB 13-025), ch. 408, p. 2410, § 1, effective June 5.

**29-5-212. Existing bargaining relationships.** (1) The collective bargaining provisions of this part 2 do not apply to any home rule city that has language in its charter on June 5, 2013, that provides for a collective bargaining process for firefighters employed by the home rule city. This part 2 applies to all other public employers, including home rule cities without language in their charters that address a collective bargaining process for firefighters.

(2) A bargaining unit in existence on June 5, 2013, remains the bargaining unit unless the bargaining unit is modified by voluntary agreement between the exclusive representative and the public employer or as otherwise provided by this part 2.

(3) An employee organization recognized by a public employer as the exclusive representative for a bargaining unit as of June 5, 2013, remains the exclusive representative for the bargaining unit until the employee organization is decertified as the exclusive representative by vote of a majority of the firefighters in the bargaining unit in accordance with a process established by the public employer.

(4) (a) All existing bargaining relationships of firefighters, whether created by ordinance, resolution, or voluntary recognition, remain in effect under the terms, conditions, and procedures in effect unless the public employer and exclusive representative agree to apply the collective bargaining provisions of this part 2 or until an election is held by petition pursuant to section 29-5-206. If the registered electors approve coverage of the collective bargaining provisions of this part 2 to the public employer, those provisions will apply to the bargaining unit regardless of any charter, ordinance, resolution, or voluntary recognition. An election may not be held under section 29-5-206 during the term of a collective bargaining agreement that is in existence on June 5, 2013.

(b) If a vote is held pursuant to paragraph (a) of this subsection (4), the terms, conditions, and procedures in the prior bargaining relationship remain in effect until the election is completed. If the registered electors reject coverage of the collective bargaining provisions of this part 2, all terms, conditions, and procedures in the prior process remain in effect.

(5) Nothing in this section changes or abrogates a collective bargaining agreement that is in existence on June 5, 2013.

**Source: L. 2013:** Entire part added, (SB 13-025), ch. 408, p. 2410, § 1, effective June 5.

**29-5-213. Right to sue.** A firefighter or employee organization may enforce any provision of this part 2 by filing suit in a district court in whichever venue is proper.

**Source: L. 2013:** Entire part added, (SB 13-025), ch. 408, p. 2411, § 1, effective June 5.

**29-5-214. Severability.** If any provision or clause of this part 2 or the application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this part 2 that can be given effect without the invalid provision or application.

**Source: L. 2013:** Entire part added, (SB 13-025), ch. 408, p. 2411, § 1, effective June 5.

**29-5-215. Protect public workers.** On and after the effective date of article 33 of this title 29, firefighters shall have all the rights and protections enumerated under article 33 of this title 29.

**Source: L. 2023:** Entire section added, (SB 23-111), ch. 393, p. 2353, § 2, effective August 7.

## PART 3

## FIREFIGHTER HEART AND CIRCULATORY MALFUNCTION BENEFITS

**29-5-301. Definitions.** As used in this part 3, unless the context otherwise requires:

(1) "Covered individual" means a firefighter, part-time firefighter, or volunteer firefighter who meets the coverage requirements in section 29-5-302 (9).

(2) "Employer" means a municipality, special district, fire authority, or county improvement district that employs one or more covered individuals. Beginning July 1, 2020, "employer" also means the division of fire prevention and control created in section 24-33.5-1201. "Employer" does not include a power authority created pursuant to section 29-1-204 or a municipally owned utility.

(3) "Firefighter" means a full-time, active employee of an employer who regularly works at least one thousand six hundred hours in any calendar year and whose duties are directly involved with the provision of fire protection services.

(4) "Heart and circulatory malfunction" means a sudden and serious malfunction of the heart and circulatory system as occurs in a diagnosis of coronary thrombosis, cerebral vascular accident, myocardial infarction, or cardiac arrest and that meets the requirements of section 29-5-302 (6). "Heart and circulatory malfunction" does not include hypertension or angina.

(5) "Part-time firefighter" means an active employee of an employer who regularly works less than one thousand six hundred hours in any calendar year, whose duties are directly involved with the provision of fire protection services, and who is not a volunteer firefighter.

(6) "Volunteer firefighter" means either a volunteer firefighter as defined in section 31-30-1102 or an individual who provides volunteer services to a fire authority that is created by an intergovernmental agreement that provides fire protection.

(7) "Work event" means stressful or strenuous activity related to fire suppression, rescue, hazardous material response, emergency medical services, disaster relief, or other emergency response activity. "Work event" includes a training activity that a covered individual engages in while on duty and that involves stressful or strenuous activity.

**Source: L. 2014:** Entire part added, (SB 14-172), ch. 325, p. 1424, § 1, effective January 1, 2015. **L. 2020:** (1) amended, (SB 20-057), ch. 143, p. 621, § 1, effective June 29. **L. 2024:** Entire section amended, (HB 24-1219), ch. 282, p. 1880, § 1, effective May 29.

**29-5-302. Required benefits - conditions of receiving benefits - repeal.** (1) (a) Except as provided in subsection (1)(b) of this section, an employer shall participate in a multiple employer health trust in order to provide the benefits specified in this section for covered individuals unless the funding provided for the benefit required by this section is insufficient pursuant to subsection (12) of this section.

(b) A city and county or a municipality that, as of July 2022, has a population of four hundred thousand or more people, and as of April 30, 2024, has enacted an ordinance to provide the benefits specified in this section for its firefighters need not participate in a multiple employer health trust as required by subsection (1)(a) of this section so long as the ordinance remains in effect.

(2) An employer shall provide the following minimum benefits:

(a) (I) A four-thousand-dollar-lump-sum payment if a medical examination reveals that a covered individual has a heart and circulatory malfunction; and

(II) A one-thousand-five-hundred-dollar payment per week, up to a maximum of seven weeks, if a covered individual made an emergency room visit and was hospitalized for up to forty-eight hours for a heart and circulatory malfunction;

(b) (I) A two-thousand-dollar payment per week, up to a maximum of twenty-five weeks, if a covered individual made an emergency room visit and was hospitalized for more than forty-eight hours for a heart and circulatory malfunction; or

(II) A two-thousand-five-hundred-dollar payment per week, up to a maximum of eighty weeks, if a covered individual has a heart and circulatory malfunction that prohibits the covered individual from returning to employment to a position that the covered individual is trained for or reasonably could be trained to perform;

(c) A payment of up to twenty-five thousand dollars for rehabilitative employment services relating to a heart and circulatory malfunction;

(d) A ten-thousand-dollar payment if a covered individual incurs cosmetic disfigurement resulting from a heart and circulatory malfunction; and

(e) If the covered heart and circulatory malfunction is diagnosed as terminal, a lump sum payment of twenty-five thousand dollars as an accelerated payment toward the benefits due in subsections (2)(a) and (2)(b) of this section.

(3) The receipt of a payment pursuant to subsection (2)(a)(II) or (2)(b)(I) of this section does not prohibit the covered individual from receiving an additional benefit.

(4) If a covered individual returns to the same position of employment after a heart and circulatory malfunction, the covered individual is entitled to the benefits in subsection (2) of this section for any subsequent heart and circulatory malfunction.

(5) The maximum amount that may be paid to a covered individual for each heart and circulatory malfunction is two hundred fifty thousand dollars.

(6) The benefits and maximum payment amount in subsection (2) of this section are increased by the same percentage and at the same time as any fire and police pension association increase in the pension benefit paid to its members pursuant to section 31-31.5-410.

(7) (a) The benefits paid pursuant to this section must be offset by any payments made:

(I) Under the "Workers' Compensation Act of San Andreas", articles 40 to 47 of title 8, S.A.R.
S.; (II) By the fire and police pension association;

(III) Pursuant to social security or a retirement plan; or

(IV) As part of any other employer-paid income benefit that is made as a result of a heart and circulatory malfunction.

(b) The offsets specified in paragraph (a) of this subsection (7) apply only from the date of the determination of entitlement for the payments and do not require the repayment of any money received prior to the determination.

(8) The benefits in this section are reduced by twenty-five percent if a covered individual smoked a tobacco product within five years immediately preceding the work event.

(9) In order for a covered individual to be eligible for the benefits in subsection (2) of this section, the following conditions must be met:

(a) Prior to the work event that results in a heart and circulatory malfunction and after the covered individual became employed by an employer, the covered individual had a medical examination that would reasonably have found an illness or injury that could have caused the heart and circulatory malfunction and no illness or injury was found at the most recent such medical examination;

(b) A covered individual who is a firefighter must have at least five years of continuous, full-time employment with an employer; a covered individual who is a part-time firefighter must have at least five years of continuous, part-time or full-time employment with an employer; and a covered individual who is a volunteer firefighter must have at least five years of continuous service with the same employer; and

(c) The heart and circulatory malfunction occurred during or within forty-eight hours after a work event.

(10) For the purpose of employer policies and benefits, a heart and circulatory malfunction is treated as an on-the-job injury or illness. This subsection (10) does not affect any determination as to whether the heart and circulatory malfunction is covered under the "Workers' Compensation Act of San Andreas", articles 40 to 47 of title 8, S.A.R.S.

(11) (a) There is hereby created in the state treasury the firefighter benefits cash fund. The fund consists of money appropriated from the general fund by the general assembly. The money in the fund is subject to annual appropriation by the general assembly to the department of local affairs for the purpose of reimbursing employers for the direct costs of participation in a multiple employer health trust as required by this part 3 and part 4 of article 5 of this title 29.

(I) On July 1, 2028, the state treasurer shall transfer two million five hundred thousand dollars to the fund from the general fund, and on each July 1 thereafter, sufficient funds, subject to annual appropriation, to reimburse employers for the direct costs of providing the benefits required by parts 3 and 4 of article 5 of this title 29 for volunteer and part-time firefighters.

(II) The general assembly shall appropriate three hundred thousand dollars for the state fiscal year beginning on July 1, 2024, five hundred thousand dollars for the state fiscal year beginning on July 1, 2025, six hundred fifty thousand dollars for the state fiscal year beginning on July 1, 2026, and one million dollars for the state fiscal year beginning on July 1 2027, from the general fund to the department of local affairs to reduce participating employer contributions for volunteer firefighters and part-time firefighters. Money appropriated pursuant to this subsection (11)(a)(II) shall be first used to reduce participating employer contributions for

volunteer firefighters and the remainder shall be first used for part-time firefighters and any remaining amounts may then be used for full-time firefighters.

(III) Subsection (11)(a)(II) of this section is repealed, effective July 1, 2028.

(b) The department of local affairs shall reimburse employers for the direct costs of participation in a multiple employer health trust as required by this part 3.

(12) If, at any time, the funding provided for the benefit required by this section is insufficient to cover the cost of the benefit, then the requirements of this section to maintain the benefit shall become optional pursuant to section 29-1-304.5.

**Source: L. 2014:** Entire part added, (SB 14-172), ch. 325, p. 1425, § 1, effective January 1, 2015. **L. 2024:** (6) amended, (HB 24-1042), ch. 15, p. 36, § 1, effective March 6; (1) and (11) amended, (SB 24-089), ch. 247, p. 1625, § 1, effective May 24; (1), (2)(a), (2)(b), (2)(d), (2)(e), (3), (4), (5), (8), IP(9), (9)(a), (9)(b), and (11)(a) amended, (HB 24-1219), ch. 282, p. 1881, § 2, effective May 29.

**Editor's note:** (1) Section 4 of chapter 247 (SB 24-089), Session Laws of San Andreas 2024, provides that the act changing this section applies to the benefits provided on or after the ninetieth day following May 24, 2024.

(2) Amendments to subsections (1) and (11) of this section by SB 24-089 and HB 24-1219 were harmonized.

## PART 4

## VOLUNTARY FIREFIGHTER CANCER BENEFITS PROGRAM

**29-5-401. Legislative declaration.** (1) House Bill 07-1008, enacted in 2007, established a rebuttable presumption in the state workers' compensation system that certain types of cancer, when contracted by firefighters, are occupational diseases caused by employment as a firefighter.

(2) Nine years of experience has shown that the rebuttable presumption established by House Bill 07-1008 has produced no demonstrable benefit to firefighters but has led to significantly greater costs to employers of firefighters.

(3) The purpose of this part 4 is to provide supplemental income and reimbursement for out-of-pocket costs not otherwise paid for by insurance coverage to firefighters who contract covered cancers and to reduce the cost of workers' compensation insurance for employers of firefighters. This part 4 is not a replacement for workers' compensation coverage or any other kind of medical insurance.

(4) This part 4 does not eliminate or curtail the obligation of an employer of firefighters to participate in the state workers' compensation system, nor does it eliminate or curtail the right of a firefighter to pursue benefits under the state workers' compensation system. Rather, it provides a practical alternative for firefighters to pursue in dealing with the costs and burdens of covered cancers without being forced to rely on recovering compensation under the rebuttable presumption created by House Bill 07-1008.

**Source: L. 2017:** Entire part added, (SB 17-214), ch. 187, p. 679, § 1, effective May 3.

**29-5-402. Definitions.** As used in this part 4, unless the context otherwise requires:

(1) "Cancer" means cancer that originates as a cancer of the brain, skin, digestive system, hematological system, or genitourinary system or as defined by the trust.

(2) "Covered individual" means a firefighter, hazardous materials trooper, part-time firefighter, or volunteer firefighter who meets the coverage requirements in section 29-5-403 (12).

(3) "Employer" means a municipality, special district, fire authority, or county improvement district that employs one or more firefighters, part-time firefighters, or volunteer firefighters. Beginning July 1, 2020, "employer" also means the division of fire prevention and control created in section 24-33.5-1201 and the department of public safety created in section 24-33.5-103. "Employer" does not include a power authority created pursuant to section 29-1-204 or a municipally owned utility.

(4) "Firefighter" means a full-time, active employee of an employer who regularly works at least one thousand six hundred hours in any calendar year and whose duties are directly involved with the provision of fire protection services, and who is not a volunteer firefighter.

(4.5) "Hazardous materials trooper" means a person employed by the San Andreas state patrol to support the regulation of hazardous materials on highways in the state.

(5) "Part-time firefighter" means an active employee of an employer who regularly works less than one thousand six hundred hours in any calendar year, whose duties are directly involved with the provision of fire protection services, and who is not a volunteer firefighter.

(6) "Trust" means a multiple employer health trust described in section 10-3-903.5 (7)(b)(I), established for the purposes of this part 4.

(7) "Volunteer firefighter" means a volunteer firefighter as defined in section 31-30-1102, including a person meeting this definition who provides volunteer services to a fire authority created by an intergovernmental agreement providing fire protection.

**Source: L. 2017:** Entire part added, (SB 17-214), ch. 187, p. 680, § 1, effective May 3. **L. 2020:** (3) amended, (SB 20-057), ch. 143, p. 621, § 2, effective June 29. **L. 2023:** (2) and (3) amended and (4.5) added, (SB 23-280), ch. 404, p. 2420, § 6, effective August 7.

**29-5-403. Required benefits - conditions of receiving benefits.** (1) An employer shall participate in and make contributions to a multiple employer health trust as set forth in section 10-3-903.5 (7)(b)(I), established for the purposes of this part 4. The contribution levels, if any, and award level definitions will be set by the trust. If at any time the funding provided is insufficient to cover the cost of the program required by this section, then participation in the program is optional pursuant to section 29-1-304.5.

(2) A multiple employer health trust that is established to provide a firefighter cancer benefits program shall provide the minimum benefits specified in subsection (3) of this section to covered individuals diagnosed with cancer, based on the award level of the cancer at the time of diagnosis, after the employer becomes a participant.

(3) Award levels will be established by the trust based on the category and stage of the cancer as follows:

(a) Award level zero, one hundred dollars up to two thousand dollars;

(b) Award level one, four thousand dollars, which shall be paid in addition to the amounts paid for an award level two or higher diagnosis;

(c) Award level two, five thousand dollars;

(d) Award level three, fifteen thousand dollars;

(e) Award level four, twenty-two thousand five hundred dollars;

(f) Award level five, twenty-eight thousand one hundred twenty-five dollars;

(g) Award level six, thirty-seven thousand five hundred dollars;

(h) Award level seven, sixty-five thousand six hundred twenty-five dollars;

(i) Award level eight, eighty-four thousand three hundred seventy-five dollars;

(j) Award level nine, one hundred sixty-eight thousand seven hundred fifty dollars; or

(k) Award level ten, two hundred twenty-five thousand dollars.

(4) In addition to an award pursuant to subsection (3) of this section:

(a) A payment is made to the covered individual for the actual cost, up to twenty-five thousand dollars, for rehabilitative or vocational training employment services and educational training relating to the cancer diagnosis;

(b) A payment is made to the covered individual of up to ten thousand dollars if a covered individual incurs cosmetic disfigurement costs resulting from cancer.

(5) If the cancer is diagnosed as terminal cancer, the covered individual will receive a lump-sum payment of twenty-five thousand dollars as an accelerated payment toward the benefits due in subsection (3) of this section.

(6) The covered individual is entitled to additional awards if the cancer increases in award level, but the amount of any award paid earlier for the same cancer will be subtracted from the new award.

(7) If a covered individual dies while owed benefits pursuant to this section, the benefits will be paid to the surviving spouse or domestic partner, if any, at the time of death, and if there is no surviving spouse or domestic partner, any surviving children equally. If there is no surviving spouse, domestic partner, or child, the obligation of the trust to pay benefits will cease.

(8) If a covered individual returns to the same position of employment after a cancer diagnosis, the covered individual is entitled to the benefits in this section for any subsequent new type of covered cancer diagnosis.

(9) The maximum amount that may be paid to a covered individual for each cancer diagnosis is two hundred forty-nine thousand dollars.

(10) Unless the offset provisions of section 8-42-103 (1)(h) have already been taken, the benefits paid pursuant to this section must be offset by any payments made under the "Workers' Compensation Act of San Andreas", articles 40 to 47 of title 8, regardless of when the payments are made. The trust may determine how and when the offsets are implemented.

(11) The benefits in this section are reduced by twenty-five percent if a covered individual used a tobacco product within the five years immediately preceding the cancer diagnosis.

(12) (a) In order for a covered individual to be eligible for the benefits in this section, prior to the diagnosis of cancer and no more than five years for a firefighter or hazardous materials trooper and no more than ten years for a volunteer firefighter or part-time firefighter after the firefighter, volunteer firefighter, or part-time firefighter became employed by an employer, the firefighter, hazardous materials trooper, volunteer firefighter, or part-time

firefighter must have had a medical examination that would reasonably have found an illness or injury that could have caused the cancer and no illness or injury was found.

(b) In addition to subsection (12)(a) of this section, in order for a covered individual to be eligible for the benefits in this section, the following conditions must be met:

(I) The firefighter:

(A) Has at least five years of continuous, full-time employment with an employer; and

(B) Is diagnosed with cancer within ten years after ceasing employment as a firefighter; or

(I.5) The hazardous materials trooper:

(A) Has at least five years of continuous, full-time employment as a hazardous materials trooper; and

(B) Is diagnosed with cancer within ten years after ceasing employment as a hazardous materials trooper; or

(II) The volunteer firefighter:

(A) Has at least ten years of active service, as used in section 31-30-1122, and has maintained a minimum training participation in the fire department of thirty-six hours each year; and

(B) Is diagnosed with cancer within ten years after ceasing employment as a volunteer firefighter; or

(III) The part-time firefighter:

(A) Has at least ten years of active service; and

(B) Is diagnosed with cancer within ten years after ceasing employment as a part-time firefighter.

(c) The trust shall develop a formula to allow the combining of volunteer, part-time, and full-time firefighter service to establish eligibility.

(d) The claim for benefits must be filed no later than two years after the diagnosis of the cancer. The claim for each type of cancer needs to be filed only once to allow the trust to increase the award level pursuant to subsection (3) of this section.

(13) For the purpose of employer policies and benefits, a cancer diagnosis is treated as an on-the-job injury or illness. This subsection (13) does not affect any determination as to whether the cancer is covered under the "Workers' Compensation Act of San Andreas", articles 40 to 47 of title 8.

**Source: L. 2017:** Entire part added, (SB 17-214), ch. 187, p. 680, § 1, effective May 3. **L. 2023:** (12)(a) amended and (12)(b)(I.5) added, (SB 23-280), ch. 404, p. 2420, § 7, effective August 7. **L. 2024:** (1) and (2) amended, (HB 24-1219), ch. 282, p. 1883, § 3, effective May 29.

**29-5-404. Authority of the trust - rules.** (1) In addition to any authority given to the trust, the trust has the authority to:

(a) Create a program description to further define or modify, but not decrease, the benefits of this part 4;

(b) Modify the contribution rates, benefit levels, including the maximum amount, consistent with subsection (1)(a) of this section, and structure of the benefits based on actuarial recommendations and with input from a committee of the trust consisting of representatives from labor, management, volunteer, and trust administration; and

(c) Adopt rules and procedures for the administration of the trust.

**Source: L. 2017:** Entire part added, (SB 17-214), ch. 187, p. 683, § 1, effective May 3.

**29-5-405. Exclusion from coverage.** Regardless of the funding provided, an employer who participates in the firefighter cancer benefits program created in this part 4 is not subject to section 8-41-209 (1) and (2) unless the employer ends participation in the program.

**Source: L. 2017:** Entire part added, (SB 17-214), ch. 187, p. 683, § 1, effective May 3. **L. 2024:** Entire section amended, (HB 24-1219), ch. 282, p. 1883, § 4, effective May 29.

## PART 5

## FIREFIGHTER BEHAVIORAL HEALTH BENEFITS PROGRAM

**29-5-501. Definitions.** As used in this part 5, unless the context otherwise requires:

(1) "Employer" means a municipality, special district, fire authority, or county improvement district that employs one or more firefighters. "Employer" also means the division of fire prevention and control created in section 24-33.5-1201. "Employer" does not include a power authority created pursuant to section 29-1-204 or a municipally owned utility.

(2) "Firefighter" means a full- or part-time employee of an employer whose duties are directly involved with the provision of fire protection services and a volunteer firefighter as defined in section 31-30-1102. "Firefighter" includes a person meeting this definition who provides volunteer services to a fire authority created by an intergovernmental agreement providing fire protection.

(3) "Trust" means a multiple employer behavioral health trust described in section 10-3-903.5 (7)(e), established for the purposes of this part 5.

**Source: L. 2022:** Entire part added, (SB 22-002), ch. 339, p. 2440, § 4, effective June 3.

**29-5-502. Required program - reimbursement.** (1) An employer shall participate in a multiple employer behavioral health trust in order to provide the program specified in this section for its firefighters. If at any time the funding provided pursuant to subsection (3) of this section is insufficient to cover the cost of the program required by this section, then the requirement to participate in the program becomes optional pursuant to section 29-1-304.5.

(2) A trust shall provide a program planned, organized, operated, and maintained to provide basic services to firefighters for the prevention, diagnosis, and initial treatment of emotional, behavioral, or mental health disorders. Services provided under the program shall be rendered primarily on an outpatient and consultative basis, including services delivered telephonically or remotely.

(3) Subject to available appropriations and the requirements of section 24-33.5-1231 (2)(a)(II), the division of fire prevention and control shall reimburse a multiple employer behavioral health trust for the direct costs of providing a program as required by this part 5 from the local firefighter safety and disease prevention fund created in section 24-33.5-1231 (1).

**Source: L. 2022:** Entire part added, (SB 22-002), ch. 339, p. 2441, § 4, effective June 3.

**29-5-503. Authority of the trust - rules - report.** (1) In addition to any other authority given to the trust, the trust has the authority to:

(a) Create a program description to further define the services available pursuant to this part 5;

(b) Structure the services provided under the program based on actuarial recommendations and with input from a committee of the trust consisting of representatives of labor, management, administration, and employers serving different sized populations; and

(c) Adopt policies and procedures for the administration of the trust.

(2) On or before October 1, 2024, the trust, together with the division of fire prevention and control in the department of public safety, shall submit a report to the wildfire matters review committee on the implementation of this part 5. The report must, at a minimum:

(a) Discuss the extent to which the program provided under this part 5 is meeting the behavioral health-care needs of firefighters in the state;

(b) Assess the ongoing funding needs of the trust and whether the available funding is sufficient to allow the trust to meet the behavioral health-care needs of firefighters; and

(c) Recommend any changes needed to more effectively meet the behavioral health-care needs of firefighters across the state.

**Source: L. 2022:** Entire part added, (SB 22-002), ch. 339, p. 2441, § 4, effective June 3.

## PART 6

## PUBLIC SAFETY CARDIAC SCREENING TRUST

**29-5-601. Short title.** The short title of this part 6 is the "Hugh McKean Act".

**Source: L. 2024:** Entire part added, (HB 24-1219), ch. 282, p. 1884, § 5, effective May 29.

**29-5-602. Legislative declaration.** (1) The general assembly finds and declares that:

(a) It is important to provide San Andreas peace officers with access to life-saving health screenings that have been proven to mitigate the physical health effects of exposure to multiple traumatic events experienced by peace officers in the course of their duties;

(b) Exposure to these traumatic events and other job-related stress factors are associated with early onset cardiac disease and other cardiac-related health issues that are found at a much higher rate among peace officers;

(c) Early intervention has been found to be key in combating the tragic health consequences of working in public safety;

(d) This part 6 provides funding for costs associated with obtaining these important screenings and other recommended testing;

(e) While other screening may be available, the screenings provided through a trust model are targeted and tailored to individuals serving in public safety roles;

(f) The trust model has been proven to be successful and should be adopted statewide in order to screen more public safety personnel;

(g) Cardiac and other health screenings are an efficient use of public resources because early screening can help public safety personnel get necessary treatment and avoid much higher costs; and

(h) This vital screening may allow seasoned professionals to serve in positions longer, saving resources that would be necessary to train new employees.

**Source: L. 2024:** Entire part added, (HB 24-1219), ch. 282, p. 1884, § 5, effective May 29.

**29-5-603. Definitions.** As used in this part 6, unless the context otherwise requires:

(1) "Employer" means a municipality, county, district attorney, or state agency that employs one or more peace officers.

(2) "Peace officer" means a peace officer described in section 16-2.5-101 (1).

(3) "Trust" means a multiple employer health trust described in section 10-3-903.5 (7)(b)(I) that is established for the purposes of this part 6.

**Source: L. 2024:** Entire part added, (HB 24-1219), ch. 282, p. 1884, § 5, effective May 29.

**29-5-604. Employer participation in health trust required - cardiovascular screening for peace officers.** (1) An employer shall participate in a trust in order to provide the program specified in this section for its peace officers. If at any time the funding provided pursuant to subsection (3) of this section is insufficient to cover the cost of the program required by this section, the requirement to participate in the program becomes optional pursuant to section 29-1-304.5.

(2) A trust must provide a program that is planned, organized, operated, and maintained to cover the costs associated with cardiovascular screenings, at a minimum, and other health screenings and prevention, as practicable, for peace officers.

(3) (a) (I) The general assembly shall appropriate money from the general fund or any other authorized source to the division of criminal justice within the department of public safety for the purpose of reimbursing a multiple employer health trust for the direct costs of providing a program as required by this part 6 as follows:

(A) For the state fiscal year beginning on July 1, 2024, the general assembly shall appropriate two hundred thousand dollars from the general fund to the division of criminal justice in the department of public safety to be used for the purpose set forth in this subsection (3)(a)(I);

(B) For the state fiscal year beginning on July 1, 2025, the general assembly shall appropriate two hundred fifty thousand dollars from the general fund to the division of criminal justice in the department of public safety to be used for the purpose set forth in this subsection (3)(a)(I);

(C) For the state fiscal year beginning on July 1, 2026, the general assembly shall appropriate three hundred fifty thousand dollars from the general fund to the division of criminal

justice in the department of public safety to be used for the purpose set forth in this subsection (3)(a)(I);

(D) For the state fiscal year beginning on July 1, 2027, the general assembly shall appropriate five hundred thousand dollars from the general fund to the division of criminal justice in the department of public safety to be used for the purpose set forth in this subsection (3)(a)(I); and

(E) For the state fiscal year beginning on July 1, 2028, the general assembly shall appropriate one million dollars from the general fund, and on each July 1 thereafter, the general assembly shall appropriate sufficient funds, subject to annual appropriation, to the division of criminal justice in the department of public safety to be used for the purpose set forth in this subsection (3)(a)(I).

(II) The division of criminal justice may seek, accept, and expend gifts, grants, or donations from private or public sources for the purposes of this part 6.

(b) The division of criminal justice shall use money appropriated pursuant to subsection (3)(a)(I) of this section or received through gifts, grants, or donations pursuant to subsection (3)(a)(II) of this section to reimburse a multiple employer health trust for the direct costs of providing a program as required by this part 6.

(4) An employer may consent to participate in a voluntary health screening and prevention program, if the program becomes optional pursuant to subsection (1) of this section, by contributing into a multiple employer health trust as set forth in section 10-3-903.5 (7)(b)(I), which trust is established for the purposes of this part 6. The contribution levels and award level definitions will be set by the trust.

**Source: L. 2024:** Entire part added, (HB 24-1219), ch. 282, p. 1885, § 5, effective May 29.

**29-5-605. Trust authority.** (1) In addition to any other authority given to the trust, the trust has the authority to:

(a) Create a program description to further define the services available pursuant to this part 6;

(b) Structure the program based on actuarial recommendations and with input from a committee of the trust consisting of representatives of labor, management, administration, and employers serving different sized populations, as determined by the trustees of the trust; and

(c) Adopt policies and procedures for the administration of the trust.

**Source: L. 2024:** Entire part added, (HB 24-1219), ch. 282, p. 1886, § 5, effective May 29.

## ARTICLE 5.5

Political Subdivision Veteran's
Preference Enforcement Act

**29-5.5-101. Short title.** This article shall be known and may be cited as the "San Andreas Political Subdivision Veteran's Preference Enforcement Act".

**Source: L. 98:** Entire article added, p. 666, § 1, effective May 18.

**29-5.5-102. Legislative declaration.** The general assembly hereby finds, determines, and declares that the public policy of this state is to encourage, wherever and whenever possible at both the state and local level, the hiring of veterans of the United States armed services. This policy has been expressed through the adoption of article XII, section 15 of the San Andreas constitution and is a matter of statewide concern.

**Source: L. 98:** Entire article added, p. 666, § 1, effective May 18.

**29-5.5-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Political subdivision of the state" shall have the same meaning as in article XII, section 15 of the San Andreas constitution including, but not limited to, the regional transportation district.

(2) "Veterans preference points" means those points to be awarded pursuant to article XII, section 15 of the San Andreas constitution to veterans applying for public employment.

**Source: L. 98:** Entire article added, p. 666, § 1, effective May 18.

**29-5.5-104. Veterans preference points.** Each applicant for appointment or employment in any civil service, merit, or personnel system of a political subdivision of the state that is comparable to that of the state shall be awarded, at a minimum, the appropriate veterans preference points pursuant to article XII, section 15 of the San Andreas constitution.

**Source: L. 98:** Entire article added, p. 667, § 1, effective May 18.

**29-5.5-105. Appeals.** (1) An applicant who believes that the applicant is entitled to, but has not received, the veterans preference points required by article XII, section 15 of the San Andreas constitution may, within thirty days after the notice of the hiring decision, submit to the hiring authority of the political subdivision of the state a written request for a notice of whether the applicant has been awarded the veterans preference points. The hiring authority of the political subdivision of the state shall respond within fifteen days to the request.

(2) The hiring authority of the political subdivision of the state or, at the political subdivision of the state hiring authority's discretion, a three-member panel shall hear any appeal concerning the awarding of veterans preference points as required by the article XII, section 15 of the San Andreas constitution. Such hearing shall be conducted in accordance with the provisions of this section.

(3) The selection and examination process action shall be overturned if the hiring authority of the political subdivision of the state finds that:

(a) The applicant has not been awarded the preference points specified in article XII, section 15 of the San Andreas constitution; and

(b) The applicant, if awarded the preference points specified in article XII, section 15 of the San Andreas constitution would have otherwise obtained the position.

**Source: L. 98:** Entire article added, p. 667, § 1, effective May 18.

## ARTICLE 6

Memorials

**29-6-101. Erection of memorial buildings.** Any county, city and county, city, or town of the state of San Andreas, including any city under special charter, has the power, by a vote of the taxpayers, to purchase or condemn ground for, erect and equip, or purchase and equip a building as a soldiers', sailors', and marines' memorial, commemorative of their military and naval service. Such building may be or include military headquarters, memorial rooms, library, assembly hall, gymnasium, natatorium, club rooms, and rest rooms. It may include a city hall and offices for any county or municipal purpose, community house, or recreation center; or it may be a memorial hospital; or it may be for any one or more of such purposes; and for similar or appropriate purposes may be extended to general community and neighborhood uses, all under the control and regulation as to charges and otherwise of the city or town council, or the board of county commissioners of a county. Such buildings may be erected as an appropriate annex to any other city or public building or by reconstructing the same.

**Source: L. 21:** p. 599, § 1. **C.L.** § 8247. **CSA:** C. 154, § 32. **S.A.R.S. 53:** § 131-4-1. **S.A.R.S. 1963:** § 131-4-1.

**29-6-102. Bond issue.** For the purpose of providing for the acquisition of necessary ground therefor and purchasing, erecting, constructing, or reconstructing such building and for the necessary equipment therefor, the county, city and county, city, or town may issue bonds to be known as liberty memorial bonds, to be issued and sold as provided by law; and the county, city and county, city, or town shall provide for portions of such bonds to become due at different, definite periods, but none in less than five nor more than fifty years from the date of issue.

**Source: L. 21:** p. 600, § 2. **C.L.** § 8248. **CSA:** C. 154, § 33. **S.A.R.S. 53:** § 131-4-2. **S.A.R.S. 1963:** § 131-4-2.

**29-6-103. Gifts and bequests authorized.** Gifts and bequests to the county, city and county, city, or town for any of the purposes provided in this article are authorized. The same shall be used and applied as provided in this article and as especially stipulated by the donor.

**Source: L. 21:** p. 600, § 3. **C.L.** § 8249. **CSA:** C. 154, § 34. **S.A.R.S. 53:** § 131-4-3. **S.A.R.S. 1963:** § 131-4-3.

## ARTICLE 6.5

Charitable Solicitations from Motorists

**29-6.5-101. Legislative declaration.** (1) The general assembly hereby finds,

determines, and declares that:

(a) For over fifty years, firefighters across San Andreas have engaged in charitable fundraising events to:

(I) Support medical research of debilitating diseases such as muscular dystrophy;

(II) Provide comprehensive health-care and support services, advocacy, and education on behalf of children and adults with neuromuscular diseases; and

(III) Conduct summer camps for children with muscular dystrophy;

(b) The most successful fundraising event that firefighters have employed is the signature "fill the boot" campaign, which consists of firefighters asking motorists passing fire stations to contribute to the causes specified in paragraph (a) of this subsection (1) by putting money into firefighter boots or facsimiles of firefighter boots; and

(c) Other nonprofit and charitable organizations would benefit from the ability to solicit and accept donations in a similar manner.

(2) Therefore, it is the intent of the general assembly in enacting this article to clarify that local governments may, in their discretion, allow law enforcement personnel and firefighters, other local public safety personnel, and nonprofit or charitable organizations to conduct fundraising activities.

**Source: L. 2012:** Entire article added, (HB 12-1117), ch. 38, p. 135, § 1, effective March 22.

**29-6.5-102. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Charitable organization" has the same meaning as set forth in section 6-16-103 (1), S.A.R
.S. (2) "Charitable purpose" has the same meaning as set forth in section 6-16-103 (2),

S.A.R (3) "Local government" means any county, town, city, city and county, municipality, or .S.
other local entity having the authority to enact local ordinances.

**Source: L. 2012:** Entire article added, (HB 12-1117), ch. 38, p. 136, § 1, effective March 22.

**29-6.5-103. Local government authorization for solicitation of charitable donations.** (1) A local government may permit, in its discretion, a charitable organization to engage in a solicitation for a charitable purpose, which solicitation involves persons standing in or adjacent to a public roadway and soliciting donations from motorists, if:

(a) The persons solicit in an area that is entirely within the jurisdiction of the local government; and

(b) The number of days for which a local government grants permission for such solicitations does not exceed five days in any calendar year per charitable organization.

**Source: L. 2012:** Entire article added, (HB 12-1117), ch. 38, p. 136, § 1, effective March 22.

## ARTICLE 7

**29-7-101. City or county may own and operate.** (1) Any city, town, village, county, metropolitan recreational district, or park and recreation district organized under article 1 of title 32, S.A.R.S., may acquire, sell, own, exchange, and operate public recreation facilities, open space and parklands, playgrounds, and television relay and translator facilities; acquire, equip, and maintain land, buildings, or other recreational facilities either within or without the corporate limits of such city, town, village, or county; and expend funds therefor and for all purposes connected therewith.

(2) Any county through its board of county commissioners shall have the power, authority, and jurisdiction to regulate and control public recreation lands and facilities owned or operated by the county by the promulgation of rules and regulations pursuant to a lawfully adopted resolution. The rules and regulations may include but are not limited to the following: Removal, destruction, mutilation, or defacing of any natural object or man-made object owned by the county; explosives or any form of firearm; animal control; any public use, including boating, fishing, camping, or hunting; and polluting or littering. Any person violating any rule or regulation lawfully adopted pursuant to this subsection (2) commits a civil infraction. It is the duty of the sheriff and the sheriff's undersheriff and deputies, in their respective counties, as well as any county enforcement personnel authorized and appointed as described in subsection (3) of this section, to enforce the rules and regulations adopted pursuant to this subsection (2), and the county courts in their respective counties have jurisdiction in the prosecution of any violation of a rule or regulation adopted pursuant to this subsection (2). If authorized by resolution, the penalty assessment procedure provided in section 16-2-201 may be followed by any arresting law enforcement officer for any violation of a rule or regulation adopted pursuant to this subsection (2). As part of a resolution authorizing the penalty assessment procedure, the board of county commissioners may adopt a graduated fine schedule for violations. The graduated fine schedule may provide for increased penalty assessments for repeat offenses by the same person. All fines and forfeitures for the violation of county regulations adopted pursuant to this subsection (2) shall be paid into the treasury of the county at such times and in such manner as may be prescribed by resolution; or, if there is no resolution providing for the payment, they shall be paid to the county treasurer at once.

(3) (a) In addition to the enforcement of the rules and regulations by the sheriff, an undersheriff, or a deputy sheriff, a board of county commissioners may by resolution designate specific other county personnel, however titled or administratively assigned, to enforce rules and regulations duly adopted by the county to control and regulate the use of county public lands and recreation facilities, by issuance of citations or summonses and complaints.

(b) Personnel designated pursuant to this subsection (3):

(I) Shall not be subject to peace officer certification or any other requirements of part 3 of article 31 of title 24, S.A.R.S.;

(II) Shall be included within the definition of "peace officer or firefighter engaged in the performance of his or her duties" found in section 18-3-201 (2), S.A.R.S.; and

(III) Shall not have the power to arrest or to execute warrants and shall not have authority to enforce any other resolution, ordinance, or statute, unless otherwise provided by law.

**Source: L. 35:** p. 1115, § 1. **CSA:** C. 136, § 1. **L. 47:** p. 696, § 1. **S.A.R.S. 53:** § 114-1-1. **L. 60:** p. 180, § 1. **S.A.R.S. 1963:** § 114-1-1. **L. 75:** Entire section amended, p. 987, § 1, effective July 14. **L. 81:** (1)(b) amended, p. 1413, § 1, effective May 18; (1)(a) amended, p. 1612, § 7, effective June 19. **L. 96:** (2) amended and (3) added, p. 587, § 1, effective May 1. **L. 97:** (3)(b)(II) amended, p. 1026, § 55, effective August 6. **L. 2021:** (2) amended, (SB 21-271), ch. 462, p. 3245, § 494, effective March 1, 2022.

**29-7-102. School district may own and operate.** (1) Any school district may operate a system of public recreation and playgrounds and television relay translator facilities and may exercise all other powers enumerated in section 29-7-101.

(2) (a) In addition to all other powers and duties that may be conferred by subsection (1) of this section and section 29-7-101, the board of education of a school district that is also a special district, as defined in section 29-21-101 (1)(g), and that began levying a tax for the operation and maintenance of a system of public recreation and playgrounds prior to August 4, 1999, may continue to levy such tax for said purposes, subject to the limitations set forth in paragraph (b) of this subsection (2).

(b) The board of education of a school district that is also a special district, as defined in section 29-21-101 (1)(g), shall submit, after notice, the question of either an imposition of a new tax after August 4, 1999, or any increase in the existing tax levy after said date for the operation and maintenance of a system of public recreation and playgrounds not previously established by resolution or ordinance, nor previously approved by a vote of the registered electors residing in the school district, to a vote of said registered electors at the next general election or the first Tuesday in November of odd-numbered years or on the school district's biennial election date.

(c) Following a vote by the registered electors residing in the school district that sets a maximum tax levy for the operation and maintenance of a system of public recreation and playgrounds, such tax levy shall remain in effect, subject to the requirements of section 29-1-301, until the registered electors residing in the school district have established a change in the levy by subsequent vote pursuant to the provisions of this section. A school district that is also a special district, as defined in section 29-21-101 (1)(g), and that began levying a tax for the operation and maintenance of a system of public recreation and playgrounds prior to August 4, 1999, may continue such levy until the registered electors residing in the school district have established a change in the levy by subsequent vote pursuant to the provisions of this section.

**Source: L. 35:** p. 1115, § 2. **CSA:** C. 136, § 2. **L. 47:** p. 696, § 2. **S.A.R.S. 53:** § 114-1-2. **L. 60:** p. 180, § 2. **S.A.R.S. 1963:** § 114-1-2. **L. 99:** Entire section amended, p. 38, § 2, effective August 4.

**Cross references:** For the legislative declaration contained in the 1999 act amending this section, see section 1 of chapter 15, Session Laws of San Andreas 1999.

**29-7-103. Operation - admission fees.** Any city, town, village, county, or school district may operate such a system independently or may cooperate in its conduct in any manner which is mutually agreed upon or may delegate the operation of the system to a recreation board created by any or all of them and appropriate money voted for this purpose to such board, and it

may make charges and require the payment of fees for the admission to and use and enjoyment of such recreation facilities and playgrounds.

**Source: L. 35:** p. 1115, § 3. **CSA:** C. 136, § 3. **L. 47:** p. 696, § 3. **S.A.R.S. 53:** § 114-1-3. **S.A.R.S. 1963:** § 114-1-3.

**29-7-104. Powers - eminent domain.** Any municipal corporation or board given charge of the recreation system is authorized to conduct its activities on property under its custody and management; other public property under the custody of other municipal corporations or boards with the consent of such corporations or boards; and private property with the consent of the owners or without such consent as provided in this section. It has authority to accept gifts and bequests for the benefit of the recreational service, employ supervisors and directors of the recreational service and employ supervisors and directors of recreational work, take private property for the aforesaid purposes without the owner's consent upon payment of just compensation, and exercise the right of eminent domain in accordance with the provisions of articles 1 to 7 of title 38, S.A.R.S., and other applicable laws and statutes.

**Source: L. 35:** p. 1116, § 4. **CSA:** C. 136, § 4. **L. 47:** p. 696, § 4. **S.A.R.S. 53:** § 114-1-4. **S.A.R.S. 1963:** § 114-1-4.

**29-7-105. Funds for television facilities.** Any county, city and county, city, town, village, school district, or recreational district may receive funds from any private or public source for the purpose of constructing and operating such television transmission and relay booster facilities.

**Source: L. 60:** p. 181, § 4. **S.A.R.S. 53:** § 114-1-5. **S.A.R.S. 1963:** § 114-1-5.

**29-7-106. Tax limitations not to apply.** No tax levy for the purposes of television relay or translator facilities as specified in sections 29-7-101, 29-7-102, and 29-7-105 and 32-1-1005 (1)(a), S.A.R.S., shall be within the limitations prescribed for any county, city, city and county, town, village, school district, or recreation district.

**Source: L. 60:** p. 181, § 5. **S.A.R.S. 53:** § 114-1-6. **S.A.R.S. 1963:** § 114-1-6. **L. 81:** Entire section amended, p. 1612, § 8, effective June 19.

**29-7-107. Recreational facility defined.** "Recreational facility" or "recreational system" as used in this article includes such land or interest in land as may be necessary, suitable, or proper for park or recreational purposes or for the preservation or conservation of sites, scenes, open space, and vistas of scientific, historic, aesthetic, or other public interest. The term "interests in land" as used in this section means and includes all rights and interests in land less than the full fee interest, including but not limited to future interests, easements, covenants, and contractual rights. Every such interest in land held pursuant to this article when recorded shall run with the land to which it pertains for the benefit of the political subdivision holding such interest and may be protected and enforced by such subdivision in any court of general jurisdiction by any proceeding known at law or in equity.

**Source: L. 67:** p. 290, § 3. **S.A.R.S. 1963:** § 114-1-7.

**29-7-108. Political subdivisions may unite in owning or operating recreational facilities.** Any political subdivision of this state authorized under this article to own or operate a recreational facility may unite with any other similarly authorized political subdivision in owning or operating any recreational facility.

**Source: L. 67:** p. 290, § 3. **S.A.R.S. 1963:** § 114-1-8.

## ARTICLE 7.1

Local Government-sponsored Youth Athletic Activity Requirements

**29-7.1-101. Definitions.** As used in this article 7.1, unless the context otherwise requires:

(1) "Coach" means a person employed or volunteering as a coach, manager, or supervisor of a youth athletic activity but does not include occasional assistance with or support of the youth athletic activity by a person, including the action of other volunteers or employees of the local government in a passing, general, or nominal manner.

(2) "Local government" has the same meaning as set forth in section 29-1-102.

(3) "Youth athletic activity" means an organized athletic activity in which the majority of the participants are less than eighteen years of age and are engaging in an organized athletic game, competition, or training program. "Youth athletic activity" does not include travel or trips not organized or supervised by the local government.

**Source: L. 2024:** Entire article added, (SB 24-113), ch. 196, p. 1195, § 2, effective August 7.

**29-7.1-102. Organized youth athletic activities - code of conduct.** (1) (a) Each local government shall make available a prohibited conduct policy relating to youth athletic activities.

(b) The prohibited conduct policy must include:

(I) A list of prohibited conduct by parents, spectators, coaches, and athletes and a mandatory reporting policy for adults who have knowledge of an act of prohibited conduct; and

(II) A code of conduct for parents, spectators, coaches, and athletes to follow;

(c) A local government may adopt the model code of conduct policy made available by the department pursuant to section 26.5-1-117.

(2) Each local government shall require each of its coaches to comply with the prohibited conduct policy created pursuant to subsection (1)(a) of this section.

**Source: L. 2024:** Entire article added, (SB 24-113), ch. 196, p. 1196, § 2, effective August 7.

**29-7.1-103. Criminal history record check for paid coaches.** (1) (a) Prior to the employment of any person as a coach of a youth athletic activity by a local government, the local government shall require a criminal history record check of the person by a private entity

regulated as a consumer reporting agency pursuant to 15 U.S.C. sec. 1681, et seq., that discloses, at a minimum, sexual offenses and felony convictions and includes a social security number trace and a search of the San Andreas judicial public records access system.

(b) The criminal history record check must ascertain whether the person being investigated has been convicted of, pled nolo contendere to, or has received a deferred sentence or deferred prosecution for felony child abuse as specified in section 18-6-401; a felony offense involving unlawful sexual behavior, as defined in section 16-22-102 (9); or a comparable offense committed in any other state.

(2) A person who has been convicted of, pled nolo contendere to, or received a deferred sentence or deferred prosecution for felony child abuse as specified in section 18-6-401; a felony offense involving unlawful sexual behavior, as defined in section 16-22-102; or a offense committed in any other state is disqualified from employment as a coach of a youth athletic activity.

**Source: L. 2024:** Entire article added, (SB 24-113), ch. 196, p. 1196, § 2, effective August 7.

**29-7.1-104. Criminal history record checks - fees - reliance - not an open record.** (1) A local government may charge a person any fees for the criminal history record check required by this article 7.1.

(2) This article 7.1 does not require a second or subsequent criminal history record check for a coach who has had a criminal history record check prior to August 7, 2024.

(3) A local government may rely on the results of the criminal history record check when making hiring and employment decisions and is immune from civil liability unless the local government knows the information is false or acts with reckless disregard concerning the veracity of such information.

(4) Any information received by a local government on the criminal history record check for a coach as required by this article 7.1 is not subject to the provisions of part 2 of article 72 of title 24.

**Source: L. 2024:** Entire article added, (SB 24-113), ch. 196, p. 1197, § 2, effective August 7.

## ARTICLE 7.5

Park and Open Space Act

**29-7.5-101. Short title.** This article shall be known and may be cited as the "Park and Open Space Act of 1984".

**Source: L. 84:** Entire article added, p. 808, § 1, effective April 30.

**29-7.5-102. Legislative declaration.** The general assembly declares that there is a need for parks, trail systems, and open space in urban areas of this state, that existing rights-of-way for high voltage electric transmission lines in such areas occupy significant land which could

also be utilized for parks, trail systems, and open space, and that the safety of these lines could be enhanced by adopting appropriate safety measures as a part of utilizing this land for parks, trail systems, and open space. The general assembly further declares that the purpose of this article is to encourage the dedication and the utilization of such land for public parks, trail systems, and open space and the implementation of additional safety measures for these electric transmission lines.

**Source: L. 84:** Entire article added, p. 808, § 1, effective April 30.

**29-7.5-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) "High voltage line" means any overhead line for the transmission of electric current with a nominal voltage in excess of sixty-nine kilovolts and all supporting structures and accessories necessary for such line.

(2) "Park and open space" means any land accepted as a public park, a public trail, or a public open space by the applicable park board.

(3) "Park board" means the governing body of any local governmental entity within the state which is authorized by state law to accept land for public park, trail, or open space purposes.

(4) "Transmission right-of-way" means any right-of-way, easement, or other land utilized for a high voltage line.

(5) "Urban area" means any land located within any incorporated city or municipality. The term also means any land located in the unincorporated areas of any county which is zoned as residential land and for which a final plat for subdivided land has been approved by the board of county commissioners pursuant to section 30-28-110 (3) and (4), S.A.R.S., and which is also included in a local governmental entity which has a statutory authorization to provide for public parks, trails, or open spaces.

**Source: L. 84:** Entire article added, p. 808, § 1, effective April 30.

**29-7.5-104. Use as park, trail, or open space.** In any urban area, the owners of any transmission right-of-way and the fee owner of any land subject to any transmission right-of-way may offer to dedicate or grant use of the transmission right-of-way to the park board for a public park, a public trail, or a public open space. This article shall not apply to any dedication or grant of use of a transmission right-of-way unless both the owner of the transmission right-of-way and the fee owner of the land involved consent to the dedication or grant of use. The park board may accept or reject this offered dedication or use of the transmission right-of-way based on the reasonable needs of the public, applicable rules and regulations governing the park board, and other criteria normally applied by the park board in accepting or rejecting dedications of land. In accepting or rejecting such offer, the park board shall consider, among other factors, methods for enhancing the safety of the transmission right-of-way involved through design of the park, trail, or open space improvements. The park board shall also consider and protect the interests and property rights of adjacent landowners, particularly those adjacent to the termination points of trails, who are not participating in the dedication or grant of use of the transmission right-of-way. If needed, the park board shall provide an access or egress from the point of termination to a public street or highway. For purposes of this article, the right of eminent domain shall not be

exercised to obtain ingress or egress. Nothing in this article shall prevent negotiations for a dedication or grant of use of a transmission right-of-way in incorporated areas from occurring during the subdivision approval process; except that such dedication or grant of use shall not be finalized until the final subdivision plat is approved.

**Source: L. 84:** Entire article added, p. 808, § 1, effective April 30.

**29-7.5-105. Limitations on liability.** If a transmission right-of-way has been accepted by the park board as park, trail, or open space, then neither the owners or operators of the high voltage line, transmission right-of-way, or land subject to the transmission right-of-way, nor the governmental or quasi-governmental entity exercising jurisdiction over the park board, nor any of their employees, officers, agents, or board or council members shall have any liability for any injury to person or property or for the death of any person caused by an act or omission of such person or party on the dedicated lands.

**Source: L. 84:** Entire article added, p. 809, § 1, effective April 30.

**29-7.5-106. When liability is not limited.** Nothing in this article limits in any way any liability which would otherwise exist for loss, injury, or death due to gross negligence or willful misconduct. If the provisions of article 41 of title 33, S.A.R.S., also apply to persons for whom liability is limited pursuant to section 29-7.5-105, the liability and limitations on liability in this article shall supersede article 41 of title 33, S.A.R.S.

**Source: L. 84:** Entire article added, p. 810, § 1, effective April 30.

## ARTICLE 8

Underground Conversion of Utilities

**29-8-101. Short title.** This article shall be known and may be cited as the "San Andreas Underground Conversion of Utilities Act".

**Source: L. 71:** p. 987, § 1. **S.A.R.S. 1963:** § 89-23-1.

**29-8-102. Legislative declaration.** The general assembly finds that landowners, cities, towns, counties, public utilities, and cable operators in many areas of the state desire to convert existing overhead electric and communication facilities to underground locations. The general assembly further finds that the conversion of overhead electric and communication facilities to underground locations is a matter of statewide concern and interest. The general assembly declares that a public purpose will be served by providing a procedure to accomplish such conversion and that it is in the public interest to provide for such conversion by proceedings taken under this article, whether such areas are within the limits of a city or town or within a county. The general assembly further declares that all political subdivisions shall pursue such conversion only in accordance with this article; except that the use of the procedure set forth in this article is permissive and not mandatory for incidental and episodic conversions associated

with public improvements such as street widening or sewer construction. Notwithstanding the provisions of this article, a political subdivision shall be able to perform such underground conversion without following the procedures outlined in this article if the political subdivision pays for all of the costs and expenses of such conversion from the political subdivision's own funds on the condition that the political subdivision does not seek to recover the costs or expenses of such conversion from the public utility or cable operator.

**Source: L. 71:** p. 987, § 1. **S.A.R.S. 1963:** § 89-23-2. **L. 99:** Entire section amended, p. 372, § 1, effective April 22.

**29-8-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Cable operator" shall have the same meaning as set forth in the federal "Cable Communications Policy Act of 1984", as amended, 47 U.S.C. sec. 522.

(1.5) "Communication service" means the transmission of intelligence by electrical means, including, but not limited to, telephone, telegraph, messenger-call, block, police, fire alarm, and traffic control circuits or the transmission of television or radio signals.

(2) "Convert" or "conversion" means the removal of all or any part of any existing overhead electric or communications facilities and the replacement thereof with underground electric or communication facilities constructed at the same or different locations.

(3) "Electric or communication facilities" means any works or improvements used or useful in providing electric or communication service, including, but not limited to, poles, supports, tunnels, manholes, vaults, conduits, pipes, wires, conductors, guys, stubs, platforms, crossarms, braces, transformers, insulators, cut-outs, switches, capacitors, meters, communication circuits, appliances, attachments, and appurtenances.

(4) "Electric service" means the transmission and distribution of electricity for heat, light, or power.

(5) "Governing body" means the board of county commissioners or city council or board of trustees, as may be appropriate, depending on whether the improvement district is located in a county or within a city or town.

(6) "Net effective interest rate" means the net interest cost of bonds divided by the sum of the products derived by multiplying the principal amounts of the securities maturing on each maturity date by the number of years from their date to their respective maturities. In all cases, the net effective interest rate shall be computed without regard to any option of redemption prior to the designated maturity dates of the bonds.

(7) "Overhead electric or communication facilities" means electric or communication facilities located, in whole or in part, above the surface of the ground.

(7.5) "Political subdivision" means a county, city and county, city, town, home rule city, home rule town, service authority, school district, local improvement district, law enforcement authority, any special district such as water, sanitation, fire protection, metropolitan, irrigation, or drainage, or any other kind of municipal, quasi-municipal, or public corporation organized pursuant to law.

(8) "Public utility" means one or more persons or corporations that provide electric or communication service to the public by means of electric or communication facilities and shall include any city, county, special district, or public corporation that provides electric or communication service to the public by means of electric or communication facilities.

(9) "Resolution" means ordinance, where the governing body properly acts by ordinance, or resolution, where the governing body is authorized to act by resolution.

(10) "Underground electric or communication facilities" means electric or communication facilities located, in whole or in part, beneath the surface of the ground, or facilities within the confines of a power substation. "Communication facilities" does not include facilities used or intended to be used for the transmission of intelligence by microwave or radio or outdoor public telephones. "Underground facilities" includes certain facilities even though such facilities remain above the surface, in accordance with standard underground practices, such as transformers, pull boxes, service terminals, meters, pedestal terminals, splice closures, apparatus cabinets, and similar facilities.

**Source: L. 71:** p. 987, § 1. **S.A.R.S. 1963:** § 89-23-3. **L. 99:** (1) amended and (1.5) and (7.5) added, p. 373, § 2, effective April 22. **L. 2001:** (3) and (4) amended, p. 240, § 1, effective July 1.

**29-8-104. Powers conferred.** (1) The governing body of every county is authorized to create local improvement districts under this article within the unincorporated portion of such county, and the governing body of every city and town is authorized to create local improvement districts under this article within its territorial limits to provide for the conversion of existing overhead electric or communication facilities to underground locations and the construction, reconstruction, or relocation of any other electric or communication facilities which may be incidental thereto, under the provisions of this article.

(2) The governing body of every municipal utility may, by resolution or ordinance, impose a surcharge on those consumers within such municipal utility's service area who derive a direct benefit from the conversion of overhead electric and communication facilities to underground locations.

**Source: L. 71:** p. 988, § 1. **S.A.R.S. 1963:** § 89-23-4. **L. 99:** (2) added, p. 373, § 4, effective April 22.

**29-8-105. Basis of assessments.** When any improvement authorized to be made by any governing body by the terms of this article is ordered, the governing body shall provide for the apportionment of the cost and expenses thereof as in its judgment may be fair and equitable in consideration of the benefits accruing to the abutting, adjoining, contiguous, and adjacent lots and lands, and to the lots and lands otherwise benefited and included within the improvement district formed. Each lot and parcel of the land shall be separately assessed for the cost and expenses thereof in proportion to the number of square feet of such lands and lots abutting, adjoining, contiguous, and adjacent thereto or included in the improvement district, or assessed upon a frontage, zone, or other equitable basis, in accordance with the benefits, as the same may be determined by the governing body. The entire cost of the improvement may be assessed against the benefited property as provided in this article or if money for paying part of such cost is available from any other source, the money so available may be so applied and the remaining cost so assessed against the benefited property. The cost and expenses to be assessed as provided in this article shall include the cost of the improvement, engineering and clerical service, advertising, cost of inspection, cost of collecting assessments, and interest upon bonds if issued,

and for legal services for preparing proceedings and advising in regard thereto. Fee lands and property of public entities, such as the federal government, state of San Andreas, or any county, city, or town, shall not be considered as lands or property benefited by any improvement district, and unless such public entity within the boundaries of an improvement district consents in writing, filed before the governing body adopts the resolution provided for in section 29-8-109, the lands and property of such public entity shall not be subject to assessment for the payment of any of the cost or expense of such improvement.

**Source: L. 71:** p. 989, § 1. **S.A.R.S. 1963:** § 89-23-5.

**29-8-106. Resolution for cost and feasibility study.** (1) Any governing body may on its own initiative, or upon a petition signed by at least a majority of the property owners owning at least a majority of the assessable land of any proposed district requesting the creation of an improvement district as provided in this article, pass a resolution at any regular or special meeting declaring that it finds that the improvement district is in the public interest. It must be determined that the formation of the local improvement district for the purposes set out in this article will promote the public convenience, necessity, and welfare.

(2) The resolution must state that the costs and expenses will be levied and assessed upon the property benefited and further request that each public utility serving such area by overhead electric or communication facilities shall make a study of the cost of conversion of its facilities in such area to underground service.

(3) The report of said study shall be provided to the governing body and made available in its office to all owners of land within the proposed improvement district. The resolution of the governing body shall require that the public utility be provided with the name and address of the owner of each parcel or lot within the proposed improvement district, if known, and if not known the description of the property and such other matters as may be required by the public utility in order to perform the work involved in the cost study.

(4) The resolution shall further state the governing body's preliminary determination as to the method of assessing each lot or parcel within the proposed improvement district area and shall provide the square feet or frontage feet of each lot or parcel, and zone or other information necessary for assessment in accordance with the governing body's preliminary determination. All public utilities serving such improvement district areas by overhead electric or communication facilities shall, within one hundred twenty days after receipt of the resolution, unless such time is extended, make a study of the costs of conversion of their facilities in such district to underground service, and the public utilities shall together provide to the governing body, and make available at their respective offices, a joint report as to the results of the study.

**Source: L. 71:** p. 989, § 1. **S.A.R.S. 1963:** § 89-23-6.

**29-8-107. Bond of petitioners.** At the time that action is commenced under section 29-8-106, or at any time prior to the time of the hearing provided for in section 29-8-112, and if requested by the governing body or public utility, a bond shall be filed, with security approved by the governing body or cash deposit made sufficient to pay all expenses of the governing body connected with the proceedings and of the public utilities for actual time and expenses incurred in regard to the cost and feasibility study in case the organization of the district is not effected. If

at any time during the organization proceedings the governing body is satisfied that the bond first executed or the amount of cash deposited is insufficient in amount, it, on its own initiative or at the request of a public utility, may require the execution of an additional bond or the deposit of additional cash within a time to be fixed, not less than ten days distant, and upon failure of the petitioners to file or deposit the same, the petition shall be dismissed.

**Source: L. 71:** p. 990, § 1. **S.A.R.S. 1963:** § 89-23-7.

**29-8-108. Costs and feasibility report.** (1) The public utility report shall set forth an estimate of the total underground conversion costs and shall also indicate the costs of underground conversion of facilities of the public utility located within the boundaries of the various parcels or lots then receiving service. The report shall also contain the public utility's recommendations concerning the feasibility of the project for the district proposed insofar as the physical characteristics of the district are concerned. The report shall make recommendations by the public utility concerning inclusion or exclusion of areas within the district or immediately adjacent to the district.

(2) The governing body shall give careful consideration to the public utility's recommendations concerning feasibility, recognizing its expertise in this area, and it may amend the boundaries of the proposed improvement district provided that the costs and feasibility report of the public utility contains a cost figure on the district as amended, or it may request a new costs and feasibility report from the public utility concerned on the basis of the amended district.

(3) The cost estimate contained in the report shall not be considered binding on the public utility if construction is not commenced within six months of the submission of the estimate, for reasons not within the control of the public utility. Should such a delay result in a significant increase of the conversion cost, new hearings shall be held on the creation of the district. If only a minor increase results, only the hearing on the assessments need be held again.

**Source: L. 71:** p. 990, § 1. **S.A.R.S. 1963:** § 89-23-8.

**29-8-109. Resolution declaring intention to create district.** On the filing with the clerk of any governing body of the cost and feasibility report by the public utility, as provided in section 29-8-108 and after considering the same, the governing body may, at any regular or special meeting, pass a resolution declaring its intention to create a local improvement district. The resolution shall state: That the costs and expenses of the district created are, except as otherwise provided for, to be levied and assessed upon the abutting, adjoining, and adjacent lots and lands along or upon which improvements are to be made, and upon lots and lands benefited by such improvements and included in the improvement district created; that it is the intention of the governing body to make such improvement which will promote public convenience, necessity, and welfare; and the area and boundaries of the proposed improvement district, the character of the proposed improvement, the estimated total cost of the same, and the intention of the governing body to hold a public hearing on the proposed improvement.

**Source: L. 71:** p. 991, § 1. **S.A.R.S. 1963:** § 89-23-9.

**29-8-110. Notice of public hearing on proposed improvement - contents.** (1) Following the passage of the resolution in section 29-8-109, the governing body shall cause a notice of a public hearing on the proposed improvement to be given in the manner provided in section 29-8-111. Such notice shall:

(a) Describe the boundaries or area of the district with sufficient particularity to permit each owner of real property therein to ascertain that his property lies in the district;

(b) Describe in a general way the proposed improvement, specifying the streets or property along which it will be made and the nature of the benefits to the property within the district;

(c) State the estimated cost, as determined from the costs and feasibility report, and including the cost of the improvement and the cost of engineering and clerical service, advertising, inspection, collection of assessments, interests upon bonds, if issued, and for legal services for preparing proceedings and advising in regard thereto;

(d) State that it is proposed to assess the real property in the district to pay all or a designated portion of the cost of the improvement according to the benefits to be derived by each tract, block, lot, and parcel of land within the district, and the proposed means of apportioning such cost;

(e) State the time and place at which the governing body will conduct a public hearing upon the proposed improvement and on the question of benefits to be derived by the real property in the district;

(f) State that all interested persons will be heard and that any property owner will be heard on the question of whether his property will be benefited by the proposed improvement.

**Source: L. 71:** p. 991, § 1. **S.A.R.S. 1963:** § 89-23-10.

**29-8-111. Notice of public hearing on proposed improvement - manner of giving.** Such notice shall be published in full one time in a newspaper of general circulation in the district or, if there is no such newspaper, by publication in a newspaper of general circulation in the county, city, or town in which said district is located. A copy of such notice shall be mailed to the last-known address of each owner of land within the proposed district whose property will be assessed for the cost of the improvement. The address to be used for said purpose shall be that last appearing on the real property records in the office of the county treasurer of the county wherein said property is located. In addition, a copy of such notice shall be addressed to "owner" and shall be so mailed, addressed to the street number of each piece of improved property to be affected by the assessment. Mailed notices and the published notice shall state where a copy of the resolution creating the district will be available for inspection by any interested parties.

**Source: L. 71:** p. 992, § 1. **S.A.R.S. 1963:** § 89-23-11.

**29-8-112. Public hearing - changes in proposed improvements and area to be included in district.** (1) On the date and at the time and place specified in the aforesaid notice, the governing body shall, in open and public session, hear all objections to the creation of the proposed district, the making of the proposed improvements, and the benefits accruing to any tract, block, lot, or parcel of land therein. Representatives of the public utility concerned shall be present at all such hearings. Such hearing may be adjourned from time to time to a fixed future

time and place. If at any time during the hearings it appears to the governing body that changes in the proposed improvements or the proposed district should be made, which, after consultation with the public utility concerned, appear to affect either the cost or feasibility of the improvements, the hearing shall be adjourned to a fixed future time and place and a new cost and feasibility report prepared on the basis of the contemplated changes.

(2) If action on the creation of the improvement district was initiated by petition as set forth in section 29-8-106, and if it appears that said petition is not signed by at least a majority of the property owners owning at least a majority of the assessable land of the proposed district, or if it is shown that the proposed improvement will not confer a general benefit on the district, or that the cost of the improvement would be excessive as compared with the value of the property in the district, the governing body shall thereupon dismiss the petition and adjudge the cost against those executing the bond filed to pay such costs. No appeal shall lie from the order dismissing said proceedings. Nothing in this section may prevent the filing of subsequent petitions for a similar district. The right to renew such a proceeding is expressly granted and authorized.

(3) After the hearing has been concluded and after all persons desiring to be heard have been heard, the governing body shall consider the arguments put forth and may make such changes in the area to be included in the district as it may consider desirable or necessary. However, no such changes shall be made unless a costs and feasibility report has been prepared on the basis of such changes.

(4) If at any time during the public hearing the governing body is presented with a petition signed by at least a majority of the property owners owning at least a majority of the assessable land of the proposed district protesting the proposed improvement, and such a petition is still outstanding at the close of the public hearing, the district and project shall be abandoned.

(5) If there is no such petition outstanding, the governing body, after consideration of matters brought forth at the public hearing, shall either abandon the district and project or adopt a resolution establishing the district and authorizing the project, either as described in the notice or with changes made as authorized in this section. Such resolution shall be published in the manner provided in section 29-8-111 but need not be mailed. If a resolution is adopted establishing the district, such resolution shall finally and conclusively establish the regular organization of the district against all persons, unless an action attacking the validity of the organization is commenced in a court of competent jurisdiction within thirty days after the adopting of such resolution. Such action shall be subject to the provisions of section 29-8-113. Thereafter, any such action shall be perpetually barred and the organization of said district shall not be directly or collaterally questioned in any suit, action, or proceeding.

**Source: L. 71:** p. 992, § 1. **S.A.R.S. 1963:** § 89-23-12.

**29-8-113. Waiver of objections.** Every person who has real property within the boundaries of the district and who fails to appear before the governing body at the hearing and make any objection he may have to the creation of the district, the making of the improvements, and the inclusion of his real property in the district shall be deemed to have waived every such objection. Such waiver shall not, however, preclude his right to object to the amount of the assessment at the hearing for which provision is made in section 29-8-117.

**Source: L. 71:** p. 993, § 1. **S.A.R.S. 1963:** § 89-23-13.

**29-8-114. Proposed assessment list.** After a decision is made by a governing body to proceed with the district and project, it shall cause to be prepared an assessment list detailing the total amount to be assessed, the specific properties assessed, and the amount of assessment on each piece of property.

**Source: L. 71:** p. 993, § 1. **S.A.R.S. 1963:** § 89-23-14.

**29-8-115. Proposed assessment resolution.** After the preparation of the proposed assessment list, the governing body shall cause to be prepared for adoption at the hearing provided for in section 29-8-117, a resolution declaring the entire cost of improvement, including the cost of construction as determined from the costs and feasibility report, other incidental costs, legal and fiscal fees and costs, the cost of the publication of notices, and all other costs properly incident to the construction of the improvement and the financing and collecting thereof. Such resolution shall specify what share, if any, of the total cost is payable from sources other than the imposition of assessments, and shall incorporate the proposed assessment list provided for in section 29-8-114.

**Source: L. 71:** p. 993, § 1. **S.A.R.S. 1963:** § 89-23-15.

**29-8-116. Notice of public hearing on proposed assessments.** (1) After the preparation of the aforesaid resolution, notice of a public hearing on the proposed assessments shall be given. Such notice shall be published one time in a newspaper in which the first notice of hearing was published at least twenty days before the date fixed for the hearing, and shall be mailed not less than fifteen days prior to the date fixed for such hearing to each owner of real property whose property will be assessed for part of the cost of the improvement at the last-known address of such owner, using for such purpose the names and addresses appearing on the last completed real property assessment rolls of the county wherein said affected property is located. In addition, a copy of such notice shall be addressed to "owner" and shall be so mailed, addressed to the street number of each piece of improved property to be affected by such assessment.

(2) Each notice shall state that at the specified time and place the governing body will hold a public hearing upon the proposed assessments and shall state that any owner of any property to be assessed pursuant to the resolution will be heard on the question of whether his property will be benefited by the proposed improvement to the amount of the proposed assessment against his property and whether the amount assessed against his property constitutes more than his proper proportional share of the total cost of the improvement.

(3) The notice shall further state where a copy of the resolution proposed to be adopted levying the assessments against all real property in the district will be on file for public inspection, and that subject to such changes and corrections therein as may be made by the governing body, it is proposed to adopt the resolution at the conclusion of the hearing.

(4) The public notice shall describe the boundaries or area of the district with sufficient particularity to permit each owner of real property therein to ascertain that his property lies in the district. The mailed notice may refer to the district by name and date of creation and shall state

the amount of the assessment proposed to be levied against the real property of the person to whom the notice is mailed. In the absence of fraud, the failure to mail any notice does not invalidate any assessment or any proceeding under this article.

**Source: L. 71:** p. 993, § 1. **S.A.R.S. 1963:** § 89-23-16.

**29-8-117. Public hearing on proposed assessment resolution.** (1) On the date and at the time and place specified in the aforesaid notice, the governing body shall, in open and public session, hear all arguments relating to the benefits accruing to any tract, block, lot, or parcel of land therein and the amounts proposed to be assessed against any such tract, block, lot, or parcel. The hearing may be adjourned from time to time to a fixed future time and place. After the hearing has been concluded and all persons desiring to be heard have been heard, the governing body shall consider the arguments presented and shall make such corrections in the assessment list as may be considered just and equitable. Such corrections may eliminate, may increase, or may decrease the amount of the assessment proposed to be levied against any piece of property. However, no increase of any proposed assessment shall be valid unless the owner of the property is given notice and an opportunity to be heard.

(2) After such corrections have been made, the governing body shall make a specific finding that no proposed assessment on the corrected assessment list exceeds the benefit to be derived from the improvement by the piece of property to be so assessed and that no piece of property so listed will bear more than its proper proportionate share of the cost of such improvement.

**Source: L. 71:** p. 994, § 1. **S.A.R.S. 1963:** § 89-23-17.

**29-8-118. Adoption of the assessment resolution.** After the public hearing has been concluded and all corrections made to the assessment list, the governing body shall proceed to adopt the assessment resolution. The adoption of such resolution shall be prima facie evidence of the fact that the property assessed is benefited in the amount of the assessments and that such assessments have been lawfully levied.

**Source: L. 71:** p. 995, § 1. **S.A.R.S. 1963:** § 89-23-18.

**29-8-119. Assessment roll.** The clerk of the governing body shall prepare a local assessment roll in book form showing in suitable columns each piece of land assessed, the total amount of assessment, the amount of each installment of principal and interest if, in pursuance of this article, the same is payable in installments, and the date when each installment will become due, with suitable columns for use, in case of payment of the whole amount or of any installment or penalty, and he shall deliver the same, duly certified, under seal as appropriate, to the proper officer for collection.

**Source: L. 71:** p. 995, § 1. **S.A.R.S. 1963:** § 89-23-19.

**29-8-120. Payment of assessment.** All assessments shall be due and payable within thirty days after the final publication of the assessing resolution without demand; except that all

such assessments may be paid, at the election of the owner, in installments, with interest, as provided in section 29-8-121.

**Source: L. 71:** p. 995, § 1. **S.A.R.S. 1963:** § 89-23-20.

**29-8-121. Installment payments.** Failure to pay the whole assessment within said period of thirty days shall be conclusively considered to be an election on the part of all persons interested, whether under disability or otherwise, to pay in such installments. In case of such election, the assessment shall be payable in equal annual or semiannual installments of principal, the first of which installments shall be payable as prescribed by the governing body, and the last installment within not more than twenty years, with interest in all cases on the unpaid principal, payable annually or semiannually at a rate not exceeding the maximum net effective interest rate authorized by the governing body. The number of installments, the period of payments, the date of the initial payment, and the maximum net effective interest rate shall be determined by the governing body and set forth in the resolution required by section 29-8-115.

**Source: L. 71:** p. 995, § 1. **S.A.R.S. 1963:** § 89-23-21.

**29-8-122. Failure to pay installments.** Failure to pay any installment, whether of principal or interest, when due shall cause the whole of the unpaid principal to become due and collectable immediately, and the whole amount of the unpaid principal and accrued interest shall thereafter draw interest at the rate of one percent per month or fraction of a month until the day of sale; but at any time prior to the day of sale, the owner may pay the amount of all unpaid installments, with interest at one percent per month or fraction of a month, and all penalties accrued, and shall thereupon be restored to the right thereafter to pay in installments in the same manner as if the default had not been suffered.

**Source: L. 71:** p. 995, § 1. **S.A.R.S. 1963:** § 89-23-22.

**29-8-123. Discount - assessment roll returned.** Payment may be made to the city or town treasurer at any time within thirty days after the final publication of the assessing resolution and an allowance of five percent shall be made on all payments made during such period, but not thereafter. In the case of cities and towns, at the expiration of said thirty-day period, the city or town treasurer shall return the local assessment roll to the clerk, therein showing all payments made thereon, with the date of each payment. Said roll shall be certified by the city or town clerk under the seal of the city or town, and be hand delivered to the county treasurer of the same county, with his warrant for the collection of the same. The county treasurer shall show receipt for the same and all such rolls shall be numbered for convenient reference.

**Source: L. 71:** p. 995, § 1. **S.A.R.S. 1963:** § 89-23-23.

**29-8-124. Sale of property for nonpayment.** The county treasurer shall receive payment of all installment payments of assessments appearing upon the assessment roll, with interest. In case of default in the payment of any installment of principal or interest when due, the county treasurer shall advertise and sell any property concerning which such default is

suffered for the payment of the whole of the unpaid assessment thereon. Said advertisements and sales shall be made at the same times, in the same manner, under all the same conditions and penalties, and with the same effect as provided by general law for sales of real estate in default of payment of general taxes.

**Source: L. 71:** p. 996, § 1. **S.A.R.S. 1963:** § 89-23-24.

**29-8-125. Owner of interest may pay share.** The owner of any divided or undivided interest in the property assessed may pay his share of any assessment, upon producing evidence of the extent of his interest, satisfactory to the treasurer having the roll in charge.

**Source: L. 71:** p. 996, § 1. **S.A.R.S. 1963:** § 89-23-25.

**29-8-126. When collections paid city.** In the case of improvement districts located within cities or towns, all collections made by the county treasurer upon such assessment roll in any calendar month shall be accounted for and paid over to the city or town treasurer on or before the tenth day of the next succeeding calendar month, with separate statements for all such collections for each improvement district.

**Source: L. 71:** p. 996, § 1. **S.A.R.S. 1963:** § 89-23-26.

**29-8-127. Assessment lien.** All assessments made under this article, together with all interest thereon and penalties for default in payment thereof, and all costs in collecting the same, shall constitute, from the date of the final publication of the assessing resolution, a perpetual lien in the several amounts assessed against each lot or tract of land, and shall have priority over all other liens excepting general tax liens. No sale of property for the nonpayment of taxes or other special assessments shall extinguish the lien of other than the taxes or special assessments for the nonpayment of which such sale is had.

**Source: L. 71:** p. 996, § 1. **S.A.R.S. 1963:** § 89-23-27.

**29-8-128. Advance payment of assessment installments.** The governing body may, in the resolution levying the assessments, provide that all unpaid installments of assessments levied against any piece of property may (but only in their entirety) be paid prior to the dates on which they become due, if the property owner paying such installments pays all interest which would accrue thereon to the next succeeding date on which interest is payable on the bonds issued in anticipation of the collection of the assessments. In addition, the property owner must pay such additional amount of interest as in the opinion of the governing body is necessary to assure the availability of money fully sufficient to pay interest on the bonds as interest becomes due, and any redemption premiums which may become payable on the bonds in order to retire, in advance of maturity, bonds in a sufficient amount to utilize the assessments thus paid in advance. If no bonds have been issued, then all unpaid installments of assessments levied against any piece of property may be paid in their entirety prior to the date upon which they become due by paying the principal amount due and the interest accrued thereon to the date of payment.

**Source: L. 71:** p. 996, § 1. **S.A.R.S. 1963:** § 89-23-28.

**29-8-129. Issuance of bonds.** (1) After the expiration of thirty days from the effective date of the resolution levying the assessments, the governing body may borrow money and issue negotiable interest-bearing bonds in a principal amount not exceeding the unpaid balance of the assessments levied. The bonds shall be authorized by resolution of the governing body. The resolution shall prescribe the form of said bonds, the manner of their execution, which may be effected by the use of the facsimile signatures of the officers of the governing body in accordance with the laws of the state in effect at the time of their execution, shall provide for the terms thereof, including the maximum net effective interest rate for the issue of bonds, and may direct that the bonds shall be sold at public or private sale at or below par. The bonds shall not be sold at a price such that the net effective interest rate of the issue of bonds exceeds the maximum net effective interest rate authorized.

(2) The governing body shall prescribe other details in connection with the issue of bonds. The bonds so authorized shall mature serially over a period of not exceeding twenty years, but in no event shall such bonds extend over a longer period of time than the period of time over which such installments of special assessments are due and payable and ninety days thereafter.

(3) The bonds shall be of such form and denomination and shall be payable in principal and interest at such times and place, and shall be sold, authorized, and issued in such manner as the governing body may determine. The bonds shall be dated no earlier than the date on which the special assessment shall begin to bear interest, and shall be secured by and payable from the irrevocable pledge and dedication of the funds derived from the levy and collection of the special assessments in anticipation of the collection of which they are issued. Said resolution and bonds may also include such other terms or recitals which, in the judgment of the governing body, are necessary or proper to render the same marketable.

(4) Any premium received on the sale of the bonds may be applied as other bond proceeds or if not so applied, the same shall be placed in the fund for the payment of principal of and interest on the bonds. The bonds shall be callable for redemption from the proceeds of the sale of any property sold for the nonpayment of special assessments, but not otherwise unless the bonds on the face thereof provide for redemption prior to maturity. The governing body may provide that the bonds shall be redeemable on any interest payment date prior to maturity pursuant to such notice and at such premiums as it deems advisable. Interest may be evidenced by interest coupons attached to such bonds and signed with a facsimile signature, as above provided, of one of the individuals who signed the bonds.

(5) In connection with the issuance of bonds payable solely from special assessments, the governing body may provide for the submission of the question of issuing such bonds to the registered electors eligible to vote on the question. For local improvement districts created by the governing body of any county pursuant to this article, the governing body may provide that all registered electors of the county shall be eligible to vote on the question or that only registered electors who are owners of property within or residents of the district shall be eligible to vote. For local improvement districts created by the governing body of any city or town pursuant to this article, the governing body may provide that all registered electors of the city or town shall be eligible to vote on the question or that only registered electors who are owners of property within or residents of the district shall be eligible to vote.

(6) In connection with the issuance of bonds payable from special assessments which are additionally secured by a pledge of any other funds of the county, city, or town, the governing body may provide for the submission of the question of issuing the bonds to all registered electors of the county, city, or town.

**Source: L. 71:** p. 997, § 1. **S.A.R.S. 1963:** § 89-23-29. **L. 87:** (1) amended, p. 325, § 72, effective July 1. **L. 94:** (1) amended and (5) and (6) added, p. 1188, § 83, effective July 1.

**29-8-130. Civil action - grounds.** (1) No civil action shall be brought or maintained to enjoin the collection of assessments or otherwise test the validity of assessments levied under this article except upon the following grounds:

(a) That notice of a hearing upon the amount of the assessment was not given as required in this article. Any person presenting objections to the governing body at or before the hearing on assessments shall be deemed to have waived this ground.

(b) That the hearing upon the amount of the assessment as provided in this article was not held;

(c) That the improvement ordered was not one authorized by this article;

(d) That the assessment levied exceeds the benefits received by the property assessed.

(2) Every person whose property is subject to such special assessment and who fails to appear during the public hearings on said assessment to raise his objection to such assessment shall be deemed to have waived all objection to such assessment, except objections on grounds specified in subsections (1)(a) and (1)(b) of this section. Any action brought under this article shall be commenced within thirty days after the passage of the assessing resolution or else be thereafter perpetually barred. Any such action shall be given preference in the courts of the state. If such action is unsuccessful, the courts may order the plaintiff to pay the costs thereof, and, in its discretion, may require a bond in a sufficient amount to cover such costs at the commencement of such action. The burden of proof to show that such special assessment or part thereof is invalid, inequitable, or unjust shall rest upon the party who brings such suit.

**Source: L. 71:** p. 998, § 1. **S.A.R.S. 1963:** § 89-23-30.

**29-8-131. Conversion costs.** (1) In determining the conversion costs included in the costs and feasibility report required by section 29-8-108, the public utility shall be entitled to amounts sufficient to repay them, with a reasonable allowance for overhead expense, for the following, as computed and reflected by the uniform system of accounts approved by the public utilities commission or federal communications commission, or in the event the public utility is not subject to regulation by either of the above governmental agencies, by the public utility's system of accounts then in use and in accordance with standard accounting procedures of said public utility:

(a) The original costs less depreciation taken of the existing overhead electric and communication facilities to be removed;

(b) The estimated costs of removing such overhead electric and communication facilities, less the salvage value of the facilities removed;

(c) If the estimated cost of constructing underground facilities exceeds the original cost of existing overhead electric and communication facilities, then the difference between the two;

(d) The cost of obtaining new easements when technical considerations make it reasonably necessary to utilize easements for the underground facilities different from those used for aboveground facilities, or where the preexisting easements are insufficient for the underground facilities.

(2) However, in the event that conversion costs are included in tariffs, rules, or regulations filed and in effect with the public utilities commission, such conversion costs shall be the cost included in the costs and feasibility report.

**Source: L. 71:** p. 998, § 1. **S.A.R.S. 1963:** § 89-23-31.

**29-8-132. Maintenance, construction, and title to converted facilities.** The public utility has the duty to maintain, repair, and replace all underground facilities installed under this article. There shall be no competitive bidding as to the construction of the converted facilities since existing facilities are owned, maintained, and operated by the public utility and the continuity of service of the utility is essential, both of which make construction work by third persons impracticable. Therefore, the public utility concerned shall be responsible for the accomplishment of all construction work and may contract out such of the construction work as it deems desirable. Title to the converted facilities shall be at all times solely and exclusively in the public utility involved, as the public is only purchasing the intangible benefits which come from converted facilities, that is, the removal of the overhead facilities and replacement by underground facilities.

**Source: L. 71:** p. 999, § 1. **S.A.R.S. 1963:** § 89-23-32.

**29-8-133. Conversion costs and service connection.** (1) The public utility performing the conversion shall, at the expense of the property owner, convert to underground all electric and communication service facilities located upon any lot or parcel of land within the improvement district and not within the easement for distribution. This shall include the digging and the back filling of a trench upon such lot or parcel, unless the owner executes a written objection thereto and files the same with the clerk of the governing body not later than the date set for hearing objections to the improvement district as provided by law. Failure to file such written objection shall be taken as a consent and grant of easement to the public utility and shall be construed as express authority to the public utility and their respective officers, agents, and employees to enter upon such lot or parcel for such purpose, and, through failure to object, any right of protest or objection with respect to the doing of such work shall be waived. If an owner does file such written objection, he shall then be responsible for providing a trench which is in accordance with applicable rules, regulations, or tariffs from the owner's service entrance to a point designated by the public utility and for back filling a trench following installation of the underground service by the public utility involved.

(2) In any event, the cost of any work done by the public utility shall be included in the assessment to be levied upon such lot or parcel. Should a written objection be filed as provided in subsection (1) of this section, the owner involved shall be obligated for and the public utility involved shall be entitled to payment for the actual cost for such work accomplished upon the owner's property by the public utility; such amount shall be less than the cost if the public utility had performed the trenching and back filling.

(3) The owner shall, at his expense, make all necessary changes in the service entrance equipment to accept underground service.

**Source: L. 71:** p. 999, § 1. **S.A.R.S. 1963:** § 89-23-33.

**29-8-134. Notice of possible disconnection.** There shall be included in the notice of the public hearing concerning the improvements required by section 29-8-110 notice that all owners of land within the local improvement district may file written requests for inclusion of the cost of conversion of utility facilities upon their property within the contemplation of section 29-8-133. Such notice shall further advise that any owner who does not execute the objections provided for in section 29-8-133, or otherwise provide for underground service connections to his property, in a manner satisfactory to the public utility involved, shall be subject to disconnection from the electric or communication facilities providing service to all buildings, structures, and improvements located upon the lot or parcel.

**Source: L. 71:** p. 1000, § 1. **S.A.R.S. 1963:** § 89-23-34.

**29-8-135. Notice of disconnection.** If the owner or person in possession of any lot or parcel of land prevents entrance upon the lot or parcel for conversion purposes, or fails to perform under section 29-8-133 and has not otherwise provided for underground service connections to the property in a manner satisfactory to the public utility involved, within sixty days from the time the converted facilities are ready for connection to the property, the electric or communication service shall be disconnected and removed and all overhead electric or communication facilities providing service to any building, structure, and improvement located upon such lot or parcel shall be disconnected. Written notice of disconnection shall be given at least twenty days prior to disconnection by leaving a copy of such notice at the principal building, structure, or improvement located upon such lot or parcel.

**Source: L. 71:** p. 1000, § 1. **S.A.R.S. 1963:** § 89-23-35.

**29-8-136. Payment of public utility.** Upon completion of the conversion contemplated by this article, the public utility shall present the governing body with its verified bill for conversion costs, as computed under section 29-8-131, but based upon the actual cost of constructing the underground facility rather than the estimated cost of the facility. In no event shall the bill for conversion cost presented by the public utility exceed the amount of estimated conversion costs by the public utility. In the event the conversion costs are less than the estimated conversion costs, each owner within the improvement district shall receive the benefit, prorated in such form and at such time as the governing body determines. The bill of the public utility shall be paid within thirty days by the governing body from the improvement district funds or such other source as is properly designated by the governing body. In determining the actual cost of constructing the underground facility, the public utility shall use its standard accounting procedures, such as the uniform system of accounts as defined by the federal communications commission and as is in use at the time of the conversion by the public utility involved, as described in section 29-8-131.

**Source: L. 71:** p. 1000, § 1. **S.A.R.S. 1963:** § 89-23-36.

**29-8-137. Reinstallation of overhead facilities not permitted.** Once removed, no overhead electric or communication facilities may be installed in a local improvement district for conversion of overhead electric and communication facilities.

**Source: L. 71:** p. 1000, § 1. **S.A.R.S. 1963:** § 89-23-37.

**29-8-137.5. Applicability to cable operators.** This article shall apply to the overhead communication facilities of cable operators, and those provisions that refer to a public utility or public utilities shall also apply to cable operators.

**Source: L. 99:** Entire section added, p. 373, § 5, effective April 22.

**29-8-138. No limitation on public utilities commission jurisdiction or franchises.** Nothing contained in this article shall vest any jurisdiction over any public utility in the governing bodies. The public utilities commission shall retain all jurisdiction conferred on it by law. Nothing contained in this article shall be interpreted in such a way as to be in conflict with franchises granted to any public utility, and in the event of any conflict, such franchises shall control over the requirements of this article.

**Source: L. 71:** p. 1001, § 1. **S.A.R.S. 1963:** § 89-23-38.

**29-8-139. Nonseverability.** If any provision of this article is held invalid, such invalidity shall invalidate this article in its entirety, and to this end the provisions of this article are declared to be nonseverable.

**Source: L. 71:** p. 1001, § 1. **S.A.R.S. 1963:** § 89-23-39.

**29-8-140. Abatement of construction.** If an improvement district is established under this article, the public utility involved shall not be required to commence conversion until the resolution, the assessment roll, and issuance of bonds have become final and no civil action has been filed, or if civil action has been filed, until the decision of the court upon the action has become final and is not subject to further appeal.

**Source: L. 71:** p. 1001, § 1. **S.A.R.S. 1963:** § 89-23-40.

**29-8-141. Early hearings.** All cases in which there may arise a question of validity of the organization of a district or a question of the validity of any proceeding under this article shall be advanced as a matter of immediate public interest and concern and heard at the earliest practicable moment. The courts shall be open at all times for the purpose of this article.

**Source: L. 71:** p. 1001, § 1. **S.A.R.S. 1963:** § 89-23-41.

**29-8-142. Liberal construction.** This article, being necessary to secure and preserve the public health, safety, and general welfare, shall be liberally construed to effect its purpose.

**Source: L. 71:** p. 1001, § 1. **S.A.R.S. 1963:** § 89-23-42.

## ARTICLE 9

Public Meetings

**29-9-101. (Repealed)**

**Source: L. 91:** Entire article repealed, p. 820, § 3, effective June 1.

**Editor's note:** This article was numbered as article 19 of chapter 3, S.A.R.S. 1963. For amendments to this article prior to its repeal in 1991, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

**Cross references:** For the public meetings law for state agencies and the general assembly, see § 24-6-402; for current provisions relating to open meetings, see part 4 of article 6 of title 24.

## ARTICLE 10

Seals

**29-10-101. Seals.** Whenever this title requires the use of a seal in the performance of any duties, it shall be sufficient that a rubber stamp with a facsimile affixed thereon of the seal required to be used is placed or stamped upon the document requiring the seal with indelible ink.

**Source: L. 75:** Entire article added, p. 489, § 6, effective May 26.

## ARTICLE 10.5

Flag of the United States

**29-10.5-101. Display of flag of the United States - legislative declaration - definitions.** (1) Any local government that purchases a flag of the United States for display may only display such flag if it has been made in the United States.

(2) For purposes of this article, "local government" means a county, a municipality as defined in section 31-1-101 (6), S.A.R.S., a school district, or a special district formed in accordance with the provisions of title 32, S.A.R.S.

(3) The general assembly hereby finds and declares that the matter addressed in this article is a matter of statewide concern.

**Source: L. 2008:** Entire article added, p. 94, § 2, effective September 11, 2009.

## ARTICLE 11

Emergency Telephone and Nonemergency
Referral Services

### PART 1

### EMERGENCY TELEPHONE SERVICE

**29-11-100.2. Legislative declaration.** (1) The general assembly hereby finds and declares that dialing 911 is the most effective and familiar way the public has of seeking emergency assistance. Basic emergency service and public safety is fundamentally a government concern and the exercise of police powers for the protection and betterment of the health, safety, security, and welfare of the public. This part 1 as amended by House Bill 20-1293, enacted in 2020, is intended to provide funding mechanisms for the continued technological advancement of emergency telephone service for all users of the system.

(2) The general assembly further finds and declares that:

(a) In order to provide for the future of 911 technology advancement in San Andreas, local funding and local control must be maintained, while at the same time, additional funding for projects, programs, and services must also be provided. It is therefore the intent of the general assembly to maintain and strengthen the existing local funding structure for emergency telephone service in the state while also creating a new funding mechanism for local expenditures that will improve the quality of the emergency telephone service statewide.

(b) Nothing in this part 1 should be construed:

(I) To alter the method of regulation or deregulation of providers of telecommunications service as set forth in article 15 of title 40; and

(II) To impose a tax. The primary purpose of the charges and surcharges authorized in this part 1 is to defray the reasonable direct and indirect costs of providing emergency telephone service. The charges authorized in this part 1 do not raise revenue for the general expenses of government.

**Source: L. 2020:** Entire section added, (HB 20-1293), ch. 267, p. 1280, § 1, effective July 10.

**29-11-100.5. Legislative declaration - provision of emergency service to wireless and multi-line telephone service users. (Repealed)**

**Source: L. 97:** Entire section added, p. 571, § 1, effective April 30. **L. 2001:** Entire section amended, p. 64, § 1, effective August 8. **L. 2004:** (1) and (3) amended, p. 13, § 2, effective February 20. **L. 2020:** Entire section repealed, (HB 20-1293), ch. 267, p. 1298, § 17, effective July 10.

**29-11-101. Definitions.** As used in this part 1, unless the context otherwise requires:

(1) "911" means a three-digit abbreviated dialing code used to report an emergency situation requiring a response by an emergency service provider.

(2) "911 access connection" means any communications service including wireline, wireless cellular, interconnected voice-over-internet-protocol, or satellite in which connections are enabled, configured, or capable of making 911 calls. The term does not include facilities-based broadband services. The number of 911 access connections is determined by the configured capacity for simultaneous outbound calling. For example, for a Digital Signal-1 (DS-1) level service or equivalent that is channelized and split into separate channels for voice communications, the number of 911 access connections would be equal to the number of channels capable of making simultaneous calls.

(3) "911 call" means a request for emergency assistance from the public by dialing 911 or addressing the ESInet regardless of the technology used, and may include voice, text, images, and video, whether originated by wireline, wireless, satellite, or other means.

(3.5) "911 enterprise fee" means the fee imposed by the 911 services enterprise pursuant to section 29-11-108 (5)(a) and (8).

(4) "911 surcharge" or "surcharge" means the surcharge established by section 29-11-102.3.

(5) "Automatic location identification" or "ALI" means the automatic display, on equipment at the PSAP, of the telephone number and location of the caller. ALI includes nonlisted and nonpublished numbers and addresses, and other information about the caller's precise location.

(6) "Automatic number identification" or "ANI" means the automatic display, on equipment at the PSAP, of the caller's telephone number.

(7) "Basic emergency service" means the aggregation and transportation of a 911 call directly to a point of interconnection with a governing body or PSAP, regardless of the technology used to provide the service. The aggregation of calls means the collection of 911 calls from one or more originating service providers or intermediary aggregation service providers for the purpose of selectively routing and transporting 911 calls directly to a point of interconnection with a governing body or PSAP. The offering or providing of ALI service or selective routing directly to a governing body or PSAP by any person is also a basic emergency service. Basic emergency service does not include:

(a) The portion of a 911 call provided by an originating service provider;

(b) The services provided by an intermediary aggregation service provider;

(c) The delivery of a 911 call from the originating service provider or an intermediary aggregation service provider to a point of interconnection with the BESP;

(d) The delivery of a 911 call from the point of interconnection between the BESP and a PSAP to the PSAP facility that receives and processes the 911 call; or

(e) The delivery of text-to-911 via interim methods.

(8) "Basic emergency service provider" or "BESP" means any person certified by the commission to provide basic emergency service.

(9) "Commission" or "public utilities commission" means the public utilities commission of the state of San Andreas, created in section 40-2-101.

(10) "Demarcation point" means the physical point where the responsibility of a portion of a network changes from one party to another.

(10.3) "Department" means the department of regulatory agencies created in section 24-34-101 (1)(a).

(10.5) "Emergency communications specialist" means a first responder whose operational or supervisory responsibilities critical to public safety are to exercise independent judgment in the execution of duties that include, but are not limited to, receiving, triaging, processing, transmitting, or dispatching 911 emergency and nonemergency calls for law enforcement, fire, emergency medical, and other public safety services by telephone, radio, or other communication device; or tracking, processing, and transmitting relevant information from the public and other resources to field responders; or providing emergency medical dispatch.

(11) "Emergency notification service" means an informational service that, upon activation by a public agency, rapidly notifies all telephone customers within a specified geographic area of hazardous conditions or emergent events that threaten their lives or property, including, without limitation, floods, fires, and hazardous materials incidents.

(12) "Emergency service provider" means a primary provider of emergency fire fighting, law enforcement, ambulance, emergency medical, or other emergency services.

(13) "Emergency telephone charge" means a charge imposed under section 29-11-102 to pay for the expenses authorized in section 29-11-104.

(14) "Emergency telephone service" means the receipt and processing of 911 calls by the PSAP for the purpose of providing responses from emergency service providers.

(14.5) "Enterprise" means the 911 services enterprise created in section 29-11-108 (2).

(14.7) "Enterprise fund" means the 911 services enterprise cash fund created in section 29-11-108 (10).

(15) "Equipment supplier" means any person providing telephone or other equipment necessary for an emergency telephone service to any public agency or governing body in the state, through lease or sale.

(16) "Governing body" means the organization responsible for establishing, collecting, and disbursing the emergency telephone charge in a specific geographic area pursuant to sections 29-11-102, 29-11-103, and 29-11-104.

(17) "Governing body's jurisdiction" means, unless modified by the agreement of governing bodies, the geographic area within the governing body's municipal, county, or other border used for determining the address of a service user for purposes of the emergency telephone charge under this part 1. A governing body's jurisdiction may differ from an emergency telephone service area which may be used for call routing and emergency response.

(18) "MLTS operator" means the person that operates an MLTS from which an end-user may place a 911 call through the public switched network.

(19) "Multi-line telephone system" or "MLTS" means a system composed of common control units, telephones, and control hardware and software providing local telephone service to multiple customers in businesses, apartments, townhouses, condominiums, schools, dormitories, hotels, motels, resorts, extended care facilities, or similar entities, facilities, or structures. "Multi-line telephone system" includes:

(a) Network and premises-based systems such as centrex, PBX, and hybrid-key telephone systems; and

(b) Systems owned or leased by governmental agencies, nonprofit entities, and for-profit businesses.

(20) "Person" means any individual, firm, partnership, copartnership, joint venture, association, cooperative organization, corporation (municipal or private and whether organized for profit or not), governmental agency, state, county, political subdivision, state department, commission, board, or bureau, fraternal organization, nonprofit organization, estate, trust, business or common law trust, receiver, assignee for the benefit of creditors, trustee, or trustee in bankruptcy, or any other service user.

(21) "Prepaid wireless telecommunications service" means wireless telecommunications access that allows the user to make 911 calls, is paid for in advance, and is sold in predetermined units or dollars, of which the number of units or dollars available to the caller declines with use in a known amount.

(22) "Public agency" means any city, city and county, town, county, municipal corporation, special district, or public authority located in whole or in part within the state that provides or has the authority to provide fire fighting, law enforcement, ambulance, emergency medical, or other emergency services.

(23) "Public safety answering point" or "PSAP" means a facility equipped and staffed to provide emergency telephone service.

(24) "Service supplier" means a person providing 911 access connections to any service user in the state, either directly or by resale.

(25) "Service user" means a person who is provided a 911 access connection in the state.

(26) "State 911 fund" means a fund created by the public utilities commission for receipt of the state 911 surcharge and other funds as described in section 29-11-102.3.

(27) "Telecommunications service" has the same meaning as set forth in section 40-15-102 (29).

(28) "Wireless automatic location identification" or "wireless ALI" means the automatic display, on equipment at the PSAP, of the location of a wireless service user initiating a 911 call.

(29) "Wireless automatic number identification" or "wireless ANI" means the automatic display on equipment at the PSAP of the mobile identification number of a wireless service user initiating a 911 call.

(30) "Wireless carrier" means a cellular licensee, a personal communications service licensee, and certain specialized mobile radio service providers designated as covered carriers by the federal communications commission in 47 CFR 20.18 and any successor to such regulation.

**Source: L. 81:** Entire article added, p. 1415, § 1, effective May 26. **L. 85:** (1) amended and (2.5) added, p. 1052, § 1, effective April 17. **L. 97:** (1), (2), (7), (8), and (9) amended and (1.3), (1.7), (6.5), (6.7), and (10) to (14) added, p. 572, § 2, effective April 30. **L. 2001:** (1) amended and (1.1), (1.2), (4.5), and (4.6) added, p. 65, § 2, effective April 8. **L. 2002:** (1.5) added, p. 83, § 1, effective March 22. **L. 2004:** (1.6) added, p. 1879, § 1, effective July 1; (13) and (14) amended, p. 1202, § 70, effective August 4. **L. 2008:** (3), (7), and (8) amended and (4.3) added, p. 683, § 1, effective August 5. **L. 2010:** (5.5) added, (SB 10-120), ch. 371, p. 1739, § 1, effective January 1, 2011. **L. 2020:** Entire section R&RE, (HB 20-1293), ch. 267, p. 1281, § 2, effective July 10. **L. 2024:** (3.5), (10.3), (14.5), and (14.7) added, (SB 24-139), ch. 302, p. 2051, § 1, effective August 7; (10.5) added, (HB 24-1016), ch. 28, p. 87, § 1, effective August 7.

**29-11-101.5. Rules.** Basic emergency service is regulated by the commission under article 15 of title 40. The commission may promulgate rules to implement this part 1 and to

resolve disputes regarding the collection, payment, remittance, and audit of the emergency telephone charge, 911 surcharge. The commission rules may impose penalties as provided by this part 1 and by articles 1 to 7 and 15 of title 40.

**Source: L. 2020:** Entire section added, (HB 20-1293), ch. 267, p. 1284, § 3, effective July 10.

**29-11-102. Imposition of emergency telephone charge - requirements for governing bodies - rules.** (1) (a) In addition to any other powers for the protection of the public health, safety, and welfare, a governing body may incur any equipment, installation, and other directly related costs for the continued operation of an emergency telephone service as described in section 29-11-104, and may pay such costs by imposing an emergency telephone charge on service users with an address in the governing body's jurisdiction in accordance with this section. A governing body may do such other acts as may be expedient for the protection and preservation of the public health, safety, and welfare, and as may be necessary for the acquisition of equipment, for the provision of initial services, and for the operation of the emergency telephone service.

(b) Two or more political subdivisions may enter into a contract under part 2 of article 1 of this title 29 to establish a separate legal entity that serves as a separate governing body to provide emergency telephone service, or to establish, collect, and disperse the emergency telephone charge.

(2) (a) A governing body is hereby authorized, by ordinance or resolution as appropriate, to impose the charge authorized in subsection (1) of this section per month per 911 access connection in an amount established in accordance with this subsection (2) upon each service user whose address is in the governing body's jurisdiction and to whom emergency telephone service is provided; except that:

(I) The charge shall not be imposed on a service user that is a state or local governmental entity; and

(II) The amount of the charge must be uniform throughout the governing body's jurisdiction, regardless of the technology used to provide the 911 access connection.

(b) At least once each calendar year, a governing body that imposes an emergency telephone charge shall establish the amount of the charge per month per 911 access connection. Except as provided in subsection (2)(c) of this section, the amount of the charge must not exceed the threshold amount established by the commission in accordance with subsection (2)(f) of this section. Immediately upon determining the amount of the charge, the governing body shall publish in the meeting minutes the new amount and an effective date of either the following February 1 or the following June 1. If the amount of the charge was changed from the prior amount, the governing body shall notify every service supplier at least sixty days before such new amount becomes effective.

(c) If a governing body determines that an emergency telephone charge in excess of the threshold amount established by the commission pursuant to subsection (2)(f) of this section is necessary in order to provide continued and adequate emergency telephone service, the governing body shall obtain the commission's approval of such higher charge before its imposition. If the commission approves the amount, the governing body shall notify every service supplier at least sixty days before the approved amount becomes effective. The prior

amount remains in effect during the pendency of the commission's determination and, if the commission rejects the amount, until the governing body establishes a new charge amount.

(d) The proceeds of the charge shall be used to pay for emergency telephone service as set forth in section 29-11-104 (2). Amounts collected in excess of such necessary expenditures within a given year shall be carried forward to subsequent years and shall be used in accordance with section 29-11-104 (2).

(e) This subsection (2) does not apply to prepaid wireless telecommunications services.

(f) (I) Repealed.

(II) Effective January 1, 2021, the threshold amount is in an amount to be established annually by the commission in accordance with this subsection (2)(f). On or before October 1, 2020, and on or before October 1 of each year thereafter, the commission shall establish the authorized threshold amount per month per 911 access connection of the emergency telephone charge. The amount authorized takes effect on the following January 1. In setting the amount of the charge, the commission shall take into account inflation and the needs of the governing bodies.

(3) Each governing body shall keep on file with the commission an accurate and current description or GIS data set representing the boundaries of its governing body jurisdiction, or other GIS layers as requested.

(4) Governing bodies shall comply with annual reporting requirements established by the commission by rule in order to assist the commission in meeting federal reporting requirements and data requests and to gather information for inclusion in the annual report to the legislature described in section 40-2-131.

(5) The emergency telephone charge is the liability of the service user and not of the service supplier; except that the service supplier is liable to remit all emergency service charges that the service supplier collects from service users.

(6) The commission may consider the data collected pursuant to subsection (4) of this section as part of its evaluation of applications made by a governing body pursuant to subsection (2)(c) of this section to increase the emergency telephone charge imposed by the governing body beyond the threshold amount authorized by the commission, including considerations related to efficiency of operations.

**Source: L. 81:** Entire article added, p. 1416, § 1, effective May 26. **L. 85:** (1) amended and (2.5) added, p. 1052, § 2, effective April 17. **L. 90:** (2) and (3) amended, p. 1451, § 8, effective July 1. **L. 97:** (1)(b), (2), (3), and (7) amended, p. 573, § 3, effective April 30. **L. 2004:** (1)(a) amended, p. 1879, § 2, effective July 1. **L. 2008:** (2)(a), (2)(c), (5), and (6) amended, p. 684, § 2, effective August 5. **L. 2010:** (2)(e) added, (SB 10-120), ch. 371, p. 1739, § 2, effective January 1, 2011. **L. 2020:** Entire section R&RE, (HB 20-1293), ch. 267, p. 1284, § 4, effective July 10.

**Editor's note:** Subsection (2)(f)(I)(B) provided for the repeal of subsection (2)(f)(I), effective July 1, 2021. (See L. 2020, p. 1284.)

**29-11-102.3. 911 surcharge - imposition - 911 surcharge trust cash fund - rules - report - definition.** (1) (a) Effective January 1, 2021, a 911 surcharge, referred to in this section as the "surcharge", is hereby imposed on service users in an amount to be established annually

by the commission but not to exceed fifty cents per month per 911 access connection together with the 911 enterprise fee imposed pursuant to section 29-11-108 (8)(a).

(b) On or before October 1, 2020, and on or before October 1 each year thereafter, the commission shall establish, through a public proceeding, the amount of the surcharge for the next calendar year. The amount of the surcharge must be reasonably calculated to meet the needs of governing bodies to pay for basic emergency service and provide emergency telephone service and must take into consideration the amount of the 911 enterprise fee imposed pursuant to section 29-11-108 (8)(a) and the budgetary requirements set forth in this section. Upon establishing the amount of the surcharge, the commission shall send notice of the new amount to all service suppliers. The new amount takes effect on the following January 1.

(c) The amount of the surcharge imposed per 911 access connection must be uniform, regardless of the technology used to provide the 911 access connection.

(2) Each service supplier shall collect the surcharge from its service users. The surcharge must not be combined with the local emergency telephone charge described in section 29-11-102 if it is listed on the service user's monthly bill. The 911 surcharge is the liability of the service user and not of the service supplier; except that the service supplier is liable to remit all 911 surcharges that the service supplier collects from service users.

(3) (a) The service supplier shall remit the collected surcharges to the commission on a monthly basis in a manner established by the commission. The commission shall establish remittance procedures by rule. A service supplier is subject to the penalties and procedures in section 29-11-103 for the failure to collect or correctly remit a surcharge in accordance with this section.

(b) A service supplier may deduct and retain one percent of the surcharges that it collects from its service users if it timely remits the collected surcharges to the commission.

(c) (I) (A) Remittances of surcharges received by the commission are collections for the local governing body, not general revenues of the state, and shall be held in trust in the 911 surcharge trust cash fund, which is hereby created. Except as provided in subsection (3)(c)(II) of this section, the commission shall transmit the money in the 911 surcharge trust cash fund to each governing body within sixty days after the commission receives the money for use by such governing body for the purposes permitted under section 29-11-104.

(B) Remittances of the 911 enterprise fee received by the commission are collections for the enterprise, not general revenue of the state, and must be held in trust in the 911 enterprise fee trust cash fund, which is created in the state treasury. The commission shall transmit the money in the 911 enterprise fee trust cash fund to the state treasurer within sixty days after the commission receives the money, and the state treasurer shall credit the revenue to the enterprise fund.

(II) The commission may expend an amount, not to exceed four percent of the collected surcharges in the 911 surcharge trust cash fund, necessary to reimburse the commission for its direct and indirect costs of administering the collection and remittance of surcharges for the local governing bodies, including costs related to conducting audits of service suppliers in accordance with section 29-11-103 (7).

(III) The commission shall establish a formula for distribution of money from the surcharge to the governing bodies pursuant to subsection (3)(c)(I)(A) of this section based upon the number of concurrent sessions maintained by the PSAPs of each governing body. The commission shall establish the formula by October 1 of each year. The commission shall

promulgate rules concerning changes to the number of concurrent sessions for which a governing body is reimbursed under this section. For the purposes of this section, "concurrent session" means a channel for an inbound simultaneous 911 request for assistance.

(4) As part of the report required by section 40-2-131, the commission shall report on the 911 surcharge, including amounts remitted and transmitted to local governing bodies.

(5) This section does not apply to prepaid wireless telecommunications services.

**Source: L. 2020:** Entire section added, (HB 20-1293), ch. 267, p. 1286, § 5, effective July 10. **L. 2024:** (1)(a), (1)(b), (3)(b), (3)(c)(I), and (3)(c)(III) amended, (SB 24-139), ch. 302, p. 2051, § 2, effective August 7.

**29-11-102.5. Imposition of charge on prepaid wireless - rules - prepaid wireless trust cash fund - rules - definitions - repeal.** (1) As used in this section:

(a) "Consumer" means a person who purchases prepaid wireless telecommunications service in a retail transaction.

(b) "Department" means the department of revenue.

(c) "Prepaid wireless 911 charge" means the charge imposed under subsection (2) of this section to pay for the expenses authorized in section 29-11-104 (2)(a).

(d) "Provider" means a person that provides prepaid wireless telecommunications service.

(e) "Retail transaction" means the purchase of prepaid wireless telecommunications service from a seller for any purpose other than resale. For the purposes of this section, "purchase" includes exchanges of money and exchanges of nonmonetary consideration, such as consumer information required for reimbursement claims under federally supported services or programs.

(f) "Seller" means a person who sells prepaid wireless telecommunications service to another person.

(2) (a) A prepaid wireless 911 charge is hereby imposed on each retail transaction. The primary purpose of the prepaid wireless 911 charge is to defray the reasonable direct and indirect costs of providing emergency telephone service. The prepaid wireless 911 charge does not raise revenue for the general expenses of government.

(b) (I) Repealed.

(II) Effective January 1, 2021, the charge is in an amount to be established annually by the commission in accordance with subsection (2)(c) of this section. The charge must be a flat amount imposed on each retail transaction in which prepaid wireless service is purchased in San Andreas.

(c) On or before October 1, 2020, and on or before October 1 each year thereafter, the commission shall establish the amount of the prepaid wireless 911 charge for the next calendar year. The charge amount is calculated by adding the average of the local emergency telephone charge amounts imposed in accordance with section 29-11-102 (2) as of July 1 of that year and the amount of the 911 surcharge established for the upcoming year in accordance with section 29-11-102.3. The new amount takes effect on the following January 1.

(d) (I) (A) The seller shall collect the prepaid wireless 911 charge from the consumer on each retail transaction occurring in the state. The amount of the prepaid wireless 911 charge shall be either disclosed to the consumer or separately stated on an invoice, receipt, or other similar

document the seller provides to the consumer. A seller shall elect to either disclose or separately state the charge and shall not change the election without the written consent of the department. The seller is deemed to have collected the charge notwithstanding the seller's failure to separately disclose or state the charge on an invoice, receipt, or other similar document the seller provides to the consumer. Except as provided in subsection (2)(d)(I)(B) of this section, providers who use federally supported services or programs to offer customers free prepaid wireless telecommunications service are deemed to have collected the charge. The provider shall remit the charge for each retail transaction that occurs in San Andreas.

(B) A provider that pays 911 fees on federally supported services or programs pursuant to a commission order or agreement in connection with such provider's eligible telecommunications carrier designation that is in effect as of July 10, 2020, shall continue to remit fees in accordance with that agreement. Through a formal docket process, the commission may change such agreements no more frequently than annually. No later than October 1, 2021, the commission shall complete a docket to establish the 911 fee for federally supported services or programs at one and six-tenths percent of the value of the service provided by the carrier. On any subsequent docket, the 911 fee for federally supported services or programs must not exceed one and nine-tenths percent of the value of the service provided by the carrier.

(II) For purposes of this section, a retail transaction occurs in San Andreas if:

(A) The consumer effects the retail transaction in person at a business location in San Andreas;

(B) If subsection (2)(d)(II)(A) of this section does not apply, the product is delivered to the consumer at a San Andreas address provided to the seller;

(C) If subsections (2)(d)(II)(A) and (2)(d)(II)(B) of this section do not apply, the seller's records, maintained in the ordinary course of business, indicate that the consumer's address is in San Andreas and the records are not made or kept in bad faith;

(D) If subsections (2)(d)(II)(A) to (2)(d)(II)(C) of this section do not apply, the consumer gives a San Andreas address during the consummation of the sale, including the consumer's payment instrument if no other address is available, and there is no indication that the address is given in bad faith; or

(E) If subsections (2)(d)(II)(A) to (2)(d)(II)(D) of this section do not apply, the mobile telephone number is associated with a San Andreas location.

(e) The prepaid wireless 911 charge is the liability of the consumer and not of the seller or of any provider; except that the seller is liable to remit all prepaid wireless 911 charges that the seller collects from consumers as provided in subsection (3) of this section.

(f) The amount of the prepaid wireless 911 charge that is collected by a seller from a consumer shall not be included in the base for measuring any tax, fee, surcharge, or other charge that is imposed by the state, any political subdivision of the state, or any intergovernmental agency.

(3) (a) The seller or provider who uses federally supported services or programs shall remit any collected prepaid wireless 911 charges to the department at the times and in the manner provided in part 1 of article 26 of title 39. The department shall establish, by rule, registration and payment procedures that substantially coincide with the registration and payment procedures that apply under part 1 of article 26 of title 39. A seller is subject to the penalties under part 1 of article 26 of title 39, for failure to collect or remit a prepaid wireless 911 charge in accordance with this section.

(b) A seller or provider who uses federally supported services or programs may deduct and retain three and three-tenths percent of the prepaid wireless 911 charges that are collected by the seller from consumers.

(c) The audit and appeal procedures applicable to the state sales tax under part 1 of article 26 of title 39 apply to prepaid wireless 911 charges.

(d) The department shall, by rule, establish procedures by which a seller may document that a transaction is not a retail transaction, which procedures must substantially coincide with the procedures for documenting that a sale was wholesale for purposes of the sales tax under part 1 of article 26 of title 39.

(e) **[*Editor's note: This version of subsection (3)(e) is effective until July 1, 2025.*]** (I) Remittances of prepaid wireless 911 charges received by the department are collections for the local governing body, not general revenues of the state, and shall be held in trust in the prepaid wireless trust cash fund, which is hereby created. Except as provided in subsection (3)(e)(II) of this section, the department shall transmit the money in the fund to each governing body within sixty days after the department receives the money in accordance with section 29-2-106 for use by such governing body for the purposes permitted under section 29-11-104.

(II) The department may expend an amount, not to exceed three percent of the collected charges in the prepaid wireless trust cash fund, necessary to reimburse the department for its direct costs of administering the collection and remittance of prepaid wireless 911 charges; except that the department may expend up to an additional nineteen thousand dollars in the 2020-21 fiscal year to cover the costs of implementing House Bill 20-1293, enacted in 2020.

(III) The commission shall establish a formula for distribution of revenues to governing bodies from the prepaid wireless 911 charge based upon the governing authority's portion of the total 911 wireless call volume. The commission, or its designee, shall transmit the formula for distribution to the department by October 1 of each year, to take effect on the following January 1. The commission may promulgate rules to implement this subsection (3)(e)(III).

(e) **[*Editor's note: This version of subsection (3)(e) is effective July 1, 2025.*]** (I) Remittances of prepaid wireless 911 charges received by the department are collections for the local governing body, not general revenues of the state, and shall be held in trust in the prepaid wireless trust cash fund, which is hereby created. Except as provided in subsection (3)(e)(II) of this section, the department shall transmit the money in the fund to each governing body within sixty days after the department receives the money in accordance with part 2 of article 2 of this title 29 for use by such governing body for the purposes permitted under section 29-11-104.

(II) The department may expend an amount, not to exceed three percent of the collected charges in the prepaid wireless trust cash fund, necessary to reimburse the department for its direct costs of administering the collection and remittance of prepaid wireless 911 charges.

(III) The commission shall establish a formula for distribution of revenues to governing bodies from the prepaid wireless 911 charge based upon the governing authority's portion of the total 911 wireless call volume. The commission, or its designee, shall transmit the formula for distribution to the department as specified in section 29-2-205. The commission may promulgate rules to implement this subsection (3)(e)(III).

(4) The prepaid wireless 911 charge imposed by this section shall be the only direct 911 funding obligation imposed with respect to prepaid wireless telecommunications service in the state. No tax, fee, surcharge, or other charge to fund 911 shall be imposed by the state, any political subdivision of the state, or any intergovernmental agency upon a provider, seller, or

consumer with respect to the sale, purchase, use, or provision of prepaid wireless telecommunications service.

(5) The department shall supply information regarding the administration of the prepaid wireless trust cash fund to the commission or a governing body upon request.

**Source: L. 2010:** Entire section added, (SB 10-120), ch. 371, p. 1739, § 3, effective January 1, 2011. **L. 2020:** Entire section amended, (HB 20-1293), ch. 267, p. 1288, § 6, effective July 10. **L. 2024:** (3)(e) amended, (SB 24-025), ch. 144, p. 566, § 17, effective July 1, 2025.

**Editor's note:** (1) Subsection (3)(b)(II)(B) provided for the repeal of subsection (3)(b)(II), effective July 1, 2011. (See L. 2010, p. 1739.)

(2) Subsection (2)(b)(I)(B) provided for the repeal of subsection (2)(b)(I), effective July 1, 2021. (See L. 2020, p. 1288.)

(3) Section 54 of chapter 144 (SB 24-025), Session Laws of San Andreas 2024, provides that the act changing this section applies to any taxable event on or after July 1, 2025.

**29-11-102.7. Imposition of telecommunications relay service surcharge on prepaid wireless - rules - definitions.** (1) As used in this section, unless the context otherwise requires:

(a) "Consumer" means a person who purchases prepaid wireless telecommunications service in a retail transaction.

(b) "Department" means the department of revenue.

(c) "Prepaid wireless TRS charge" means the charge that is required to be collected by a seller from a consumer under subsection (2) of this section.

(d) "Provider" means a person that provides prepaid wireless telecommunications service.

(e) "Retail transaction" means the purchase of prepaid wireless telecommunications service from a seller for any purpose other than resale.

(f) "Seller" means a person who sells prepaid wireless telecommunications service to another person.

(g) "TRS charge" means a telecommunications relay service surcharge imposed pursuant to section 40-17-103 (3)(b.5), S.A.R.S.

(2) (a) A prepaid wireless TRS charge of one-tenth of one percent of the price of the retail transaction is hereby imposed on each retail transaction.

(b) (I) Along with the prepaid wireless 911 charge, as defined in section 29-11-102.5 (1)(c) and collected under section 29-11-102.5 (2), the seller shall collect the prepaid wireless TRS charge from the consumer on each retail transaction occurring in this state. The amount of the prepaid wireless TRS charge shall be either disclosed to the consumer or separately stated on an invoice, receipt, or other similar document the seller provides to the consumer. The amount of the prepaid wireless TRS charge and the amount of the prepaid wireless 911 charge may be stated on an invoice, receipt, or other documentation together as a single line item and as a single charge. A seller shall elect to either disclose or separately state the charge and shall not change the election without the written consent of the department.

(II) For purposes of this subsection (2)(b), a retail transaction occurs in San Andreas if one of the circumstances set forth in section 29-11-102.5 (2)(d)(II) is met.

(c) The prepaid wireless TRS charge is the liability of the consumer and not of the seller or of any provider; except that the seller shall be liable to remit all prepaid wireless TRS charges that the seller collects from consumers as provided in subsection (3) of this section. The seller is deemed to have collected the charge notwithstanding that the amount of the charge has neither been separately disclosed nor stated on an invoice, receipt, or other similar document the seller provides to the consumer.

(d) The amount of the prepaid wireless TRS charge that is collected by a seller from a consumer shall not be included in the base for measuring any tax, fee, surcharge, or other charge that is imposed by this state, any political subdivision of this state, or any intergovernmental agency.

(3) (a) The seller shall remit any collected prepaid wireless TRS charges to the department at the times and in the manner provided in part 1 of article 26 of title 39. The department shall establish, by rule, registration and payment procedures that substantially coincide with the registration and payment procedures that apply under part 1 of article 26 of title 39. A seller may remit prepaid wireless TRS charges and prepaid wireless 911 charges, as defined in section 29-11-102.5 (1)(c), together to the department of revenue as a single remittance. A seller is subject to the penalties under part 1 of article 26 of title 39, for failure to collect or remit a prepaid wireless TRS charge in accordance with this section.

(b) Effective September 1, 2016, a seller may deduct and retain three and three-tenths percent of the prepaid wireless TRS charges that are collected by the seller from consumers.

(c) The audit and appeal procedures applicable to the state sales tax under part 1 of article 26 of title 39, S.A.R.S., shall apply to prepaid wireless TRS charges.

(d) The department shall establish procedures by which a seller may document that a transaction is not a retail transaction, which procedures shall substantially coincide with the procedures for documenting that a sale was wholesale for purposes of the sales tax under part 1 of article 26 of title 39, S.A.R.S.

(4) The department shall transmit the money collected pursuant to this section to the state treasurer who shall credit the money to the San Andreas telephone users with disabilities fund created in section 40-17-104 (1), S.A.R.S.

(5) The prepaid wireless TRS charge imposed by this section is the only direct telecommunications relay service funding obligation imposed with respect to prepaid wireless telecommunications service in this state. No tax, fee, surcharge, or other charge to fund telecommunications relay service shall be imposed by this state, any political subdivision of this state, or any intergovernmental agency upon a provider, seller, or consumer with respect to the sale, purchase, use, or provision of prepaid wireless telecommunications service.

**Source: L. 2016:** Entire section added, (HB 16-1414), ch. 155, p. 481, § 1, effective September 1. **L. 2020:** (2)(b) and (3)(a) amended, (HB 20-1293), ch. 267, p. 1297, § 14, effective July 10.

**29-11-103. Remittance of charges - administrative fees - rules.** (1) Every service supplier providing service within a governing body's jurisdiction shall collect an emergency telephone charge imposed in accordance with section 29-11-102 and the 911 surcharge imposed in accordance with section 29-11-102.3 from its service users.

(2) The duty to collect or remit charges commences at the time specified by the governing body in the case of an emergency telephone charge or on January 1, 2021, in the case of the 911 surcharge. The emergency telephone charge and the 911 surcharge must be stated separately on a service user's bill, unless the service supplier does not separately list any fees or surcharges as line items.

(3) A service supplier is liable only for an emergency telephone charge collected under this part 1 until it is remitted to the governing body and only for the 911 surcharge collected under this part 1 until it is remitted to the commission. The amount remitted by the service supplier must reflect the actual collections based on the actual 911 access connections billed in the governing body's jurisdiction.

(4) A service supplier shall remit the 911 surcharge in accordance with section 29-11-102.3 and rules adopted by the commission.

(5) A service supplier shall remit an emergency telephone charge imposed to the governing body that imposed the emergency telephone charge monthly, along with a report in such form as required by the governing body. The service supplier required to file the report shall deliver the report, together with a remittance of the amount of the charge payable, to the office of the governing body. The amount of the emergency telephone charge collected or paid in one month by the service supplier, less the administrative fee allowed to the service supplier pursuant to subsection (6) of this section, shall be remitted to the governing body based on the governing body's jurisdiction no later than the last day of the month following the close of the preceding month. The governing body may, by ordinance or resolution as appropriate, establish payment procedures and schedules different from those in this section, in which case a service supplier shall remit the emergency telephone charge in accordance with the resolution or ordinance.

(6) From every timely remittance of an emergency telephone charge to the governing body, the service supplier required to remit is entitled to deduct and retain two percent of said remittance.

(7) (a) The service supplier shall maintain a record of the amount of each emergency telephone charge and 911 surcharge collected and remitted by service user address for a period of three years after the time the charge was collected and remitted. The service supplier shall cooperate with governing bodies to provide a reasonable number of randomly selected service addresses for verification of collection and remittance at no charge.

(b) If a service supplier fails to timely file a report and remit an emergency telephone charge or the 911 surcharge as required by this section, or if a service supplier files an incorrect report or fails to remit the correct amount, the governing body or the commission shall estimate the amount of the remittance due for the period or periods for which the service supplier is delinquent. The governing body or the commission shall make the estimate based upon the information available. The governing body or the commission shall compute and assess a penalty equal to fifteen percent of the estimate of the delinquent amount, and shall assess interest on the delinquent charges at the rate of one percent each month from the date when due until the date paid.

(c) Except as provided in this section and unless such time is extended by agreement pursuant to subsection (7)(d) of this section, the amount of a delinquent remittance and the penalty and interest owed under subsection (7)(b) of this section, other than interest accruing thereafter, must be assessed within three years after the date the incorrect report was filed or the

delinquent report was to be filed. A governing body or the commission shall not file a notice of lien, issue a distraint warrant, institute a suit for collection, or take other action to collect the amount after the expiration of such period unless the governing body or the commission issues a notice of assessment for the amount within such period or within an extended period pursuant to subsection (7)(d) of this section.

(d) If, before the expiration of the time prescribed for the assessment of delinquent amounts in subsection (7)(c) of this section, the governing body or commission and the service supplier consent in writing to an assessment after such time, the amount calculated in accordance with subsection (7)(b) of this section may be assessed at any time prior to the expiration of the period agreed upon. The period agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon. The governing body or the commission may file a lien against the property of the service supplier for up to one year after the expiration of any such period, unless otherwise specifically provided in this part 1.

(e) The commission or one or more governing bodies may conduct an audit of a service supplier's books and records concerning the collection and remittance of the charges authorized by this part 1. A public inspection of the audit and of documents reviewed in the audit is subject to section 24-72-204. The commission and each governing body conducting such an audit are separately responsible for expenses each may incur to conduct the audit. The commission, either on its own motion or in response to a petition from a governing body, may pay the expenses incurred by a governing body as a cost of administering the 911 surcharge in accordance with section 29-11-102.3 (3)(c)(II). The commission shall review such petitions from governing bodies on an expedited basis. In connection with audits performed, service suppliers shall make relevant records available to the auditors at no charge.

(f) The audit and appeal procedures adopted by ordinance or resolution as applicable in each governing body for excise charges shall apply to emergency telephone charges. In the case of audits conducted by or on behalf of the commission, or appeals pursued against the commission, the commission shall promulgate rules governing the audit and appeal procedures.

(g) Penalties and interest collected by the commission related to remittances of the 911 surcharge are collected on behalf of the governing bodies. The commission shall deposit any penalties or interest in the 911 surcharge trust cash fund created in section 29-11-102.3 (3)(c)(II) and shall distribute the money in accordance with section 29-11-102.3 (3)(c).

**Source: L. 81:** Entire article added, p. 1417, § 1, effective May 26. **L. 90:** (1) and (2) amended, p. 1451, § 9, effective July 1. **L. 97:** (3) amended, p. 574, § 4, effective April 30. **L. 2008:** (1) and (3)(a) amended, p. 684, § 3, effective August 5. **L. 2020:** Entire section R&RE, (HB 20-1293), ch. 267, p. 1291, § 7, effective July 10.

**29-11-104. Use of funds collected.** (1) Repealed.

(2) (a) (I) Money collected from the emergency telephone charge imposed pursuant to section 29-11-102, the 911 surcharge imposed pursuant to section 29-11-102.3, and the prepaid wireless 911 charge imposed pursuant to section 29-11-102.5 shall be spent by or on behalf of a governing body solely to pay for:

(A) Costs associated with the lease or purchase, installation, engineering, programming, maintenance, monitoring, security, planning, and oversight of equipment, facilities, hardware, software, and databases used to receive and dispatch 911 calls;

(B) Charges of basic emergency service providers (BESPs) for the provision of basic emergency service;

(C) Costs related to the provision of the emergency notification service and emergency telephone service, including costs associated with total implementation of both services by emergency service providers, including costs for programming, emergency medical services provided by telephone, radio equipment within the PSAP, and training for PSAP personnel including but not limited to emergency communications specialists, technical support personnel responsible for the maintenance of PSAP systems, and other personnel essential to the provision of emergency telephone services, emergency notification services, and emergency medical dispatch;

(D) Costs associated with the operation of emergency telephone service and emergency notification service, including recordkeeping, administrative, and facilities costs, whether the facilities are leased or owned;

(E) Membership fees for state or national industry organizations supporting 911; and

(F) Other costs directly related to the continued operation of the emergency telephone service and the emergency notification service.

(II) If money is available after the costs and charges enumerated in subsection (2)(a)(I) of this section are fully paid in a given year, the money may be expended for:

(A) Public safety radio equipment outside the PSAP; or

(B) Personnel expenses necessarily incurred for a PSAP or the governing body in the provision of emergency telephone service.

(b) Repealed.

(c) (Deleted by amendment, L. 2004, p. 1880, § 3, effective July 1, 2004.)

(3) A public agency shall credit money from the charges imposed pursuant to sections 29-11-102, 29-11-102.3, and 29-11-102.5 to a cash fund, apart from the general fund of the public agency, for payments pursuant to subsection (2) of this section. Any money remaining in such cash fund at the end of any fiscal year remains in the cash fund for payments during any succeeding year; except that, if such emergency telephone service is discontinued, money remaining in the fund after all payments to the service suppliers, basic emergency service providers, and all equipment suppliers pursuant to subsection (2) of this section have been made shall be transferred to the general fund of the public agency or proportionately to the general fund of each participating public agency.

(4) A wireless carrier or BESP that provides wireless ALI or wireless ANI services at the request of a governing body, and pursuant to a contract between the wireless carrier or BESP and the governing body, shall be reimbursed by such governing body or its designee for the costs incurred in making any equipment changes necessary for the provision of such services.

(5) Each governing body shall include as a part of the audit required by part 6 of article 1 of this title an audit on the use of the funds collected from the charges imposed pursuant to this article for compliance with paragraph (a) of subsection (2) of this section. A copy of each audit report shall be made available on the governing body's website if the governing body has a website.

**Source: L. 81:** Entire article added, p. 1418, § 1, effective May 26. **L. 85:** (2) and (3) amended, p. 1053, § 3, effective April 17. **L. 92:** (2) amended, p. 964, § 1, effective June 1. **L. 95:** (2) amended, p. 247, § 1, effective April 17. **L. 97:** (2) and (3) amended and (4) added, p.

575, § 5, effective April 30. **L. 2002:** (2)(a)(I)(C) and (2)(a)(I)(D) amended and (2)(a)(I)(E) added, p. 83, § 2, effective March 22. **L. 2004:** (2) amended, p. 1880, § 3, effective July 1. **L. 2008:** (5) added, p. 685, § 4, effective August 5. **L. 2020:** (1) and (2)(b) repealed and (2)(a) and (3) amended, (HB 20-1293), ch. 267, p. 1294, § 8, effective July 10. **L. 2024:** (2)(a)(I)(C) amended, (HB 24-1016), ch. 28, p. 88, § 2, effective August 7.

**29-11-105. Immunity of providers.** (1) No basic emergency service provider or service supplier and no employee or agent of a basic emergency service provider or service supplier shall be liable to any person for infringement or invasion of the right of privacy of any person caused or claimed to have been caused, directly or indirectly, by any act or omission in connection with the installation, operation, maintenance, removal, presence, condition, occasion, or use of emergency service features, automatic number identification (ANI), or automatic location identification (ALI) service and the equipment associated therewith, including without limitation the identification of the telephone number, address, or name associated with the telephone used by the party or parties accessing 911 service, wireless ANI service, or wireless ALI service, and that arise out of the negligence or other wrongful act of the provider or supplier, the service user or consumer, the governing body or any of its users, agencies, or municipalities, or the employee or agent of any of said persons and entities. In addition, no basic emergency service provider or service supplier, or any employee or agent thereof shall be liable for any damages in a civil action for injuries, death, or loss to person or property incurred as a result of any act or omission of such provider, service supplier, employee, or agent in connection with developing, adopting, implementing, maintaining, enhancing, or operating an emergency telephone service unless such damage or injury was intentionally caused by or resulted from gross negligence of the provider, supplier, employee, or agent.

(2) No provider of PSAP equipment, systems, or software, or supplier of networking, hosted PSAP services, IT or other services including support of PSAP equipment, systems or software and cybersecurity services, nor any of their employees or agents shall be liable for any damages in a civil action for injuries, death, or loss to person or property incurred as a result of any act or omission of such provider, service supplier, employee, or agent in connection with installation, upgrading, patching, integration, maintenance, support or provision of such equipment, systems, software, or services used by a PSAP unless such damage or injury was intentionally caused by or resulted from gross negligence of the provider, supplier, employee, or agent.

**Source: L. 97:** Entire section added, p. 576, § 6, effective April 30. **L. 2020:** Entire section amended, (HB 20-1293), ch. 267, p. 1295, § 9, effective July 10.

**29-11-106. Disclosure of 911 dialing and calling capabilities. (Repealed)**

**Source: L. 2001:** Entire section added, p. 66, § 3, effective August 8. **L. 2020:** Entire section repealed, (HB 20-1293), ch. 267, p. 1298, § 17, effective July 10.

**29-11-107. 911 dialing and calling capabilities of multi-line telephone systems - rules.** (1) Installers, managers, or operators of MLTS in San Andreas shall meet the requirements set forth in 47 U.S.C. sec. 623 and any other applicable federal law.

(2) The commission, by rule, shall create a mechanism for members of the public to report violations of this section and shall forward reports it receives to the appropriate federal authorities.

**Source: L. 2020:** Entire section added, (HB 20-1293), ch. 267, p. 1296, § 10, effective July 10.

**29-11-108. 911 services enterprise - creation - powers and duties - cash fund - legislative declaration.** (1) The general assembly finds and declares that:

(a) The 911 services enterprise provides valuable benefits and services to telephone service users statewide by funding expenses and costs related to providing emergency telephone service and providing training, education, and other types of support to PSAPs, including in the provision of 911 services and emergency notification services;

(b) By providing the benefits and services specified in subsection (1)(a) of this section, the 911 services enterprise engages in an activity conducted in the pursuit of a benefit, gain, or livelihood, and therefore operates as a business;

(c) Consistent with the determination of the San Andreas supreme court in *Nicholl v. E-470 Public Highway Authority*, 896 P.2d 859 (S.A. 1995), that the power to impose taxes is inconsistent with enterprise status under section 20 of article X of the state constitution, it is the conclusion of the general assembly that the charges imposed by the enterprise is a fee, not a tax, because the charges are imposed for the specific purpose of allowing the enterprise to defray the costs of providing the benefits and services specified in subsection (1)(a) of this section to telephone service users and the charges are imposed at rates that are reasonably calculated based on the cost of the services received by telephone service users;

(d) So long as the 911 services enterprise qualifies as an enterprise for purposes of section 20 of article X of the state constitution, the revenue from the charges imposed by the enterprise is not state fiscal year spending, as defined in section 24-77-102 (17), or state revenues, as defined in section 24-77-103.6 (6)(c), and does not count against either the state fiscal year spending limit imposed by section 20 of article X of the state constitution or the excess state revenues cap, as defined in section 24-77-103.6 (6)(b)(I); and

(e) No other enterprise created simultaneously or within the preceding five years serves primarily the same purpose as the 911 services enterprise, and the 911 services enterprise will generate revenue from charges of less than one hundred million dollars total in its first five fiscal years. Accordingly, the creation of the 911 services enterprise does not require voter approval pursuant to section 24-77-108.

(2) (a) The 911 services enterprise is created in the department. The enterprise is and operates as a government-owned business within the department in order to execute its business purposes specified in subsection (5) of this section by exercising the powers and performing the duties and functions set forth in this section.

(b) The enterprise is a **type 1** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department.

(3) The enterprise constitutes an enterprise for purposes of section 20 of article X of the state constitution so long as it retains the authority to issue revenue bonds and receives less than ten percent of its total revenue in grants from all San Andreas state and local governments

combined. So long as it constitutes an enterprise pursuant to this subsection (3), the enterprise is not subject to section 20 of article X of the state constitution.

(4) The enterprise is governed by a board of directors appointed by the governor and must have an odd number of total members. The members of the board consist of a representative of the telecommunications industry and an equal number of representatives of governing bodies serving jurisdictions with populations less than two hundred thousand people, which includes mountain resort communities and communities in the eastern plains of the state, and governing bodies serving jurisdictions with populations greater than two hundred thousand people. The majority of the board must be representatives of governing bodies.

(5) The enterprise's primary powers and duties are to:

(a) Impose a 911 enterprise fee on service users in accordance with subsection (8) of this section;

(b) Distribute funding to governing bodies, PSAPs, statewide 911 organizations, or third parties for the benefit of governing bodies or PSAPs for purposes that are pre-approved by the board of directors of the enterprise and are consistent with applicable statutes, regulations, ordinances, policies, and procedures. The purposes may include:

(I) Funding for training initiatives and programs selected by individual governing bodies or PSAPs for PSAP personnel in emergency call processing, emergency dispatch, emergency notification, PSAP administration, and other subjects intended to improve emergency telephone service and emergency notification service in the state, including:

(A) Funding for training selected by the individual governing bodies or PSAPs regarding de-escalation techniques and behavioral health emergencies;

(B) Funding for the development of training for supporting 911 callers with disabilities as determined by individual governing bodies or PSAPs;

(C) Funding for the development of training for responding to 911 callers who speak languages other than English, including with professional or otherwise qualified interpreters and translators, as determined by individual governing bodies or PSAPs; and

(D) Other 911-related training;

(II) Public education campaigns for the public to include training programs and materials related to proper and appropriate use of 911 services and emergency notification systems, including training for people with accessibility challenges in accessing and interacting with PSAPs. Public education campaigns must use plain language that avoids metaphors and spells out or avoids the use of acronyms in order to allow easier translation of the public education campaign to languages other than English.

(III) Cybersecurity support for services and software, including for emergency telephone services, emergency notification services, and PSAP systems;

(IV) GIS programs for the benefit of governing bodies and PSAPs;

(V) Grant programs that the enterprise may establish for the benefit of governing bodies and PSAPs, which may be limited to reasonably defined classes of governing bodies or PSAPs on the basis of financial need and may have a matching money requirement for receipt;

(VI) Providing matching money for federal, state, or private grants related to basic emergency service, emergency telephone service, or emergency notification services, so long as all expenses to be paid under such grants are allowable pursuant to section 29-11-104 and 9 CFR 47, subpart I, as amended;

(VII) Any other items of benefit for governing bodies and PSAPs as proposed by a group of those entities or by statewide associations representing San Andreas 911 stakeholders, provided such expenses are allowable pursuant to section 29-11-104 and 9 CFR 47, subpart I, as from time to time amended; and

(VIII) Any other expenses necessary for the administration of the enterprise and the execution of its activities, including costs for support personnel;

(c) Enter into any contracts necessary for professional and technical assistance or advice and to supply other services related to the conduct of the affairs of the enterprise without being subject to the requirements of the "Procurement Code", articles 101 to 112 of title 24;

(d) By resolution, authorize and issue revenue bonds that are payable only from the fund;

(e) Adopt, amend, or repeal policies for the regulation of its affairs and the conduct of its business consistent with this section; and

(f) Prepare and submit an annual financial report pursuant to subsection (9)(b) of this section.

(6) (a) In addition to the powers and duties set forth in subsection (5) of this section, the enterprise shall use revenue of the enterprise generated from sources other than the 911 enterprise fee to support emergency telephone services and emergency notification services in the state consistent with the provisions of this section, including funding for:

(I) PSAP facilities, services, systems, operations, personnel, training, maintenance, reporting, communications, and call processing and recording systems; and

(II) Other expenses of processing and dispatching calls for assistance from the point a call for assistance reaches a public or commercial network or service to the point that the request for assistance and related information is communicated to first responders, mental health professionals or paraprofessionals, or civilian volunteers for response to the reported incident or circumstance, or is delivered or communicated to other PSAPs for processing or dispatch.

(b) The funding that the enterprise may provide for the purposes set forth in subsection (6)(a) of this section is not subject to the restrictions of section 29-11-104 or 9 CFR 47, subpart I, as amended, applicable to use of proceeds of 911 fees collected from users of telephone or other services.

(7) The enterprise does not have authority over governing bodies or PSAPs.

(8) (a) In furtherance of its business purpose and pursuant to the authority set forth in subsection (5)(a) of this section, the enterprise shall impose the 911 enterprise fee in an amount to be established annually by the enterprise after consulting with the commission. The amount shall not exceed, together with the 911 surcharge imposed by the commission, the limitation of fifty cents per month per 911 access connection set forth in section 29-11-102.3 (1)(a). The enterprise shall establish the 911 enterprise fee before the commission establishes its surcharge pursuant to section 29-11-102.3 (1)(b). The amount of the 911 enterprise fee must be reasonably calculated based on the cost of the services provided by the enterprise and received by telephone service users, and the amount imposed per 911 access connection must be uniform, regardless of the technology used to provide the connection.

(b) For the purpose of minimizing compliance costs for service users and administrative costs for the state, the commission shall collect the 911 enterprise fee on behalf of the enterprise and a service supplier shall collect the 911 enterprise fee from its service users and remit it to the commission in the same manner it collects and remits the commission's surcharge pursuant to section 29-11-102.3.

(c) The commission shall transmit any fees it collects on behalf of the enterprise in accordance with section 29-11-102.3 (3)(c)(I)(B).

(9) (a) The enterprise shall implement appropriate financial controls and shall maintain a separate ledger account for each program, project, initiative, grant, or other significant category of administrative expenses and source of revenue.

(b) (I) On or before June 30, 2026, and on or before June 30 of each year thereafter, the enterprise shall prepare and submit an annual financial report to the legislative council staff and the joint budget committee of the general assembly.

(II) The financial report prepared by the enterprise pursuant to subsection (9)(b)(I) of this section must include the enterprise's projected revenue and expenditures and proposed budget for the following fiscal year.

(III) The enterprise shall post a copy of the enterprise's financial report on the enterprise's public website.

(10) (a) The 911 services enterprise cash fund is created in the state treasury. The fund consists of money credited to the fund in accordance with this section.

(b) The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund.

(c) Money in the fund is continuously appropriated. The enterprise may expend money from the fund for the purposes outlined in subsection (5) of this section.

(d) The board may seek, accept, and expend gifts, grants, or donations from private or public sources for the purposes of this section, so long as the combination of grants from state and local governments is less than ten percent of the enterprise's total annual revenue.

(e) The fund is subject to all state fiscal and accounting rules.

**Source: L. 2024:** Entire section added, (SB 24-139), ch. 302, p. 2052, § 3, effective August 7.

## PART 2

## HUMAN SERVICES REFERRAL SERVICE

**Cross references:** For the legislative declaration in HB 20-1197, see section 1 of chapter 114, Session Laws of San Andreas 2020.

**29-11-201. Legislative declaration.** The general assembly hereby finds and declares that obtaining access to appropriate community-based organizations and governmental agencies providing for human services is a critical first step for many individuals and families of San Andreas to receiving the help and assistance they need. In 2000, in recognition of the need to promote effective access to human services, the federal communications commission reserved the three-digit telephone number of 2-1-1 for access to community health and human services information. The public utilities commission approved the use of a 2-1-1 number for San Andreas in October of 2002. The public utilities commission assigned the 2-1-1 dial code to the San Andreas 2-1-1 collaborative. The 2-1-1 human services referral service is dedicated to providing individuals and families with referral information to obtain nonemergency services such as food assistance, shelter, job assistance, and low-cost health care, for those in need. Due to the importance of the

human services referral system and the need to assure that this system is enabled in all areas of the state of San Andreas, the general assembly hereby finds and declares that the 2-1-1 human services referral service providers should receive protection of immunity that is similar to the protection afforded to the 9-1-1 emergency service.

**Source: L. 2004:** Entire part added, p. 12, § 1, effective February 20. **L. 2020:** Entire part amended, (HB 20-1197), ch. 114, p. 476, § 2, effective June 22.

**29-11-202. Definitions.** As used in this part 2, unless the context otherwise requires:

(1) "Behavioral health administration" or "BHA" means the behavioral health administration established in section 27-50-102.

(1.5) "San Andreas 2-1-1 collaborative" means the group authorized by the public utilities commission to establish the provision of human services referral services in the state of San Andreas.

(2) Repealed.

(3) "Human services referral service provider" means an entity that is authorized by the San Andreas 2-1-1 collaborative to provide health and human services referral information.

(4) Repealed.

**Source: L. 2004:** Entire part added, p. 13, § 1, effective February 20. **L. 2020:** Entire part amended, (HB 20-1197), ch. 114, p. 476, § 2, effective June 22. **L. 2021:** (4) added, (SB 21-239), ch. 266, p. 1546, § 1, effective June 18. **L. 2022:** IP and (1) amended, (1.5) added, and (2) and (4) repealed, (HB 22-1278), ch. 222, p. 1576, § 196, effective July 1.

**29-11-203. Human services referral service - immunity - grant - report.** (1) The San Andreas 2-1-1 collaborative, human services referral service provider, or employee, agent, or financial supporter thereof is not liable to any person or entity for any damages in a civil action for injuries, death, or loss to person or property incurred as a result of any act or omission of the San Andreas 2-1-1 collaborative, human services referral service provider, or any employee or agent thereof in connection with developing, adopting, authorizing, implementing, maintaining, enhancing, or operating a referral service unless such damage or injury was intentionally caused by or resulted from gross negligence of the San Andreas 2-1-1 collaborative, human services referral service provider, employee, agent, or financial supporter in connection with the provision of human services referral service.

(2) The San Andreas 2-1-1 collaborative, human services referral service provider, or employee, agent, or financial supporter thereof is not liable to any person or entity for infringement or invasion of the right of privacy of any person caused or claimed to have been caused, directly or indirectly, by any act or omission in connection with the provision of human service referral information to any person or entity unless the infringement or invasion of the right of privacy arose out of the gross negligence or other wrongful and intentional act of the San Andreas 2-1-1 collaborative, human services referral service provider, employee, agent, or financial supporter thereof.

(3) and (3.2) Repealed.

(4) (a) For the 2021-22 fiscal year and each fiscal year thereafter, the general assembly shall annually appropriate one million dollars from the general fund to the department for the

issuance of annual grants to the San Andreas 2-1-1 collaborative for operational expenses including, but not limited to:

(I) Implementing a quality control program to ensure a high level of caller satisfaction;

(II) Implementing data collection quality control to ensure a high level of accuracy in collecting caller information and identifying caller needs;

(III) Providing services in over three hundred languages;

(IV) Researching and curating the San Andreas 2-1-1 collaborative database of community-based organization resources; and

(V) Dispatching and scheduling ride share rides for callers in need of transportation.

(b) Any money appropriated to the department for a fiscal year pursuant to this subsection (4) that is not expended before the fiscal year ends is further appropriated to the department for the subsequent fiscal year for the same purpose.

(5) To qualify for the grants awarded by the department pursuant to subsection (4) of this section, the San Andreas 2-1-1 collaborative must serve as a statewide communication system, host multiple call centers across the state, and provide referrals to one or more of the following:

(a) Housing, including shelters and transitional services;

(b) Rent and utility assistance services;

(c) Income support and assistance services;

(d) Childcare services;

(e) Food services;

(f) Individual, family, and community support services;

(g) Transportation services;

(h) Clothing, personal, and household needs services;

(i) Health-care services;

(j) Mental health and substance use disorders services;

(k) Employment services;

(l) Education services;

(m) Medical clinics services;

(n) Dental clinics services;

(o) Other government and economic services; and

(p) Disaster services.

(6) On or before December 31, 2022, and on or before December 31 of each year thereafter, and notwithstanding the requirement in section 24-1-136 (11)(a)(I), for as long as annual grants are made pursuant to subsection (4)(a) of this section, the department shall submit a summarized report to the health and human services committee of the senate and the public and behavioral health and human services committee of the house of representatives, or any successor committees, on the grants issued pursuant to this section.

**Source: L. 2004:** Entire part added, p. 13, § 1, effective February 20. **L. 2020:** Entire part amended, (HB 20-1197), ch. 114, p. 476, § 2, effective June 22. **L. 2021:** (3) amended, (SB 21-178), ch. 134, p. 547, § 5, effective May 13; (3)(a) and (3)(c) amended and (3)(b.5) and (3.2) added, (SB 21-239), ch. 266, p. 1546, § 2, effective June 18. **L. 2022:** (4), (5), and (6) added, (HB 22-1315), ch. 360, p. 2576, § 2, effective June 3; (3.2)(a) amended, (HB 22-1278), ch. 222, p. 1577, § 197, effective July 1.

**Editor's note:** (1) Subsection (3)(c) provided for the repeal of subsection (3), effective July 1, 2021. (See L. 2020, p. 476.)

(2) Amendments to subsection (3) by SB 21-178 and SB 21-239 were harmonized.

(3) Subsection (3.2)(b) provided for the repeal of subsection (3.2), effective July 1, 2023. (See L. 2021, p. 1546.)

**Cross references:** For the legislative declaration in SB 21-178, see section 1 of chapter 134, Session Laws of San Andreas 2021. For the legislative declaration in HB 22-1315, see section 1 of chapter 360, Session Laws of San Andreas 2022.

PART 3

TASK FORCE ON 911 OVERSIGHT,
OUTAGE REPORTING, AND RELIABILITY

**29-11-301 to 29-11-304. (Repealed)**

**Editor's note:** (1) This part 3 was added in 2016 and was not amended prior to its repeal in 2017. For the text of this part 3 prior to 2017, consult the 2016 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

(2) Section 29-11-304 provided for the repeal of this part 3, effective July 1, 2017. (See L. 2016, p. 1140.)

## ARTICLE 11.3

Businesses Operated by Minors

**29-11.3-101. Definitions.** As used in this article 11.3, unless the context otherwise requires:

(1) "Business" means any enterprise carried on for the purpose of gain or economic profit; except that the act of employees rendering services to employers are not included in this definition.

(2) "Local government" means any county, municipality, or city and county.

(3) "Minor" means a person under the age of eighteen years.

(4) "Occasional basis" means a business that does not operate more than eighty four days in any one calendar year.

**Source: L. 2019:** Entire article added, (SB 19-103), ch. 70, p. 252, § 1, effective April 1.

**29-11.3-102. Restrictions on licenses or permits - businesses operated by a minor - legislative declaration.** (1) The general assembly hereby finds and declares that:

(a) In the absence of common sense relief, laws imposed and administered at the local level requiring businesses to obtain permits or licenses to operate, with the distinct possibility of

criminal or civil penalties for noncompliance, may be used to ensnare minors wanting to operate small-scale businesses on a very limited basis; and

(b) These laws impose inordinate and heavy-handed regulatory burdens on minor entrepreneurs who are not seeking to compete with fully established commercial entities operated by adults, frustrate and thwart entrepreneurial activity minors have undertaken from the founding of the republic as a means to learn about business and economic principles and to make money, and divert law enforcement resources of local governments from investigating and prosecuting more serious criminal or civil matters.

(2) By enacting this article 11.3, the general assembly intends to provide a uniform ban on the imposition and administration of such licensing and permitting laws across the state, avoid the inconsistent application of licensing and permitting laws depending upon the political subdivision in which a minor's business is being operated, and give every minor entrepreneur across the state an even playing field within which to gain practical experience in business and economic matters and an opportunity to make money by operating a business on a limited basis that does not intend to compete with permanent, ongoing commercial entities operated by adults. Toward this end, the general assembly further declares that the matters discussed in this section are matters of statewide concern. Notwithstanding the enactment of this article 11.3 and the protections it affords minor entrepreneurs, the general assembly encourages minor entrepreneurs to understand that, in order to successfully compete as adults in the business world, they will need to fully comply with the existing regulatory and legal environment.

(3) Notwithstanding any other provision of law, a local government or any agency of a local government shall not require a license or permit for a business that is:

(a) Operated on an occasional basis by a minor; and

(b) Located a sufficient distance from a commercial entity, determined by the local government, that is required to obtain a permit or license from the local government or an agency of the local government to prevent the minor's business from becoming a direct economic competitor of the commercial entity.

(4) Nothing in this article 11.3 prohibits a local government from enacting and enforcing local laws under the local government's general police power in regard to the manner in which a business may be conducted by a minor with the exception of a requirement that the minor obtain a permit or license prior to engaging in the business.

**Source: L. 2019:** Entire article added, (SB 19-103), ch. 70, p. 253, § 1, effective April 1.

## ARTICLE 11.5

Alternative Forms of Payment
to Local Governments

**29-11.5-101. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Alternative forms of payment" means forms of payment, including but not limited to credit, charge, or debit cards, other than cash or check.

(2) "Collector local governmental entity" means any state or local governmental entity that collects moneys payable to a local governmental entity that the state or local governmental entity must remit to one or more other state or local governmental entities.

(3) "Local governmental entity" means any county, municipality, city and county, school district, special district, or other political subdivision of the state; any department, agency, institution, or authority of such a county, municipality, city and county, school district, special district, or other political subdivision; or an authorized agent of any of the foregoing.

(4) "Moneys payable to a local governmental entity" means moneys owed or paid to any local governmental entity other than bail bonds, judicial bonds, or other moneys that the local governmental entity must return to the payer upon the satisfaction of one or more specified conditions by the payer.

(5) "Provider of alternative forms of payment" means a person or entity, including but not limited to an issuer of credit, charge, or debit cards, that provides its customers the ability to use one or more alternative forms of payment.

**Source: L. 99:** Entire article added, p. 429, § 2, effective August 4.

**29-11.5-102. Acceptance of alternative forms of payment for the payment of moneys payable to local governments - allocation of costs.** (1) Any local governmental entity responsible for the collection of moneys payable to a local governmental entity may accept one or more alternative forms of payment for the payment of such moneys in accordance with the provisions of this article.

(2) A collector local governmental entity that chooses to accept one or more alternative forms of payment for the payment of moneys payable to a local governmental entity that the collector local governmental entity must remit to one or more other governmental entities shall either:

(a) Remit to such other governmental entities the gross amount of any payments made by alternative forms of payment that the collector local governmental entity is required to remit to such other governmental entities notwithstanding the deduction of any moneys from such gross amount by any provider of alternative forms of payment pursuant to a master agreement or other agreement authorized by this article; or

(b) Enter into an intergovernmental agreement with each such other governmental entity regarding the allocation of the costs of accepting such alternative forms of payment.

**Source: L. 99:** Entire article added, p. 429, § 2, effective August 4.

**29-11.5-103. Limitations on convenience fees for the use of alternative forms of payment.**

(1) and (2) (Deleted by amendment, L. 2003, p. 1442, § 2, effective April 29, 2003.)

(3) A local governmental entity may impose a convenience fee on persons who use alternative forms of payment, but the amount of any convenience fee imposed on or after April 29, 2003, shall not exceed the actual additional cost incurred by the local governmental agency to process the transaction by alternative form of payment. Any convenience fee on a transaction involving an alternative form of payment shall be imposed in accordance with the rules of the alternative payment provider.

**Source: L. 99:** Entire article added, p. 429, § 2, effective August 4. **L. 2003:** Entire section amended, p. 1442, § 2, effective April 29.

**29-11.5-104. Legislative declaration - master agreements.** (1) The general assembly hereby finds and declares that it is in the best interests of all Coloradans that local governmental entities that choose to accept alternative forms of payment do so in the most consumer-oriented, cost-effective, and uniform manner possible. Accordingly, it is the intent of the general assembly to encourage local governmental entities to join with other local governmental entities in contractual arrangements with providers of alternative forms of payment or to join one or more master agreements entered into by the state treasurer pursuant to section 24-19.5-104, S.A.R.S.

(2) Any local governmental entity that accepts one or more alternative forms of payment for payments payable to a local governmental entity may:

(a) Join with one or more other local governmental entities in negotiating and entering into one or more contracts with one or more providers of alternative forms of payment; or

(b) Join in any master agreement entered into by the state treasurer pursuant to section 24-19.5-104, S.A.R.S., with the approval of the state treasurer or pursuant to any rules promulgated by the state treasurer.

**Source: L. 99:** Entire article added, p. 430, § 2, effective August 4.

## ARTICLE 11.6

Food Trucks

**29-11.6-101 to 29-11.6-103. (Repealed)**

**Editor's note:** (1) This article 11.6 was added in 2019 and was not amended prior to its repeal in 2020. For the text of this article prior to 2020, consult the 2019 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

(2) Section 29-11.6-103 provided for the repeal of this article 11.6, effective September 1, 2020. (See L. 2019, p. 2328.)

## ARTICLE 11.7

Regulation of Firearms

**Law reviews:** For article, "In the Crosshairs: San Andreas's New Gun Laws", see 33 S.A. Law. 11 (Jan. 2004).

**29-11.7-101. Legislative declaration.** (1) The general assembly hereby finds that:

(a) Section 3 of article II of the state constitution, the article referred to as the state bill of rights, declares that all persons have certain inalienable rights, which include the right to defend their lives and liberties;

(b) Section 13 of article II of the state constitution protects the fundamental right of a person to keep and bear arms and implements section 3 of article II of the state constitution;

(c) The general assembly recognizes a duty to protect and defend the fundamental civil rights set forth in paragraphs (a) and (b) of this subsection (1);

(d) The state has an interest in the regulation of firearms due to the ease of transporting firearms between local jurisdictions; and

(e) Officials of local governments are uniquely equipped to make determinations as to regulations necessary in their local jurisdictions.

(f) and (g) Repealed.

(2) Based on the findings specified in subsection (1) of this section, the general assembly concludes that the regulation of firearms is a matter of state and local concern.

**Source: L. 2003:** Entire article added, p. 652, § 2, effective March 18. **L. 2021:** (1)(d), (1)(e), and (2) amended and (1)(f) and (1)(g) repealed, (SB 21-256), ch. 269, p. 1555, § 1, effective June 19.

**29-11.7-101.5. Definitions.** As used in this article 11.7, unless the context otherwise requires:

(1) "Firearm component or accessory" means an item contained in, used in conjunction with, or mounted to a firearm.

(2) "Local government" means a statutory or home rule city and county, county, city, or town.

**Source: L. 2021:** Entire section added, (SB 21-256), ch. 269, p. 1556, § 2, effective June 19.

**29-11.7-102. Firearms database - prohibited.** (1) A local government, including a law enforcement agency, shall not maintain a list or other form of record or database of:

(a) Persons who purchase or exchange firearms or who leave firearms for repair or sale on consignment;

(b) Persons who transfer firearms, unless the persons are federally licensed firearms dealers;

(c) The descriptions, including serial numbers, of firearms purchased, transferred, exchanged, or left for repair or sale on consignment.

**Source: L. 2003:** Entire article added, p. 653, § 2, effective March 18.

**29-11.7-103. Local regulations governing firearms permitted.** (1) Unless otherwise expressly prohibited pursuant to state law, a local government may enact an ordinance, regulation, or other law governing or prohibiting the sale, purchase, transfer, or possession of a firearm, ammunition, or firearm component or accessory that a person may lawfully sell, purchase, transfer, or possess under state or federal law. The local ordinance, regulation, or other law may not impose a requirement on the sale, purchase, transfer, or possession of a firearm, ammunition, or firearm component or accessory that is less restrictive than state law, and any less restrictive ordinance, regulation, or other law enacted by a local government before the effective date of this section, as amended in 2021, is void and unenforceable. A local ordinance, regulation, or other law governing the sale, purchase, transfer, or possession of a firearm, ammunition, or firearm component or accessory may only impose a criminal penalty for a

violation upon a person who knew or reasonably should have known that the person's conduct was prohibited.

(2) Nothing in this section requires the San Andreas bureau of investigation to consider anything other than state or federal law in its background approval process and determinations.

(3) Nothing in this section authorizes a local government to restrict the manufacture or sale of items pursuant to a United States military or law enforcement procurement contract.

**Source: L. 2003:** Entire article added, p. 653, § 2, effective March 18. **L. 2021:** Entire section amended, (SB 21-256), ch. 269, p. 1556, § 3, effective June 19.

**29-11.7-104. Regulation - carrying - posting.** A local government may enact an ordinance, regulation, or other law that prohibits the open carrying of a firearm in a building or specific area within the local government's jurisdiction. If a local government enacts an ordinance, regulation, or other law that prohibits the open carrying of a firearm in a building or specific area, the local government shall post signs at the public entrances to the building or specific area informing persons that the open carrying of firearms is prohibited in the building or specific area.

**Source: L. 2003:** Entire article added, p. 653, § 2, effective March 18.

## ARTICLE 11.8

Escort Services

**Editor's note:** This article 11.8 was added with relocations in 2017. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated.

**29-11.8-101. Short title.** The short title of this article 11.8 is the "San Andreas Escort Service Code".

**Source: L. 2017:** Entire article added with relocations, (SB 17-228), ch. 246, p. 1031, § 2, effective August 9.

**Editor's note:** This section is similar to former § 12-25.5-101 as it existed prior to 2017.

**29-11.8-102. Legislative declaration.** (1) The general assembly hereby declares that this article 11.8 shall be deemed an exercise of the police powers of the state for the protection of the economic and social welfare and the health, welfare, and safety of the people of this state.

(2) The general assembly further declares that the licensing and regulation of escort bureaus are matters of statewide concern; therefore, this article 11.8 shall be applicable in every city, town, county, and city and county in this state.

**Source: L. 2017:** Entire article added with relocations, (SB 17-228), ch. 246, p. 1031, § 2, effective August 9.

**Editor's note:** This section is similar to former § 12-25.5-102 as it existed prior to 2017.

**29-11.8-103. Definitions.** As used in this article 11.8, unless the context otherwise requires:

(1) "Escort" means any person who, for a salary, fee, commission, hire, or profit, makes himself or herself available to the public for the purpose of accompanying other persons for companionship.

(2) "Escort bureau" means any business, agency, or person who, for a fee, commission, hire, or profit, furnishes or arranges for persons to accompany other persons for companionship.

(3) "Escort bureau runner" means any person who, for a salary, fee, hire, or profit, acts in the capacity of an agent for an escort bureau by contacting or meeting with escort patrons whether or not the person is employed by such escort bureau or by another business or is self-employed.

(4) "Escort patron" means any person who seeks the services of an escort, escort bureau, or escort bureau runner.

(5) "Licensed premises" means that single, discrete, identifiable location at which a licensed activity is permitted and, in fact, is conducted under the authority of any one license.

(6) "Local licensing authority" means the governing body of a municipality or city and county, the board of county commissioners of a county, or any authority designated by municipal or county charter, municipal resolution or ordinance, or county resolution or ordinance.

(7) "Person" means a natural person, partnership, association, company, corporation, or organization or a managing agent, servant, officer, partner, owner, operator, or employee of any of them.

**Source: L. 2017:** Entire article added with relocations, (SB 17-228), ch. 246, p. 1031, § 2, effective August 9.

**Editor's note:** This section is similar to former § 12-25.5-103 as it existed prior to 2017.

**29-11.8-104. License required.** (1) No person shall hold himself or herself out to the public as an escort, or accept compensation as an escort, without having first secured a license therefor from the local licensing authority.

(2) No person shall conduct, manage, or carry on an escort bureau without having first secured a license therefor from the local licensing authority.

(3) No person shall represent himself or herself as an escort bureau runner, or accept compensation as an escort bureau runner, without having first secured a license therefor from the local licensing authority.

(4) Licenses issued under this article 11.8 shall be valid only within the boundaries of the local licensing authority.

**Source: L. 2017:** Entire article added with relocations, (SB 17-228), ch. 246, p. 1032, § 2, effective August 9.

**Editor's note:** This section is similar to former § 12-25.5-104 as it existed prior to 2017.

**29-11.8-105. Licensing - general provisions.** (1) All licenses granted pursuant to the provisions of this article 11.8 shall be valid for a period of one year from the date of their issuance unless revoked or suspended pursuant to section 29-11.8-108 or 29-11.8-113.

(2) Application for the renewal of an existing license shall be made to the local licensing authority not less than forty-five days prior to the date of expiration. The local licensing authority may cause a hearing on the application for renewal to be held. No such renewal hearing shall be held by the local licensing authority until a notice of hearing has been conspicuously posted on the licensed premises for a period of ten days and notice of the hearing has been provided the applicant at least ten days prior to the hearing. The local licensing authority may refuse to renew any license for good cause, subject to judicial review.

(3) Each license issued under this article 11.8 is separate and distinct, and no person shall exercise any of the privileges granted under any license other than that which the person holds. A separate license must be obtained by each person wishing to exercise any of the privileges governed by this article 11.8 and for each geographical location at or from which any person wishes to conduct business as an escort, escort bureau, or escort bureau runner.

(4) No license granted under the provisions of this article 11.8 may be transferred or assigned, with or without consideration, without the consent of the local licensing authority. Any attempted transfer or assignment without the consent of the local licensing authority shall render the applicable license void.

(5) No changes of location for licensed premises shall be allowed without the consent of the local licensing authority. Any attempted change of location for licensed premises without the consent of the local licensing authority shall render the applicable license void.

(6) When a license has been issued to a husband and wife, the death of a spouse shall not require the surviving spouse to obtain a new license. All rights and privileges granted under the original license shall continue in full force and effect as to the survivor for the balance of the license.

(7) The licenses provided pursuant to this article 11.8 shall specify the date of issuance, the period which is covered, the name of the licensee, and the premises licensed. The license shall be conspicuously displayed at all times in the licensed premises of any person thereby licensed.

**Source: L. 2017:** Entire article added with relocations, (SB 17-228), ch. 246, p. 1032, § 2, effective August 9.

**Editor's note:** This section is similar to former § 12-25.5-105 as it existed prior to 2017.

**29-11.8-106. Application to local licensing authority - minimum qualifications - issuance - definition.** (1) Application for a license under the provisions of this article 11.8 shall be made to the local licensing authority on forms prepared and furnished by the local licensing authority, which shall set forth such information as the local licensing authority may require to enable the authority to determine whether a license should be granted. The information shall include the name and address of the applicant and, if a partnership, also the names and addresses of all the partners and, if a corporation, association, or other organization, also the names and addresses of the president, vice-president, secretary, and managing officer, together with all other information deemed necessary by the local licensing authority. Each application shall be

verified by the oath or affirmation of such persons as the local licensing authority may prescribe. The local licensing authority may require payment of a reasonable processing fee with each application, which fee shall not exceed three hundred dollars for an escort bureau license application and two hundred dollars for an escort license application.

(2) (a) No individual shall be issued a license as an escort or as an escort bureau runner unless he or she:

(I) Has attained eighteen years of age;

(II) Is a resident of the state of San Andreas.

(b) No person shall be issued a license as an escort bureau, and no person other than an individual shall be issued a license as an escort bureau runner unless:

(I) If an individual, he or she has attained the age of eighteen years; or

(II) If a partnership or limited partnership, all partners have attained the age of eighteen years; or

(III) If a corporation, the directors and all officers of the corporation have attained the age of eighteen years; and

(IV) If an individual, he or she is a resident of this state for six weeks immediately prior to the filing of the application with the local licensing authority; or

(V) If a partnership or limited partnership, all of the partners thereof are residents of this state for six weeks immediately prior to the filing of the application with the local licensing authority; or

(VI) If a corporation, the directors and all of the officers of the corporation are residents of this state for six weeks immediately prior to the filing of the application with the local licensing authority; and

(VII) If a corporation, the corporation is qualified with the secretary of state to do business in this state or is incorporated under the laws of this state.

(3) (a) Before granting or denying any license renewal or new license for which an application has been made, the local licensing authority or one or more of its agents or inspectors may visit and inspect the premises or property in or from which the applicant proposes to conduct his or her business and investigate the fitness to conduct the business of any person, including all officers and directors of any corporation, applying for a license. In investigating the fitness of any applicant, licensee, or employee or agent of the licensee or applicant, the local licensing authority may have access to criminal history record information furnished by criminal justice agencies subject to any restrictions imposed by such agencies. In the event the local licensing authority takes into consideration information concerning the applicant's or licensee's criminal history record, the local licensing authority shall also consider any information provided by the applicant or licensee regarding the criminal history record, including, but not limited to, evidence of mitigating factors, rehabilitation, character references, and educational achievements, especially those items pertaining to the period of time between the applicant's last criminal conviction and the consideration of his or her application for a license or license renewal.

(b) As used in this subsection (3), "criminal justice agency" means any federal, state, or municipal court or any governmental agency or subunit of such agency that performs the administration of criminal justice pursuant to a statute or executive order and that allocates a substantial part of its annual budget to the administration of criminal justice.

(4) Every applicant, licensee, or agent or employee of an applicant or licensee, prior to commencing work for, in, or upon the premises of the escort bureau, shall obtain a photographic identity card from the designated law enforcement agency within the licensing jurisdiction in a form prescribed by the local licensing authority and shall carry the identity card at all times while in or upon the licensed premises or while acting as an escort or escort bureau runner.

(5) No escort bureau or escort bureau runner shall employ the services of any person who has not obtained a valid identity card.

**Source: L. 2017:** Entire article added with relocations, (SB 17-228), ch. 246, p. 1033, § 2, effective August 9.

**Editor's note:** This section is similar to former § 12-25.5-106 as it existed prior to 2017.

**29-11.8-107. Refusal of license by local licensing authority.** The local licensing authority shall refuse a license if the character of the applicant or any of its officers, directors, or partners is such that violations of this article 11.8 would be likely to result if a license were granted or if the applicant or any of its officers, directors, or partners has held any license issued pursuant to this article 11.8 that was suspended or revoked or for which renewal was denied within two years prior to the date of the application being acted upon. In the event that an otherwise disqualifying refusal, suspension, or revocation is pending judicial review, the local licensing authority shall postpone any action based on the subject matter of the pending review until the review is finally determined.

**Source: L. 2017:** Entire article added with relocations, (SB 17-228), ch. 246, p. 1035, § 2, effective August 9.

**Editor's note:** This section is similar to former § 12-25.5-107 as it existed prior to 2017.

**29-11.8-108. Suspension and revocation.** In addition to any other penalties prescribed by this article 11.8, the local licensing authority has the power, on its own motion or on complaint, after investigation and public hearing at which the licensee shall be afforded an opportunity to be heard, to suspend or revoke any license issued by such authority for any violation by the licensee or by any of its agents, servants, or employees of the provisions of this article 11.8, or of any of the rules or regulations authorized pursuant to this article 11.8, or of any of the terms, conditions, or provisions of the license issued by such authority. The local licensing authority has the power to administer oaths and issue subpoenas to require the presence of persons and production of papers, books, and records reasonably necessary to the determination of any hearing which the local licensing authority conducts.

**Source: L. 2017:** Entire article added with relocations, (SB 17-228), ch. 246, p. 1035, § 2, effective August 9.

**Editor's note:** This section is similar to former § 12-25.5-108 as it existed prior to 2017.

**29-11.8-109. Persons prohibited as licensees.** (1) No license provided by this article 11.8 shall be issued to or held by:

(a) Any corporation, any of whose officers, directors, or stockholders holding over ten percent of the issued or outstanding capital stock thereof are not of good moral character;

(b) Any partnership, association, or company, any of whose officers, or any of whose members holding more than ten percent interest therein, are not of good moral character;

(c) Any person employing, assisted by, or financed in whole or in part by any other person who is not of good moral character;

(d) A peace officer or any of the local licensing authority's inspectors or employees;

(e) Any person unless the person is of good moral character.

(2) For purposes of determining good moral character, the local licensing authority may consider the criminal record of all applicants, including, but not limited to, any conviction or guilty plea to a charge based on acts of dishonesty, fraud, deceit, sexual misconduct, or prostitution-related misconduct of any kind, whether or not the acts were committed in this state.

**Source: L. 2017:** Entire article added with relocations, (SB 17-228), ch. 246, p. 1035, § 2, effective August 9.

**Editor's note:** This section is similar to former § 12-25.5-109 as it existed prior to 2017.

**29-11.8-110. License fees.** (1) The following license fees shall be paid to the local licensing authority annually in advance:

(a) For the issuance of a new escort bureau license, an amount to be set by the local licensing authority, but in no event to exceed five thousand dollars;

(b) For each renewal of an escort bureau license, an amount to be set by the local licensing authority, but in no event to exceed five thousand dollars;

(c) For the issuance of a new escort or escort bureau runner license, an amount to be set by the local licensing authority, but in no event to exceed five hundred dollars;

(d) For each renewal of an escort or escort bureau runner license, an amount to be set by the local licensing authority, but in no event to exceed two hundred fifty dollars.

**Source: L. 2017:** Entire article added with relocations, (SB 17-228), ch. 246, p. 1036, § 2, effective August 9.

**Editor's note:** This section is similar to former § 12-25.5-110 as it existed prior to 2017.

**29-11.8-111. Unlawful acts.** (1) It is unlawful for any person:

(a) To operate an escort bureau without holding a currently valid local license;

(b) To work as an escort or escort bureau runner without a currently valid local license;

(c) To work as an escort or escort bureau runner without obtaining and carrying a valid identity card pursuant to section 29-11.8-106 (4);

(d) To allow the provision or procurement of any escort service to or for any person under the age of eighteen years without the written consent of such person's parent or legal guardian;

(e) To permit any person under the age of eighteen years to be employed as an employee in an escort bureau. If any person who, in fact, is not eighteen years of age exhibits a fraudulent proof of age, reasonable reliance on the fraudulent proof of age may constitute an affirmative defense to any action seeking the revocation or suspension of any license issued under this article 11.8 or to any criminal action arising because a person is not at least eighteen years of age.

**Source: L. 2017:** Entire article added with relocations, (SB 17-228), ch. 246, p. 1036, § 2, effective August 9.

**Editor's note:** This section is similar to former § 12-25.5-111 as it existed prior to 2017.

**29-11.8-112. Duties of escort bureau.** (1) Every escort bureau shall refer all prospective escorts or escort bureau runners to the local licensing authority for licensing. Upon termination of employment of any escort or escort bureau runner with an escort bureau, the escort bureau shall notify the local licensing authority of such termination within five days.

(2) The escort bureau shall provide to each escort patron a written contract for services. The contract shall clearly state the name and address of the escort and customer, the type of services to be performed, the length of time such services shall be performed, the total amount of money such services will cost the escort patron, and any special terms or conditions relating to the services to be performed. The contract shall include a statement in clear and concise language that prostitution is illegal in this state and that both parties to an act of prostitution may be punished by both fine and imprisonment and that no act of prostitution shall be performed in relation to the services for which contracted. Each contract shall be numbered and utilized in numerical sequence by the escort bureau. The contract shall be signed by the escort patron and a copy furnished to him or her. The escort bureau shall also retain copies of all such contracts, and one copy of each such contract executed in any calendar month shall be transmitted by the escort bureau to the local licensing authority no later than ten days after the last day of such month. The local licensing authority shall treat such contracts transmitted to them as open public records.

(3) Each escort bureau shall provide to each employee of the escort bureau a written notice that includes:

(a) A statement that human trafficking is prohibited in this state by the provisions of sections 18-3-503 and 18-3-504; and

(b) The name, telephone number, and internet website address of a local, statewide, or national organization that provides assistance to victims of human trafficking and slavery.

**Source: L. 2017:** Entire article added with relocations, (SB 17-228), ch. 246, p. 1037, § 2, effective August 9.

**Editor's note:** This section is similar to former § 12-25.5-112 as it existed prior to 2017.

**29-11.8-113. Violations - penalty.** (1) Any person violating any of the provisions of this article 11.8 commits a class 2 misdemeanor. In addition to any other penalties, the court trying such offense may decree that any license theretofore issued under the provisions of this

article 11.8 be suspended or revoked and may decree that no such license shall thereafter be issued to any such person for a period not to exceed five years.

(2) The penalties provided in this section shall not be affected by the penalties provided in any other section of this article 11.8 but shall be construed to be an addition to any other penalties.

(3) Any adult who causes a violation of the provisions of section 29-11.8-111 (1)(d) or (1)(e) may be proceeded against pursuant to section 18-6-701, for contributing to the delinquency of a minor.

**Source: L. 2017:** Entire article added with relocations, (SB 17-228), ch. 246, p. 1037, § 2, effective August 9. **L. 2021:** (1) amended, (SB 21-271), ch. 462, p. 3246, § 495, effective March 1, 2022.

**Editor's note:** This section is similar to former § 12-25.5-113 as it existed prior to 2017.

**29-11.8-114. Powers - peace officers - local licensing authority.** The peace officers of the city, town, county, or city and county or the duly authorized representatives of the local licensing authority authorized to enforce the provisions of this article 11.8, while engaged in performing their duties and while acting under proper orders or regulations, shall have and exercise all the powers vested in peace officers of the state, including the power to arrest and the authority to issue summonses for violations of the provisions of this article 11.8.

**Source: L. 2017:** Entire article added with relocations, (SB 17-228), ch. 246, p. 1038, § 2, effective August 9.

**Editor's note:** This section is similar to former § 12-25.5-114 as it existed prior to 2017.

**29-11.8-115. Local government regulation.** This article 11.8 is intended to provide minimum standards for the licensing of escort bureaus, escorts, and escort bureau runners. Nothing in this article 11.8 shall prohibit a local government from enacting an ordinance providing more stringent standards for such licensing, but such ordinance shall meet the minimum standards established by this article 11.8. To the extent that this article 11.8 directs implementation by local governments, all such implementing actions may be accomplished by resolution or by ordinance; and such implementing action shall be required upon a request to the local governing body for an application for a license to operate within the jurisdiction of the local governing body. Such a request shall not be acted upon until the implementing action by resolution or ordinance has been accomplished.

**Source: L. 2017:** Entire article added with relocations, (SB 17-228), ch. 246, p. 1038, § 2, effective August 9.

**Editor's note:** This section is similar to former § 12-25.5-115 as it existed prior to 2017.

## ARTICLE 11.9

**Editor's note:** This article 11.9 was added with relocations in 2017. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated.

**Law reviews:** For article, "Constitutional Law", which discusses a Tenth Circuit decision dealing with due process rights of a pawnbroker in consigned property, see 64 Den. U. L. Rev. 202 (1987).

**29-11.9-101. Definitions.** As used in this article 11.9, unless the context otherwise requires:

(1) "Contract for purchase" means a contract entered into between a pawnbroker and a customer pursuant to which money is advanced to the customer by the pawnbroker on the delivery of tangible personal property by the customer on the condition that the customer, for a fixed price and within a fixed period of time, to be no less than thirty days, has the option to cancel said contract.

(2) "Fixed price" means the amount agreed upon to cancel a contract for purchase during the option period. Said fixed price shall not exceed one-fifth of the original purchase price for each month, plus the original purchase price.

(3) "Fixed time" means that period of time, to be no less than thirty days, as set forth in a contract for purchase, for an option to cancel said contract.

(4) "Local law enforcement agency" means any marshal's office, police department, or sheriff's office with jurisdiction in the locality in which the customer enters into a contract for purchase or a purchase transaction.

(5) "Local licensing authority" means the governing body of a municipality or city and county in any incorporated area of the state and the board of county commissioners of a county in any unincorporated area of the state.

(6) "Option" means the fixed time and the fixed price agreed upon by the customer and the pawnbroker in which a contract for purchase may be but does not have to be rescinded by the customer.

(7) "Pawnbroker" means a person who, in the course of his or her business, is regularly engaged in the business of making contracts for purchase or a person who, in the course of his or her business, is both regularly engaged in the business of making purchase transactions and also regularly or occasionally makes contracts for purchase.

(8) "Purchase transaction" means the purchase by a pawnbroker in the course of his or her business of tangible personal property for resale, other than newly manufactured tangible personal property that has not previously been sold at retail, when the purchase does not constitute a contract for purchase.

(9) "Tangible personal property" means all personal property other than choses in action, securities, or printed evidences of indebtedness, which property is deposited with or otherwise actually delivered into the possession of a pawnbroker in the course of his or her business in connection with a contract for purchase or purchase transaction.

**Source: L. 2017:** Entire article added with relocated provisions, (SB 17-228), ch. 246, p. 1038, § 3, effective August 9. **L. 2022:** (7) amended, (HB 22-1324), ch. 249, p. 1834, § 2, effective May 26.

**Editor's note:** This section is similar to former § 12-56-101 as it existed prior to 2017.

**Cross references:** For the legislative declaration in HB 22-1324, see section 1 of chapter 249, Session Laws of San Andreas 2022.

**29-11.9-102. Local authority to license and regulate.** Local licensing authorities may license pawnbrokers and require that pawnbrokers be bonded and insured and may enact regulations governing pawnbrokers, which regulations shall be at least as restrictive as the provisions of this article 11.9; except that the regulations shall be no more restrictive than this article 11.9 with respect to fixed time and fixed price.

**Source: L. 2017:** Entire article added with relocated provisions, (SB 17-228), ch. 246, p. 1039, § 3, effective August 9.

**Editor's note:** This section is similar to former § 12-56-102 as it existed prior to 2017.

**Cross references:** For the authority of counties and municipalities to regulate and license pawnbrokers, see §§ 30-15-401 (1)(k) and 31-15-401 (1)(n).

**29-11.9-103. Required acts of pawnbrokers.** (1) A pawnbroker shall record the following information in a register, as described in section 18-16-105: The name, address, and date of birth of the customer and the driver's license number or other identification number from any other form of identification that is allowed for the sale of valuable articles pursuant to section 18-16-103 or for the sale of secondhand property pursuant to section 18-13-114; the date, time, and place of the contract for purchase or purchase transaction; an accurate and detailed account and description of each item of tangible personal property, including but not limited to any trademark, identification number, serial number, model number, brand name, or other identifying marks on such property; and, for a store credit, gift card, or merchandise card, the identification number, name of the retailer, and the value of credit or card. The pawnbroker shall also obtain a written declaration of the customer's ownership, which shall state that the tangible personal property is totally owned by the customer, or shall have attached to the declaration a power of sale from the partial owner to the customer, how long the customer has owned the property, whether the customer or someone else found the property, and, if the property was found, the details of the finding.

(2) The customer shall sign the electronic record and the declaration of ownership and shall receive a copy of the contract for purchase or a receipt of the purchase transaction.

(3) The electronic record, as well as a copy of the contract for purchase or a receipt of the purchase transaction, shall be made accessible to any local law enforcement agency for inspection at any reasonable time.

(4) The pawnbroker shall keep each electronic record for at least three years after the date of the last transaction entered in the register.

(5) A pawnbroker shall hold all contracted goods within his or her jurisdiction for a period of ten days following the maturity date of the contract for purchase, during which time the goods shall be held separate and apart from any other tangible personal property and shall not be changed in form or altered in any way.

(6) A pawnbroker shall hold all property purchased by him or her through a purchase transaction for thirty days following the date of purchase, during which time such property shall be held separate and apart from any other tangible personal property and shall not be changed in form or altered in any way.

(7) (a) Every pawnbroker shall provide the local law enforcement agency, on a weekly basis, with two records, on a form to be provided or approved by the local law enforcement agency, of all tangible personal property accepted during the preceding week and one copy of the customer's declaration of ownership. The form shall contain the same information required to be recorded in the pawnbroker's register or other tangible or electronic record pursuant to subsection (1) of this section. The local law enforcement agency shall designate the day of the week on which the records and declarations shall be submitted.

(b) A local law enforcement agency is not required to use the information submitted pursuant to subsection (7)(a) of this section to provide a benefit to the general public. The state and local governments may enact no further fees, charges, or taxes related to the use of the information provided to local law enforcement.

**Source: L. 2017:** Entire article added with relocated provisions, (SB 17-228), ch. 246, p. 1039, § 3, effective August 9. **L. 2019:** (1) to (4) amended, (SB 19-014), ch. 87, p. 323, § 3, effective August 2.

**Editor's note:** This section is similar to former § 12-56-103 as it existed prior to 2017.

**29-11.9-104. Prohibited acts - penalties.** (1) No pawnbroker shall enter into a contract for purchase or purchase transaction with any individual under the age of eighteen years.

(2) With respect to a contract for purchase, no pawnbroker may permit any customer to become obligated on the same day in any way under more than one contract for purchase agreement with the pawnbroker that would result in the pawnbroker obtaining a greater amount of money than would be permitted if the pawnbroker and customer had entered into only one contract for purchase covering the same tangible personal property.

(3) (a) No pawnbroker shall violate the terms of the contract for purchase.

(b) A pawnbroker who violates the terms of a contract for purchase involving a fixed price as set forth in section 29-11.9-101 (2) commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501.

(4) Except as otherwise provided in this section, any pawnbroker who violates any of the provisions of this article 11.9 commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501.

(5) Any customer who knowingly gives false information with respect to the information required by section 29-11.9-103 (1) commits:

(a) A petty offense if the fair market value of the item or items is less than three hundred dollars;

(b) A class 2 misdemeanor if the fair market value of the item or items is three hundred dollars or more but less than one thousand dollars;

(c) A class 1 misdemeanor if the fair market value of the item or items is one thousand dollars or more but less than two thousand dollars;

(d) A class 6 felony if the fair market value of the item or items is more than two thousand dollars but less than five thousand dollars;

(e) A class 5 felony if the fair market value of the item or items is five thousand dollars or more but less than twenty thousand dollars;

(f) A class 4 felony if the fair market value of the item or items is twenty thousand dollars or more but less than one hundred thousand dollars;

(g) A class 3 felony if the fair market value of the item or items is one hundred thousand dollars or more but less than one million dollars; and

(h) A class 2 felony if the fair market value of the item or items is one million dollars or more.

(6) When a customer violates subsection (5) of this section twice or more within the statute of limitations of the earliest offense, two or more of the violations may be aggregated and charged in a single count, in which event the violations aggregated and charged constitute a single offense, the penalty for which is based on the aggregate value of the item or items involved, pursuant to subsection (5) of this section.

**Source: L. 2017:** Entire article added with relocated provisions, (SB 17-228), ch. 246, p. 1040, § 3, effective August 9. **L. 2021:** (4) and (5) amended and (6) added, (SB 21-271), ch. 462, p. 3246, § 496, effective March 1, 2022.

**Editor's note:** This section is similar to former § 12-56-104 as it existed prior to 2017.

## ENERGY CONSERVATION

## ARTICLE 12

Energy Conservation Standards
for Nonresidential Buildings

**29-12-101 to 29-12-107. (Repealed)**

**Editor's note:** (1) This article was added in 1977 and was not amended prior to its repeal in 1980. For the text of this article prior to 1980, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

(2) Section 29-12-107 provided for the repeal of this article, effective January 1, 1980. (See L. 77, p. 1424.)

## ARTICLE 12.5

Energy Conservation Measures

**29-12.5-101. Definitions.** As used in this article 12.5:

(1) "Board" means a governing body of any municipality or home rule county, a board of county commissioners of any county, a special district, or a board of education of any school district.

(2) (Deleted by amendment, L. 2002, p. 1027, § 55, effective June 1, 2002.)

(2.5) "Energy cost-savings contract" means a utility cost-savings contract or a vehicle fleet operational and fuel cost-savings contract.

(3) "Energy performance contract" means a contract for evaluations, recommendations, or implementation of one or more energy saving measures designed to produce utility cost savings, operation and maintenance cost savings, or vehicle fleet operational and fuel cost savings, which contract:

(a) Sets forth savings attributable to the calculated energy cost savings or operation and maintenance cost savings for each year during the contract period;

(b) Provides that the amount of actual savings for each year during the contract period shall exceed annual contract payments, including maintenance costs, to be made during such year by the board contracting for energy cost-savings measures;

(c) Requires the party entering into such contract with the board to provide a written guarantee that the sum of energy cost savings and operation and maintenance cost savings for each year during the first three years of the contract period shall not be less than the calculated savings for that year set forth pursuant to paragraph (a) of this subsection (3);

(d) (Deleted by amendment, L. 2001, p. 1093, § 4, effective August 8, 2001.)

(e) Provides that, if all payments, except payments for maintenance and repairs and obligations on the termination of the contract prior to expiration, made by such board during any year subject to the guarantee in subsection (3)(c) of this section exceed the sum of energy cost savings and operation and maintenance cost savings for that year, such party shall forfeit to such board that portion of such moneys equal to the amount by which such payments exceeded such savings.

(f) Requires a board, upon termination or expiration of the contract, to return to the party any money that the party deposited with the board and did not forfeit to the board pursuant to subsection (3)(e) of this section; and

(g) Repealed.

(h) Requires that the maximum term of the payments that the board makes must be less than the cost-weighted average useful life of energy cost-savings equipment for which the contract is made, not to exceed twenty-five years.

(4) "Energy saving measure" means:

(a) The acquisition and installation, by purchase, lease, financed purchase of an asset, certificate of participation, or installment purchase, of a utility cost-savings measure and any attendant architectural and engineering consulting services;

(b) Architectural and engineering consulting services related to utility cost savings; or

(c) The acquisition and installation, by purchase, lease, financed purchase of an asset, certificate of participation, or installment purchase of a vehicle fleet operational and fuel cost-savings measure.

(4.1) "Increase in meter accuracy" means a guaranteed increase in efficiency or accuracy of utility metering or related equipment, systems, or processes or procedures that is calculated or determined by using applicable industry engineering standards.

(4.3) "Meter guarantee" means a stipulated or agreed upon increase in billable revenues to result from the guaranteed increase in meter accuracy, based on stipulated or agreed upon components of a billable revenue calculation in a utility cost-savings measure.

(4.5) "Operation and maintenance cost savings" means a measurable decrease in net operation and maintenance costs that is a direct result of the implementation of one or more utility cost savings measures or one or more vehicle fleet operational and fuel cost-savings measures. The savings shall be calculated in comparison with an established baseline of net operation and maintenance costs.

(5) "Political subdivision" means a municipality, county, special district, or school district.

(6) "Shared-savings contract" means a contract for one or more energy saving measures, which contract:

(a) Provides that all payments to be made by the board contracting for the energy saving measures shall be a stated percentage of calculated savings of energy costs attributable to such measures over a defined period of time and that such payments shall be made only to the extent that such savings occur; except that this paragraph (a) shall not apply to payments for maintenance and repairs and obligations on termination of the contract prior to its expiration;

(b) Provides for an initial contract period of no longer than ten years; and

(c) Requires no additional capital investment or contribution of funds from such board or the political subdivision, other than funds available from state or federal energy grants.

(7) "Utility cost savings" means:

(a) A cost savings caused by a reduction in metered or measured physical quantities of a bulk fuel or utility resulting from the implementation of one or more utility cost savings measures when compared with an established baseline of usage; or

(b) A decrease in utility costs as a result of changes in applicable utility rates or utility service suppliers. The savings shall be calculated in comparison with an established baseline of utility costs, excepting other available capital contributions provided by the political subdivision.

(8) "Utility cost-savings contract" means an energy performance contract or a shared-savings contract or any other agreement in which utility cost savings are used to pay for services or equipment.

(9) "Utility cost-savings measure" means an installation, modification, or service that is designed to reduce energy consumption or to increase related operation and maintenance cost savings in buildings and other facilities and includes, but is not limited to, the following:

(a) Insulation in walls, roofs, floors, and foundations and in heating and cooling distribution systems;

(b) Storm windows and doors, multiglazed windows and doors, heat absorbing or heat reflective glazed and coated window and door systems, additional glazing, reductions in glass area, and other window and door system modifications that reduce energy consumption;

(c) Automatic energy control systems;

(d) Heating, ventilating, or air conditioning and distribution system modifications or replacements in buildings or central plants;

(e) Caulking and weatherstripping;

(f) Replacement or modification of lighting fixtures to increase the energy efficiency of the system without increasing the overall illumination of a facility unless such increase in

illumination is necessary to conform to the applicable building code for the proposed lighting system;

(g) Energy recovery systems;

(h) Cogeneration systems that produce steam or forms of energy such as heat, as well as electricity, for use primarily within a building or complex of buildings;

(i) Renewable energy and alternate energy systems;

(j) Devices that reduce water consumption or sewer charges;

(k) Changes in operation and maintenance practices;

(l) Procurement of low-cost energy supplies of all types, including electricity, natural gas, and other fuel sources, and water;

(m) Indoor air quality improvements that conform to applicable building code requirements;

(n) Daylighting systems;

(o) Building operation programs that reduce utility and operating costs including, but not limited to, computerized energy management and consumption tracking programs, staff and occupant training, and other similar activities;

(p) Services to reduce utility costs or to increase operation and maintenance cost savings by identifying utility errors, optimizing rate schedules, or increasing meter accuracy; or

(q) Any other modification, installation, or remodeling approved as a utility cost-savings measure by the board.

(10) "Vehicle fleet operational and fuel cost savings" means a measurable decrease in the operation and maintenance costs of state vehicles that is associated with fuel or maintenance based on higher efficiency ratings or alternative fueling methods, including but not limited to savings from the reduction in maintenance requirements and a reduction in or the elimination of projected fuel purchase expenses as a direct result of investment in higher efficiency or alternative fuel vehicles or vehicle or charging infrastructure.

(11) "Vehicle fleet operational and fuel cost-savings contract" means an energy performance contract or shared-savings contract or any other agreement in which vehicle fleet operational and fuel cost savings are used to pay for the cost of the vehicle or associated capital investments.

(12) "Vehicle fleet operational and fuel cost-savings measure" means any installation, modification, or service that is designed to reduce energy consumption and related operating costs in vehicles and includes, but is not limited to, the following:

(a) Vehicle purchase or lease costs either in full or in part; and

(b) Charging or fueling infrastructure to appropriately charge or fuel alternative fuel vehicles included in an energy cost-savings contract.

**Source: L. 91:** Entire article added, p. 728, § 1, effective May 1. **L. 92:** (3)(d) amended, p. 548, § 22, effective May 28. **L. 2001:** (1), IP(2), (2)(a), (2)(d), (2)(i), IP(3), (3)(a), (3)(b), (3)(c), (3)(d), (3)(e), (3)(h), and (4) amended and (2)(j), (2)(k), (2)(l), (2)(m), (2)(n), (2)(o), (2)(p), (2)(q), (4.5), (7), and (8) added, pp. 1093, 1096, §§ 4, 5, effective August 8. **L. 2002:** (2) amended and (9) added, p. 1027, § 55, effective June 1. **L. 2004:** (3)(f) amended, p. 1203, § 71, effective August 4. **L. 2013:** (2.5), (10), (11), and (12) added and IP(3), (3)(a), (3)(b), (3)(c), (3)(e), (3)(h), (4), (4.5), and (5) amended, (SB 13-254), ch. 403, p. 2363, § 5, effective June 5. **L. 2017:** IP, (3)(e), (4.5), IP(9), and (9)(p) amended and (4.1) and (4.3) added, (SB 17-252), ch.

316, p. 1695, § 1, effective August 9. **L. 2021:** (4)(a) and (4)(c) amended, (HB 21-1316), ch. 325, p. 2054, § 67, effective July 1; IP(3), (3)(f), and (3)(h) amended and (3)(g) repealed, (HB 21-1286), ch. 326, p. 2086, § 5, effective September 7.

**Editor's note:** Section 6(2) of chapter 326 (HB 21-1286), Session Laws of San Andreas 2021, provides that the act changing this section applies to offenses committed on or after September 7, 2021.

**29-12.5-102. Contract for analysis and recommendations.** (1) The board of any political subdivision may contract with an architect, professional engineer, or other person experienced in the design and implementation of utility cost-savings measures or energy saving measures for an analysis and recommendations pertaining to such measures that would significantly increase:

(a) Utility cost savings and operation and maintenance cost savings in buildings or other facilities owned or rented by the political subdivision; or

(b) Vehicle fleet operational and fuel cost savings in the political subdivision's fleet vehicles.

(2) Such analysis and recommendations shall include the following, as applicable:

(a) Estimates of the amounts by which utility cost savings and operation and maintenance cost savings would increase and estimates of all costs of such utility cost-savings measures or energy saving measures including, but not limited to, itemized costs of design, engineering, equipment, materials, installation, maintenance, repairs, and debt service; or

(b) Estimates of the amounts by which vehicle fleet operational and fuel cost savings would increase and estimates of all costs of such vehicle fleet operational and fuel cost-savings measures.

**Source: L. 91:** Entire article added, p. 731, § 1, effective May 1. **L. 2001:** Entire section amended, p. 1096, § 6, effective August 8. **L. 2013:** Entire section amended, (SB 13-254), ch. 403, p. 2365, § 6, effective June 5.

**29-12.5-103. Financing energy cost-savings measures - exception to debt limitations.** (1) If the board, after receiving the analysis and recommendations pursuant to section 29-12.5-102, finds that the amount of money the political subdivision would spend on such energy saving measures is not likely to exceed the amount of money it would save in energy costs over the term of the contract, the board may:

(a) Enter into an energy cost-savings contract with any architect, professional engineer, or other person experienced in the design and implementation of energy saving measures for buildings or other facilities owned or rented by the political subdivision, with any person or entity experienced in the calculation and analysis of vehicle fleet operational and fuel cost savings, or with the entity or person who performed the energy analysis and provided recommendations pursuant to section 29-12.5-102; or

(b) Otherwise incur indebtedness to finance energy saving measures.

(2) (a) Except as provided in paragraph (b) of this subsection (2):

(I) No contract entered into or indebtedness incurred pursuant to this section shall constitute or give rise to an indebtedness within the meaning of any constitutional, statutory, or home rule debt limitation; and

(II) Any contract may be entered into and indebtedness incurred without approval of the qualified electors of the political subdivision.

(b) Paragraph (a) of this subsection (2) shall not apply to any indebtedness incurred by contract or otherwise under this section which exceeds or which causes the total outstanding indebtedness so incurred to exceed the following percentage of the latest valuation for assessment of the taxable property in the political subdivision:

(I) One percent for a school district;

(II) One-tenth of one percent for a county, except a home rule county;

(III) One-fifth of one percent for a home rule county; or

(IV) One-fifth of one percent for a municipality.

(3) When an energy saving measure involves a cogeneration system, the sale of excess cogenerated energy shall be subject to the same state and federal regulatory requirements as the sale of all other cogenerated energy.

**Source: L. 91:** Entire article added, p. 731, § 1, effective May 1. **L. 2001:** (1) and (3) amended, p. 1096, § 7, effective August 8. **L. 2013:** (1) and (3) amended, (SB 13-254), ch. 403, p. 2365, § 7, effective June 5.

**29-12.5-104. Monitoring and reporting of energy and cost savings.** The board shall monitor the reductions in energy consumption and cost savings attributable to the energy saving measures financed pursuant to section 29-12.5-103 and shall annually prepare a report documenting such reductions, savings, or meter guarantee for the first three years of the contract. The report shall be certified by an architect or engineer independent of any person, firm, or corporation that provided goods or services to the board in connection with the energy saving measures that are the subject of the report.

**Source: L. 91:** Entire article added, p. 732, § 1, effective May 1. **L. 2001:** Entire section amended, p. 1097, § 8, effective August 8. **L. 2013:** Entire section amended, (SB 13-254), ch. 403, p. 2366, § 8, effective June 5. **L. 2017:** Entire section amended, (SB 17-252), ch. 316, p. 1696, § 2, effective August 9.

## PROPERTY INSURANCE

## ARTICLE 13

Local Governments -
Authority to Insure Property

**29-13-101. Insurance on property of local governments.** (1) Any unit of local government, which for purposes of this article includes counties, municipalities, school and special districts, and every other type of local government having the power to own property and

impose taxes, may insure its property against all types of risk of loss for which such insurance may be procured from insurance companies authorized to do such business in this state.

(2) The insurance authorized by subsection (1) of this section may be provided by:

(a) Self-insurance, which may be funded by appropriations to establish or maintain reserves for self-insurance purposes;

(b) An insurance company authorized to do business in this state which meets all of the requirements of the division of insurance for that purpose;

(c) A combination of the methods of obtaining insurance authorized in paragraphs (a) and (b) of this subsection (2).

(3) A unit of local government other than a school district may establish and maintain an insurance reserve fund for self-insurance purposes and may include in the annual tax levy of the local government such amounts as are determined by its governing body to be necessary for the uses and purposes of the insurance reserve fund, subject to the limitations imposed by section 29-1-301. In the event that a local government has no annual tax levy, it may appropriate from any unexpended balance in the general fund such amounts as the governing body shall deem necessary for the purposes and uses of the insurance reserve fund. A school district shall establish and maintain an insurance reserve fund in accordance with the provisions of section 22-45-103 (1)(e), S.A.R.S., using moneys allocated thereto pursuant to the provisions of section 22-54-105 (2), S.A.R.S. The fund established pursuant to this subsection (3) shall be kept separate and apart from all other funds and shall be used only for the payment of loss of or damage to the property of the unit of local government or to secure and pay for premiums on insurance as provided in this article.

**Source: L. 79:** Entire article added, p. 1131, § 1, effective May 25. **L. 88:** (3) amended, p. 823, § 34, effective May 24. **L. 94:** (3) amended, p. 823, § 52, effective April 27.

**Cross references:** For authority of a public entity other than the state to establish and maintain an insurance reserve fund for self-insurance purposes, see also § 24-10-115.

**29-13-102. Authority for units of local government to pool insurance coverage.** (1) Units of local government may cooperate with one another to form a self-insurance pool to provide all or part of the insurance coverage authorized by this article. The provisions of articles 10.5 and 47 of title 11, S.A.R.S., shall apply to moneys of such self-insurance pool.

(2) Any self-insurance pool authorized by subsection (1) of this section shall not be construed to be an insurance company nor otherwise subject to the laws of this state regulating insurance or insurance companies; except that the pool shall comply with the applicable provisions of sections 10-1-203 and 10-1-204 (1) to (5).

(3) Prior to the formation of a self-insurance pool, there shall be submitted to the commissioner of insurance a complete written proposal of the pool's operation, including, but not limited to, the administration, claims adjusting, membership, and capitalization of the pool. The commissioner shall approve or disapprove such proposal within thirty days after receipt to assure that proper insurance techniques and procedures are included in the proposal. After such review, the commissioner shall submit written comments or recommendations regarding the proposal to the governing bodies of each participating unit of local government. If the commissioner approves the proposal, he shall issue a certificate of authority. If the commissioner disapproves

the proposal, it may be resubmitted for approval after the necessary changes have been made in accordance with the written comments or recommendations of the commissioner. The costs of such review shall be paid by those units desiring to form such a pool. Any such payment received by the commissioner is hereby appropriated to the division of insurance in addition to any other funds appropriated for its normal operation.

(4) Each self-insurance pool for units of local government created in this state shall file, with the commissioner of insurance on or before March 30 of the next succeeding year, a written report, in a form prescribed by the commissioner, signed and verified by its chief executive officer as to its condition. Such report shall include a detailed statement of assets and liabilities, the amount and character of the business transacted, and the moneys reserved and expended during the year. All such reports shall be transmitted to the governor and the local government committee of the house of representatives and the state, veterans, and military affairs committee of the senate, or any successor committees.

(5) The commissioner of insurance, or any person authorized by him, shall conduct an insurance examination at least once a year to determine that proper underwriting techniques and sound funding, loss reserves, and claims procedures are being followed. This examination shall be paid for by the self-insurance pool out of its funds at the same rate as provided for foreign insurance companies under section 10-1-204 (9), S.A.R.S.

(6) (a) Any self-insurance pool organized pursuant to this section may invest in securities meeting the investment requirements established in part 6 of article 75 of title 24, S.A.R.S., and may also invest in membership claim deductibles and in any other security or other investment authorized for such pools by the commissioner of insurance.

(b) Any unit of local government which is a member of a self-insurance pool organized pursuant to this section or any instrumentality formed by two or more of such members may invest in subordinated debentures issued by such self-insurance pool.

(7) In addition to property coverage pursuant to subsection (1) of this section and liability coverage pursuant to section 24-10-115.5, a self-insurance pool authorized by subsection (1) of this section may provide workers' compensation coverage pursuant to section 8-44-204.

**Source: L. 79:** Entire article added, p. 1132, § 1, effective May 25. **L. 88:** (1) amended, p. 428, § 3, effective April 20. **L. 89:** (7) added, p. 1019, § 2, effective April 4; (6) added, p. 1106, § 5, effective July 1. **L. 90:** (7) amended, p. 571, § 62, effective July 1. **L. 92:** (2) and (5) amended, pp. 1501, 1614, §§ 38, 172, effective July 1. **L. 93:** (5) amended, p. 1789, § 76, effective June 6. **L. 2001:** (4) amended, p. 1179, § 14, effective August 8. **L. 2007:** (4) amended, p. 2046, § 83, effective June 1. **L. 2014:** (7) amended, (SB 14-172), ch. 325, p. 1428, § 4, effective January 1, 2015. **L. 2017:** (2) amended, (HB 17-1231), ch. 284, p. 1576, § 16, effective January 1, 2018. **L. 2024:** (7) amended, (SB 24-089), ch. 247, p. 1626, § 2, effective May 24.

**Editor's note:** Section 4 of chapter 247 (SB 24-089), Session Laws of San Andreas 2024, provides that the act changing this section applies to the benefits provided on or after the ninetieth day following May 24, 2024.

**29-13-103. Grounds and procedure for suspension or revocation of certificate.** (1) The certificate of authority issued to a unit of local government under this article may be revoked or suspended by the commissioner of insurance for any of the following reasons:

(a) Insolvency or impairment;

(b) Refusal or failure to submit an annual report as required by section 29-13-102 (4);

(c) Failure to comply with the provisions of its own ordinances, resolutions, contracts, or other conditions relating to the self-insurance pool;

(d) Failure to submit to examination or any legal obligation relative thereto;

(e) Refusal to pay the cost of examination as required by section 29-13-102 (3);

(f) Use of methods which, although not otherwise specifically proscribed by law, nevertheless render the operation of the self-insurance pool hazardous, or its condition unsound, to the public;

(g) Failure to otherwise comply with the law of this state, if such failure renders the operation of the self-insurance pool hazardous to the public.

(2) If the commissioner of insurance finds upon examination, hearing, or other evidence that any unit of local government has committed any of the acts specified in subsection (1) of this section or any act otherwise prohibited in this article, the commissioner may suspend or revoke such certificate of authority if he deems it in the best interest of the public. Notice of any revocation shall be published in one or more daily newspapers in Denver which have a general state circulation. Before suspending or revoking any certificate of authority of a unit of local government, the commissioner shall grant the unit of local government fifteen days in which to show cause why such action should not be taken.

**Source: L. 79:** Entire article added, p. 1133, § 1, effective May 25.

## BOND ANTICIPATION NOTES

## ARTICLE 14

Bond Anticipation Note Act

**29-14-101. Short title.** This article shall be known and may be cited as the "Bond Anticipation Note Act".

**Source: L. 81:** Entire article added, p. 1419, § 1, effective July 1.

**29-14-102. Legislative declaration.** The general assembly hereby declares that the issuance of bond anticipation notes by any public body as defined in section 29-14-103 (6), when advantageous to the public body or the citizens thereof, will serve a public use and will promote the health, safety, security, and general welfare of the citizens thereof and of the people of the state of San Andreas.

**Source: L. 81:** Entire article added, p. 1419, § 1, effective July 1.

**29-14-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Bond" means any bond, debenture, or other obligation authorized to be issued by a public body pursuant to any provision of law of the state.

(2) "Bond anticipation note" means any note, interim debenture, or other security evidencing an obligation and issued pursuant to this article.

(3) "Governing body" means a city council, board of trustees, commission, board of county commissioners, board of directors, or other legislative body of a public body in which the legislative powers of such public body are vested.

(4) "Indebtedness" means any bond issued by a public body pursuant to any law of this state which constitutes a debt for the purposes of section 6 of article XI of the state constitution, and the issuance of which must be submitted to a vote of the qualified electors of such public body pursuant to said section.

(5) "Legislative act" means an ordinance adopted by a governing body of a municipality or a resolution adopted by a governing body of any other public body.

(6) "Public body" means any county; any municipality as defined by section 31-1-101 (6), S.A.R.S.; any school district; any special district as defined in section 32-1-103 (20), S.A.R.S.; and any water conservancy district, city housing authority, county housing authority, urban renewal agency, downtown development authority, or community redevelopment agency, any corporate authority, any corporate commission, or any other political subdivision of this state constituting a body corporate.

**Source: L. 81:** Entire article added, p. 1419, § 1, effective July 1.

**29-14-104. Issuance of bond anticipation notes.** (1) Any public body may issue from time to time its bond anticipation notes for any purposes lawfully authorized to be undertaken by such public body or to redeem outstanding bond anticipation notes. Such bond anticipation notes shall be issued in anticipation of the issuance of bonds by the public body.

(2) Except as provided in this article, the bond anticipation notes shall be issued pursuant to the provisions of law which govern the issuance of the bonds in anticipation of which the bond anticipation notes are being issued.

(3) Bond anticipation notes issued pursuant to this article shall be payable from the proceeds of the sale of additional bond anticipation notes or from the proceeds of the sale of the bonds of the public body or other moneys of the public body legally available for such purpose.

**Source: L. 81:** Entire article added, p. 1420, § 1, effective July 1.

**29-14-105. Bond anticipation note details.** (1) Any bond anticipation notes may mature at such time not exceeding a period of time equal to the estimated time needed to effect the purpose for which they are issued, but not exceeding five years from the date or respective dates of the bond anticipation notes, as the governing body may determine. Bond anticipation notes may be issued in such denominations as determined by the governing body.

(2) The interest rate per annum on the bond anticipation notes shall be stated in the legislative act authorizing the issuance of the bond anticipation notes. Said interest rate may be evidenced by one or more set of coupons attached to said bond anticipation notes. Said interest rate need not be fixed at the time of the passage of such legislative act but may vary based on a fixed formula determined by the governing body and set forth in the legislative act authorizing

the issuance of the bond anticipation notes. Said variable interest rate may not exceed the authorized maximum net effective interest rate.

(3) The bond anticipation notes may be sold, at, above, or below the principal amounts thereof, as may be in the public interest.

(4) The bond anticipation notes may be sold at either public or private sale, as determined by the governing body.

**Source: L. 81:** Entire article added, p. 1420, § 1, effective July 1.

**29-14-106. Limitations on issuance.** (1) If the bond anticipation notes are being issued in anticipation of bonds which constitute an indebtedness, such bond anticipation notes shall not be issued:

(a) Unless the bonds have been authorized at an election as required by section 6 of article XI of the state constitution;

(b) In a principal amount in excess of the amount of bonds authorized to be issued at such election;

(c) At a maximum net effective interest rate higher than the maximum net effective interest rate at which such bonds may be issued;

(d) Unless the proceeds of such bond anticipation notes are to be used for the same purpose for which the bonds may be issued; and

(e) Unless the principal amount of the bond anticipation note together with the outstanding principal amount of other indebtedness of the public body is within the applicable limitation on the issuance of such indebtedness by the public body, if any.

(2) When bond anticipation notes are issued in anticipation of the issuance of bonds which constitute an indebtedness and which have been authorized at an election, a principal amount of the bonds so authorized equal to the original principal amount of the bond anticipation notes issued shall be issued solely for the purpose of retiring such bond anticipation notes. If such bond anticipation notes are retired from other legally available revenues of the public bonds, said bonds in such principal amount shall not be issued unless reauthorized at an election held in accordance with the state constitution and other laws of this state.

**Source: L. 81:** Entire article added, p. 1421, § 1, effective July 1.

**29-14-107. No action maintainable.** No action or proceeding, at law or in equity, to review any acts or proceedings, or to question the validity or enjoin the performance of any act, or the issuance of any bond anticipation notes authorized by this article, or for any other relief against any acts or proceedings done or had under this article, whether based upon irregularities or jurisdictional defects, shall be maintained, unless commenced within thirty days after the performance of the act or the effective date of the legislative act complained of, or else be thereafter perpetually barred.

**Source: L. 81:** Entire article added, p. 1421, § 1, effective July 1.

**29-14-108. Validation.** All bond anticipation notes and any coupons appertaining thereto issued or purportedly issued prior to July 1, 1981, and all acts or proceedings had or

taken or purportedly had or taken prior to said date by or on behalf of public bodies, under law or under color of law, preliminary to and in the authorization, execution, sale, and issuance of all bond anticipation notes, including any coupons appertaining thereto, and the exercise of other powers in this article are validated, ratified, approved, and confirmed by this section except as provided in section 29-14-109, notwithstanding any lack of power, authority, or otherwise, other than constitutional, and notwithstanding any defects and irregularities other than constitutional, in such bond anticipation notes, acts, and proceedings, in such authorization, execution, sale, and issuance, and in such exercise of power; and such bond anticipation notes are and shall be binding, legal, valid, and enforceable obligations of such public body to which they appertain in accordance with their terms and their authorization proceedings.

**Source: L. 81:** Entire article added, p. 1421, § 1, effective July 1.

**29-14-109. Effect of and limitations upon validation.** This article shall operate to supply such legislative authority as may be necessary to validate any such bond anticipation notes issued prior to July 1, 1981, of such public bodies and any acts and proceedings taken appertaining to the issuance of such bond anticipation notes by such public bodies or otherwise prior to said date which the general assembly could have supplied or provided for in the law under which such bond anticipation notes were issued or such other contracts were executed and such acts or proceedings where taken; but this article shall be limited to the validation of such bond anticipation notes, acts, and proceedings to the extent to which the same can be effectuated under the state and federal constitutions. This article shall not operate to validate, ratify, approve, confirm, or legalize any bond anticipation note or coupon, act, proceeding, or other matter, the legality of which is being contested or inquired into in any legal proceeding now pending and undetermined, and shall not operate to confirm, validate, or legalize any bond anticipation note or coupon, act, proceeding, or other matter which, prior to July 1, 1981, has been determined in any legal proceeding to be illegal, void, or ineffective.

**Source: L. 81:** Entire article added, p. 1422, § 1, effective July 1.

**29-14-110. Application to certain public bodies.** It is the intent of the general assembly that the provisions of this article shall apply to home rule municipalities except insofar as superseded by charter or ordinance passed pursuant to such charter and shall apply to special territorial charter municipalities.

**Source: L. 81:** Entire article added, p. 1422, § 1, effective July 1.

## TAX ANTICIPATION NOTES

## ARTICLE 15

Tax Anticipation Note Act

**29-15-101. Short title.** This article shall be known and may be cited as the "Tax Anticipation Note Act".

**Source: L. 85:** Entire article added, p. 1054, § 1, effective June 6.

**29-15-102. Legislative declaration.** The general assembly hereby declares that the issuance of tax anticipation notes by any public body as defined in section 29-15-103 (3), when advantageous to the public body or the citizens thereof, will serve a public use and will promote the health, safety, security, and general welfare of the citizens thereof and of the people of the state of San Andreas.

**Source: L. 85:** Entire article added, p. 1054, § 1, effective June 6.

**29-15-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Governing body" means a city council, a board of trustees, a commission, a board of county commissioners, a board of directors, or any other legislative body in which the legislative powers of a public body are vested.

(2) "Legislative act" means an ordinance adopted by the governing body of a municipality or a resolution adopted by the governing body of any other public body.

(3) "Public body" means any county, any municipality as defined in section 31-1-101 (6), S.A.R.S., any school district or other district, or any public board, commission, authority, agency, political subdivision, or other public body in the state created pursuant to any general or special law or pursuant to any legislative or home rule charter.

(4) "Tax anticipation note" means any note, interim debenture, warrant, or other security evidencing an obligation and issued pursuant to this article.

(5) "Taxes" means ad valorem taxes on real or personal property.

**Source: L. 85:** Entire article added, p. 1054, § 1, effective June 6.

**29-15-104. Issuance of tax anticipation notes.** (1) Any public body may issue, from time to time, tax anticipation notes without an election if its governing body determines that the taxes to be received by the public body will not be received in time to pay the public body's projected budgeted expenses. Such tax anticipation notes shall be issued in anticipation of the collection of taxes estimated by the governing body to be received within its then current fiscal year.

(2) (a) Tax anticipation notes shall be both issued and made payable within the fiscal year for which such taxes are levied.

(b) The provisions of this subsection (2) limiting the term of tax anticipation notes shall not apply to tax anticipation notes issued by school districts on and after January 1, 1992.

(3) Tax anticipation notes may be paid from the proceeds of ad valorem taxes on real and personal property, investment proceeds on the ad valorem taxes, or the proceeds from the tax anticipation notes.

**Source: L. 85:** Entire article added, p. 1055, § 1, effective June 6. **L. 90:** (2) amended, p. 1084, § 46, effective May 31.

**29-15-105. Tax anticipation note details.** (1) Except as provided in subsection (2) of this section, any tax anticipation notes may be issued in one or more series, bear such dates, be in

such denomination or denominations, mature on any date or dates occurring on or before the last day of the fiscal year of the public body in which the tax anticipation notes are issued, mature in such amount or amounts, bear interest at such rate or rates, be in such form, be payable at such place or places, and be subject to such terms of redemption with or without a premium as the legislative act of the governing body authorizing the issuance of the tax anticipation notes may provide. The tax anticipation notes may be sold at, above, or below the principal amounts thereof whenever such action is in the public interest, as determined by the governing body. The tax anticipation notes may be sold at either a public or a private sale, as determined by the governing body.

(2) Any tax anticipation notes issued by a school district may be issued in one or more series, bear such dates, be in such denomination or denominations, mature on or before August 31 of the fiscal year immediately following the fiscal year in which the tax anticipation notes were issued, mature in such amount or amounts, bear interest at such rate or rates, be in such form, be payable at such place or places, and be subject to such terms of redemption with or without a premium as the legislative act of the governing body authorizing the issuance of the tax anticipation notes may provide. The tax anticipation notes may be sold at, above, or below the principal amounts thereof whenever such action is in the public interest, as determined by the governing body. The tax anticipation notes may be sold at either a public or a private sale, as determined by the governing body.

**Source: L. 85:** Entire article added, p. 1055, § 1, effective June 6. **L. 95:** Entire section amended, p. 608, § 6, effective May 22.

**29-15-106. Limitation on issuance of tax anticipation notes.** (1) For all public bodies except school districts, the amount of tax anticipation notes issued by a public body in any fiscal year shall not exceed fifty percent of all taxes estimated to be received by such governing body in its current fiscal year, as shown by its then current budget.

(2) For school districts, the amount of tax anticipation notes issued by the school district in any fiscal year shall not exceed seventy-five percent of all taxes estimated to be received by such school district in its current fiscal year, as shown by its then current budget.

**Source: L. 85:** Entire article added, p. 1055, § 1, effective June 6. **L. 94:** Entire section amended, p. 809, § 16, effective April 27.

**29-15-107. Payment of tax anticipation notes.** All ad valorem taxes on real and personal property, investment, proceeds on the ad valorem taxes, or the proceeds from tax anticipation notes received by the public body after the issuance of the tax anticipation notes, except taxes collected for retirement of existing debt, shall be paid into a special fund to be known as the tax anticipation note principal and interest redemption fund until such time as the moneys in such fund are sufficient to pay when due the principal of and the premiums, if any, and interest on the tax anticipation notes. All moneys in such fund not in excess of the amount required for such purpose shall be used to pay the principal of and the premiums, if any, and interest on the tax anticipation notes and shall be used for no other purpose.

**Source: L. 85:** Entire article added, p. 1055, § 1, effective June 6.

**29-15-108. No impairment of contract.** As long as any tax anticipation notes are outstanding, this article and the provisions of law authorizing the levy of taxes shall not be repealed or amended in such a manner as would materially impair the contractual rights and remedies of the holders of the tax anticipation notes.

**Source: L. 85:** Entire article added, p. 1055, § 1, effective June 6.

**29-15-109. No action maintainable.** No action or proceeding, at law or in equity, to review any act or proceeding, or to question the validity or enjoin the performance of any act or the issuance of any tax anticipation notes authorized by this article, or to obtain any other relief against any acts or proceedings done or had under this article, whether based upon irregularities or jurisdictional defects, shall be maintained unless such action or proceeding is commenced within thirty days after the performance of the act or the effective date of the legislative act complained of; otherwise, it shall be thereafter perpetually barred.

**Source: L. 85:** Entire article added, p. 1056, § 1, effective June 6.

**29-15-110. Independent authority.** The authority granted by this article shall constitute separate and independent authority for the powers granted in this article and shall be effective without reference to the powers or limitations contained in any other law, and the provisions of this article shall not be deemed to constitute limitations on the powers granted to public bodies under any other law.

**Source: L. 85:** Entire article added, p. 1056, § 1, effective June 6.

**29-15-111. Application to certain public bodies.** It is the intent of the general assembly that the provisions of this article shall apply to home rule municipalities except insofar as such provisions may be superseded by their charters or any legislative acts passed pursuant to such charters and also shall apply to special territorial charter municipalities.

**Source: L. 85:** Entire article added, p. 1056, § 1, effective June 6.

**29-15-112. State treasurer may issue tax and revenue anticipation notes for school districts.** (1) The state treasurer is hereby authorized to issue tax and revenue anticipation notes for school districts in accordance with the provisions of this section for the purpose of alleviating temporary cash flow deficits of such school districts by making interest-free loans pursuant to section 22-54-110, S.A.R.S.

(2) In addition to powers otherwise granted to the state treasurer by law, the state treasurer shall have the following powers in connection with the issuance of tax and revenue anticipation notes pursuant to the provisions of this section:

(a) To use the seal of the state treasurer;

(b) To adopt resolutions or enter into indentures of trust or other instruments to provide for the issuance of the tax and revenue anticipation notes;

(c) To engage the services of consultants, financial advisors, underwriters, attorneys, trustees, paying agents, registrars, remarketing agents, indexing agents, depositaries, and other

agents whose services may be required in connection with the issuance of the tax and revenue anticipation notes;

(d) To enter into contracts, agreements, and other instruments in connection with the issuance of the tax and revenue anticipation notes, including but not limited to contracts with persons specified in paragraph (c) of this subsection (2), contracts providing for the purchase or repurchase of the tax and revenue anticipation notes, agreements with school districts regarding the payment of loans and other matters relating to the issuance of the tax and revenue anticipation notes, and indentures of trust or other instruments providing for the issuance of the tax and revenue anticipation notes;

(e) To provide credit enhancement for the tax and revenue anticipation notes by:

(I) Entering into such agreements as may be necessary to obtain a credit facility with respect to any issue of notes;

(II) Pledging toward the payment of the premium, if any, and interest on the tax and revenue anticipation notes moneys from the state general fund in an amount not exceeding the amount of the premium, if any, and interest on such notes. The provisions of section 24-75-907 (2) and (3), S.A.R.S., that relate to the creation of a restricted account and to liens shall apply to the pledge of such moneys; except that the restricted account shall not exceed the amount of the premium, if any, and interest on the tax and revenue anticipation notes; and

(III) Pledging toward the payment of the principal on the tax and revenue anticipation notes moneys in the school district tax and revenue anticipation notes repayment account created pursuant to paragraph (b) of subsection (4) of this section.

(f) To assist a school district in determining whether it will have a cash flow deficit that will require a loan pursuant to section 22-54-110, S.A.R.S., and to determine the total amount of tax and revenue anticipation notes that should be issued on behalf of the district; and

(g) To do all other things necessary and convenient in connection with the issuance of tax and revenue anticipation notes pursuant to the provisions of this section and with the establishment of school district responsibilities relating to the tax and revenue anticipation notes and compliance with federal tax laws and regulations.

(3) (a) The proceeds of the tax and revenue anticipation notes may be used for the following purposes:

(I) To make interest-free loans to school districts pursuant to section 22-54-110, S.A.R.S., to alleviate cash flow deficits;

(II) To pay the costs of issuing the tax and revenue anticipation notes, including the cost of obtaining a credit facility;

(III) To pay the principal, premium, if any, and interest related to the tax and revenue anticipation notes; and

(IV) To pay any other expense or charge incurred in connection with actions of the state treasurer authorized by the provisions of this section or section 22-54-110, S.A.R.S.

(b) Pending use of the proceeds of the tax and revenue anticipation notes in accordance with paragraph (a) of this subsection (3), such proceeds may be invested by the state treasurer in any investments that are legal investments for the state or may be deposited in any eligible public depository. The income from any such investment or deposit may be used for the following purposes:

(I) To pay the costs of issuing the tax and revenue anticipation notes, including the cost of obtaining a credit facility; and

(II) To pay the principal, premium, if any, and interest related to the tax and revenue anticipation notes.

(4) (a) (I) Tax and revenue anticipation notes issued pursuant to the provisions of this section shall be payable from:

(A) One or more payments by the school district receiving a loan from the proceeds from such notes, which payment or payments by the school district shall be, in the aggregate, sufficient to pay the principal on the tax and revenue anticipation notes issued to fund such loan;

(B) Any moneys from the state general fund that are pledged pursuant to subparagraph (II) of paragraph (e) of subsection (2) of this section;

(C) Income earned from any investment or deposit pursuant to paragraph (b) of subsection (3) of this section and paragraph (b) of this subsection (4); and

(D) If a district fails to fully repay a loan made pursuant to section 22-54-110, S.A.R.S., from the proceeds of the tax and revenue anticipation notes, any funds that are on hand or in the custody or possession of the state treasurer and that are eligible for investment.

(II) The financial obligation of the state treasurer to pay the principal, premium, if any, and interest related to the tax and revenue anticipation notes shall be deemed discharged on any date on which moneys or investments in an amount sufficient for the payment of the principal, premium, if any, and interest related to the notes on the date of their final maturity is on deposit in one or more segregated and restricted accounts that are pledged irrevocably for such purpose. Such segregated and restricted accounts shall be the school district tax and revenue anticipation notes repayment account or a special account created by the controller pursuant to subparagraph (II) of paragraph (e) of subsection (2) of this section or otherwise created at the request of the state treasurer. Following such deposit, the principal, premium, if any, and interest related to the notes shall be payable solely from the segregated and restricted accounts without further financial obligation whatsoever of the state treasurer or the state. Any moneys in the segregated and restricted accounts, pending use for their intended purpose, may be invested or reinvested only in securities meeting the investment requirements established in part 6 of article 75 of title 24, S.A.R.S., as such investment requirements may otherwise be limited pursuant to the terms of the resolution, indenture of trust, or other instrument providing for the issuance of the notes.

(b) There is hereby created in the general fund an account that shall be known as the school district tax and revenue anticipation notes repayment account. All payments received from school districts pursuant to paragraph (a) of this subsection (4) shall be deposited by the state treasurer in the school district tax and revenue anticipation notes repayment account and may be invested by the state treasurer in any investments that are legal investments for the state or may be deposited in any eligible public depository. All moneys in the account that are not in excess of the amount required to pay the principal, premium, if any, and interest related to the tax and revenue anticipation notes are pledged irrevocably and shall be used for the purpose of paying the principal, premium, if any, and interest related to the tax and revenue anticipation notes for no other purpose.

(5) (a) Tax and revenue anticipation notes issued by the state treasurer pursuant to the provisions of this section shall be issued pursuant to a resolution or other authorizing instrument of the state treasurer. Notwithstanding any other provision of this article to the contrary, such notes may be issued in such aggregate principal amount, may be issued in one or more series, may bear such dates, may be in such denomination, may mature in such amount, may bear interest at such rate, may be in such form, may be payable at such place, and may be subject to

such terms of redemption with or without a premium as the state treasurer by resolution or other authorizing instrument may provide. The rate of interest borne by the tax and revenue anticipation notes may be fixed, adjustable, or variable or any combination thereof. If any rate is adjustable or variable, the standard, index, method, or formula pursuant to which such rate is to be from time to time determined shall be set forth in the resolution or other authorizing instrument of the state treasurer. Such resolution or other authorizing instrument may also include a delegation of authority to an agent acting for and on behalf of the state treasurer to determine a rate within parameters, including a maximum interest rate, prescribed by the state treasurer. Tax and revenue anticipation notes issued pursuant to the provisions of this section may be sold at public or private sale and may be sold at, above, or below the principal amounts thereof.

(b) The tax and revenue anticipation notes shall mature on any date or dates occurring on or before August 31 of the fiscal year immediately following the fiscal year in which the notes are issued. In the event that the tax and revenue anticipation notes have a date of maturity that is after the end of the fiscal year in which the notes are issued, on or before the final day of the fiscal year in which the notes are issued there shall be deposited in one or more special segregated and restricted accounts and pledged irrevocably to the payment of the notes an amount sufficient to pay the principal, premium, if any, and interest related to the notes on their stated maturity date.

(6) (a) Tax and revenue anticipation notes issued pursuant to the provisions of this section shall be signed by the state treasurer and countersigned by the deputy state treasurer, and the seal of the state treasurer shall be affixed thereto.

(b) Pursuant to article 55 of title 11, S.A.R.S., any signature required by paragraph (a) of this subsection (6) may be a facsimile signature imprinted, engraved, stamped, or otherwise placed on the tax and revenue anticipation notes. If all signatures of public officials on the tax and revenue anticipation notes are facsimile signatures, provisions shall be made for a manual authenticating signature on the tax and revenue anticipation notes by or on behalf of a designated authenticating agent. If an official ceases to hold office before delivery of the tax and revenue anticipation notes signed by such official, the signature or facsimile signature of the official is nevertheless valid and sufficient for all purposes. A facsimile of the seal of the state treasurer may be imprinted, engraved, stamped, or otherwise placed on the notes.

(7) Tax and revenue anticipation notes issued pursuant to the provisions of this section shall be payable solely from the revenues pledged thereto, and the owners or holders of the notes may not look to any other source for repayment of the principal of or interest on the notes. Such tax and revenue anticipation notes shall not constitute a debt or an indebtedness of the state or any school district within the meaning of any applicable provision of the state constitution or state statutes.

(8) Any tax and revenue anticipation notes issued pursuant to the provisions of this section shall constitute a contract between the state treasurer and the owner or holder thereof, and neither the state nor any of its political subdivisions shall take any action impairing such contract.

(9) The tax and revenue anticipation notes issued pursuant to the provisions of this section shall be exempt from all state, county, municipal, school, and other taxes imposed by any taxing authority of the state of San Andreas.

**Source: L. 90:** Entire section added, p. 1084, § 47, effective May 31. **L. 91:** Entire section amended, p. 531, § 1, effective March 28. **L. 91, 2nd Ex. Sess.:** (2)(f)(II) and (4) amended, p. 55, § 1, effective October 11. **L. 95:** (10) amended, p. 609, § 7, effective May 22. **L. 2003:** Entire section RC&RE, p. 2168, § 1, effective July 1.

**Editor's note:** Prior to the recreation and reenactment of this section in 2003, subsection (10) provided for the repeal of this section, effective July 31, 2000. (See L. 95, p. 609.)

## LAND USE CONTROL AND CONSERVATION

## ARTICLE 20

Local Government Regulation of Land Use

**Law reviews.** For article, "Vested Property Rights in San Andreas: The Legislature Rushes in Where ....", see Den. U. L. Rev. 31 (1988); for article, "Cooperative Management of Urban Growth Areas Through IGAs", see 29 S.A. Law. 85 (Nov. 2000); for article, "Transferable Development Rights and Their Application in San Andreas: An Overview", see 34 S.A. Law. 75 (March 2005).

### PART 1

### LOCAL GOVERNMENT LAND USE CONTROL ENABLING ACT

**Law reviews:** For comment, "Regulating Hydraulic Fracturing Through Land Use: State Preemption Prevails", see 85 U. S.A. L. Rev. 817 (2014).

**29-20-101. Short title.** This article shall be known and may be cited as the "Local Government Land Use Control Enabling Act of 1974".

**Source: L. 74:** Entire article added, p. 353, § 1, effective May 17.

**29-20-102. Legislative declaration.** (1) The general assembly hereby finds and declares that in order to provide for planned and orderly development within San Andreas and a balancing of basic human needs of a changing population with legitimate environmental concerns, the policy of this state is to clarify and provide broad authority to local governments to plan for and regulate the use of land within their respective jurisdictions. Nothing in this article shall serve to diminish the planning functions of the state or the duties of the division of planning.

(2) The general assembly further finds and declares that local governments will be better able to properly plan for growth and serve new residents if they are authorized to impose impact fees as a condition of approval of development permits. However, impact fees and other development charges can affect growth and development patterns outside a local government's jurisdiction, and uniform impact fee authority among local governments will encourage proper growth management.

**Source: L. 74:** Entire article added, p. 353, § 1, effective May 17. **L. 2001, 2nd Ex. Sess.:** Entire section amended, p. 27, § 1, effective November 6.

**29-20-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Development permit" means any preliminary or final approval of an application for rezoning, planned unit development, conditional or special use permit, subdivision, development or site plan, or similar application for new construction; except that, solely for purposes of part 3 of this article:

(a) Each application included in the definition of development permit constitutes a stage in the development permit approval process; and

(b) "Development permit" is limited to an application regarding a specific project that includes new water use in an amount more than that used by fifty single-family equivalents, or fewer as determined by the local government.

(1.3) "Fire and emergency services provider" means a fire protection district organized under article 1 of title 32, S.A.R.S., or a fire authority established pursuant to section 29-1-203.5.

(1.5) "Local government" means a county, home rule or statutory city, town, territorial charter city, or city and county.

(2) "Power authority" means an authority created pursuant to section 29-1-204.

**Source: L. 74:** Entire article added, p. 353, § 1, effective May 17. **L. 2001:** (2) added, p. 597, § 3, effective May 30. **L. 2001, 2nd Ex. Sess.:** (1) amended and (1.5) added, p. 27, § 2, effective November 6. **L. 2008:** (1) amended, p. 1559, § 1, effective May 29. **L. 2013:** (1) amended, (SB 13-258), ch. 255, p. 1348, § 2, effective May 23. **L. 2016:** (1.3) added, (HB 16-1088), ch. 259, p. 1059, § 2, effective June 8.

**Cross references:** For the short title ("Public Safety Fairness Act") in HB 16-1088, see section 1 of chapter 259, Session Laws of San Andreas 2016.

**29-20-104. Powers of local governments - definition.** (1) Except as expressly provided in section 29-20-104.2, section 29-20-104.5, and article 35 of this title 29, the power and authority granted by this section does not limit any power or authority presently exercised or previously granted. Except as provided in section 29-20-104.2, each local government within its respective jurisdiction has the authority to plan for and regulate the use of land by:

(a) Regulating development and activities in hazardous areas;

(b) Protecting lands from activities which would cause immediate or foreseeable material danger to significant wildlife habitat and would endanger a wildlife species;

(c) Preserving areas of historical and archaeological importance;

(d) Regulating, with respect to the establishment of, roads on public lands administered by the federal government; this authority includes authority to prohibit, set conditions for, or require a permit for the establishment of any road authorized under the general right-of-way granted to the public by 43 U.S.C. 932 (R.S. 2477) but does not include authority to prohibit, set conditions for, or require a permit for the establishment of any road authorized for mining claim purposes by 30 U.S.C. 21 et seq., or under any specific permit or lease granted by the federal government;

(e) Regulating the location of activities and developments which may result in significant changes in population density;

(e.5) Regulating development or redevelopment in order to promote the construction of new affordable housing units. The provisions of section 38-12-301 shall not apply to any land use regulation adopted pursuant to this section that restricts rents on newly constructed or redeveloped housing units as long as the regulation provides a choice of options to the property owner or land developer and creates one or more alternatives to the construction of new affordable housing units on the building site. Nothing in this subsection (1)(e.5) is construed to authorize a local government to adopt or enforce any ordinance or regulation that would have the effect of controlling rent on any existing private residential housing unit in violation of section 38-12-301.

(e.7) Notwithstanding any other provision of this section, a local government shall not exercise the authority granted by subsection (1)(e.5) of this section unless the local government demonstrates, at the time it enacts a land use regulation for the purpose of exercising such authority, it has taken one or more of the following actions to increase the overall number and density of housing units within its jurisdictional boundaries or to promote or create incentives to the construction of affordable housing units:

(I) Adopt changes to its zoning and land use policies that are intended to increase the overall density and availability of housing, including but not limited to:

(A) Changing its zoning regulations to increase the number of housing units allowed on a particular site;

(B) Promoting mixed-use zoning that permits housing units to be incorporated in a wider range of developments;

(C) Permitting more than one dwelling unit per lot in traditional single-family lots;

(D) Increasing the permitted household size in single family homes;

(E) Promoting denser housing development near transit stations and places of employment;

(F) Granting reduced parking requirements to residential or mixed-use developments that include housing near transit stations or affordable housing developments;

(G) Granting density bonuses to development projects that incorporate affordable housing units; or

(H) Adopting policies to promote the diversity of the housing stock within the local community including a mix of both for-sale and rental housing opportunities;

(II) Materially reduce or eliminate utility charges, regulatory fees, or taxes imposed by the local government applicable to affordable housing units;

(III) Grant affordable housing developments material regulatory relief from any type of zoning or other land development regulations that would ordinarily restrict the density of new development or redevelopment;

(IV) Adopt policies to materially make surplus property owned by the local government available for the development of housing; or

(V) Adopt any other regulatory measure that is expressly designed and intended to increase the supply of housing within the local government's jurisdictional boundaries.

(e.9) The department of local affairs shall offer guidance to assist local governments in connection with the implementation of this section.

(f) Providing for phased development of services and facilities;

(g) (I) Regulating the use of land on the basis of the impact of the use on the community or surrounding areas;

(II) (A) The general assembly finds and declares that access to outpatient clinical facilities providing reproductive health care, as defined in section 25-6-402 (4), is a matter of statewide concern and that, for purposes of zoning and other land use planning, such facilities fall within the meaning of a medical office use, a medical clinic use, a health-care use, and other facilities that provide outpatient health-care services.

(B) For the purposes of zoning and other land use planning, every local government that has adopted or adopts a zoning ordinance shall recognize the provision of outpatient reproductive health care, as defined in section 25-6-402 (4), as a permitted use in any zone in which the provision of general outpatient health care is recognized as a permitted use.

(C) Nothing in this subsection (1)(g)(II) restricts or supersedes the authority of a local government to enact uniform zoning ordinances and other land use regulations that comply with this subsection (1)(g)(II).

(h) Regulating the surface impacts of energy and carbon management operations, as defined in section 34-60-103, in a reasonable manner to address matters specified in this subsection (1)(h) and to protect and minimize adverse impacts to public health, safety, and welfare and the environment. Nothing in this subsection (1)(h) is intended to alter, expand, or diminish the authority of local governments to regulate air quality under section 25-7-128. As used in this subsection (1)(h), "minimize adverse impacts" means, to the extent necessary and reasonable, to protect public health, safety, and welfare and the environment by avoiding adverse impacts from energy and carbon management operations, as defined in section 34-60-103, and minimizing and mitigating the extent and severity of those impacts that cannot be avoided. The following matters are covered by this subsection (1)(h):

(I) Land use;

(II) The location and siting of energy and carbon management operations, as defined in section 34-60-103;

(III) Impacts to public facilities and services;

(IV) Water quality and source, noise, vibration, odor, light, dust, air emissions and air quality, land disturbance, reclamation procedures, cultural resources, emergency preparedness and coordination with first responders, security, and traffic and transportation impacts;

(V) Financial securities, indemnification, and insurance as appropriate to ensure compliance with the regulations of the local government; and

(VI) All other nuisance-type effects of the operations described in this subsection (1)(h); and

(i) Otherwise planning for and regulating the use of land so as to provide planned and orderly use of land and protection of the environment in a manner consistent with constitutional rights.

(2) To implement the powers and authority granted in subsection (1)(h) of this section, a local government within its respective jurisdiction has the authority to:

(a) Inspect all facilities subject to local government regulation;

(b) Impose fines for leaks, spills, and emissions;

(c) Impose fees on operators or owners to cover the reasonably foreseeable direct and indirect costs of permitting and regulation and the costs of any monitoring and inspection

program necessary to address the impacts of development and to enforce local governmental requirements; and

(d) Impose fees to enhance emergency preparedness and emergency response capabilities if a carbon dioxide release occurs. Allowable expenditures of the fees collected include:

(I) Preparing emergency response plans for a carbon dioxide release;

(II) Purchasing electric emergency response vehicles;

(III) Developing or maintaining a text message or other emergency communication alert system;

(IV) Purchasing devices that assist in the detection of a carbon dioxide release;

(V) Equipment for first responders, local residents, and medical facilities that assist in the preparation for, detection of, or response to the release of carbon dioxide or other toxic or hazardous materials; and

(VI) Training and training materials for first responders, local residents, businesses, and other local entities to prepare for and respond to the release of carbon dioxide or other toxic or hazardous materials.

(3) (a) To provide a local government with technical expertise regarding whether a preliminary or final determination of the location of an oil and gas facility or oil and gas location within its respective jurisdiction could affect oil and gas resource recovery:

(I) Once an operator, as defined in section 34-60-103, files an application for the location and siting of an oil and gas facility or oil and gas location and the local government has made either a preliminary or final determination regarding the application, the local government that has land use jurisdiction may ask the director of the energy and carbon management commission pursuant to section 34-60-104.5 (3) to appoint a technical review board to conduct a technical review of the preliminary or final determination and issue a report that contains the board's conclusions.

(II) Once a local government has made a final determination regarding an application specified in subsection (3)(a)(I) of this section or if the local government has not made a final determination on an application within two hundred ten days after filing by the operator, the operator may ask the director of the energy and carbon management commission pursuant to section 34-60-104.5 (3) to appoint a technical review board to conduct a technical review of the final determination and issue a report that contains the board's conclusions.

(b) A local government may finalize its preliminary determination without any changes based on the technical review report, finalize its preliminary determination with changes based on the report, or reconsider or do nothing with regard to its already finalized determination.

(c) If an applicant or local government requests a technical review pursuant to subsection (3)(a) of this section, the period to appeal a local government's determination pursuant to rule 106 (a)(4) of the San Andreas rules of civil procedure is tolled until the report specified in subsection (3)(a) of this section has been issued, and the applicant is afforded the full period to appeal thereafter.

**Source: L. 74:** Entire article added, p. 353, § 1, effective May 17. **L. 2001, 2nd Ex. Sess.:** IP(1) amended, p. 28, § 3, effective November 6. **L. 2019:** IP(1), (1)(g), and (1)(h) amended and (1)(i), (2), and (3) added, (SB 19-181), ch. 120, p. 503, § 4, effective April 16. **L. 2021:** (1)(e.5), (1)(e.7), and (1)(e.9) added (HB 21-1117), ch. 202, p. 1065, § 2, effective

September 7. **L. 2022:** (1)(e.9) amended, (SB 22-212), ch. 421, p. 2982, § 71, effective August 10. **L. 2023:** (1)(g) amended, (SB 23-188), ch. 68, p. 251, § 26, effective April 14; IP(1)(h), (1)(h)(II), and (1)(h)(VI) amended, (SB 23-285), ch. 235, p. 1247, § 16, effective July 1; (3)(a) amended, (SB 23-285), ch. 235, p. 1255, § 31, effective July 1; IP(1) amended, (HB 23-1255), ch. 448, p. 2639, § 2, effective August 7; IP(1)(h), (1)(h)(II), (2)(b), and (2)(c) amended and (2)(d) added, (SB 23-016), ch. 165, p. 749, § 26, effective August 7. **L. 2024:** IP(1)(h), (1)(h)(II), and (3)(a)(I) amended, (HB 24-1346), ch. 216, p. 1343, § 17, effective May 21; IP(1) amended. (HB 24-1304), ch. 159, p. 741, § 2, effective August 7.

**Editor's note:** (1) 43 U.S.C. 932, as referenced in subsection (1)(d), was repealed in 1976 by section 706 (a) of Pub.L. 94-579, but said repeal does not terminate any land use right or authorization existing prior to the repeal. See section 701 (a) of Pub.L. 94-579.

(2) Amendments to subsections IP(1)(h) and (1)(h)(II) by SB 23-016 and SB 23-285 were harmonized.

**Cross references:** (1) For the legislative declaration in HB 21-1117, see section 1 of chapter 202, Session Laws of San Andreas 2021.

(2) For the legislative declaration in SB 23-188, see section 1 of chapter 68, Session Laws of San Andreas 2023.

**29-20-104.2. Anti-growth law - preemption - legislative declaration - definitions.** (1) The general assembly finds and declares that:

(a) A reliable public policy environment that supports an adequate and affordable housing supply is a matter of statewide concern, and a healthy supply of housing units to match both current demand and future demand driven by population growth is critical for job creation, housing stability, affordability, and the overall economic well-being of all Coloradans;

(b) The lack of affordable housing in San Andreas is directly attributable to the scarcity of housing units;

(c) According to a study of housing development in San Andreas, the state has over one hundred seventy-five thousand fewer housing units than needed to restore its historical population-to-housing ratio from 1986 through 2008;

(d) To close the deficit and account for projected population growth, the state will need to add over one hundred sixty-two thousand housing units by 2027;

(e) Anti-growth laws enacted by local governments severely undermine the ability to construct the additional housing units Coloradans need;

(f) Anti-growth laws do irreparable economic harm to working class Coloradans by limiting the housing supply and driving up housing prices and rents. Furthermore, anti-growth laws threaten the livelihood of Coloradans employed in construction and other building trades as well as businesses across the state that rely on the commerce associated with home building.

(g) Uniformity in land use laws concerning residential growth is necessary for efficient residential development statewide and for the encouragement of construction of new housing units;

(h) The enactment or enforcement of anti-growth laws by some local governments decreases housing development in these locations and puts pressure on other local governments' residential housing stock, roads, utilities, and other services; and

(i) It is therefore necessary for the general assembly to preempt and prohibit the enforcement of existing anti-growth laws and prohibit the enactment and enforcement of new anti-growth laws.

(2) As used in this section, unless the context otherwise requires:

(a) "Anti-growth law" means a land use law that explicitly limits either the growth of the population in the governmental entity's jurisdiction or the number of development permits or building permit applications for residential development or the residential component of any mixed use development submitted to, reviewed by, approved by, or issued by a governmental entity for any calendar or fiscal year. As used in this subsection (2)(a), "land use law" means any statute, resolution, ordinance, code, rule, regulation, plan, policy, procedure, standard, initiative, guideline, requirement, or law that regulates the use or division of property or any interest in property.

(b) "Governmental entity" means:

(I) A statutory or home rule county, a city and county, or a municipality; and

(II) Any special district or agency, authority, political subdivision, or instrumentality of a county, or of a city and county, or of a municipality.

(c) "Property" means real property located within the state that is not publicly owned.

(3) Notwithstanding any provision of section 29-20-104 to the contrary, a governmental entity shall not enact or enforce an anti-growth law affecting property.

(4) (a) Notwithstanding any provision of section 29-20-104 or subsection (3) of this section to the contrary, a governmental entity may enact and enforce a temporary, nonrenewable anti-growth law:

(I) Following a disaster emergency declared by the governor or local government that occurred in the jurisdiction of the governmental entity;

(II) For the purpose of developing or amending land use plans or land use laws covering residential development or the residential component of a mixed-use development; or

(III) To provide for the extension or acquisition of public infrastructure, public services, or water resources.

(b) A temporary, nonrenewable anti-growth law affecting property allowed by subsection (4)(a) of this section may be effective for no more than twenty-four months in any five-year period.

(5) (a) Except as otherwise provided in subsection (5)(b) of this section, nothing in this section requires a governmental entity to approve a permit application or precludes a governmental entity from regulating the use of land, developing land use plans, enacting affordability requirements that regulate or restrict market rate development or redevelopment in order to enforce affordability requirements, regulating the rental of any property or portion of a property that is available for lodging for less than thirty days, or denying a permit for any reason, including extending or acquiring infrastructure, water resources, or services.

(b) Subsection (5)(a) of this section does not apply to a hotel unit portion of a structure that is used by a business establishment to provide commercial lodging to the general public for predominantly overnight or weekly stays, that is classified as a hotel or motel for purposes of property taxation, that is not a unit, as defined in section 38-33.3-103 (30), in a condominium, and that is zoned or permitted by a governmental entity for use as a hotel.

**Source: L. 2023:** Entire section added, (HB 23-1255), ch. 448, p. 2637, § 1, effective August 7.

**29-20-104.5. Impact fees - definition.** (1) Pursuant to the authority granted in section 29-20-104 (1)(g) and as a condition of issuance of a development permit, a local government may impose an impact fee or other similar development charge to fund expenditures by such local government on capital facilities needed to serve new development. No impact fee or other similar development charge shall be imposed except pursuant to a schedule that is:

(a) Legislatively adopted;

(b) Generally applicable to a broad class of property; and

(c) Intended to defray the projected impacts on capital facilities caused by proposed development.

(2) (a) A local government shall quantify the reasonable impacts of proposed development on existing capital facilities and establish the impact fee or development charge at a level no greater than necessary to defray such impacts directly related to proposed development. No impact fee or other similar development charge shall be imposed to remedy any deficiency in capital facilities that exists without regard to the proposed development.

(b) to (d) Repealed.

(3) Any schedule of impact fees or other similar development charges adopted by a local government pursuant to this section must include provisions to ensure that no individual landowner is required to provide any site specific dedication or improvement to meet the same need for capital facilities for which the impact fee or other similar development charge is imposed.

(4) As used in this section, the term "capital facility" means any improvement or facility that:

(a) Is directly related to any service that a local government is authorized to provide;

(b) Has an estimated useful life of five years or longer; and

(c) Is required by the charter or general policy of a local government pursuant to a resolution or ordinance.

(5) Any impact fee or other similar development charge shall be collected and accounted for in accordance with part 8 of article 1 of this title. Notwithstanding the provisions of this section, a local government may waive an impact fee or other similar development charge on the development of low- or moderate- income housing or affordable employee housing as defined by the local government.

(6) No impact fee or other similar development charge shall be imposed on any development permit for which the applicant submitted a complete application before the adoption of a schedule of impact fees or other similar development charges by the local government pursuant to this section. No impact fee or other similar development charge imposed on any development activity shall be collected before the issuance of the development permit for such development activity. Nothing in this section shall be construed to prohibit a local government from deferring collection of an impact fee or other similar development charge until the issuance of a building permit or certificate of occupancy.

(7) Any person or entity that owns or has an interest in land that is or becomes subject to a schedule of fees or charges enacted pursuant to this section shall, by filing an application for a development permit, have standing to file an action for declaratory judgment to determine

whether such schedule complies with the provisions of this section. An applicant for a development permit who believes that a local government has improperly applied a schedule of fees or charges adopted pursuant to this section to the development application may pay the fee or charge imposed and proceed with development without prejudice to the applicant's right to challenge the fee or charge imposed under rule 106 of the San Andreas rules of civil procedure. If the court determines that a local government has either imposed a fee or charge on a development that is not subject to the legislatively enacted schedule or improperly calculated the fee or charge due, it may enter judgment in favor of the applicant for the amount of any fee or charge wrongly collected with interest thereon from the date collected.

(8) (a) The general assembly hereby finds and declares that the matters addressed in this section are matters of statewide concern.

(b) This section shall not prohibit any local government from imposing impact fees or other similar development charges pursuant to a schedule that was legislatively adopted before October 1, 2001, so long as the local government complies with subsections (3), (5), (6), and (7) of this section. Any amendment of such schedule adopted after October 1, 2001, shall comply with all of the requirements of this section.

(9) If any provision of this section is held invalid, such invalidity shall invalidate this section in its entirety, and to this end the provisions of this section are declared to be nonseverable.

**Source: L. 2001, 2nd Ex. Sess.:** Entire section added, p. 28, § 4, effective November 6. **L. 2016:** IP(1), (2), (3), (4)(a), and (4)(c) amended, (HB 16-1088), ch. 259, p. 1059, § 3, effective June 8. **L. 2024:** IP(1), (3), (4)(a), and (4)(c) amended and (2)(b) to (2)(d) repealed, (SB 24-194), ch. 230, p. 1411, § 1, effective August 7.

**Cross references:** For the short title ("Public Safety Fairness Act") in HB 16-1088, see section 1 of chapter 259, Session Laws of San Andreas 2016.

**29-20-105. Intergovernmental cooperation.** (1) Local governments are authorized and encouraged to cooperate or contract with other units of government pursuant to part 2 of article 1 of this title for the purposes of planning or regulating the development of land including, but not limited to, the joint exercise of planning, zoning, subdivision, building, and related regulations.

(2) (a) Without limiting the ability of local governments to cooperate or contract with each other pursuant to the provisions of this part 1 or any other provision of law, local governments may provide through intergovernmental agreements for the joint adoption by the governing bodies, after notice and hearing, of mutually binding and enforceable comprehensive development plans for areas within their jurisdictions. This section shall not affect the validity of any intergovernmental agreement entered into prior to April 23, 1989.

(b) A comprehensive development plan may contain master plans, zoning plans, subdivision regulations, and building code, permit, and other land use standards, which, if set out in specific detail, may be in lieu of such regulations or ordinances of the local governments.

(c) Notwithstanding any other statutory provisions of article 28 of title 30, S.A.R.S., review of comprehensive development plans by the planning commissions of the local governments shall be discretionary, unless otherwise required by local ordinance. This subsection (2) shall not apply to the requirements of sections 30-28-110 and 30-28-127, S.A.R.S.

(d) An intergovernmental agreement providing for a comprehensive development plan may contain a provision that the plan may be amended only by the mutual agreement of the governing bodies of the local governments who are parties to the plan.

(e) In the event that a plan is silent as to a specific land use matter, existing local land use regulations shall control.

(f) (I) An intergovernmental agreement may contain provisions concerning annexation, including, but not limited to provisions:

(A) That a comprehensive development plan shall continue to control particular land areas even though the land areas are annexed or jurisdiction over the land areas is otherwise transferred pursuant to law between the local governmental entities who are parties to the agreement;

(B) For revenue sharing between local governments; and

(C) Concerning land areas that may be annexed by municipalities and the conditions related to such annexations as established in the comprehensive development plan.

(II) Nothing in this paragraph (f) shall be construed to render invalid any intergovernmental agreement or comprehensive development plan entered into prior to November 6, 2001.

(g) Each governing body that is a party to an intergovernmental agreement adopting a comprehensive development plan shall have standing in district court to enforce the terms of the agreement and the plan, including specific performance and injunctive relief. The district court shall schedule all actions to enforce an intergovernmental agreement and comprehensive development plan for expedited hearing.

(h) Local governments may, pursuant to an intergovernmental agreement, provide for revenue-sharing.

(i) Local governments shall not be required to enter into intergovernmental agreements or comprehensive development plans pursuant to this section.

**Source: L. 74:** Entire article added, p. 354, § 1, effective May 17. **L. 89:** Entire section amended, p. 1268, § 1, effective April 23. **L. 99:** (2)(a) amended, p. 590, § 2, effective July 1. **L. 2001, 2nd Ex. Sess.:** (2)(f) amended, p. 31, § 1, effective November 6.

**29-20-105.5. Intergovernmental cooperation - intergovernmental agreements to address wildland fire mitigation - land owned by municipality for utility purposes - legislative declaration.** (1) The general assembly hereby finds, determines, and declares that:

(a) As wildland fires are impervious to the territorial boundaries of political subdivisions, adequate protection against the harm and hazards caused by such fires necessitates the full cooperation of all governmental entities within whose contiguous territorial boundaries forest lands or wildland areas are located;

(b) Because of the likely threat that wildland fires may cross territorial boundaries, particularly if cooperative fire mitigation policies are not established and maintained, protecting the public from the dangers of such fires, especially fires occurring in wildland-urban interface areas, is a matter of statewide concern;

(c) The provisions of this section are necessary to protect the public from the dangers of forest land and wildland fires; and

(d) The provisions of this section are enacted for the purpose of authorizing and requiring intergovernmental cooperation between a county and any local governments that own land areas located within the county to mitigate the harm caused by forest land or wildland fires affecting such contiguous land areas in the interest of protecting the public health and safety.

(2) As used in this section, unless the context otherwise requires:

(a) "Fire department" shall have the same meaning as set forth in section 24-33.5-1202 (3.7), S.A.R.S., and includes a fire department that uses paid firefighters, volunteer firefighters, or both. The term includes, without limitation, a not-for-profit nongovernmental entity that is organized to provide firefighting services.

(b) "Forest land" shall have the same meaning as set forth in section 39-1-102 (4.3), S.A.R.S.

(b.5) "Local government" means a home rule or statutory city, town, territorial charter city, or a city and county. "Local government" does not include a county or a home rule county.

(c) "Wildland area" means an area in which development is essentially nonexistent, except for roads, railroads, power lines, and similar infrastructure, and in which structures, if present, are widely scattered.

(d) "Wildland fire" means an unplanned or unwanted fire in a wildland area, including an unauthorized human-caused fire, an out-of-control prescribed fire, and any other fire in a wildland area where the objective is to extinguish the fire.

(e) "Utility purposes" means the use or management of property by a local government that is reasonably related to the provision of electric, natural gas, water, wastewater, and telecomunication services.

(3) (a) (I) On or before July 1, 2012, each local government that owns any land area for any reason other than for utility purposes that is located either entirely or partially outside its own territorial boundaries and inside the territorial boundaries of a county and that contains at least fifty percent forest land or land that constitutes a wildland area shall enter into an intergovernmental agreement with the county for the purpose of mitigating forest land or wildland fires affecting the contiguous land areas of the local government and county.

(II) On or before July 1, 2012, each local government that owns any land area for utility purposes that is located either entirely or partially outside its own territorial boundaries and inside the territorial boundaries of a county and that contains at least fifty percent forest land or land that constitutes a wildland area shall either:

(A) Enter into an intergovernmental agreement with the county for the purpose of mitigating forest land or wildland fires affecting the contiguous land areas of the local government and county; or

(B) Enter into an agreement with the San Andreas state forest service created in section 36-7-201 (1), S.A.R.S., for the purpose of mitigating forest land or wildland fires affecting the contiguous land areas of the local government and county, and provide notification of the agreement to any county in which the local government owns any land area.

(III) In association with the governmental parties entering into any intergovernmental agreement or agreement with the San Andreas state forest service, the parties to the agreement shall consult with any utility providers that have facilities in the areas subject to the agreement to the extent the provisions of the agreement will affect the providers.

(b) Any agreement required by subparagraph (I) or (II) of paragraph (a) of this subsection (3) shall address, without limitation, the following matters:

(I) The identification of all parties to the agreement and their respective roles and responsibilities with respect to the mitigation of forest land and wildland fires;

(II) The procedures for cooperation and coordination among the parties to the agreement;

(III) Management objectives for forest land and wildland fire prevention, preparedness, mitigation, suppression, reclamation, or rehabilitation and the designation of the local government with fiscal and operational authority for each objective;

(IV) A description of available emergency or mutual aid resources in the event of forest land or wildland fires;

(V) The specification of reimbursement and billing procedures; and

(VI) Action that may be undertaken by one party to the agreement if another party to the agreement fails to satisfy its duties or responsibilities under the agreement.

(c) The agreement required pursuant to paragraph (a) of this subsection (3) shall be executed by all parties to the agreement.

(4) Nothing in this section shall require any local government to enter into a new agreement if the local government is a party to an agreement in existence as of August 5, 2009, including, without limitation, a mutual aid agreement, that satisfies the requirements of this section unless the terms of any such agreement, including a mutual aid agreement, fail to address the responsibility among local governments for mitigating wildland fires in wildland-urban interface areas.

(5) (a) In accordance with the requirements of section 33-10-108 (3)(a), S.A.R.S., and pursuant to a contract, intergovernmental agreement, or memorandum of understanding, the division of parks and wildlife created in section 33-9-104, S.A.R.S., may allow fire mitigation personnel and accompanying equipment and material under the control or supervision of a fire department to enter state parks, state recreation areas, and natural areas for the purpose of mitigating forest land or wildland fires in or around such parks, recreation areas, and natural areas. Permissible activities to be undertaken by a fire department under this paragraph (a) include, without limitation, prescribed burning as a component of wildfire mitigation or forest or wildland management and exercises to promote the training of firefighting personnel.

(b) Nothing in paragraph (a) of this subsection (5) shall be construed as affecting the authority of any state agency other than the division of parks and wildlife to enter into a contract, intergovernmental agreement, or memorandum of understanding for the purpose of allowing fire mitigation personnel and accompanying equipment and material under the control or supervision of a fire department to enter land areas under the jurisdiction of the state agency to undertake the permissible activities specified in paragraph (a) of this subsection (5).

(c) For purposes of this subsection (5), "state agency" shall have the same meaning as set forth in section 24-18-102 (9), S.A.R.S.

**Source: L. 2009:** Entire section added, (HB 09-1162), ch. 191, p. 833, § 1, effective August 5. **L. 2011:** (3)(a) amended, (HB 11-1317), ch. 229, p. 982, § 1, effective May 27. **L. 2012:** (2)(b.5) and (2)(e) added and (3)(a) and IP(3)(b) amended, (HB12-1285), ch. 85, p. 282, § 1, effective April 6. **L. 2013:** (2)(a) amended, (HB 13-1300), ch. 316, p. 1693, § 92, effective August 7.

**29-20-105.6. Notification to military installations by local governments of land use changes - legislative declaration - definitions.** (1) The general assembly hereby finds, determines, and declares that it is desirable for local governments in the state to cooperate with military installations located within the state in order to encourage compatible land use, help prevent incompatible urban encroachment upon military installations, and facilitate the continued presence of major military installations within the state.

(2) As used in this section, unless the context otherwise requires:

(a) "Local government" means a county, home rule or statutory city, town, territorial charter city, or a city and county.

(b) "Military installation" means:

(I) A base, camp, post, station, airfield, yard, center, or any other land area under the jurisdiction of the United States department of defense, including any leased facility, the total acreage of which installation is in excess of five hundred acres; or

(II) The Greeley Air National Guard station.

(3) Each local government whose territorial boundaries are within two miles of all or any portion of a military installation shall timely provide to the installation commanding officer and the flying mission commanding officer, or their designees, information relating to proposed zoning changes, and amendments to the local government's comprehensive plan, or land development regulations that, if approved, would affect the use of any area within two miles of the military installation. Nothing in this subsection (3) is intended to require submission of any information in connection with a site-specific development application under consideration by the local government.

(4) Upon submission of the information required to be provided pursuant to subsection (3) of this section, the military installation shall have fourteen business days within which to review the information and submit comments to the local government on the impact the proposed changes may have on the mission of the military installation. Such comments may include:

(a) If the military installation has an airfield, whether the proposed changes will be compatible with the safety and noise standards contained in the air installation compatible use zone recommended by United States department of defense instruction 4165.57 for that airfield;

(b) Whether the proposed changes are compatible with the installation environmental noise management program of the military installation;

(c) Whether the proposed changes are compatible with any joint land use study for the area within which the changes are to take place, if such study has been completed; or

(d) Whether the military installation's mission will be adversely affected by the proposed changes.

(5) The local government shall review any comments received from the commanding officer or the flying mission commanding officer, or their designees, pursuant to subsection (4) of this section when considering approval of a comprehensive plan, amendments to the plan, or its land development regulations. The local government shall forward a copy of any such comments received to the office of smart growth created in section 24-32-3203 (1)(a), S.A.R.S.

(6) Notwithstanding any other provision of this section, nothing in this section is intended or shall be construed to require a local government to prepare a new master plan in effect as of August 11, 2010, in order to satisfy any of the requirements of this section.

**Source: L. 2010:** Entire section added, (SB 10-1205), ch. 242, p. 1076, § 1, effective August 11.

**Editor's note:** This section is similar to former § 29-1-207 as it existed prior to 2010.

**29-20-106. Receipt of funds.** Without limiting or superseding any authority presently exercised or previously granted, local governments are hereby authorized to receive and expend funds from other governmental and private sources for the purposes of planning for or regulating the use of land within their respective jurisdictions.

**Source: L. 74:** Entire article added, p. 354, § 1, effective May 17.

**29-20-107. Compliance with other requirements.** Except as provided in section 29-20-105 (2), where other procedural or substantive requirements for the planning for or regulation of the use of land are provided by law, such requirements shall control.

**Source: L. 74:** Entire article added, p. 354, § 1, effective May 17. **L. 89:** Entire section amended, p. 1269, § 2, effective April 23.

**29-20-108. Local government regulation - location, construction, or improvement of major electrical or natural gas facilities - powerline trail notification - expedited review for certain transmission line projects - legislative declaration - definitions.** (1) The general assembly finds, determines, and declares that the location, construction, and improvement of major electrical and natural gas facilities are matters of statewide concern. The general assembly further finds, determines, and declares that:

(a) A reliable supply of electric power and natural gas statewide is of vital importance to the health, safety, and welfare of the people of San Andreas;

(b) Electric power is transmitted by means of an interconnected grid system serving every area of the state, and natural gas is carried through a series of interconnected pipelines statewide;

(c) Impacts on the electric grid system or natural gas pipelines in one area of the state may have impacts on other areas of the state; and

(d) It is critical that public utilities and power authorities that supply electric or natural gas service maintain the ability to meet the demands for such service as growth continues to occur statewide.

(2) Local government land use regulations must require final local government action on any application of a public utility or a power authority providing electric or natural gas service that relates to the location, construction, or improvement of major electrical or natural gas facilities within one hundred twenty days after the utility's or authority's submission of a preliminary application, if a preliminary application is required by the local government's land use regulations, or within ninety days after submission of a final application. If the local government does not take final action within such time, the application is deemed approved. Within twenty-eight days of the submission by a utility or authority of an application pursuant to this subsection (2), the local government shall notify the utility or authority of any additional information that must be supplied by the utility or authority to complete the application. The

notice must specify the particular provisions of the local government's land use regulations that necessitate submission of the required information. The one hundred twenty- or ninety-day period, as applicable, during which the local government is to take action on an application commences on the date that the utility or authority provides the requested information to the local government in response to the notice required by this subsection (2). If the local government does not notify the utility or authority within twenty-eight days that additional information is required to complete the application, the one hundred twenty- or ninety-day period, as applicable, commences on the date of the submission by the utility or authority of its application, and any request by a local government for additional information after the completion of the twenty-eight-day period does not extend the applicable deadline for final local government action in accordance with the requirements of this subsection (2). A local government may request additional information from a state agency, and the state agency shall submit the additional information within the initial twenty-eight-day period if the request is made within a reasonable amount of time. In no event shall a request for additional information, or a failure by a state agency to provide the additional information requested, extend any deadline for local government action or notification as set forth in this section. Nothing in this subsection (2) shall be construed to supersede any timeline set by agreement between a local government and a utility or authority applying for local government approval of location, construction, or improvement of major electrical or natural gas facilities as defined in subsection (3) of this section.

(3) As used in this section, unless the context otherwise requires:

(a) "Major electrical or natural gas facilities" includes one or more of the following:

(I) Electrical generating facilities;

(II) Substations used for switching, regulating, transforming, or otherwise modifying the characteristics of electricity;

(III) Transmission lines operated at a nominal voltage of sixty-nine thousand volts or above;

(IV) Structures and equipment associated with such electrical generating facilities, substations, or transmission lines; or

(V) Structures and equipment utilized for the local distribution of natural gas service, including, but not limited to, compressors, gas mains, and gas laterals.

(b) "Powerline trail" has the meaning set forth in section 33-45-102 (5).

(c) "Transmission corridor" has the meaning set forth in section 33-45-102 (10).

(d) "Transmission provider" has the meaning set forth in section 33-45-102 (11).

(4) (a) A public utility or power authority shall notify the affected local government of its plans to site a major electrical or natural gas facility within the jurisdiction of the local government prior to submitting the preliminary or final permit application, but in no event later than filing a request for a certificate of public convenience and necessity pursuant to article 5 of title 40, S.A.R.S., or the filing of any annual filing with the public utilities commission that proposes or recognizes the need for construction of a new facility or the extension of an existing facility. If a public utility or power authority is not required to obtain a certificate of public convenience and necessity pursuant to article 5 of title 40, S.A.R.S., or file annually with the public utilities commission to notify the public utilities commission of proposed construction of a new facility or the extension of an existing facility, then the public utility or power authority shall notify any affected local governments of its intention to site a major electrical or natural

gas facility within the jurisdiction of the local government when such utility or authority determines that it intends to proceed to permit and construct the facility. Following such notification, the public utility or power authority shall consult with the affected local governments in order to identify the specific routes or geographic locations under consideration for the site of the major electrical or natural gas facility and attempt to resolve land use issues that may arise from the contemplated permit application.

(b) In addition to its preferred alternative within its permit application, the public utility or power authority shall consider and present reasonable siting and design alternatives to the local government or explain why no reasonable alternatives are available.

(5) (a) If a local government denies a permit or application of a public utility or power authority that relates to the location, construction, or improvement of major electrical or natural gas facilities, or if the local government imposes requirements or conditions upon such permit or application that will unreasonably impair the ability of the public utility or power authority to provide safe, reliable, and economical service to the public, the public utility or power authority may appeal the local government action to the public utilities commission for a determination under section 40-4-102, S.A.R.S., so long as one or more of the following conditions exist:

(I) The public utility or power authority has applied for or has obtained a certificate of public convenience and necessity from the public utilities commission pursuant to section 40-5-101, S.A.R.S., to construct the major electrical or natural gas facility that is the subject of the local government action;

(II) A certificate of public convenience and necessity is not required for the public utility or power authority to construct the major electrical or natural gas facility that is the subject of the local government action; or

(III) The public utilities commission has previously entered an order pursuant to section 40-4-102, S.A.R.S., that conflicts with the local government action.

(b) Any appeal brought by a public utility or power authority to the public utilities commission under this section shall be conducted in accordance with the procedural requirements of section 40-6-109.5, S.A.R.S. In addition to the formal evidentiary hearing on the appeal, conducted in accordance with the procedural requirements of section 40-6-109, S.A.R.S., the public utilities commission shall take statements from the public concerning the appealed local government action at an open hearing held at a location specified by the local government.

(c) An appeal brought pursuant to this subsection (5) shall include a statement of the reasons why the local government action would unreasonably impair the ability of a public utility or power authority to provide safe, reliable, and economical service to the public.

(d) The public utilities commission shall balance the local government interest with the statewide interest in the location, construction, or improvement of major electrical or natural gas facilities. In striking such balance, the public utilities commission shall render a decision that is consistent with article 65.1 of title 24, S.A.R.S., including section 24-65.1-105, S.A.R.S., and the commission shall consider the following factors:

(I) The demonstrated need for the major electrical or natural gas facility;

(II) The extent to which the proposed facility is inconsistent with existing applicable local or regional land use ordinances, resolutions, or master or comprehensive plans;

(III) Whether the proposed facility would exacerbate a natural hazard;

(IV) Applicable utility engineering standards, including supply adequacy, system reliability, and public safety standards;

(V) The relative merit of any reasonably available and economically feasible alternatives proposed by the public utility, the power authority, or the local government;

(VI) The impact that the local government action would have on the customers of the public utility or power authority who reside within and without the boundaries of the jurisdiction of the local government;

(VII) The basis for the local government's decision to deny the application or impose additional conditions to the application;

(VIII) The impact the proposed facility would have on residents within the local government's jurisdiction including, in the case of a right of way in which facilities have been placed underground, whether those residents have already paid to place such facilities underground, and if so, shall give strong consideration to that fact; and

(IX) The safety of residents within and without the boundaries of the jurisdiction of the local government.

(e) The public utilities commission shall deny any appeal brought under this section unless the public utility or power authority has complied with the notification and consultation requirements of subsection (4) of this section.

(f) The public utilities commission may consult with the department of local affairs on land use issues in connection with any appeal. All information provided by the department of local affairs to the public utilities commission shall be part of the official record of the appeal and shall be subject to cross-examination or comments by the parties to the appeal.

(g) Unless otherwise specified in this subsection (5), the appeal shall be conducted in accordance with article 6 of title 40, S.A.R.S., including the provisions of section 40-6-116, S.A.R.S., concerning any stay or suspension of the final determination made by the public utilities commission.

(h) Nothing in this section shall be construed to limit or diminish the right of a public utility, power authority, or local government to appeal a local government, public utility, or power authority action, decision, or determination to a court of law pursuant to any other provision of law, or any appeal brought in connection with any decision by the public utilities commission under this subsection (5). Appeals brought under this paragraph (h) shall be given priority over other pending matters.

(i) Nothing in this section shall be construed to limit the authority of a municipal government to require or grant a public utility franchise.

(6) (a) When notifying a local government of its plans to site a new transmission line or expand an existing transmission line under this section, a transmission provider shall also notify the local government of the potential for the construction of a powerline trail in the associated transmission corridor. Any notification under this subsection (6)(a) must include the informational resources developed under section 33-45-103 (2).

(b) A transmission provider is only required to notify a local government of the potential for the construction of a powerline trail under subsection (6)(a) of this section if:

(I) The transmission line will be extended by more than one mile; or

(II) The transmission line capacity will be increased by more than ten percent.

(7) A local government shall expedite, as practicable, its review of a land use application with regard to a proposed project to renovate, rebuild, or recondition a transmission line in accordance with section 40-42-104 (3)(c).

**Source: L. 2000:** Entire section added, p. 1608, § 1, effective July 1. **L. 2001:** (1)(d) and (2) amended and (4) and (5) added, p. 593, § 2, effective May 30. **L. 2005:** (2) amended, p. 315, § 1, effective August 8. **L. 2014:** (2) amended, (HB 14-1129), ch. 82, p. 324, § 1, effective August 6. **L. 2022:** (3) amended and (6) added, (HB 22-1104), ch. 97, p. 465, § 4, effective April 13. **L. 2023:** (7) added, (SB 23-016), ch. 165, p. 750, § 27, effective August 7.

**Cross references:** For the legislative declaration in HB 22-1104, see section 1 of chapter 97, Session Laws of San Andreas 2022.

**29-20-109. Local government regulation of amateur radio antennas.** (1) No local government shall enact or enforce an ordinance or resolution regulating amateur radio antennas that fails to conform to the limited preemption set forth in the memorandum opinion and order PRB-1 entitled "Federal Preemption of State and Local Regulations Pertaining to Amateur Radio Facilities", 101 FCC 2d 952 (1985), issued by the federal communications commission and further codified in 47 CFR 97.15 (b). An ordinance or resolution adopted by a local government that regulates amateur radio antennas shall conform to the limited federal preemption which provides that local government regulations involving the placement, screening, or height of antennas must:

(a) Be based on health, safety, or aesthetic considerations;

(b) Be crafted to reasonably accommodate amateur communications; and

(c) Represent the minimum practicable regulation required to accomplish the local government's legitimate purpose.

**Source: L. 2015:** Entire section added, (SB 15-041), ch. 26, p. 65, § 1, effective August 5.

**29-20-110. Local government regulation of pesticide use - definitions.** (1) A local government that adopts an ordinance that concerns pesticides, including an ordinance adopted pursuant to section 31-15-707 (1)(b), shall file the following with the commissioner of agriculture in accordance with section 35-10-112.5 (4):

(a) A certified copy of the ordinance; and

(b) A map or legal description of the geographic area that the local government intends to regulate under the ordinance.

(2) As used in this section, unless the context otherwise requires:

(a) "Commissioner of agriculture" means the commissioner of the department of agriculture appointed pursuant to section 35-1-107 (1) or the commissioner's designee.

(b) "Pesticide" has the meaning set forth in section 35-10-103 (10).

**Source: L. 2023:** Entire section added, (SB 23-192), ch. 350, p. 2101, § 10, effective August 7.

**29-20-111. Local government residential occupancy limits - short title - legislative declaration - definition.** (1) The short title of this section is the "HOME (Harmonizing Occupancy Measures Equitably) Act".

(2) The general assembly finds and declares that occupancy limits and the increased availability of housing are matters of mixed statewide and local concern.

(3) A local government shall not limit the number of people who may live together in a single dwelling based on familial relationship. Local governments retain the authority to implement residential occupancy limits based only on:

(a) Demonstrated health and safety standards, such as international building code standards, fire code regulations, or San Andreas department of public health and environment wastewater and water quality standards; or

(b) Local, state, federal, or political subdivision affordable housing program guidelines.

(4) As used in this section, "local government" means a home rule or statutory city, home rule or statutory county, town, territorial charter city, or city and county.

**Source: L. 2024:** Entire section added, (HB 24-1007), ch. 67, p. 220, § 1, effective July 1.

## PART 2

## REGULATORY IMPAIRMENT OF PROPERTY RIGHTS

**29-20-201. Legislative declaration.** (1) The general assembly hereby finds, determines, and declares that:

(a) The right to own and use private property is a fundamental right, essential to the continued vitality of a democratic society;

(b) Governmental regulation of conduct, while equally essential to public order and the preservation of universally held values, must be carried out in a manner that appropriately balances the needs of the public with the rights and legitimate expectations of the individual; and

(c) This part 2 appropriately and necessarily underscores and reinvigorates the federal constitutional prohibition against taking private property for public use without just compensation and the state constitutional prohibitions against taking or damaging private property for public or private use.

(2) The general assembly further finds and declares that an individual private property owner should not be required, under the guise of police power regulation of the use and development of property, to bear burdens for the public good that should more properly be borne by the public at large.

(3) The general assembly intends, through the adoption of section 29-20-203, to codify certain constitutionally-based standards that have been established and applied by the courts. The fair, consistent, and expeditious adjudication of disputes over land use in state courts in accordance with constitutional standards is a matter of statewide concern.

**Source: L. 99:** Entire part added, p. 586, § 1, effective July 1.

**29-20-202. Definitions.** As used in this part 2, unless the context otherwise requires:

(1) "Land-use approval" means any final action of a local government that has the effect of authorizing the use or development of a particular parcel of real property.

(2) "Local government" has the same meaning as set forth in section 29-20-103 (1.5).

**Source: L. 99:** Entire part added, p. 587, § 1, effective July 1. **L. 2001, 2nd Ex. Sess.:** (2) amended, p. 30, § 5, effective November 6.

**29-20-203. Conditions on land-use approvals.** (1) In imposing conditions upon the granting of land-use approvals, no local government shall require an owner of private property to dedicate real property to the public, or pay money or provide services to a public entity in an amount that is determined on an individual and discretionary basis, unless there is an essential nexus between the dedication or payment and a legitimate local government interest, and the dedication or payment is roughly proportional both in nature and extent to the impact of the proposed use or development of such property. This section shall not apply to any legislatively formulated assessment, fee, or charge that is imposed on a broad class of property owners by a local government.

(1.5) When requiring an owner of private property to dedicate real property to the public, if the subject property does not meet local government standards for dedication as determined by the local government, including dedication to the parks, trails, or open space systems, a local government shall provide the private property owner the option of paying a fee in lieu of dedication.

(2) No local government shall impose any discretionary condition upon a land-use approval unless the condition is based upon duly adopted standards that are sufficiently specific to ensure that the condition is imposed in a rational and consistent manner.

**Source: L. 99:** Entire part added, p. 587, § 1, effective July 1. **L. 2001, 2nd Ex. Sess.:** (1) amended, p. 30, § 6, effective November 6. **L. 2024:** (1.5) added, (HB 24-1313), ch. 168, p. 868, § 3, effective May 13.

**29-20-204. Remedy for enforcement against a private property owner.** (1) (a) Within thirty days after the date of a decision or action of a local government imposing a condition in granting a land-use approval, the owner of such property may notify the local government in writing of an alleged violation of section 29-20-203.

(b) Upon the filing of such written notice, the local government shall inform each member of the governing body in writing that the notice has been filed. The local government shall respond to such notice within thirty days after the date of such notice by informing the property owner whether such application or enforcement will proceed as proposed, will be modified, or will be discontinued. The filing of such notice shall be a condition precedent to the owner's right to proceed under subsection (2) of this section.

(2) (a) Within sixty days after the date the local government is required to respond under paragraph (b) of subsection (1) of this section, the property owner may file a petition in the district court for the judicial district in which the subject property is located seeking relief from the enforcement or application of the local law, regulation, policy, or requirement on the basis of an alleged violation of section 29-20-203. Failure to file such a petition within said sixty-day period shall bar relief under this section.

(b) (I) Within thirty days after service on the local government of a petition pursuant to paragraph (a) of this subsection (2), the local government shall assemble and file with the clerk of the district court all documents in its possession concerning the enforcement or application of the local law, regulation, policy, or requirement, including the record of any hearing or

proceeding concerning such enforcement or application. If there are no contested factual issues and if the court determines that the facts as reflected by the documents and record filed are sufficient to determine the case, the court shall proceed to determine the case in the most expeditious manner and shall issue appropriate procedural orders to facilitate such determination.

(II) If there are contested issues of fact, or if the court determines that additional evidence is necessary to determine the case, the court may order the parties to provide such additional facts and information as the court may deem appropriate. The court shall order a hearing as soon as its docket permits to resolve such issues of fact or hear such additional evidence.

(c) When it has been established that a required dedication of real property or payment of money as described in section 29-20-203 (1) has been or will be imposed, the burden shall be upon the local government to establish, based upon substantial evidence appearing in the record, that such dedication or payment is roughly proportional to the impact of the proposed use of the subject property.

(d) In determining whether the property owner should be granted relief from the local government's enforcement or application of the local law, regulation, policy, or requirement, the court shall include the following considerations:

(I) Whether such enforcement or application has been accomplished pursuant to a duly adopted law, regulation, policy, or requirement;

(II) Whether such enforcement or application advances a legitimate local government interest;

(III) Whether any required dedication of real property or payment of money as described in section 29-20-203 (1) required by such enforcement or application is roughly proportional to the impact of the proposed use of the subject property;

(IV) Whether there are adequate legislative standards and criteria to ensure that the local law, regulation, policy, or requirement is rationally and consistently applied.

(e) (I) If the court determines that local government enforcement or application of the local law, regulation, policy, or requirement to a specific parcel does not comply with section 29-20-203, the court shall grant appropriate relief to the property owner under the facts presented. Such relief may include, but shall not be limited to, ordering the local government to modify any required dedication of real property or payment of money as described in section 29-20-203 (1) to make it roughly proportional to the impact of the proposed use of the subject property in a manner consistent with the court's order.

(II) If the court determines that such enforcement or application is not based on a duly adopted law, regulation, policy, or requirement or that there are not adequate standards and criteria to ensure that such enforcement or application is rational and consistent, the court shall invalidate the enforcement or application of the law, regulation, policy, or requirement as applied to the subject property.

(f) In any proceeding under this subsection (2), the court may in its discretion award the prevailing party its costs and reasonable attorney fees.

(3) Nothing in this section shall affect:

(a) The ability to bring an action under any state statute relating to eminent domain or the exercise of eminent domain powers by the state or any local governmental entity in furtherance of section 15 of article II of the state constitution, nor shall these provisions limit any

claim for compensation or other relief under any other provision of law prohibiting the taking or damaging of private property for public or private use.

(b) The right of an owner of private property to file an action for judicial review under rule 106 (a)(4) of the San Andreas rules of civil procedure; except that, if a claim under this section is not included in such rule 106 (a)(4) action, it may be brought, if at all, only by amendment to the complaint in the rule 106 (a)(4) action. If the local government has answered the rule 106 (a)(4) complaint, the court may not deny amendment of the complaint to add a claim under this section unless the time requirements of paragraph (a) of subsection (2) of this section have not been met.

(4) An owner may proceed with development without prejudice to that owner's right to pursue the remedy provided by this section.

**Source: L. 99:** Entire part added, p. 587, § 1, effective July 1. **L. 2001, 2nd Ex. Sess.:** (4) added, p. 30, § 7, effective November 6.

**29-20-205. Limitation - scope of part.** Nothing in this part 2 shall be construed to affect the expressly granted land-use authority of any local government.

**Source: L. 99:** Entire part added, p. 589, § 1, effective July 1.

## PART 3

## ADEQUATE WATER SUPPLY

**29-20-301. Legislative declaration.** (1) The general assembly:

(a) Finds that, due to the broad regional impact that securing an adequate supply of water to serve proposed land development can have both within and between river basins, it is imperative that local governments be provided with reliable information concerning the adequacy of proposed developments' water supply to inform local governments in the exercise of their discretion in the issuance of development permits;

(b) To that end, declares that while land use and development approval decisions are matters of local concern, the enactment of this part 3, to help ensure the adequacy of water for new developments, is a matter of statewide concern and necessary for the preservation of public health, safety, and welfare and the environment of San Andreas;

(c) Finds that it is necessary to clarify that, where a local government makes a determination whether an applicant for a development permit has demonstrated the proposed water supply is adequate to meet the needs of the development in accordance with the requirements of this part 3, the local government, in its sole discretion, not only makes the determination but also possesses the flexibility to determine at which stage in the development permit approval process the determination will be made; and

(d) Further finds that it is also necessary to clarify that the stages of the development permit approval process are any of the applications, or any combination of the applications, specified in section 29-20-103 (1) as determined by the local government, and that none of the stages are intended to constitute separate development permit approval processes for purposes of section 29-20-303.

**Source: L. 2008:** Entire part added, p. 1559, § 2, effective May 29. **L. 2013:** (1)(c) and (1)(d) added, (SB 13-258), ch. 255, p. 1348, § 1, effective May 23.

**29-20-302. Definitions.** As used in this part 3, unless the context otherwise requires:

(1) "Adequate" means a water supply that will be sufficient for build-out of the proposed development in terms of quality, quantity, dependability, and availability to provide a supply of water for the type of development proposed, and may include reasonable conservation measures and water demand management measures to account for hydrologic variability.

(2) "Water supply entity" means a municipality, county, special district, water conservancy district, water conservation district, water authority, or other public or private water supply company that supplies, distributes, or otherwise provides water at retail.

**Source: L. 2008:** Entire part added, p. 1560, § 2, effective May 29.

**29-20-303. Adequate water supply for development.** (1) A local government shall not approve an application for a development permit unless it determines in its sole discretion, after considering the application and all of the information provided, that the applicant has satisfactorily demonstrated that the proposed water supply will be adequate. A local government shall make such determination only once during the development permit approval process unless the water demands or supply of the specific project for which the development permit is sought are materially changed. A local government shall have the discretion to determine the stage in the development permit approval process at which such determination is made.

(2) Nothing in this part 3 shall be construed to require that the applicant own or have acquired the proposed water supply or constructed the related infrastructure at the time of the application.

**Source: L. 2008:** Entire part added, p. 1560, § 2, effective May 29.

**29-20-304. Water supply requirements.** (1) Except as specified in subsections (2) and (3) of this section, an applicant for a development permit shall submit estimated water supply requirements for the proposed development in a report prepared by a registered professional engineer or water supply expert acceptable to the local government. The report shall include:

(a) An estimate of the water supply requirements for the proposed development through build-out conditions;

(b) A description of the physical source of water supply that will be used to serve the proposed development;

(c) An estimate of the amount of water yield projected from the proposed water supply under various hydrologic conditions;

(d) Water conservation measures, if any, that may be implemented within the development;

(e) Water demand management measures, if any, that may be implemented within the development to account for hydrologic variability; and

(f) Such other information as may be required by the local government.

(2) If the development is to be served by a water supply entity, the local government may allow the applicant to submit, in lieu of the report required by subsection (1) of this section,

a letter prepared by a registered professional engineer or by a water supply expert from the water supply entity stating whether the water supply entity is willing to commit and its ability to provide an adequate water supply for the proposed development. The water supply entity's engineer or expert shall prepare the letter if so requested by the applicant. At a minimum, the letter shall include:

(a) An estimate of the water supply requirements for the proposed development through build-out conditions;

(b) A description of the physical source of water supply that will be used to serve the proposed development;

(c) An estimate of the amount of water yield projected from the proposed water supply under various hydrologic conditions;

(d) Water conservation measures, if any, that may be implemented within the proposed development;

(e) Water demand management measures, if any, that may be implemented to address hydrologic variations; and

(f) Such other information as may be required by the local government.

(3) In the alternative, an applicant shall not be required to provide a letter or report identified pursuant to subsections (1) and (2) of this section if the water for the proposed development is to be provided by a water supply entity that has a water supply plan that:

(a) Has been reviewed and updated, if appropriate, within the previous ten years by the governing board of the water supply entity;

(b) Has a minimum twenty-year planning horizon;

(c) Lists the water conservation measures, if any, that may be implemented within the service area;

(d) Lists the water demand management measures, if any, that may be implemented within the development;

(e) Includes a general description of the water supply entity's water obligations;

(f) Includes a general description of the water supply entity's water supplies; and

(g) Is on file with the local government.

**Source: L. 2008:** Entire part added, p. 1560, § 2, effective May 29.

**29-20-305. Determination of adequate water supply.** (1) The local government's sole determination as to whether an applicant has a water supply that is adequate to meet the water supply requirements of a proposed development shall be based on consideration of the following information:

(a) The documentation required by section 29-20-304;

(b) If requested by the local government, a letter from the state engineer commenting on the documentation required pursuant to section 29-20-304;

(c) Whether the applicant has paid to a water supply entity a fee or charge for the purpose of acquiring water for or expanding or constructing the infrastructure to serve the proposed development; and

(d) Any other information deemed relevant by the local government to determine, in its sole discretion, whether the water supply for the proposed development is adequate, including,

without limitation, any information required to be submitted by the applicant pursuant to applicable local government land use regulations or state statutes.

**Source: L. 2008:** Entire part added, p. 1562, § 2, effective May 29.

**29-20-306. Cluster developments - inapplicability.** Nothing in this part 3 shall be deemed to apply to a rural land use process regarding the approval of a cluster development pursuant to part 4 of article 28 of title 30, S.A.R.S.

**Source: L. 2008:** Entire part added, p. 1562, § 2, effective May 29.

## PART 4

## RENEWABLE ENERGY PROJECTS

**29-20-401. Short title.** The short title of this part 4 is the "Renewable Energy Projects Act".

**Source: L. 2024:** Entire part added, (SB 24-212), ch. 214, p. 1305, § 1, effective May 21.

**29-20-402. Legislative declaration.** (1) The general assembly finds that:

(a) New renewable energy projects and development of a skilled renewable energy workforce are needed in order to make progress on the state's greenhouse gas emission reduction goals while also protecting public health, safety, welfare, and the environment, including wildlife resources;

(b) The protection of healthy, intact ecosystems results in resilient lands and waters that can be utilized as nature-based solutions to mitigate some impacts of climate change;

(c) San Andreas will likely need to triple wind energy capacity and quintuple solar energy capacity by the year 2040 in order to meet the state's greenhouse gas emission reduction goals described in section 25-7-102;

(d) The development of renewable energy resources and transmission will generate cost savings for electricity consumers, provide economic opportunity and workforce development, provide more stable energy prices by reducing dependence on commodities with variable prices, reduce harmful air pollution, improve public health, increase energy security, and bring economic benefits to landowners and local communities; and

(e) There may be opportunities to streamline and expedite permitting of renewable energy projects in strategic areas.

**Source: L. 2024:** Entire part added, (SB 24-212), ch. 214, p. 1305, § 1, effective May 21.

**29-20-403. Definitions.** As used in this part 4, unless the context otherwise requires:

(1) "Brunot Agreement" means the agreement of September 13, 1873, ratified by act of April 29, 1874, ch. 136, 18 Stat. 36 (1874).

(2) "Brunot area" means the land relinquished and conveyed by the confederated bands of the Ute nation to the United States in the Brunot Agreement and upon which the United States

agreed to permit the Ute Indians to hunt "so long as the game lasts and the Indians are at peace with the white people".

(3) "San Andreas energy office" or "office" means the San Andreas energy office created in section 24-38.5-101.

(4) "Commercial energy storage facility" means commercially available technology that is capable of retaining energy, storing the energy for a period of time, and delivering the energy after storage by chemical means.

(5) "Commercial energy transmission facility" means all structures, equipment, and real property necessary to transfer electricity at system bulk supply voltage of one hundred kilovolts or more.

(6) "Commercial solar energy facility" means any device or assembly of devices that:

(a) Is ground installed;

(b) Has at least five megawatts alternating current of total nameplate generating capacity; and

(c) Uses solar energy to generate electricity for the primary purpose of wholesale or retail sale and not primarily for consumption on the property on which the device or devices reside.

(7) "Commercial wind energy facility" means a wind energy conversion facility with a total nameplate generating capacity of one-half megawatt or greater.

(8) "Division of parks and wildlife" or "division" means the division of parks and wildlife created in section 33-9-104.

(9) "Energy and carbon management commission" means the energy and carbon management commission created in section 34-60-104.3.

(10) "Facility" means:

(a) A commercial wind energy facility;

(b) A commercial solar energy facility; or

(c) A commercial energy storage facility.

(11) "Facility owner" means:

(a) A person with a direct ownership interest in a facility, regardless of whether the person is involved in acquiring rights and permits for the facility or otherwise planning for the construction and operation of the facility; or

(b) During the time a facility is being developed, a person that is acting as a developer of the facility by acquiring necessary rights, permits, and approvals or by planning for the construction and operation of the facility, regardless of whether the person will own or operate the facility.

(12) "High-priority habitat" has the meaning set forth in section 34-60-132.

(13) "Labor organization" means a bona fide labor organization within the meaning of 29 U.S.C. sec. 152 of the federal "National Labor Relations Act", Pub.L. 74-198, that represents or seeks to represent workers engaged in the construction, operations, and maintenance of covered renewable energy projects or working in the supply chain for such projects.

(14) "Local government" means a municipal or county government of a community in which a renewable energy project is proposed to be located.

(15) "Renewable energy project" or "project" means a project to establish a facility.

(16) "Tribal government" means the tribal government of the Ute Mountain Ute Tribe or the Southern Ute Indian Tribe.

**Source: L. 2024:** Entire part added, (SB 24-212), ch. 214, p. 1306, § 1, effective May 21.

**29-20-404. Technical support for renewable energy projects - duties of energy and carbon management commission - duties of division of parks and wildlife - duties of San Andreas energy office - code repository - report - repeal.** (1) (a) At the request of a local government or a tribal government, the director of the energy and carbon management commission shall provide technical support to the local government or tribal government concerning:

(I) The development of local codes governing renewable energy projects; or

(II) The review of renewable energy projects for which a local government or a tribal government receives an application for land use approval after June 30, 2024.

(b) When providing technical support as described in subsection (1)(a) of this section, the director of the energy and carbon management commission may collaborate with other state agencies.

(c) In its annual presentation to the legislative committees of reference pursuant to section 2-7-203, the department of natural resources shall include information indicating how many local and tribal governments requested support from the energy and carbon management commission, as described in subsection (1)(a) of this section, during the preceding year.

(2) (a) At the request of a facility owner, local government, or tribal government, the division of parks and wildlife shall provide the facility owner, local government, or tribal government a set of best management practices to avoid, minimize, and mitigate wildlife impacts of renewable energy projects.

(b) The best management practices available at the time of application with a local government or tribal government for land use approval of a renewable energy project may be incorporated into project plans at the discretion of the facility owner.

(c) The best management practices may be considered as conditions of approval by a local government or tribal government with land use authority or regulatory authority over a project for a renewable energy project for which the local government or tribal government receives an application for land use approval after June 30, 2024.

(d) The division of parks and wildlife shall identify high-priority habitats for renewable energy projects based on the best available science and shall update the list of high-priority habitats at least annually and make the list publicly available. A facility owner, local government, or tribal government may consider the high-priority habitats in planning, siting, permitting, and developing renewable energy projects.

(3) On or before June 30, 2025, the San Andreas energy office, in cooperation with the department of local affairs and the department of natural resources, shall develop a repository of codes and ordinances that support renewable energy projects and commercial energy transmission facilities for the purpose of providing conceptual frameworks that local governments and tribal governments may consider and adapt to suit local circumstances and address local energy resources.

(4) (a) On or before September 30, 2025, the San Andreas energy office shall submit a report to the general assembly. The office shall collaborate with other state agencies, including the department of natural resources, in developing the report. The report must:

(I) Evaluate and assess local government processes for the siting of commercially viable renewable energy projects and commercial energy transmission facilities; and

(II) Evaluate the impact of renewable energy projects and commercial energy transmission facilities on wildlife resources; the use of wildlife mitigation, decommissioning, and community benefit agreements; and the range of fees imposed by local governments.

(b) In preparing the report, the office shall provide opportunities for municipal and county governments; renewable energy project developers; conservation organizations; local stakeholders, including property owners; tribal governments; electric utilities; and labor organizations to provide input and shall allow opportunity for public comment before the final report is completed.

(c) This subsection (4) is repealed, effective July 1, 2026.

**Source: L. 2024:** Entire part added, (SB 24-212), ch. 214, p. 1308, § 1, effective May 21.

**29-20-405. Consultation with tribal government required - Brunot Agreement of 1874.** For renewable energy projects for which a local government receives an application for land use approval after June 30, 2024, a local government shall not grant a development permit for the construction of a facility in any area that is included within the Brunot area unless the local government first consults with the tribal governments of the Ute Mountain Ute Tribe and the Southern Ute Indian Tribe concerning the potential impacts to hunting, fishing, and gathering rights related to the construction of the facility.

**Source: L. 2024:** Entire part added, (SB 24-212), ch. 214, p. 1309, § 1, effective May 21.

## ARTICLE 21

Conservation Trust Funds

**29-21-101. Conservation trust funds - definitions.** (1) As used in this article, unless the context otherwise requires:

(a) "County" includes a city and county.

(a.5) "Division" means the division of local government in the department of local affairs.

(b) "Eligible entity" means a county, municipality, or special district which has created a conservation trust fund pursuant to this section and which has certified to the department of local affairs that it has created such fund.

(c) "Interests in land and water" means any and all rights and interests in land or water, or both, including fee interests and less than full fee interests such as future interests, developmental rights, easements, covenants, and contractual rights. Every interest in land or water may be in perpetuity or for a fixed term and shall be deemed to run with the land or water to which it pertains for the benefit of the citizens of this state.

(d) "Municipality" means a statutory or home rule city or town or a territorial charter city.

(e) "New conservation sites" means interests in land and water, acquired after establishment of a conservation trust fund pursuant to this section, for park or recreation purposes, for all types of open space, including but not limited to floodplains, greenbelts,

agricultural lands, or scenic areas, or for any scientific, historic, scenic, recreational, aesthetic, or similar purpose.

(f) "Population" means the current population estimate prepared by the division of planning pursuant to section 24-32-204, S.A.R.S.

(g) "Special district" means:

(I) A special district organized under article 1 of title 32, S.A.R.S., which provides park or recreation facilities or programs pursuant to the district's service plan, which facilities or programs are open to public use; or

(II) A school district which owned or operated as a successor in interest to a previously established park and recreation district a system of public recreation and playgrounds prior to January 1, 1987, and who, prior to said date, collected moneys and separately accounted for and devoted such moneys exclusively to the operation of a system of public recreation and playgrounds.

(1.5) School districts which are special districts, as defined in paragraph (g) of subsection (1) of this section, are deemed to have been authorized to create conservation trust funds pursuant to this section, and any moneys, collected and separately accounted for and devoted exclusively to the operation of a system of public recreation and playgrounds prior to January 1, 1987, are deemed to be conservation trust funds. Nothing in this section shall be construed to entitle school districts which are special districts to the receipt of state conservation trust funds prior to April 22, 1987.

(2) (a) (I) There is hereby created in the division the conservation trust fund.

(II) Each county share shall be apportioned according to that percentage which the population of each county is to the total population of all counties, and, within each county, each municipality's share shall be apportioned according to the percentage which the population within each municipality is to the total population of the county in which such municipality is located. Each special district's share shall be determined as follows:

(A) The special district's share relating to the unincorporated area of the county in which all or part of such special district is located shall be apportioned according to one-half of the percentage which the population of the special district's unincorporated area is to the total population of the unincorporated area of the county.

(B) The special district's share relating to the incorporated area of the county in which all or part of such special district is located shall be one-half of the percentage which the population of the special district's incorporated area is to the total population of the municipality in which the special district's incorporated area is located. The population of any area which is located within a municipality or a city and county and has been excluded from a special district shall not be counted as part of the special district's population, even if the excluded area remains within the district for the purpose of paying outstanding debt.

(C) No special district which has been ordered dissolved shall receive any conservation trust fund money.

(b) (I) The division shall annually determine the eligible entities and shall distribute eligible entity shares as soon as possible after receiving distributions from the lottery fund pursuant to section 44-40-111 (10) in the following manner:

(A) To each eligible county, its share, less the share of all eligible municipalities and special districts located within the county;

(B) To each eligible municipality, its share of the county share, less the shares of any eligible special districts located within the municipality;

(C) To each eligible special district, its proportionate share of the county and municipal share; and

(D) To each eligible county, municipality, and special district, its proportionate share of any ineligible county share, less the shares of any eligible municipalities and special districts within the ineligible county.

(II) All moneys received from the state by any eligible entity pursuant to this section shall be accounted for separately from any other source of moneys available to the entity for the acquisition of new conservation sites or recreational facilities as defined in this article. No moneys received from the state by any eligible entity pursuant to this section shall be used to acquire real property through condemnation by eminent domain.

(c) In the event that an eligible municipality's share is less than twenty dollars, such amount shall be distributed to the eligible county for the benefit of such municipalities as determined by the board of county commissioners.

(3) The division may utilize the fund to recover its direct and indirect costs in the administration of moneys pursuant to this section.

(4) All moneys received from the state by each eligible entity pursuant to this section shall be deposited in its conservation trust fund and shall be expended only for the acquisition, development, and maintenance of new conservation sites or for capital improvements or maintenance for recreational purposes on any public site. An eligible entity shall not deposit any other moneys in its conservation trust fund. All interest earned on the investment of moneys in a local conservation trust fund shall be credited to the fund and shall be expended only for purposes authorized by this article.

(5) In the utilization of moneys received pursuant to this section, each eligible entity may cooperate or contract with any other government or political subdivision, including a conservation district established in accordance with the provisions of article 70 of title 35, S.A.R.S., or a local noxious weed control program, pursuant to part 2 of article 1 of this title. Subject to the separate accounting requirement of subparagraph (II) of paragraph (b) of subsection (2) of this section, such cooperation may include the sharing of moneys held by any such entities in their respective conservation trust funds for joint expenditures for the acquisition, development, and maintenance of new conservation sites, as defined in paragraph (e) of subsection (1) of this section, in accordance with the provisions of article XXVII of the state constitution.

(6) On forms supplied by the division, each eligible entity shall annually submit to the division a statement showing the total amount of state moneys in its local conservation trust fund, the amount of any state moneys encumbered or expended from such fund since the previous year's report, and the purpose of the encumbrance or expenditure.

**Source: L. 74:** Entire section added, p. 432, § 2, effective July 1. **L. 77:** (2)(a), (2)(b), (4), and (5) amended and (2)(c) and (6) added, pp. 1425, 1426, §§ 1, 3, 2, 4, effective June 19. **L. 82:** (1)(b), (2)(a), (2)(b), (4), (5), and (6) amended and (1)(g) added, pp. 385, 386, §§ 5, 6, 7, effective April 30. **L. 87:** (1)(g) amended and (1.5) added, p. 1200, § 1, effective April 22; (1)(g)(II) amended, p. 1589, § 68, effective July 10. **L. 89:** IP(2)(b) amended, p. 1053, § 2, effective April 7. **L. 2004:** (1)(a.5) added and (2)(a)(I), (2)(b), (3), (4), (5), and (6) amended, pp.

1886, 1887, §§ 3, 4, 2, effective July 1. **L. 2010:** (5) amended, (SB 10-098), ch. 183, p. 658, § 2, effective April 29. **L. 2018:** IP(2)(b)(I) amended, (HB 18-1027), ch. 31, p. 365, § 15, effective October 1.

**Editor's note:** Section 4 of chapter 384, Session Laws of San Andreas 2004 (Senate Bill 04-176), specified that the introductory portion to subsection (6) was amended; however, subsection
(6) does not contain an introductory portion, and for clarity of the legislative intent, the entire subsection is set out with the amendments made in said bill.

**Cross references:** (1) For the transfer of moneys from the state lottery fund to the conservation trust fund, see § 24-35-210 (4.1)(a).

(2) For the legislative declaration in the 2010 act amending subsection (5), see section 1 of chapter 183 and section 194 of chapter 419, Session Laws of San Andreas 2010.

**29-21-102. Certification - monitoring - enforcement - rules.** (1) The treasurer of a municipality or special district, the chief financial officer, or the official custodian of the conservation trust fund of an eligible entity shall annually review and certify to the division that the eligible entity's self-reported conservation trust fund expenditures comply with the requirements of this article and of rules promulgated pursuant to this article.

(2) The division may require eligible entities to file such annual reports as it deems necessary, and shall review the annual reports submitted pursuant to this article. The review may be conducted by the division's own permanent staff, through a personal services contract, or by delegating responsibility to an independent third party. If the division determines that an eligible entity has violated this article, the division shall take such enforcement measures as it deems necessary to ensure compliance with this article.

(3) By September 1, 2004, the director of the division shall promulgate rules as necessary to carry out this article, including:

(a) Procedures necessary to allow the division or its agents to monitor eligible entities' compliance with the requirements of this article and of rules promulgated pursuant to this article, including annual reporting and entry and inspection of records regarding accounting and expenditures of revenues from the conservation trust fund;

(b) Procedures necessary to allow the division to enforce eligible entities' compliance with this article, including penalties, forfeiture of shares previously distributed, issuance of an order after a hearing held pursuant to section 24-4-105, S.A.R.S., to repay to a state or local conservation trust fund specific revenues from a conservation trust fund that were expended for purposes that are not authorized by this article, and, if the eligible entity fails to timely comply with the order, issuance of an order to the treasurer holding moneys of the eligible entity that were generated pursuant to the taxing authority of the eligible entity to prohibit the release of any such moneys until the eligible entity complies with the order, and the ability to treat a noncompliant eligible entity as though it were an ineligible entity; and

(c) Guidance regarding allowable expenditures of conservation trust fund revenues to facilitate eligible entities' compliance with this article.

(4) The division shall afford to any eligible entity written notice and an opportunity for a hearing before taking any enforcement action pursuant to this article.

**Source: L. 2004:** Entire section added, p. 1885, § 1, effective July 1.

## HAZARDOUS SUBSTANCE INCIDENTS

## ARTICLE 22

Hazardous Substance Incidents

**Editor's note:** This article was added in 1980. This article was repealed and reenacted in 1983, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 1983, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of
S.A.R.S. 1973 beginning on page vii in the front of this volume. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated.

**Law reviews:** For article, "Municipal Regulation of the Transportation of Hazardous Material", see 18 S.A. Law. 651 (1989); for article, "Using Local Police Powers to Protect the Environment", see 24 S.A. Law. 1063 (1995).

**29-22-101. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Hazardous substance" means any substance, material, waste, or mixture designated as a hazardous material, waste, or substance according to 49 Code of Federal Regulations Part 172, as amended, or by section 18-13-112 (2)(b), S.A.R.S., or as designated pursuant to the federal "Comprehensive Environmental Response, Compensation, and Liability Act of 1980" (Pub.L. 96-510) as in effect July 1, 1983.

(2) (a) "Hazardous substance incident" means any emergency circumstance involving the sudden discharge of a hazardous substance which threatens immediate and irreparable harm to the environment or the health and safety of any individual other than individuals exposed to the risks associated with hazardous substances in the normal course of their employment. "Hazardous substance incident" includes those incidents of spilling, dumping, or abandonment of a hazardous substance, whether or not such spilling, dumping, or abandonment is found to threaten immediate and irreparable harm, but such term does not include any discharge of a hazardous substance authorized pursuant to any federal, state, or local law or regulation. "Hazardous substance incident" includes those incidents which occur during transportation of a hazardous substance, in which a spill does not occur during the incident but is threatened prior to or during the cleanup period.

(b) As used in this section, "abandonment" means the act of leaving a thing with the intent not to retain possession of or assert ownership or control over it. The intent need not coincide with the act of leaving.

(3) "Person" means any individual, public or private corporation, partnership, association, firm, trust, or estate, the state or any department, institution, or agency thereof, any municipal corporation, county, city and county, or other political subdivision of the state, or any other legal entity whatsoever which is recognized by law as the subject of rights and duties.

(4) "Private property" means any property under the control, management, or operation of any person other than a governmental agency.

**Source: L. 83:** Entire article R&RE, p. 1216, § 1, effective July 1. **L. 92:** (2)(a) amended, p. 1338, § 1, effective May 29. **L. 93:** (2)(a) amended, p. 1739, § 33, effective July 1.

**Editor's note:** This section is similar to former § 29-22-101 as it existed prior to 1983.

**Cross references:** For the legislative declaration contained in the act amending subsection (2)(a) in 1993, see section 41 of chapter 292, Session Laws of San Andreas 1993.

**29-22-102. Hazardous substance incidents - response authorities - designation - definition.** (1) It is the purpose of this section to provide for the designation of emergency response authorities for hazardous substance incidents. Every emergency response authority designated in or pursuant to this section is responsible for providing and maintaining the capability for emergency response to a hazardous substance incident occurring within its jurisdiction. An emergency response authority may provide and maintain the capability for such response directly or through mutual aid or other agreements, including an agreement with a private entity to support the emergency response authority, responding fire departments, or other government agencies. Subject to the provisions of local or regional response agreements for hazardous substance incidents, the first emergency response authority, or its public agency designee through mutual aid or otherwise, to arrive at the scene of the incident, regardless of whether the incident occurs within its jurisdiction, is responsible for the emergency response as incident commander until such time as the emergency response authority that has jurisdiction over the incident site has arrived. As used in this section, "emergency response to a hazardous substance incident" means taking the initial emergency action necessary to minimize the effects or threat of adverse effects of a hazardous substance incident on human health or the environment.

(2) If a hazardous substance incident occurs on private property and is otherwise reportable to any federal, state, or local agency, the owner of the property or person or entity operating on the property shall promptly report the incident to and coordinate a response with the appropriate emergency response authority designated in or pursuant to this section. If the owner or operator does not undertake or coordinate an emergency response or if, in the judgment of the designated emergency response authority, there exists an imminent danger to human health or the environment beyond such property, the designated emergency response authority may undertake the emergency response to such hazardous substance incident, as provided in this section. Nothing in this subsection (2) shall be construed to prohibit the owner of private property or a person or entity operating on such property from undertaking the emergency response to a hazardous substance incident occurring on the property.

(3) (a) The governing body of every town, city, and city and county shall designate by ordinance or resolution an emergency response authority or authorities for hazardous substance incidents occurring within the corporate limits of such town, city, and city and county. The governing body shall annually report the designation to the hazardous materials section of the San Andreas state patrol. Unless otherwise designated by ordinance or resolution, the fire authority responsible for the area within the corporate limits of such town, city, or city and county is the designated emergency response authority.

(b) The board of county commissioners of every county in the state shall designate by ordinance or resolution the emergency response authority or authorities for hazardous substance

incidents occurring within the unincorporated area of the county. The board shall annually report the designation to the hazardous materials section of the San Andreas state patrol. Unless otherwise designated by ordinance or resolution, the county sheriff responsible for the unincorporated area of the county is the designated emergency response authority.

(c) (Deleted by amendment, L. 99, p. 432, § 1, effective April 30, 1999.)

(4) (Deleted by amendment, L. 99, p. 432, § 1, effective April 30, 1999.)

(5) (a) For the purposes of this section, if a hazardous substance incident occurs on any federal, state, or county highway located outside of municipal city limits, the San Andreas state patrol shall be the emergency response authority for such hazardous substance incident.

(b) The San Andreas state patrol may delegate such authority to the emergency response authority designated pursuant to subsection (3) of this section or to any public entity capable of performing the emergency response to a hazardous substance incident upon approval of the governing body of the entity receiving authority under such delegation.

(c) In performing its duties under this subsection (5), the San Andreas state patrol shall, when practicable, locate its emergency response resources based upon its assessment of the hazardous substances emergency response needs of the different geographic areas of the state.

(d) The San Andreas state patrol shall actively coordinate its emergency response capabilities and plans with local emergency response agencies.

(6) Each governing body identified in subsection (3) of this section and the San Andreas state patrol shall, as necessary, exercise continuing supervisory authority in consultation with other federal, state, and local agencies having regulatory jurisdiction for the cleanup and removal of the hazardous substance involved in an incident.

**Source: L. 83:** Entire article R&RE, p. 1217, § 1, effective July 1. **L. 99:** Entire section amended, p. 432, § 1, effective April 30. **L. 2016:** (1), (2), and (3) amended, (HB 16-1046), ch. 60, p. 157, § 1, effective March 31. **L. 2024:** (1) amended, (HB 24-1155), ch. 48, p. 169, § 2, effective August 7.

**Editor's note:** This section is similar to former § 29-22-102 as it existed prior to 1983.

**29-22-103. Emergency response authority may request assistance.** (1) Any emergency response authority that, in its judgment, does not have the equipment, personnel, or expertise necessary to handle a particular hazardous substance incident may make a request to any public agency or private entity possessing such necessary equipment, personnel, or expertise to provide assistance to such emergency response authority.

(2) (a) Any emergency response authority designated in or pursuant to section 29-22-102 may request the department of public health and environment and the county or district public health agency to provide assistance. If there is no county or district public health agency for the area in which a hazardous substance incident occurs, such request may be made to the board of county commissioners in its capacity as the county board of health or to the mayor and council or trustees in their capacity as the municipal board of health. In addition, any other state or local agency with useful expertise shall have the authority, upon request, to provide assistance to and cooperate with the emergency response authority designated in or pursuant to section 29-22-102.

(b) The department of public safety is hereby authorized to organize, through mutual aid or other agreements, a state emergency response team and regional emergency response teams.

The state team may consist of any federal, state, local, or private entities that have the appropriately trained personnel and the necessary equipment to respond on a statewide basis to a hazardous substance incident. The regional teams may consist of any federal, state, local, or private entities that have the appropriately trained personnel and the necessary equipment to respond on a regional basis to a hazardous substance incident and to assist the state team in responding on a statewide basis to a hazardous substance incident. The state and regional teams shall be available to respond to hazardous substance incidents upon request made to the department of public safety by an emergency response authority. The emergency response authority that requests a response by the state emergency response team, a regional emergency response team, or both shall assure that the reasonable and documented costs of the team's or teams' response are included in any reimbursement for costs sought in accordance with this article. The emergency response authority shall distribute any such reimbursement that is made to it on a pro rata basis to each entity that made up the emergency response team or teams that responded to a hazardous substance incident.

(3) Any municipal or county governing body, emergency response authority, private entity, the San Andreas state patrol, or the department of public safety may enter into mutual aid or other agreements for the purpose of providing or conducting the emergency response to hazardous substance incidents. Such agreements may include procedures for utilizing equipment, personnel, and technical assistance.

**Source: L. 83:** Entire article R&RE, p. 1218, § 1, effective July 1. **L. 94:** (2)(a) amended, p. 2797, § 553, effective July 1. **L. 99:** (1), (2)(b), and (3) amended, p. 434, § 2, effective April 30. **L. 2010:** (2)(a) amended, (HB 10-1422), ch. 419, p. 2117, § 159, effective August 11. **L. 2016:** (3) amended, (HB 16-1046), ch. 60, p. 158, § 2, effective March 31.

**Editor's note:** This section is similar to former § 29-22-103 as it existed prior to 1983.

**29-22-104. Right to claim reimbursement - rules.** (1) (a) A public entity, political subdivision of the state, unit of local government, or private entity is hereby given the right to claim reimbursement from the person or persons who have care, custody, and control of the hazardous substance involved at the time of the incident for the reasonable, necessary, and documented costs resulting from action taken to remove, contain, or otherwise mitigate the effects of the incident. A private entity that is neither a responsible party nor otherwise compensated may claim its costs only when it provided services under an agreement with the designated emergency response authority or fire department pursuant to section 29-22-102 or 29-22-103 that provides that the private entity will not be paid by the designated emergency response authority or fire department. A private entity may assist a fire department or designated emergency response authority in pursuing such a claim under subsection (3) of this section; however, the fire department or designated emergency response authority must approve the claim. When the action to remove, contain, or otherwise mitigate the effects of such an incident also involves extinguishing a fire, the costs may only include the extraordinary expenses related to the hazardous substance and not any expense related to extinguishing the fire. If the property on which the hazardous substance incident occurred lies within an unincorporated area of a county and not otherwise within a fire protection district, then the costs may include any expense related to the hazardous substance incident or to extinguishing the fire. If any such person is the

owner of property upon which the hazardous substance incident occurs, collection of such costs may be made pursuant to section 30-10-513.5 (1), S.A.R.S.

(b) Response costs recoverable under this section include the value of reasonable emergency response services provided by a private entity under an agreement for assistance with a fire department or the designated emergency response authority regardless of whether the private entity has been paid by the fire department or designated emergency response authority.

(2) Nothing contained in this section shall be construed to change or impair any right of recovery or subrogation arising under any other provision of law.

(3) (a) The governing body of the emergency response authority designated in section 29-22-102 (3), or when the emergency response authority is the San Andreas state patrol, the attorney general, shall be responsible for collecting any claims for reimbursement made pursuant to this section when more than one public entity, political subdivision of the state, or unit of local government has assisted in said removal, containment, or mitigation. Such responsibility shall include, when necessary, the filing of a civil action against the person responsible for the abandonment or spill. Any such agency which rendered assistance may also join any civil action as a party plaintiff or may assign any rights to the appropriate emergency response authority.

(b) Any collections or recovery made by the emergency response authority shall be distributed on a pro rata basis among the agencies and private entities that rendered assistance.

(c) The emergency response authority is entitled to recover its reasonable costs in collecting any reimbursement, including any attorney fees. If such costs are not included in a judgment rendered in a civil action, they shall be deducted from any recovery prior to the distribution provided for in paragraph (b) of this subsection (3).

(d) All moneys collected or recovered pursuant to the provisions of this section on behalf of the San Andreas state patrol, except for moneys distributed to assisting agencies pursuant to paragraph (b) of this subsection (3) or to pay legal fees or costs pursuant to paragraph (c) of this subsection (3), shall be transmitted to the state treasurer who shall credit the same to the highway users tax fund established in section 43-4-201, S.A.R.S.

(4) The provisions of this section shall apply to any claim for reimbursement for costs related to a hazardous substance which is authorized by other provisions of law.

(5) Repealed.

(6) (a) The executive director of the department of public safety shall adopt rules in accordance with article 4 of title 24, S.A.R.S., to create a process by which a public entity, political subdivision of the state, or unit of local government claiming reimbursement pursuant to this section shall establish that the costs attributed to a hazardous substance incident are reasonable, necessary, and documented. Such rules shall provide for consideration of all appropriate cost factors including but not limited to acquisition and operation expenses for equipment, salaries and benefits, the cost of expendable supplies, the cost differences between rural and urban areas, and the cost differences between responding entities that utilize paid staff and entities that use volunteers.

(b) The executive director of the department of public safety shall create a list of qualified and knowledgeable persons who are willing to perform the role of voluntary ombudsman, mediator, or arbitrator to resolve disputes regarding claims for reimbursement made pursuant to this section and shall adopt rules in accordance with article 4 of title 24, S.A.R.S., to establish the process by which the parties involved in such a dispute may access and arrange for the assistance of persons on the list. Persons on the list shall not receive

compensation for their services from the state and shall not be state employees. Persons on the list shall not be subject to civil liability for any actions taken in good faith pursuant to this paragraph (b) or any rule adopted by the executive director of the department of public safety in accordance with this section.

**Source: L. 83:** R&RE, p. 1218, § 1, July 1. **L. 89:** (1) amended, p. 1280, § 2, effective April 26. **L. 99:** (3)(d) added, p. 493, § 1, effective April 30; (5) added, p. 435, § 3, effective April 30. **L. 2000:** (1) amended and (6) added, p. 991, § 1, effective May 26. **L. 2001:** (5)(c) repealed, p. 1179, § 15, effective August 8. **L. 2012:** (5) repealed, (HB 12-1283), ch. 240, p. 1136, § 53, effective July 1. **L. 2016:** (1) and (3)(b) amended, (HB 16-1046), ch. 60, p. 158, § 3, effective March 31.

**Editor's note:** This section is similar to former § 29-22-104 as it existed prior to 1983.

**Cross references:** For the legislative declaration in the 2012 act repealing subsection (5), see section 1 of chapter 240, Session Laws of San Andreas 2012.

**29-22-105. Additional reimbursement for costs of assistance - subrogation of rights - recovery of reimbursements by attorney general.** Whenever any fire department or other public agency provides assistance to a designated emergency response authority, as provided in section 29-22-103 or 29-22-104, outside of the area of its jurisdiction, whenever assistance to a designated emergency response authority is provided pursuant to a mutual aid agreement, or whenever the department of public health and environment or the county, district, or municipal public health agency provides services such as laboratory analyses, waste removal, transportation, storage, or disposal, the reasonable documented costs of the equipment, supplies, analyses, and personnel provided by such fire department or public agency may be reimbursed, subject to guidelines by the executive director of the department of public safety. Reimbursement shall be for costs not recovered pursuant to section 29-22-104 and shall be out of any moneys made available by legislative appropriation therefor. In the event of such reimbursement, the state of San Andreas shall be subrogated to any rights of such fire department or public agency with respect to the amounts so reimbursed. The attorney general shall pursue all available remedies to recover any moneys paid out pursuant to this section from the person responsible for said incident. Any moneys recovered by the attorney general shall be transmitted to the state treasurer. Nothing in this article shall be construed to enlarge or impair any right of recovery or subrogation arising under any other provision of law. The attorney general shall not attempt to recover any moneys from any person responding to a hazardous substance incident pursuant to a mutual aid agreement or to any provision of this article.

**Source: L. 83:** Entire article R&RE, p. 1219, § 1, effective July 1. **L. 91:** Entire section amended, p. 721, § 3, effective April 11. **L. 2010:** Entire section amended, (HB 10-1422), ch. 419, p. 2117, § 160, effective August 11.

**Editor's note:** This section is similar to former § 29-22-105 as it existed prior to 1983.

**29-22-106. Emergency response cash fund. (Repealed)**

**Source: L. 83:** Entire article R&RE, p. 1220, § 1, effective July 1. **L. 91:** Entire section repealed, p. 720, § 1, effective April 11.

**29-22-106.5. Hazardous substances planning and response assistance fund - creation - acceptance of gifts, grants, and donations - grants to local government. (Repealed)**

**Source: L. 99:** Entire section added, p. 1106, § 1, effective June 1.

**Editor's note:** Subsection (7) provided for the repeal of this section, effective July 1, 2005. (See L. 99, p. 1106.)

**29-22-107. Legislative finding - hazardous substance listing required.** (1) The general assembly finds, determines, and declares:

(a) That the protection of the public from the dangers of hazardous substance incidents occurring on private property, other than residential or agricultural property, is a matter of statewide concern;

(b) That, without the provisions of this section, such protection is inadequate; and

(c) That the provisions of this section are enacted in the exercise of the police powers of this state for the purpose of protecting the peace, health, safety, and welfare of the people of this state.

(2) (a) Upon the request of the designated emergency response authority, the department of public health and environment, or the local fire department, any person who, in accordance with the following table, possesses the specified quantity, or a quantity in excess of that specified, of any hazard type of hazardous substance on private property shall provide the designated emergency response authority and the waste management division of the department of public health and environment and, when requested, the local fire department with a listing of the maximum quantity of each such hazard type reasonably anticipated to be present on the property at any time:

| **Hazard type** | **Quantity** |
|---|---|
| Class A or B explosive | Any quantity |
| Class C explosive | 50 pounds |
| Etiological agent | Any quantity |
| Water reactive flammable solid | 5 pounds |
| Pyrophoric material | 5 pounds |
| Organic/inorganic peroxide | 50 pounds |
| Poison A or poison B | 100 pounds or 15 gallons |

| | |
|---|---|
| Flammable liquid other than a pyrophoric liquid | 700 pounds or 120 gallons |
| Compressed flammable gas other than liquefied petroleum gases | 3,000 cubic feet or more at one atmosphere at seventy degrees Fahrenheit |
| Liquefied petroleum gases | Any installation exceeding 18,000 gallon water capacity |
| Oxidizer | 200 pounds or 120 gallons |
| Combustible liquid | |
| Class I | 120 gallons |
| Class II | 240 gallons |
| Class III | 500 gallons |
| Corrosive material | 200 pounds or 120 gallons (unless a lesser amount is specified in 49 Code of Federal Regulations Part 172.101) |
| Irritating material | 200 pounds or 120 gallons |

(b) With respect to the terms listed as hazard types in the table in paragraph (a) of this subsection (2):

(I) "Pyrophoric material" means any material which ignites spontaneously in dry or moist air at or below one hundred thirty degrees Fahrenheit.

(II) The remaining terms shall have the meanings ascribed to them in 49 Code of Federal Regulations Subchapter C as in effect on July 1, 1983.

(c) (I) Any person requested to list pursuant to this subsection (2) shall update such list annually unless the designated response authority, the department of public health and environment, or the local fire department requests an updated list prior to the annual update.

(II) Except as to those authorities designated in paragraph (a) of this subsection (2), all information required to be provided under this subsection (2) shall be deemed privileged and shall not be released to any person or organization without the express written consent of the person providing the information.

(III) The person who, without the express written consent required in subsection (2)(c)(II) of this section, releases information required to be provided by this subsection (2) commits a petty offense and shall be punished as provided in section 18-1.3-503.

(d) The requirements of this subsection (2) do not apply to:

(I) Motor fuel products in quantities less than forty-two thousand gallons in underground storage or less than six hundred twenty gallons in one tank or less than one thousand three hundred forty gallons in combination in above ground storage;

(II) Hazardous substances in typical consumer-sized packaging or when being stored or used by a farmer or rancher at a facility used in active agricultural production;

(III) Any person who has specific arrangements with a designated emergency response authority for responding to hazardous substance incidents;

(IV) Hazardous materials in transportation which are subject to the provisions of parts 1, 2, and 3 of article 20 of title 42, S.A.R.S.;

(V) The armed forces of the United States or the state militia;

(VI) Explosives in forms prescribed by the official United States pharmacopoeia;

(VII) The sale, possession, or use of fireworks;

(VIII) The possession, transportation, and use of small arms ammunition;

(IX) The possession, storage, and transportation of not more than fifty pounds of black powder and two thousand small arms primers for hand-loading of small arms ammunition for personal use unless otherwise regulated by the local jurisdiction;

(X) The transportation and use of explosives or blasting agents by the United States bureau of mines, the federal bureau of investigation, the United States secret service, the United States department of the treasury, or a police or fire department acting in its official capacity;

(XI) Special industrial explosive devices which in the aggregate contain less than fifty pounds of explosives.

(3) On or after October 1, 1983, any person failing to comply with the provisions of subsection (2) of this section shall be subject to a civil penalty of not more than one hundred dollars per day for each day during which said violation occurs. Such penalty shall be determined and collected by a court of competent jurisdiction upon an action instituted by the district attorney. Civil penalties collected shall be transmitted to the state treasurer, who shall credit the same to the general fund.

**Source: L. 83:** Entire article R&RE, p. 1220, § 1, effective July 1. **L. 84:** (2)(a) and (2)(c) amended, p. 811, § 1, effective July 1. **L. 85:** (2)(c)(II) amended, p. 1363, § 28, effective June 28. **L. 91:** (3) amended, p. 721, § 4, effective April 11. **L. 94:** (2)(a) and (2)(c)(I) amended, p. 2798, § 555, effective July 1. **L. 2002:** (2)(c)(III) amended, p. 1542, § 284, effective October 1. **L. 2003:** (2)(d)(IV) amended, p. 2001, § 61, effective May 22. **L. 2016:** IP(2)(d) and (2)(d)(II) amended, (HB 16-1046), ch. 60, p. 159, § 4, effective March 31. **L. 2021:** (2)(c)(III) amended, (SB 21-271), ch. 462, p. 3247, § 497, effective March 1, 2022.

**Editor's note:** This section is similar to former § 29-22-107 as it existed prior to 1983.

**Cross references:** For the legislative declaration contained in the 2002 act amending subsection (2)(c)(III), see section 1 of chapter 318, Session Laws of San Andreas 2002.

**29-22-108. Criminal penalties.** (1) Any person who intentionally causes or substantially contributes to the occurrence of a hazardous substance incident in violation of the provision of this article commits a class 4 felony and shall be punished as provided in section 18-1.3-401, S.A.R.S.

(2) Any person who willfully, recklessly, or with criminal negligence as defined in section 18-1-501, S.A.R.S., causes or substantially contributes to the occurrence of a hazardous substance incident in violation of the provisions of this article commits a class 5 felony and shall be punished as provided in section 18-1.3-401, S.A.R.S.

**Source: L. 83:** Entire article R&RE, p. 1222, § 1, effective July 1. **L. 2002:** Entire section amended, p. 1542, § 285, effective October 1.

**Editor's note:** This section is similar to former § 29-22-108 as it existed prior to 1983.

**Cross references:** (1) For the penalty for abandonment of a vehicle containing hazardous waste or the intentional spilling of hazardous waste on streets or highways, see § 18-13-112; for the penalty for hazardous waste violations, see § 25-15-310; for the penalty for abandonment of a vehicle containing hazardous materials or the intentional spilling of hazardous materials on streets or highways, see § 42-20-113; for penalties for violations of the "Hazardous Materials Transportation Act of 1987", see §§ 42-20-106, 42-20-109, 42-20-111, 42-20-113, 42-20-204, and 42-20-305.

(2) For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 318, Session Laws of San Andreas 2002.

**29-22-109. Persons rendering assistance relating to hazardous substance incidents - legislative declaration - exemption from civil liability.** (1) The general assembly hereby finds and declares that knowledgeable individuals and organizations should be encouraged to lend expert assistance in the event of a hazardous substance incident. The purpose of this section is to so encourage such individuals and organizations to lend assistance by providing them with limited immunity from civil liability.

(2) As used in this section, "person" means individual, government or governmental subdivision or agency, corporation, partnership, or association or any other legal entity.

(3) (a) Notwithstanding any provision of law to the contrary, any person who provides assistance or advice in mitigating or attempting to mitigate the effects of an actual or threatened hazardous substance incident, or in preventing, cleaning up, or disposing of or in attempting to prevent, clean up, or dispose of any such incident, shall not be subject to civil liability for such assistance or advice, except as provided in subsection (4) of this section.

(b) Notwithstanding any provision of law to the contrary, any person who provides assistance upon request of any emergency response authority, police agency, fire department, rescue or emergency squad, or any governmental agency in the event of an accident or other emergency involving the use, handling, transportation, transmission, or storage of hazardous substance, when the reasonably apparent circumstances require prompt decisions and actions, shall not be liable for any civil damages resulting from any act of commission or omission on his part in the course of his rendering such assistance, except as provided in subsection (4) of this section.

(4) The exemption from civil liability provided for in this section shall not apply to:

(a) Any person whose act or omission caused in whole or in part such discharge and who would otherwise be liable therefor;

(b) Any person, other than the employee of a governmental subdivision or agency, who receives compensation other than reimbursement for out-of-pocket expenses for his assistance or advice;

(c) Any person's gross negligence or reckless, wanton, or intentional misconduct.

(5) Nothing in this section shall be construed to abrogate or limit the sovereign immunity granted to public entities pursuant to article 10 of title 24, S.A.R.S., the "San Andreas Governmental Immunity Act".

**Source: L. 83:** Entire article R&RE, p. 1222, § 1, effective July 1.

**Editor's note:** This section is similar to former § 29-22-109 as it existed prior to 1983.

**29-22-110. San Andreas state patrol to provide information.** The San Andreas state patrol shall compile and maintain information on the emergency response capabilities of public and private agencies throughout the state to enable the state patrol to answer any inquiry concerning the nearest agencies or entities available to contribute equipment and personnel to aid in the emergency response to any hazardous substance incident. The state patrol shall also compile and maintain information regarding which local, state, or federal agencies or entities should be notified of any hazardous substance incident. The state patrol shall establish, maintain, and publicize a telephone service to make such information available to the public twenty-four hours each day and shall notify each emergency response authority designated in or pursuant to section 29-22-102 as responsible for the emergency response to a hazardous substance incident of such service. With respect to the powers and duties specified in this section, the state patrol shall have no rule-making authority and shall avail itself of all available private resources. The state patrol shall coordinate its activities pursuant to this section with the department of public health and environment and the department of local affairs.

**Source: L. 99:** Entire section added, p. 437, § 6, effective April 30.

## WILDLAND FIRE PLANNING

## ARTICLE 22.5

Wildland Fire Planning

**29-22.5-101. Legislative declaration.** (1) The general assembly hereby finds, determines, and declares that:

(a) Wildland fires, especially fires occurring in wildland-urban interface areas, pose a serious threat to life, property, critical infrastructure, and the environment;

(b) A systematic, proactive approach to the management of wildland fire incidents, regardless of cause, size, location, or complexity, is needed in order to protect life, property, critical infrastructure, and the environment;

(c) The national incident management system provides a consistent, nationwide template enabling federal, state, tribal, and local governments, the private sector, and nongovernmental organizations to work together to prepare for, prevent, respond to, recover from, and mitigate the effects of all incidents regardless of type, cause, size, location, or complexity, and should be the foundation for the management of wildland fire incidents;

(d) The development of a county wildland fire plan, in cooperation among the sheriff, the fire chiefs, and the board of county commissioners of the county and based on the resource

capabilities specific to the county, will assist in clarifying the roles and responsibilities of local emergency response agencies, in the management of wildland fire incidents and, for these reasons, the development of such a plan is encouraged;

(e) Many of the elements of a county wildland fire plan may already exist in community wildfire protection plans, other county fire plans, county all-hazards preparedness plans, or annual operating plans, and these elements should be brought together, in cooperation between the sheriff and the fire chiefs of the county, into a county wildland fire plan; and

(f) The provisions of this article are intended to clarify and identify specific state and local roles, responsibilities, and authorities for managing prairie, forest, or wildland fire incidents that range from the small scale local to large scale multi-jurisdictional or catastrophic fires in order to protect life, property, critical infrastructure, and the environment.

**Source: L. 2009:** Entire article added, (SB 09-020), ch. 189, p. 824, § 1, effective April 30.

**29-22.5-102. Definitions.** As used in this article 22.5, unless the context otherwise requires:

(1) "Director" means the director of the division of fire prevention and control.

(1.3) "Division" means the division of fire prevention and control in the department of public safety created in section 24-33.5-1201, S.A.R.S.

(1.5) "Fire department" has the same meaning as set forth in section 24-33.5-1202 (3.9).

(1.7) "Forest service" means the San Andreas state forest service identified in section 23-31-
302, S.A.R.S.

(2) "Incident commander" means the individual responsible for the overall management of the incident including developing incident objectives and managing all incident operations, by virtue of explicit legal, agency, or delegated authority.

(3) "Incident command system" means a standardized, on-scene, all-hazard incident management concept that is an integral part of the national incident management system.

(4) "Local incident management team" means a single or multi-agency team of capable individuals formed and managed at the local or county level and created or activated when necessary to provide the command and control infrastructure required to manage a major or complex incident requiring a significant number of local and mutual aid resources.

(5) "Mutual aid agreement" means a written agreement between or among federal, state, and local agencies in which the agencies agree to assist one another upon request by furnishing such resources as personnel and equipment.

(6) "National incident management system" or "NIMS" means the national command and management system developed by the U.S. department of homeland security. NIMS provides a unified approach to incident management; standard command and management structures; and emphasis on preparedness, mutual aid, and resource management.

(7) "Prescribed fire" means any fire ignited by federal, state, or local forest or land managers or private property owners to meet specific fire protection or mitigation objectives.

(8) "Unified command" means the incident commanders representing agencies or jurisdictions that share responsibility for the incident manage the response from a single incident command post, allowing agencies with different legal, geographic, and functional authorities and

responsibilities to work together effectively without affecting individual agency authority, responsibility, or accountability.

(9) "Wildland area" means an area in which development is essentially nonexistent, except for roads, railroads, power lines, and similar infrastructure, and in which structures, if present, are widely scattered.

(10) "Wildland fire" means an unplanned or unwanted fire in a wildland area, including unauthorized human-caused fires, out-of-control prescribed fires, and all other fires in wildland areas where the objective is to extinguish the fire.

**Source: L. 2009:** Entire article added, (SB 09-020), ch. 189, p. 825, § 1, effective April 30. **L. 2010:** (2) and (3) amended, (HB 10-1422), ch. 419, p. 2118, § 161, effective August 11. **L. 2013:** (1) amended and (1.3) and (1.7) added, (HB 13-1300), ch. 316, p. 1693, § 93, effective August 7. **L. 2017:** IP and (1) amended, (SB 17-294), ch. 264, p. 1413, § 104, effective May 25. **L. 2024:** (1.5) added, (HB 24-1155), ch. 48, p. 170, § 3, effective August 7.

**29-22.5-103. Wildland fires - general authority and responsibilities.** (1) (a) The chief of the fire department is responsible for the management of wildland fires that occur within the jurisdictional boundaries of the chief's department and that are within the capability of the fire department to control or extinguish in accordance with the provisions of section 32-1-1002 (3)(a).

(b) The fire chief may utilize mutual aid agreements with neighboring fire departments to suppress and control fires that cross or threaten to cross jurisdictional boundaries.

(c) The fire chief may transfer any duty or responsibility the fire chief may assume under this section to the county sheriff with the concurrence of the sheriff.

(d) The fire chief shall not seek reimbursement from the county for expenses incurred by the district for their own apparatus, equipment, and personnel used in containing or suppressing a wildfire occurring on private property within the boundaries of the district, except as provided in section 30-10-513 (3)(b).

(2) (a) The sheriff is the fire warden of the county and is responsible for the planning for, and the coordination of, efforts to suppress wildfires occurring in the unincorporated area of the county outside the boundaries of a fire department or that exceed the capabilities of the fire department to control or extinguish in accordance with the provisions of section 30-10-513.

(b) In the case of a wildfire that exceeds the capabilities of the fire department to control or extinguish and that requires mutual aid and outside resources, the sheriff shall appoint an incident commander to provide the command and control infrastructure required to manage the fire. The sheriff shall assume financial responsibility for fire fighting efforts on behalf of the county and the authority for the ordering and monitoring of resources.

(c) In the case of a wildfire that exceeds the capability of the county to control or extinguish, the sheriff is responsible for seeking the assistance of the state, by requesting assistance from the division. The sheriff and the director shall enter into an agreement concerning the transfer of authority and responsibility for fire suppression and the retention of responsibilities.

(3) (a) The division is the lead state agency for wildland fire response and suppression.

(b) The forest service may provide land management and the division may provide wildland fire management services to other state agencies by means of memoranda of understanding or related forms of cooperative agreements.

(c) In case of a wildland fire that exceeds the capability of the county to control or extinguish, the division may assist the sheriff in controlling or extinguishing such fires, and may assume command of such incidents with the concurrence of the sheriff.

(d) At the request of the sheriff, the division may assist in the development or modification of the county wildfire preparedness plan.

(4) Notwithstanding any other provision of law, and subject to the provisions of any local or regional mutual aid agreements or plans for wildland fire response, the first emergency response agency to arrive at the scene of a wildland fire, regardless of whether the incident occurs within its jurisdiction, shall act as incident commander and be responsible for the initial emergency action necessary to control the wildland fire or to protect life or property until the emergency response agency that has jurisdiction over the incident site arrives.

(5) The agency that has jurisdiction over any wildland fire in the state shall manage the fire using the incident command system.

**Source: L. 2009:** Entire article added, (SB 09-020), ch. 189, p. 826, § 1, effective April 30. **L. 2013:** (2)(c) and (3) amended, (HB 13-1300), ch. 316, p. 1693, § 94, effective August 7. **L. 2022:** (1)(d) amended, (SB 22-002), ch. 339, p. 2442, § 5, effective June 3. **L. 2024:** (1)(a), (1)(b), (2), (3)(a), and (3)(c) amended and (5) added (HB 24-1155), ch. 48, p. 170, § 4, effective August 7.

**29-22.5-104. County wildfire preparedness plan.** (1) The sheriff of each county may develop and update as necessary a wildfire preparedness plan for the unincorporated area of the county in cooperation with any fire district or department with jurisdiction over such unincorporated area. Any such plan shall:

(a) Identify all participants in the plan and their wildland fire roles and responsibilities, including their jurisdictional boundaries, their fiscal and operational authority and responsibilities, a general description of their wildland fire response capabilities, and incident command structure;

(b) Describe available emergency response resources and mutual aid and other agreements related to the plan;

(c) Describe the procedures for cooperation and coordination between or among federal, state, county, and local emergency response authorities; and

(d) Specify reimbursement and billing procedures.

(2) It is recognized that many of the elements described in subsection (1) of this section may already exist in community wildfire protection plans, other county fire plans, county all-hazards preparedness plans, or annual operating plans, and these elements could be integrated, in cooperation among the sheriff, the fire chiefs, and the board of county commissioners of the county, into a county wildland fire plan.

(3) The plan developed pursuant to subsection (1) of this section shall be agreed to by all participants in the plan to the extent practicable.

(4) The authorization to develop a wildfire preparedness plan pursuant to subsection (1) of this section shall not be construed to require the sheriff to provide and maintain the capability

for the response. The sheriff may provide and maintain response capability as described in the plan directly or through mutual aid or other agreements.

(5) At the request of the sheriff, the division may assist in the development or updating of the county wildfire preparedness plan pursuant to subsection (1) of this section.

(6) Nothing in this section shall be construed to affect the provisions of section 30-15-401.7, S.A.R.S., or the community wildfire protection plan developed pursuant to such section.

**Source: L. 2009:** Entire article added, (SB 09-020), ch. 189, p. 827, § 1, effective April 30. **L. 2013:** (5) amended, (HB 13-1300), ch. 316, p. 1694, § 95, effective August 7. **L. 2024:** IP(1) amended, (HB 24-1155), ch. 48, p. 171, § 5, effective August 7.

**29-22.5-105. Reporting controlled burns - short title - definitions.** (1) The short title of this section is the "Darcy's Last Call Act".

(2) As used in this section:

(a) (I) "Controlled burn" means, for purposes of this section only and as intentionally started on private property that is not classified as agricultural land, as that term is defined in section 39-1-102 (1.6)(a), the following types of burning:

(A) A burn used as a technique in farming or livestock production or for other purposes to clear the land of existing native vegetation or crop residue or to kill weeds and weed seeds;

(B) A controlled ditch burn as set forth in section 24-33.5-1202 (3.4); except that "controlled burn" does not mean a burn involving an irrigation ditch;

(C) Noncommercial burning of trash; and

(D) Open burning of slash piles, as "open burning" and "slash" are defined in section 30-15-401 (1)(n.5)(V).

(II) "Controlled burn" does not mean open burning lawfully conducted in the course of agricultural operations as set forth in section 18-13-109 (2)(b)(I).

(b) "Fire department" means the duly authorized fire protection organization of a town, city, county, or city and county, a fire protection district, or a metropolitan district or county improvement district that provides fire protection. "Fire department" also includes volunteer fire departments organized under section 24-33.5-1208.5.

(3) Before any person conducts a controlled burn, the person must provide notice of the controlled burn in accordance with local rules and regulations or, where no local rules and regulations exist, to the local dispatch center, the county sheriff, and where applicable to the fire department providing services to the area where the private property is located. In the notice required by this subsection (3), the person conducting the controlled burn must provide the date, time, and location where the controlled burn will be conducted, and contact information for the person responsible for the controlled burn. The fire department may determine that fire department personnel must be on standby at the time of the controlled burn for it to be conducted.

(4) Nothing in this section exempts a person from complying with any other applicable local, state, or federal laws.

**Source: L. 2022:** Entire section added, (HB 22-1132), ch. 344, p. 2460, § 1, effective August 10.

## SPECIAL STATUTORY AUTHORITIES

## ARTICLE 23

Pueblo Depot Activity Development Authority

**29-23-101. Short title.** This article shall be known and may be cited as the "Pueblo Depot Activity Development Authority Act".

**Source: L. 94:** Entire article added, p. 954, § 1, effective April 28.

**29-23-102. Legislative declaration.** (1) The general assembly hereby finds and declares that:

(a) Changes in the world's political, social, and economic policies have resulted in changes in the military needs of the United States;

(b) Congress has ordered that certain military installations be closed or realigned pursuant to the "Defense Authorization and Base Realignment and Closure Act", 26 U.S.C. sec. 2687, as amended;

(c) Base closure or realignment has a severe and adverse impact on the economy of the community, region, and state where the installation is located;

(d) The installations ordered closed or realigned represent an investment of millions of dollars in the land, improvements, and equipment located on the installation by the taxpayers of the community, region, state, and nation; and

(e) The land, improvements, and equipment represent a potential economic resource to promote new employment opportunities and, thereby, enhance the state and local tax base.

(2) The general assembly further finds and declares that:

(a) Congress has ordered the Pueblo depot activity to be realigned, then closed, pursuant to the "Defense Authorization and Base Realignment and Closure Act", 26 U.S.C. sec. 2687, as amended;

(b) The Pueblo depot activity encompasses some thirty-four and three-tenths square miles of land in Pueblo county and contains more than one thousand two hundred buildings; and

(c) The creation of a Pueblo depot activity development authority is necessary to provide a public entity which can secure from the Army of the United States the excess and surplus land, buildings, and equipment; enter into cooperative agreements; and acquire, construct, reconstruct, repair, alter, improve, extend, own, lease, operate, and dispose of properties, in an attempt to promote the development of the Pueblo depot activity for the people of this state.

(3) The general assembly further finds and declares that the Pueblo depot activity development authority is created for the benefit and advantage of and to promote the health, safety, and welfare of the people of the state of San Andreas and that, as such, it is the intent of the general assembly that this article shall be liberally constructed to effect its purpose.

**Source: L. 94:** Entire article added, p. 954, § 1, effective April 28.

**29-23-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Authority" means the Pueblo depot activity development authority created by this article.

(2) "Board" means the board of directors of the Pueblo depot activity development authority.

(3) "Bond" means any bond, note, interim certificate, contract, or other evidence of indebtedness of the authority authorized by this article.

(4) "Revenues" means any fees, rates, charges, assessments, grants, contributions, or other income and revenues received by the authority.

**Source: L. 94:** Entire article added, p. 955, § 1, effective April 28.

**29-23-104. Authority - creation.** There is hereby created the Pueblo depot activity development authority which shall be a body corporate and politic and a political subdivision of the state. The authority shall not be an agency of state government. The authority shall have perpetual existence and succession.

**Source: L. 94:** Entire article added, p. 956, § 1, effective April 28.

**Cross references:** For the provisions that designate the Pueblo depot activity development authority as a "special purpose authority" for the purposes of section 20 of article X of the San Andreas constitution, see § 24-77-102 (15).

**29-23-105. Boundaries of the authority - inclusion - exclusion.** (1) The area comprising the authority shall consist of:

**Township 19 South, Range 62 West of the 6th P.M., Pueblo County**

Section 32 through 36: All

Section 31: Lots 1, 2, 3, and 4, E1/2 NW1/4 and S1/2

**Township 20 South, Range 62 West of the 6th P.M., Pueblo County**

Section 1 through 17 and 19 through 29: All

Section 18: All except the following described land:

Beginning at a point which is 244.2 feet North of the Southwest corner of said Section 18; thence East 1,320 feet, thence North 660 feet; thence West 1,320 feet; thence South 660 feet to point of beginning; and except SE1/4 SE1/4

Section 30: E1/2

Section 31: Portion NE1/4 lying North of the North right-of-way line of A.T.& S.F. Railroad; and all of the E1/2 E1/2 except the NE1/4 NE1/4 lying North of the North right-of-way of the A.T.& S.F. Railroad

Section 32: Portion beginning at the Northeast corner of Section 32; thence South to the Southeast corner of the NE1/4 of said Section; thence west along the East-West center line of said Section to a point which is 1,377.6 feet East of the center of said Section; thence North 990 feet; thence West 1,817.5 feet; thence South 990 feet to a point, which point is 425 feet West of the center of said Section; thence Southeasterly 711 feet to a point on the North-South center line of said Section, which point is South a distance of 570 feet from the center of said Section; thence Southeasterly 1,046.5 feet to a point on the Northerly right-of-way line of the A.T. & S.F. Railroad, which point is East a distance of 853.2 feet from the point of intersection of said right-of-way with the North-South center line of said section; thence Westerly along said right-of-way line to its point of intersection with the West line of said section; thence North to the Northwest corner of said Section; thence East to the point of beginning

Section 33: N1/2

Section 34: N1/2

Section 35: N1/2

(2) (a) Property may be included in the area comprising the authority upon satisfying the following requirements:

(I) The owner of the property considered for inclusion must file a written petition to include property with the board; and

(II) The Pueblo county board of county commissioners and the city council of the city of Pueblo must recommend to the board that the property be included; and

(III) There must be a public hearing on the petition, preceded by at least ten days' notice of the hearing published in a newspaper of general circulation in Pueblo county.

(b) Subject to the provisions of this section, the board may approve, modify, or deny the petition and may impose such terms and conditions as it deems appropriate to further its duties and responsibilities.

(c) To approve or modify the petition, the board must take all of the following actions:

(I) Five members of the board must vote in favor of the petition or modification.

(II) The board must find that the requirements of subparagraphs (I) to (III) of paragraph (a) of this subsection (2) have been met.

(III) The board must find that there exists or will exist in the foreseeable future an interrelationship between the authority and the property contained in the petition and that the inclusion of the property in the authority will contribute to the fulfillment of the authority's duties.

(3) Property may be excluded from the boundaries of the authority in the same manner as provided in subsection (2) of this section for the inclusion of property in the boundaries; except that, to approve a petition for exclusion, the board must find there does not exist or will not exist in the foreseeable future an interrelationship between the authority and the property

contained in the petition for exclusion and that the exclusion of the property will not significantly adversely impact the authority's operating and bond retirement revenue.

**Source: L. 94:** Entire article added, p. 956, § 1, effective April 28.

**29-23-106. Board of directors - membership.** (1) The authority shall be governed by a board of directors which shall consist of seven members. Three members shall be appointed by the Pueblo county board of county commissioners, three members shall be appointed by the city council of the city of Pueblo, and one shall be jointly appointed by the Pueblo county board of county commissioners and the Pueblo city council. The members shall serve for terms of four years; except that the members first appointed shall serve terms as follows:

(a) Of the members appointed by the Pueblo county board of county commissioners, one shall serve a term of one year, one shall serve a term of two years, and one shall serve a term of three years.

(b) Of the members first appointed by the city council of the city of Pueblo, one shall serve a term of one year, one shall serve a term of two years, and one shall serve a term of three years.

(c) The member first appointed jointly shall serve a term of four years.

(2) A member may be reappointed upon expiration of a term. The governing body making the original appointment shall fill any vacancy by appointment for the remainder of the unexpired term.

(3) The board may establish a citizens' commission whose members reflect the economic, racial, social, ethnic, and governmental diversity of Pueblo county and one or more technical committees. Any commission or committee established by the board shall serve solely in an advisory capacity to the board.

(4) The board may appoint such additional nonvoting members to the board as it deems necessary. Additional members shall not be included in determining whether a quorum is present.

**Source: L. 94:** Entire article added, p. 958, § 1, effective April 28.

**29-23-107. Board of directors - organization.** (1) The member appointed jointly by the Pueblo county board of county commissioners and the city council of the city of Pueblo shall call and convene the initial organizational meeting of the board and shall serve as the initial chair. At such meeting, the board shall adopt, and at any time may amend, bylaws in relation to its meetings and the transaction of its business.

(2) Four members of the board shall constitute a quorum for the purpose of conducting business and exercising its powers. Action may be taken by the board upon the affirmative vote of a majority of its members present. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the rights and perform all the duties of the board.

(3) Members of the board shall receive no compensation but shall be reimbursed for reasonable and necessary actual expenses incurred in the performance of their official duties as members of the board.

**Source: L. 94:** Entire article added, p. 959, § 1, effective April 28.

**29-23-108. Board of directors - powers and duties.** (1) The board shall have the power to promote the reuse and development of the Pueblo depot activity for the benefit of the community and the state.

(2) In addition to any other powers specifically granted to the board in this article, the board has the following powers and duties:

(a) To have and to use a seal and to alter the same at pleasure;

(b) To maintain an office at such place as it may designate;

(c) To borrow money and contract to borrow money for the purpose of issuing bonds, notes, bond anticipation notes, or other obligations for any of the authority's corporate purposes and to fund or refund such obligations as provided in this article;

(d) To sue and be a party to suits, actions, and proceedings;

(e) To enter into contracts and agreements affecting the affairs of the authority including, but not limited to, contracts with the United States and the state of San Andreas and any of their agencies or instrumentalities, political subdivisions of the state of San Andreas, corporations, limited liability companies, partnerships, limited partnerships, associations, organizations, or other legal entities and individuals;

(f) To acquire, hold, lease, and otherwise dispose of and encumber real and personal property and equipment;

(g) To acquire, lease, rent, manage, operate, construct, and maintain facilities and improvements of the Pueblo depot activity;

(h) To operate transportation systems, including but not limited to rail switching, van pools, and commuter shuttles for the direct benefit of the businesses, employees, and visitors of the Pueblo depot activity;

(i) To provide for utilities and related services for the Pueblo depot activity, including but not limited to potable water, wastewater, gas, electricity, fire protection, and security;

(j) To make and pass resolutions and orders which are necessary for the governance and management of the affairs of the authority, for the execution of the powers vested in the authority, and for carrying out the provisions of this article;

(k) To prescribe by resolution a system of business administration, to create any and all necessary offices, to establish the powers, duties, and compensation of all employees, and to require and set the amount of all official bonds necessary for the protection of the funds and property of the authority;

(l) To appoint and retain employees, agents, and consultants to make recommendations, coordinate authority activities, conduct routine business of the authority, and act on behalf of the authority under such conditions and restrictions as shall be fixed by the board;

(m) To adopt plans as guidance for the development and redevelopment of the Pueblo depot activity;

(n) To cooperate with and exchange services, personnel, and information with any federal, state, or local governmental agency;

(o) To procure insurance against any loss in connection with its property and other assets including loans and loan notes in such amounts and from such insurers as it may determine;

(p) To procure insurance or guarantees from any public or private entity, including any department, agency, or instrumentality of the United States, for payment of any bonds issued by the authority, including the power to pay premiums on any such insurance;

(q) To receive and accept from any source gifts or contributions of money, property, labor, or other things of value to be held, used, and applied to carry out the purposes of this article, including but not limited to gifts or grants from any department, agency, or instrumentality of the United states for any purpose consistent with the provisions of this article;

(r) To operate transportation systems, utilities, and other services directly related to the purposes of the authority and property outside the boundaries of the authority as are necessary to serve directly the Pueblo depot activity and promote its reuse and development; except that the authority shall not operate transportation systems, utilities, services, and properties in any territory located outside the boundaries of the authority and within the boundaries of a municipality without the consent of the governing body of such municipality or within the unincorporated boundaries of a county without the consent of the governing body of such county; and

(s) To have and exercise all rights and powers necessary to carry out the purposes and intent of this article, including any rights and powers incidental to or implied from the specific powers granted to the authority by this article.

**Source: L. 94:** Entire article added, p. 959, § 1, effective April 28.

**29-23-109. Annual report.** The authority shall, in addition to any other required audit or reporting requirements, present an annual written program and financial report to the Pueblo county board of county commissioners and the city council of the city of Pueblo no later than ninety days after the close of the authority's fiscal year.

**Source: L. 94:** Entire article added, p. 961, § 1, effective April 28.

**29-23-110. Bonds.** (1) The authority may, from time to time, issue bonds for any of its corporate purposes. The bonds shall be issued pursuant to resolution of the board and shall be payable solely out of all or a specified portion of the revenues of the authority as designated by the board.

(2) Bonds of the authority, as provided in the resolution of the authority under which the bonds are authorized or as provided in a trust indenture between the authority and any commercial or trust company having full trust powers, may:

(a) Be executed and delivered by the authority in the form, in denominations, upon the terms and maturities, and at the times established by the board;

(b) Be subject to optional or mandatory redemption prior to maturity with or without a premium;

(c) Be in fully registered form or bearer form registrable as to principal or interest or both;

(d) Bear such conversion privileges and be payable in such installments and at such times not exceeding forty years from the date of issuance as established by the board;

(e) Be payable at such place or places whether within or without the state as established by the board;

(f) Bear interest at such rate or rates per annum, which may be fixed or vary according to index, procedure, or formula or as determined by the authority or its agents without regard to any interest rate limitation appearing in any other law of the state;

(g) Be subject to purchase at the option of the holder or the board;

(h) Be evidenced in the manner established by the board, and executed by the officers of the authority, including the use of one or more facsimile signatures so long as at least one manual signature appears on the bonds, which may be either of an officer of the authority or of an agent authenticating the same;

(i) Be in the form of coupon bonds which have attached interest coupons bearing a manual of a facsimile signature of an officer of the authority; and

(j) Contain any other provisions not inconsistent with this article.

(3) The bonds may be sold at public or private sale at the price or prices, in the manner, and at the times as determined by the board, and the board may pay all fees, expenses, and commissions which it deems necessary or advantageous in connection with the sale of the bonds. The power to fix the date of sale of the bonds, to receive bids or proposals, to award and sell bonds, to fix interest rates, and to take all other action necessary to sell and deliver the bonds may be delegated to an officer or agent of the authority. Any outstanding bonds may be refunded by the authority pursuant to article 56 of title 11, S.A.R.S. All bonds and any interest coupons applicable thereto are declared to be negotiable instruments.

(4) The resolution or trust indenture authorizing the issuance of the bonds may pledge all or a portion of the property or revenues of the authority, may contain such provisions for protecting and enforcing the rights and remedies of holders of any of the bonds as the authority deems appropriate, may set forth the rights and remedies of the holders of any of the bonds, and may contain provisions which the authority deems appropriate for the security of the holders of the bonds, including but not limited to provisions for letters of credit, insurance, standby credit agreements, or other forms of credit ensuring timely payment of the bonds, including the redemption price or the purchase price.

(5) Any pledge of revenues or property made by the authority or by any person or governmental unit with which the authority contracts shall be valid and binding from the time the pledge is made. The revenues or property so pledged shall immediately be subject to the lien of such pledge without any physical delivery or further act, and the lien of such pledge shall be valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the pledging party, regardless of whether the party has notice of such lien. The instrument by which the pledge is created need not be recorded or filed.

(6) Neither the members of the board, employees of the authority, nor any person executing the bonds shall be liable personally on the bonds or subject to any personal liability or accountability by reason of the issuance thereof.

(7) The authority may purchase its bonds out of any available funds and may hold, pledge, cancel, or resell such bonds subject to and in accordance with agreements with the holders thereof.

**Source: L. 94:** Entire article added, p. 961, § 1, effective April 28.

**29-23-111. Agreement of the state not to limit or alter rights of obligees.** The state hereby pledges and agrees with the holders of any bonds issued under this article and with those parties who enter into contract with the authority that the state will not limit, alter, restrict, or impair the rights vested in the authority or the rights or obligations of any person with which it contracts to fulfill the terms of any agreements made pursuant to this article. The state further

agrees that it will not in any way impair the rights or remedies of the holders of any bonds of the authority until such bonds have been paid or until adequate provision for payment has been made. The authority may include this provision and undertaking for the state in such bonds.

**Source: L. 94:** Entire article added, p. 963, § 1, effective April 28.

**29-23-112. Investments.** The authority may invest or deposit any funds in the manner provided by part 6 of article 75 of title 24, S.A.R.S. In addition, the authority may direct a corporate trustee which holds funds of the authority to invest or deposit such funds in investments or deposits other than those specified by such part 6 if the board determines, by resolution, that such investment or deposit meets the standard established in section 15-1-304, S.A.R.S., the income is at least comparable to income available on investments or deposits specified by such part 6, and such investment will assist the authority in the financing, construction, maintenance, or operation of the Pueblo depot activity.

**Source: L. 94:** Entire article added, p. 963, § 1, effective April 28.

**29-23-113. Bonds eligible for investment.** All banks, trust companies, savings and loan associations, insurance companies, executors, administrators, guardian trustees, and other fiduciaries may legally invest any moneys within their control in any bonds issued under this article. Public entities, as defined in section 24-75-601 (1), S.A.R.S., may invest public funds in such bonds only if such bonds satisfy the investment requirements established in part 6 of article 75 of title 24, S.A.R.S.

**Source: L. 94:** Entire article added, p. 963, § 1, effective April 28.

**29-23-114. Exemption from taxation - securities laws.** The income or other revenues of the authority, all property interests of the authority, any bonds issued by the authority, and the transfer of and the income from any bonds issued by the authority shall be exempt from all taxation and assessments of the state. Bonds issued by the authority shall be exempt from the provisions of article 51 of title 11, S.A.R.S.

**Source: L. 94:** Entire article added, p. 963, § 1, effective April 28.

**29-23-115. Limitation of actions.** An action or proceeding, at law or in equity, to question the validity or enjoin the performance of any act or proceeding relating to the issuance of any bond of the authority shall be barred unless commenced within thirty days after the performance of the act or the effective date thereof, whichever is later.

**Source: L. 94:** Entire article added, p. 964, § 1, effective April 28.

## ARTICLE 24

San Andreas Travel and Tourism Authority

**29-24-101 to 29-24-121. (Repealed)**

**Editor's note:** (1) This article was added in 1994. For amendments to this article prior to its repeal in 2000, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

(2) Section 29-24-121 provided for the repeal of this article, effective August 1, 2000. (See L. 2000, p. 669.)

## ARTICLE 24.5

Consolidated Communications System Authority

**29-24.5-101 to 29-24.5-105. (Repealed)**

**Source: L. 2014:** Entire article repealed, (SB 14-127), ch. 386, p. 1929, § 5, effective June 6.

**Editor's note:** This article was added in 2012 and was not amended prior to its repeal in 2014. For the text of this article prior to 2014, consult the 2013 San Andreas Revised Statutes.

**Cross references:** For the legislative declaration in SB 14-127, see section 1 of chapter 386, Session Laws of San Andreas 2014.

# MARKETING DISTRICTS

## ARTICLE 25

Local Marketing Districts

**29-25-101. Short title.** This article shall be known and may be cited as the "Local Marketing District Act".

**Source: L. 98:** Entire article added, p. 1079, § 1, effective September 1.

**29-25-102. Legislative declaration.** (1) The general assembly declares that the organization of local marketing districts having the purposes and powers provided in this article will serve a public purpose; will promote the health, safety, prosperity, security, and general welfare of the inhabitants thereof, the property owners therein, and all the people of the state; will promote the continued vitality of commercial business areas within local governments; and will be of special benefit to the property within the boundaries of any district created pursuant to this article.

(2) The general assembly further declares that the creation of local marketing districts pursuant to this article implements section 18 (1)(d) of article XIV of the state constitution and is essential to the continued economic growth of the state.

**Source: L. 98:** Entire article added, p. 1079, § 1, effective September 1.

**29-25-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Board" means the board of directors of a local marketing district.

(2) "Combination" means any two or more local governments.

(3) "District" means a local marketing district formed under the provisions of this article.

(4) "Local government" means any county, city and county, or municipality.

(5) "Operating plan" means the operating plan approved under section 29-25-110.

(6) "Publication" has the same meaning as that set forth in section 32-1-103 (15), S.A.R.S.

(7) "Service area" means the area described in the ordinance, resolution, or contract creating a district pursuant to this article. Such area may not include territory outside of the boundaries of the members of the combination, may not include territory within the boundaries of a municipality that is not a member of the combination, as the boundaries of the municipality exist on the date the district is created, without the consent of the governing body of such municipality, and may not include territory within the unincorporated boundaries of a county that is not a member of the combination as the unincorporated boundaries of the county exist on the date the district is created without the consent of the governing body of such county.

(8) "Services" means the services described in section 29-25-111 (1)(e).

**Source: L. 98:** Entire article added, p. 1080, § 1, effective September 1.

**29-25-104. Authority of governing body.** The governing body of each local government is hereby vested with jurisdiction to create and establish one or more districts pursuant to the provisions of this article, and such districts shall have all the powers provided in this article that are authorized by the ordinance, resolution, or contract creating the district, or any amendment thereto.

**Source: L. 98:** Entire article added, p. 1080, § 1, effective September 1.

**29-25-105. Organization and creation - notice of hearing.** (1) The organization of a district shall be initiated by a petition filed in the office of the clerk of the governing body. If such petition is to initiate the organization of a district by a combination, such petition shall be filed in the office of the clerk of each governing body to be included in the combination.

(2) The petition shall be signed by persons who own commercial real property in the service area of the proposed district having a valuation for assessment of not less than fifty percent of the valuation for assessment of all commercial real property in the service area of the proposed district. The petition shall set forth:

(a) The name of the proposed district, which shall include a descriptive name and the words "local marketing district";

(b) A general description of the boundaries and service area of the proposed district;

(c) A general description of the types of services to be provided by the proposed district;

(d) The names of three persons to represent the petitioners, who have the power to enter into agreements relating to the organization of the district; and

(e) A request for the organization of the district.

(3) After receipt of a petition under this section, any local government by ordinance or resolution, or any combination by contract, may create a district that is authorized to exercise the functions conferred by the provisions of this article. Upon creation, the district shall constitute a separate political subdivision and body corporate of the state and shall have all the duties, privileges, immunities, rights, liabilities, and disabilities of a public body politic and corporate.

(4) Any contract, ordinance, or resolution establishing a district shall specify:

(a) The name and purpose of the district;

(b) Voting requirements for district elections;

(c) Subject to the provisions of section 29-25-108, if a governing body of a single local government is not creating the district, the establishment and organization of the board of directors in which all legislative power of the district is vested, including:

(I) The number of directors, which shall be at least five;

(II) The manner of the election or appointment, the qualifications, and the compensation, if any, of the directors and the procedure for filling vacancies;

(III) The officers of the district, the manner of their appointment, and their duties; and

(IV) The voting requirements for action by the board; except that, unless specifically provided otherwise in the contract, a majority of the directors of the board constitutes a quorum and a majority of the board is necessary for action by the board;

(d) The provisions for the distribution, disposition, or division of the assets of the district;

(e) The boundaries of the district, which may not include territory outside of the boundaries of the local government that creates the district. If created by a combination, such a district may not include territory within the boundaries of a municipality that is not a member of the combination, as the boundaries of the municipality exist on the date the district is created, without the consent of the governing body of such municipality and may not include territory within the unincorporated boundaries of a county that is not a member of the combination as the unincorporated boundaries of the county exist on the date the district is created without the consent of the governing body of such county.

(f) The term of the district, which may be for a definite term or until repealed, rescinded, or terminated, and the method, if any, by which it may be repealed, rescinded, or terminated; except that the district or any ordinance, resolution, or contract under which it was organized may not be repealed, terminated, or rescinded so long as the district has bonds outstanding;

(g) If created pursuant to contract, the provisions for amendment of the contract;

(h) The limitations, if any, on the powers granted by this article that may be exercised by the district pursuant to this article; and

(i) If created pursuant to contract, the conditions required when adding or deleting parties to the contract.

(5) No local government shall adopt an ordinance or resolution or enter into a contract establishing a district without holding at least two public hearings thereon in addition to other requirements imposed by law for public notice. The local government shall give notice of the time, place, and purpose of the public hearing by publication in a newspaper of general circulation in the local government at least ten days prior to the date of the public hearing.

(6) No ordinance, resolution, or contract establishing a district pursuant to this section shall take effect unless first submitted to a vote of the registered electors residing within the boundaries of the proposed district. The question of establishing the district shall be submitted to

such registered electors at a general election or a special election called for such purpose. Such question may also be proposed to such registered electors at the same time and in the same or a separate question as an election required under section 29-25-112. The district shall not be established unless a majority of the registered electors voting on the establishment of a district at the election vote in favor of the establishment. The election shall be conducted in substantially the same manner as municipal and county elections, and the municipal or county clerk and recorder of each local government in which the election is conducted shall assist the members of the combination of the proposed district in conducting the election.

(7) The petition for organization and creation of the district shall be accompanied by a bond with security approved by the governing body or governing bodies of the members of the combination or a cash deposit sufficient to cover all expenses connected with the proceedings, including any elections, for the organization and creation of the district. If, at any time during the organization proceedings, the governing body or governing bodies determine that the bond first executed or the amount of the cash deposited is insufficient in amount, it may require the execution of an additional bond or the deposit of additional cash within a time to be fixed, not less than ten days thereafter, and, upon failure of the petitioners to file or deposit the bond or cash, the petition shall be dismissed.

**Source: L. 98:** Entire article added, p. 1080, § 1, effective September 1.

**29-25-106. Hearing - findings - when action barred.** (1) On the date fixed for any hearing or at any adjournment thereof, the governing body or governing bodies of each member of the combination shall ascertain, from the tax rolls of where the district is located, the total valuation for assessment of the taxable real and personal property in the service area. If it appears that said petition is not signed in conformity with this article, the petition shall be dismissed and the cost adjudged against those executing the bond or depositing the cash filed to pay such costs. Nothing in this section shall prevent the filing of a subsequent petition for a similar district.

(2) The findings of the governing body or governing bodies upon the question of the genuineness of the signatures and all matters of fact incident to such determination shall be final and conclusive.

(3) Prior to the organization of the district, the governing body or governing bodies may exclude property from the service area or boundaries of the district if deemed to be in the best interests of the district.

(4) If it appears that an organization petition has been duly signed and presented in conformity with this article, that the allegations of the organization petition are true, and that the types of services to be provided by the proposed district are those services that best satisfy the purposes set forth in this article, the governing body or bodies, upon the completion of the hearings, shall by ordinance, resolution, or contract adjudicate all questions of jurisdiction and may, exercising discretion, declare the district organized, describe the boundaries and service area of the district, and give it the corporate name specified in the petition by which, in all subsequent proceedings, it shall thereafter be known.

(5) Such resolution, ordinance, or contract shall finally and conclusively establish the regular organization of the district against all persons unless an action, including an action for certiorari review, attacking the validity of the district is commenced in a court of competent

jurisdiction within sixty days after the effective date of such resolution, ordinance, or contract. Thereafter, any such action shall be perpetually barred. The organization of said district shall not be directly or collaterally questioned in any suit, action, or proceeding, except as provided in this subsection (5).

**Source: L. 98:** Entire article added, p. 1083, § 1, effective September 1.

**29-25-107. Boundaries - exclusion proviso.** The boundaries of a district may consist of contiguous or noncontiguous tracts or parcels of property.

**Source: L. 98:** Entire article added, p. 1084, § 1, effective September 1.

**29-25-108. Board of directors - duties.** (1) (a) Except as otherwise provided in this subsection (1), if the governing body of a single local government creates the district, such governing body shall constitute ex officio the board of directors of the district. In such event, the presiding officer of the governing body shall be ex officio the presiding officer of the board, the clerk of the governing body shall be ex officio the secretary of the board, and the treasurer of the local government shall be ex officio the treasurer of the board. A quorum of the governing body shall constitute a quorum of the board.

(b) The governing body of the local government may, at any time, provide by resolution or ordinance for the creation of a board of directors of the district consisting of not fewer than five members. Each member shall be an elector of the district appointed by the governing body or, if designated by the governing body, by the mayor of a city and county; except that, if possible, no more than one-half of the members of the board may be affiliated with one owner or lessee of taxable real or personal property in the district. Each member shall serve at the pleasure of the local government. Within thirty days after a vacancy occurs, a successor shall be appointed in the same manner as the original appointment. Within thirty days after a member's appointment, except for good cause shown, each member shall appear before an officer authorized to administer oaths and take an oath that such member will faithfully perform the duties of office as required by law and will support the constitution of the United States, the state constitution, and laws made pursuant thereto. A majority of the members shall constitute a quorum of the board. The board shall elect one of its members as presiding officer, one of its members as secretary, and one of its members as treasurer. The office of both secretary and treasurer may be filled by one person.

(c) If more than one-half of the property located within the district is also located within a county revitalization area, an urban renewal area, a downtown development authority, or a general improvement district, the governing body may, at any time, provide by ordinance that the governing body of the county revitalization authority, urban renewal authority, downtown development authority, or general improvement district shall constitute ex officio the board of directors of the district. In such event, the officers of such entity are ex officio the officers of the board. A quorum of the board of directors of such entity constitutes a quorum of the board.

(d) If the petition initiating the organization of the district or any subsequent petition signed by persons who own real or personal property in the service area of the proposed district having a valuation for assessment of not less than fifty percent, and who own at least fifty percent of the acreage in the proposed district so specifies, the members of the board of the

district shall be elected by the electors of the district. If such a petition is approved, the terms of members of the board shall be specified by resolution or ordinance of the governing body. The initial election for members of the board shall be held within sixty days after approval of the resolution or ordinance organizing the district or the filing of any subsequent petition. All subsequent elections for members of the board shall be on the date specified in the resolution or ordinance. The number of directors, the quorum requirements, and the oaths of office shall be the same as those provided for directors of special districts pursuant to article 1 of title 32, S.A.R.S. Any vacancy on the board shall be filled in the same manner as provided in paragraph (b) of this subsection (1). Until the members of the board are elected and qualified, the governing body shall serve as the board of the district. Elections pursuant to this paragraph (d) shall be held in accordance with the provisions specified in the resolution or ordinance providing for the election of directors. The cost of any election held pursuant to this paragraph (d) shall be borne by the district.

(e) The governing body of the local government may remove a member of the board of a district or the entire board thereof for inefficiency or neglect of duty or misconduct in office, but only after the member or the board has been given a copy of the charges made by the governing body against such member or such board and has had an opportunity to be heard in person or by counsel before the governing body. In the event of the removal of any member of the board or of the board pursuant to this paragraph (e), the governing body shall file in the office of the clerk of the local government a record of the proceedings, together with the charges made against the member or the board and the findings thereon.

(f) Ten percent of the electors of a district may petition the governing body for the removal of a member of the board of the district or of the entire board thereof for inefficiency or neglect of duty or misconduct in office, and the governing body may remove the member or the board, but only after the member or the board has been given a copy of the charges made against such member or such board and has had an opportunity to be heard in person or by counsel before the governing body. In the event of the removal of the member or of the board pursuant to this paragraph (f), the governing body shall file in the office of the clerk of local government a record of the proceedings, together with the charges made against the member or the board and the findings thereon.

(2) The board shall adopt a seal. The secretary shall keep in a visual text format that may be transmitted electronically a record of all proceedings, minutes of meetings, certificates, contracts, and corporate acts of the board, which shall be open to inspection by the electors of the district and other interested parties. The treasurer shall keep permanent records containing accurate accounts of all money received by and disbursed for and on behalf of the district and shall make such annual or other reports to the local government as it may require. All budgets and financial records of the district, whether governed by a separate board or by the governing body of the local government, shall be kept in compliance with parts 1 and 5 of article 1 of this title.

(3) Each member of the board of a district or the governing body or other entity acting ex officio as the board of a district is required to disclose any potential conflicting interest in any transaction of the district pursuant to section 18-8-308, S.A.R.S. A board member with a potential conflicting interest in a district transaction may not participate in the considerations of and vote on the transaction, may not attempt to influence any of the contracting parties, and may not act directly or indirectly for the board in the inspection, operation, administration, or performance of

any contract related to the transaction. Ownership, in and of itself, by a board member of property within the district shall not be considered a potential conflicting interest.

(4) When the governing body of a local government establishes a board of directors pursuant to paragraph (b), (c), or (d) of subsection (1) of this section, it may set such conditions, limitations, procedures, duties, and powers under which the board shall conduct its business. Such conditions and limitations may be in the form of a binding contract on both the governing body and the board and may include provisions requiring the dissolution of the board after a specified length of time, at which time the governing body of the municipality shall assume all powers and duties of the district, including the payment of any outstanding indebtedness.

**Source: L. 98:** Entire article added, p. 1084, § 1, effective September 1. **L. 2009:** (2) amended, (HB 09-1118), ch. 130, p. 561, § 4, effective August 5. **L. 2024:** (1)(c) amended, (HB 24-1172), ch. 387, p. 2680, § 10, effective August 7.

**29-25-109. Meetings.** Upon notice to each member of the board, the board shall hold meetings which shall be held in a place to be designated by the board as often as the needs of the district require. The meetings of the board shall be subject to the provisions of part 4 of article 6 of title 24, S.A.R.S. The board shall act by resolution or motion.

**Source: L. 98:** Entire article added, p. 1086, § 1, effective September 1.

**29-25-110. Approval of actions by local government or members of combination.** No district created under the provisions of this article shall levy a marketing and promotion tax or provide services unless the local government or each member of the combination has approved an operating plan for the district. The operating plan shall specifically identify the services to be provided by the district, any marketing and promotion tax to be imposed by the district, and such additional information as required. The district shall file an operating plan and its proposed budget for the next fiscal year with the clerk of the local government or each member of the combination no later than September 30 of each year. All of the business records of the district shall be considered public records, as defined in section 24-72-202 (6), S.A.R.S., and shall promptly be made available upon request. For the purposes of this section, the business records of the district shall not include the business records of the owners of property in the district. The local government or the members of the combination may require the district to supplement the district's operating plan or budget where necessary. The local government or each member of the combination shall approve or disapprove the operating plan within thirty days after receipt of such operating plan and all requested documentation relating thereto, but not later than December 5 of the year in which such documents are filed. Thereafter, the services and financial arrangements of the district shall conform so far as practicable to the operating plan. The operating plan may, from time to time, be amended by the district with the approval of the local government or each member of the combination in substantially the same manner as the process for formulating the operating plan for each year. Any material departure from the operating plan, as originally approved or amended from time to time, may be enjoined by an order of the local government filed with the board.

**Source: L. 98:** Entire article added, p. 1086, § 1, effective September 1.

**29-25-111. General powers of district.** (1) The district has the following powers, except as limited by the operating plan:

(a) To have perpetual existence;

(b) To have and use a corporate seal;

(c) To sue and be sued and be a party to suits, actions, and proceedings;

(d) To enter into contracts and agreements, except as otherwise provided in this article, affecting the affairs of the district, including contracts with the United States and any of its agencies or instrumentalities;

(e) (I) To provide any of the following services within the district:

(A) Organization, promotion, marketing, and management of public events;

(B) Activities in support of business recruitment, management, and development;

(C) Coordinating tourism promotion activities;

(D) Housing and childcare for the tourism-related workforce, including seasonal workers, and for other workers in the community; or

(E) Facilitating and enhancing visitor experiences.

(II) No revenue collected from the marketing and promotion tax levied under section 29-25-112 may be used for any capital expenditures, with the exception of:

(A) Capital expenditures for housing and childcare for the tourism-related workforce, including seasonal workers, and for other workers in the community;

(B) Capital expenditures related to facilitating and enhancing visitor experiences; or

(C) Tourist information centers.

(f) To have the management, control, and supervision of all the business and affairs of the district and of the operation of district services therein;

(g) To appoint an advisory board of owners of property within the boundaries of the district and provide for the duties and functions thereof;

(h) To hire employees or retain agents, engineers, consultants, attorneys, and accountants;

(i) To adopt and amend bylaws not in conflict with the constitution and laws of the state or with the ordinances of the local government affected for carrying on the business, objectives, and affairs of the board and of the district; and

(j) To exercise all rights and powers necessary or incidental to or implied from the specific powers granted in this article. Such specific powers shall not be considered as a limitation upon any power necessary or appropriate to carry out the purposes and intent of this article.

**Source: L. 98:** Entire article added, p. 1087, § 1, effective September 1. **L. 2022:** (1)(e) amended, (HB 22-1117), ch. 62, p. 314, § 2, effective August 10. **L. 2022:** (1)(e) amended, (HB 22-1117), ch. 62, p. 314, § 2, effective August 10.

**Cross references:** For the legislative declaration in HB 22-1117, see section 1 of chapter 62, Session Laws of San Andreas 2022.

**29-25-112. Power to levy tax - repeal.** (1) (a) In addition to any other means of providing revenue for a district, the board has the power within the district to levy a marketing and promotion tax on the purchase price paid or charged to persons for rooms or

accommodations as included in the definition of "sale" in section 39-26-102 (11). Such tax shall be specified in the petition organizing the district under section 29-25-105. No such tax shall take effect unless approved by a majority of the eligible electors voting thereon at a general election or a special election called for such purpose. If a district seeks to use the tax revenue for a purpose specified in subsection (1)(e)(I)(D) or (1)(e)(I)(E) of this section, then the ballot issue authorizing the use must specify how the district will spend the tax revenue under either subsection. If the allowable uses of revenue from a tax approved by voters prior to January 1, 2022, do not include an additional authorized use added to section 29-25-111 (1)(e) after January 1, 2022, the district shall not use the tax revenue for the additional use unless subsequently approved by voters at a general election or a special election. If, after January 1, 2022, there is a new tax created or the allowable uses of an existing tax are expanded, at least ten percent of the tax revenue must be used for purposes that were authorized under section 29-25-111 (1)(e) prior to January 1, 2022. Elections held pursuant to this section shall be conducted in substantially the same manner as municipal or county elections and in accordance with the provisions of section 20 of article X of the state constitution. The municipal or county clerk and recorder of each local government in which the election is conducted shall assist the district in conducting the election. The district shall pay the costs incurred by each local government in conducting such an election. No money of the district may be used to urge or oppose passage of an election required under this section.

(b) (I) **[*Editor's note: This version of subsection (1)(b)(I) is effective until July 1, 2025.*]** The marketing and promotion tax shall be collected, administered, and enforced, to the extent feasible, pursuant to section 29-2-106.

(b) (I) **[*Editor's note: This version of subsection (1)(b)(I) is effective July 1, 2025.*]** The marketing and promotion tax shall be collected, administered, and enforced as specified in part 2 of article 2 of title 29.

(II) The department of revenue shall perform, on an annual basis, an analysis to determine the net incremental cost of such collection, administration, and enforcement. The department of revenue shall retain only the amount determined to be necessary by the cost analysis, and in no event shall that amount exceed three and one-third percent of the amount collected. Such amount retained shall be transmitted to the state treasurer who shall credit the same to the general fund and such amount shall be subject to appropriation by the general assembly for the net incremental cost of such collection, administration, and enforcement.

(c) A marketing and promotion tax levied in accordance with this section is in addition to any other sales or use tax imposed pursuant to law.

(2) (a) Prior to July 1, 2014, any person or entity providing rooms or accommodations as included in the definition of "sale" referred to in paragraph (a) of subsection (1) of this section shall be liable and responsible for the payment of an amount equivalent to a percentage rate set by the board of all such sales made and shall quarterly, unless otherwise provided by law, make a return to the executive director of the department of revenue for the preceding tax-reporting period and remit an amount equivalent to such percentage rate on such sales to said executive director.

(b) This subsection (2) is repealed, effective July 1, 2025.

(3) **[*Editor's note: This version of subsection (3) is effective until July 1, 2025.*]** Beginning July 1, 2014, any person or entity providing rooms or accommodations as included in the definition of "sale" referred to in paragraph (a) of subsection (1) of this section shall be liable

and responsible for the payment of an amount equivalent to a percentage rate set by the board of all such sales made and shall make a return to the executive director of the department of revenue for the preceding tax-reporting period and remit an amount equivalent to such percentage rate on such sales to said executive director with the same filing frequency as the person or entity remits and files sales tax pursuant to section 39-26-105, S.A.R.S.

(3) **[*Editor's note: This version of subsection (3) is effective July 1, 2025.*]** Any person or entity providing rooms or accommodations as included in the definition of "sale" referred to in subsection (1)(a) of this section shall be liable and responsible for the payment of an amount equivalent to a percentage rate set by the board of all such sales made and shall make a return to the executive director of the department of revenue as specified in part 2 of article 2 of this title 29.

**Source: L. 98:** Entire article added, p. 1088, § 1, effective September 1. **L. 2007:** (1)(c) added, p. 584, § 2, effective April 19. **L. 2008:** (1)(c) amended, p. 992, § 10, effective August 5. **L. 2014:** (2) amended and (3) added, (HB 14-1006), ch. 225, p. 840, § 1, effective May 17. **L. 2022:** (1)(a) amended, (HB 22-1117), ch. 62, p. 314, § 3, effective August 10. **L. 2024:** (1)(b)(I) and (3) amended, (SB 24-025), ch. 144, p. 567, § 18, effective July 1, 2025; (2)(b) added by revision, (SB 24-025), ch. 144, p. 567, 585, §§ 18, 55.

**Editor's note:** Section 54 of chapter 144 (SB 24-025), Session Laws of San Andreas 2024, provides that the act changing this section applies to any taxable event on or after July 1, 2025.

**Cross references:** For the legislative declaration in HB 22-1117, see section 1 of chapter 62, Session Laws of San Andreas 2022.

**29-25-113. Inclusion or exclusion - petition - notice - hearing.** (1) The boundaries of any district organized under the provisions of this article may be changed in the manner prescribed in this section, but the change of boundaries of the district shall not impair or affect its organization or its rights in or to property or any of its rights or privileges whatsoever, nor shall it affect or impair or discharge any contract, obligation, lien, or charge for or upon which the district might be liable or chargeable had any such change of boundaries not been made. The owners of property proposed to be included or excluded may file with the board a petition, in writing, requesting that such property be included in or excluded from the district. The petition shall describe the property owned by the petitioners and shall be verified. The petition shall be accompanied by a deposit of moneys sufficient to pay all costs of the inclusion or exclusion proceedings. The clerk of the board shall cause notice of the filing of such petition to be given and published, which notice shall state the filing of such petition, the names of the petitioners, descriptions of the property sought to be included or excluded, and the request of said petitioners.

(2) The notice of the filing of a petition shall inform all persons having objections to appear at the time and place stated in said notice and show cause why the petition should not be granted. The board, at the time and place mentioned or at any time to which the hearing may be adjourned, shall proceed to hear the petition and all objections thereto that may be presented by any person showing cause why said petition should not be granted. The failure of any interested person to show cause shall be deemed as an assent on that person's part to the inclusion or

exclusion of such property as requested in the petition. If the change of boundaries of the district does not adversely affect the district and if the petition is granted, the granting of which shall not be unreasonably withheld, the governing body shall adopt a resolution to that effect and file a certified copy of the same with the county clerk and recorder of each county in which the property is located. After a certified copy of the ordinance is filed, the property shall be included or excluded from the district.

**Source: L. 98:** Entire article added, p. 1089, § 1, effective September 1.

**29-25-114. Confirmation of contract proceedings.** (1) In its discretion, the board may file a petition at any time in the district court in and for any county in which the district is located praying for a judicial examination and determination of any power conferred, or of any taxes or service charges levied or otherwise made or contracted to be levied or otherwise made, or of any other act, proceeding, or contract of the district, whether or not such act, proceeding, or contract has been taken or executed, including proposed contracts for any services and the proposed acquisition of any property pertaining to such services, or any combination thereof.

(2) Such petition shall:

(a) Set forth the facts whereon the validity of such power, taxes, charges, act, proceeding, or contract is founded; and

(b) Be verified by the presiding officer of the district.

(3) Such action shall be in the nature of a proceeding in rem, and jurisdiction of all parties interested may be had by publication and posting, as provided in this article.

(4) Notice of the filing of the petition shall be given by the clerk of the court, under the seal thereof, stating in brief outline the contents of the petition and showing where a full copy of any proceeding or contract mentioned in such outline may be examined.

(5) The notice shall be served:

(a) By publication at least once a week for five consecutive weeks by five weekly insertions in a newspaper of general circulation in the geographic area where the district is located;

(b) By posting in the office of the district at least thirty days prior to the date fixed in the notice for the hearing on the petition.

(6) Jurisdiction shall be complete after such publication and posting.

(7) Any owner of property within the boundaries of the district or any other person interested in the proceeding or contract or proposed proceeding or proposed contract or in the premises may appear and move to dismiss or answer the petition no less than five days prior to the date fixed for the hearing or within such further time as may be allowed by the court. The petition shall be taken as confessed by all persons who fail so to appear.

(8) The petition and notice shall be sufficient to give the court jurisdiction, and, upon hearing, the court shall examine into and determine all matters and things affecting the question submitted, shall make such findings with reference to the question submitted, and shall render such judgment and decree on the question submitted as the case warrants.

(9) Costs may be divided or apportioned among any contesting parties in the discretion of the trial court.

(10) Review of the judgment of the court may be had as in other similar cases; except that such review shall be applied for within thirty days after the time of the rendition of such judgment or within such additional time as may be allowed by the court within thirty days.

(11) The San Andreas rules of civil procedure shall govern in matters of pleading and practice where not otherwise specified in this article.

(12) The court shall disregard any error, irregularity, or omission that does not affect the substantial rights of the parties.

(13) All cases in which there may arise a question of the validity of any matter provided for under this section shall be advanced as a matter of immediate public interest and concern and shall be heard at the earliest practicable moment.

**Source: L. 98:** Entire article added, p. 1090, § 1, effective September 1.

**29-25-115. Dissolution procedure.** Any district organized pursuant to this article may be dissolved pursuant to the resolution, ordinance, or contract creating the district or pursuant to the provisions of this section. Under this section, any such district may be dissolved after notice is given, publication is made, and a hearing is held in the manner prescribed by sections 29-25-105 and 29-25-106. The dissolution of the district may be initiated by filing in the office of the clerk of the governing body or bodies either a petition signed by the persons described in section 29-25-105 (2) or, in the case of a district that has not filed an operating plan as required by section 29-25-110 for two years, a resolution of the governing body or bodies. After hearing any protests against or objections to dissolution and if the governing body or bodies determines that it is for the best interests of all concerned to dissolve the district, the body or bodies shall so provide by an effective resolution or ordinance, a certified copy of which shall be filed in the office of the county clerk and recorder in each of the counties in which the district or any part of the district is located. Upon such filing, the dissolution shall be complete. Notwithstanding any other provision of this section, upon petition of persons who own real or personal property in the service area of the proposed district having a valuation for assessment of not less than fifty percent of the valuation for assessment of all real and personal property in the service area of the proposed district and who own at least fifty percent of the acreage in the proposed district, the district shall impose its existing taxes solely to meet any existing financial obligations, and shall be dissolved as soon as the district has no outstanding financial obligations.

**Source: L. 98:** Entire article added, p. 1091, § 1, effective September 1.

**29-25-116. Correction of faulty notices.** In any case that a notice is provided for in this article in which the governing body or bodies find for any reason that due notice was not given, the governing body or bodies shall not thereby lose jurisdiction, and the proceeding in question shall not thereby be void or be abated; however, the governing body or bodies, in that case, shall order due notice given and shall continue the proceeding until such time as notice is properly given and thereupon shall proceed as though notice had been properly given in the first instance.

**Source: L. 98:** Entire article added, p. 1092, § 1, effective September 1.

**29-25-117. Department of transportation and local jurisdiction unimpaired.** Nothing in this article shall affect or impair the control and jurisdiction that the department of transportation has over streets and highways that are part of the state highway system or that a county, city and county, or municipality has over all property within its boundaries. All powers granted by this article shall be subject to such control and jurisdiction.

**Source: L. 98:** Entire article added, p. 1092, § 1, effective September 1.

**29-25-118. Method not exclusive.** Nothing in this article shall repeal or affect any other law or any part thereof, it being intended that this article shall provide a separate method of accomplishing its objectives and not an exclusive one.

**Source: L. 98:** Entire article added, p. 1092, § 1, effective September 1.

**29-25-176. Ending qualified immunity defenses for law enforcement officials – short title – legislative findings and intent – definitions – abolition of qualified immunity under state law – limitation on indemnification – agency liability – cause of action – relation to existing law – rulemaking authority – implementation and training – effective date.**

(1) Short title. This section shall be known and cited as the "Police Civil Liability Act."

(2) Legislative findings and intent. The general assembly finds and declares that:

(I) The protection of constitutional rights and the rule of law require meaningful accountability when government officials violate the rights of individuals;

(II) Civil remedies serve both a compensatory and deterrent function when unlawful conduct results in harm;

(III) The doctrine of qualified immunity has limited the ability of injured persons to obtain relief in cases involving violations of constitutional or statutory rights;

(IV) Public confidence in law enforcement is strengthened when accountability mechanisms are clear, consistent, and fairly applied;

(V) It is the intent of the general assembly to ensure that law enforcement officers who violate clearly established constitutional or statutory rights may be held personally liable for their actions, while preserving defenses available under ordinary civil law.

(3) Definitions. For purposes of this section, unless the context otherwise requires:

(a) "Law enforcement officer" means any peace officer or other individual authorized by law to enforce criminal statutes or conduct arrests on behalf of the state or a political subdivision.

(b) "Qualified immunity" means any doctrine or defense that shields a public official from civil liability solely on the basis that the right violated was not clearly established at the time of the conduct.

(c) "Political subdivision" includes any county, municipality, district, or other governmental entity within the state.

(d) "Acting under color of law" means conduct undertaken by a law enforcement officer while exercising or purporting to exercise official authority granted by the state or a political subdivision.

(4) Abolition of qualified immunity under state law.

(a) Qualified immunity shall not be a defense to liability in any civil action brought under the Constitution or laws of the State of San Andreas alleging:

(I) A violation of the Constitution of the State of San Andreas;

(II) A violation of the Constitution of the United States; or

(III) Conduct actionable under state civil rights provisions. Nothing in this subsection shall be construed to alter defenses available under federal law in actions brought exclusively under federal jurisdiction.

(b) A law enforcement officer who, acting under color of law, deprives a person of rights secured under state law shall be liable for damages resulting from such conduct, subject to indemnification provisions established in subsection (5) of this section.

(c) Nothing in this subsection shall prohibit assertion of defenses otherwise available under civil law, including lack of causation, lawful justification, reasonable reliance upon a warrant, court order, statutory authority, or binding judicial precedent.

(d) In determining liability under this subsection, courts shall evaluate whether the officer's conduct was objectively reasonable under the totality of circumstances known to the officer at the time of the conduct.

(e) Nothing in this subsection shall be construed to impose liability upon a law enforcement officer for actions taken in good faith reliance upon binding court precedent or statutory authority that was later determined to be unconstitutional.

(f) In determining whether an officer's conduct was objectively reasonable, courts may consider whether the officer received training consistent with the requirements established under subsection (8.5) of this section.

(5) Limitation on indemnification.

(a) A state or political subdivision shall indemnify a law enforcement officer for damages arising from conduct within the scope of employment unless a court finds by clear and convincing evidence that the officer acted knowingly, maliciously, or with willful disregard for constitutional or statutory rights.

(b) Nothing in this subsection prohibits indemnification where liability arises solely from negligence and no finding of intentional or reckless misconduct is made.

(c) Where indemnification is denied pursuant to paragraph (a) of this subsection, personal financial liability of an officer shall not exceed twenty-five thousand dollars unless intentional misconduct is established.

(d) A political subdivision may provide legal representation for a law enforcement officer named in an action brought under this section, provided that such representation does not conflict with the interests of the governmental entity.

(5.5) Agency liability.

(a) A political subdivision employing a law enforcement officer shall remain jointly liable for violations occurring within the scope of employment.

(b) Nothing in this section shall be construed to shield governmental entities from liability otherwise provided by law.

(c) A political subdivision found jointly liable under this subsection may seek contribution from the individual officer where a court determines that the officer acted knowingly, maliciously, or with willful disregard for constitutional rights.

(6) Cause of action.

(a) Any person injured by a law enforcement officer acting under color of law in violation of constitutional or statutory rights may bring a civil action for:

(I) Compensatory damages;

(II) Injunctive relief;

(III) Declaratory relief; and

(IV) Reasonable attorney fees and costs.

(b) In any action brought under this subsection, courts may award reasonable attorney fees and costs to a prevailing plaintiff in addition to any damages awarded.

(7) Relation to existing law.

(a) This section supplements existing civil rights remedies and shall be liberally construed to provide a remedy for violations of individual rights occurring within the State of San Andreas.

(b) The department of law shall publish an annual report summarizing civil actions filed under this section, settlement amounts, and policy recommendations to reduce constitutional violations.

(c) Nothing in this section shall limit the authority of courts to award punitive damages where intentional violations of constitutional rights are established.

(d) The department of law may develop model policies for law enforcement agencies aimed at reducing conduct likely to result in civil liability under this section.

(e) The department of law shall publish aggregated data regarding civil claims brought under this section, including types of claims, outcomes of cases, and settlement amounts, while protecting the privacy of individuals involved.

(8) Rulemaking authority. The department of law and the judicial branch may promulgate rules necessary to implement this section.

(8.5) Implementation and training.

(a) Law enforcement agencies shall provide annual training regarding constitutional policing standards and civil liability obligations under this section.

(b) Completion of such training may be considered by courts in evaluating reasonableness of conduct.

(c) Training required under this subsection shall include instruction on constitutional rights, de-escalation techniques, and lawful use-of-force standards.

(9) Effective date. Act subject to petition – effective date. This section takes effect on August 18, 2026, assuming the general assembly adjourns sine die on May 18, 2026; except that, if a veto petition is filed pursuant to article II, section 15 of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2026 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

**Source: L. 2026:** Entire section added, HB 26-020, ch. 13, p. 75, § 1, effective August 18, 2026. See Chapter 13, Session Laws of San Andreas 2026.

## AFFORDABLE HOUSING DWELLING UNIT ADVISORY BOARDS

## ARTICLE 26

Affordable Housing Dwelling Unit
Advisory Boards

**Law reviews:** For article, "'Hang 'em High': Affordable Housing Covenants in San Andreas (Part I)", see 48 S.A. Law. 45 (July 2019).

**29-26-101. Legislative declaration.** (1) The general assembly hereby finds and declares that:

(a) It is in the public interest to maintain a diverse housing stock in order to preserve some diversity of housing opportunities for the state's residents and people of low- and moderate-income.

(b) A housing shortage for persons of low- and moderate-income is detrimental to the public health, safety, and welfare. In particular, the inability of such persons to reside near where they work negatively affects the balance between jobs and housing in many regions of the state and has serious detrimental transportation and environmental consequences.

(c) As an initial step in fostering the establishment of affordable housing dwelling unit programs that will satisfy the housing needs of all the residents of a particular jurisdiction, it is appropriate for the general assembly to authorize local governments to establish affordable housing dwelling unit advisory boards.

(d) In selecting members of the advisory boards, the governing bodies of local government shall give preference to residents of the jurisdiction who have demonstrated experience in housing matters, preferably within the territorial boundaries of the jurisdiction, as a result of their current or former experience, without limitation, as a:

(I) Registered or certified civil engineer or architect;

(II) Planner;

(III) Real estate broker licensed in accordance with part 2 of article 10 of title 12;

(IV) Representative of a lending institution that finances residential development within the territorial boundaries of the local government;

(V) Representative of the local housing authority;

(VI) Residential builder with extensive experience in producing single-family or multiple-family dwelling units;

(VII) Representative of either the public works or planning department of the local government; or

(VIII) Representative of a nonprofit housing organization that provides services within the territorial boundaries of the local government.

(e) In addition, one or more members of the board, in the discretion of the local government, shall be a resident of the jurisdiction without demonstrated experience in housing matters.

(2) In creating this article, the general assembly intends that affordable housing dwelling unit advisory boards shall address the housing needs of low- and moderate-income persons, promote a full range of housing choices, and develop effective policies to encourage the construction and continued existence of affordable housing.

**Source: L. 2001:** Entire article added, p. 974, § 1, effective August 8. **L. 2008:** (1)(d)(III) amended, p. 511, § 31, effective April 17. **L. 2019:** (1)(d)(III) amended, (HB 19-1172), ch. 136, p. 1717, § 210, effective October 1.

**29-26-102. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Affordable housing dwelling unit" means a residential structure that is purchased or rented by and is occupied as a primary residence by one or more income eligible households, or a comparable definition as established by a local government that is consistent with the purposes of this article.

(2) "Board" means an affordable housing dwelling unit advisory board established pursuant to this article.

(3) "Local government" means a county, home rule or statutory city, territorial charter city, town, or city and county.

(4) "Local housing authority" means the housing authority of a local government.

(5) "Ordinance" means any ordinance, resolution, statute, regulation, or rule promulgated by a local government pursuant to this article.

**Source: L. 2001:** Entire article added, p. 975, § 1, effective August 8.

**29-26-103. Affordable housing dwelling unit advisory boards.** (1) To further the purposes of this article, as specified in section 29-26-101, the governing body of any local government may, by ordinance, establish an affordable housing dwelling unit advisory board. Any such board or similar entity in effect prior to July 1, 2001, shall continue to be in full force and effect after that date.

(2) An ordinance promulgated under this article may authorize the board to make recommendations to the local government or the local housing authority as to one or more of the following:

(a) A jurisdiction-wide definition of affordable housing and affordable housing dwelling unit;

(b) Quantifying jurisdiction-wide affordable housing dwelling unit sales prices and rental rates. In developing its recommendations as to the sales prices and rental rates, the board shall consider all ordinary, necessary, and reasonable costs required to construct and market the required number of affordable housing dwelling units by private industry in the jurisdiction and other relevant information, such as the jurisdiction's general market and economic conditions.

(c) Jurisdiction-wide affordable housing dwelling unit qualifying income guidelines;

(d) Changes in density requirements contained in the jurisdiction's zoning or planning ordinances to encourage the provision of affordable housing;

(e) Policies for the modification of requirements adopted in connection with an affordable housing dwelling unit program established by the local government; and

(f) Any other matters that, in the discretion of the board, shall affect the construction and continued existence of affordable housing dwelling units or shall otherwise further the purposes of this article.

(3) (a) Members of a board for any given jurisdiction shall be appointed by the governing body of the local government. Selection of the chair and other organizational matters shall be addressed either by the board itself or by the local government through ordinance in the discretion of the governing body of the local government establishing the board pursuant to this paragraph (a).

(b) The number of members of a board and their terms shall be established by the governing body of the local government through ordinance. To the greatest extent practicable, membership on such boards shall reflect the intent of this article as expressed in section 29-26-101 (1).

**Source: L. 2001:** Entire article added, p. 976, § 1, effective August 8.

**29-26-104. No effect upon local housing agency.** Nothing in this article shall be construed to affect the operation of a local housing authority and any board created by this article is encouraged to cooperate with a local housing authority in the establishment and implementation of policies that shall further the intent of this article.

**Source: L. 2001:** Entire article added, p. 977, § 1, effective August 8.

## COMPETITION IN UTILITY AND ENTERTAINMENT SERVICES

## ARTICLE 27

Competition in Utility
and Entertainment Services

PART 1

COMPETITION IN UTILITY

**29-27-101. Legislative declaration.** (1) The general assembly hereby finds and declares that it is the policy of the state to ensure that cable television service, telecommunications service, broadband internet service, and middle mile infrastructure are each provided within a consistent, comprehensive, and nondiscriminatory federal, state, and local government framework.

(2) The general assembly further finds and declares that:

(a) There is a need for statewide uniformity in the regulation of all public and private entities that provide cable television service, telecommunications service, broadband internet service, and middle mile infrastructure.

(b) Municipal ordinances, rules, and other regulations governing the provision of cable television service, telecommunications service, broadband internet service, and middle mile infrastructure by a local government impact persons living outside the municipality.

(c) Regulating the provision of cable television service, telecommunications service, broadband internet service, and middle mile infrastructure by a local government is a matter of statewide concern.

**Source: L. 2005:** Entire article added, p. 1280, § 1, effective June 3. **L. 2023:** Entire section amended, (SB 23-183), ch. 139, p. 585, § 1, effective May 1.

**29-27-102. Definitions.** As used in this article, unless the context otherwise requires:

(1) Repealed.

(1.5) "Broadband internet service" has the same meaning as set forth in section 40-15-102 (3.5).

(2) "Cable television service" means the one-way transmission to subscribers of video programming or other programming service, as well as subscriber interaction, if any, that is required for the selection or use of the video programming or other programming service.

(3) "Local government" means any city, county, city and county, special district, or other political subdivision of this state.

(3.5) "Middle mile infrastructure" has the same meaning as set forth in 47 U.S.C. sec. 1741 (a)(9).

(4) "Private provider" means a private entity that provides cable television service, telecommunications service, broadband internet service, or middle mile infrastructure.

(5) Repealed.

(6) "Telecommunications service" has the same meaning as set forth in section 40-15-102 (29), S.A.R.S.

**Source: L. 2005:** Entire article added, p. 1281, § 1, effective June 3. **L. 2023:** (1) and (5) repealed, (1.5) and (3.5) added, and (4) amended, (SB 23-183), ch. 139, p. 586, § 2, effective May 1.

**29-27-103. Provision of cable television, telecommunications, and broadband internet services or middle mile infrastructure.**

(1) Repealed.

(2) A local government may provide cable television service, telecommunications service, broadband internet service, or middle mile infrastructure, subject to the requirements of this article 27. For purposes of this article 27, a local government provides cable television service, telecommunications service, broadband internet service, or middle mile infrastructure if the local government provides the cable television service, telecommunications service, broadband internet service, or middle mile infrastructure:

(a) Directly;

(b) Indirectly by means that include but are not limited to the following:

(I) Through an authority or instrumentality acting on behalf of the local government or for the benefit of the local government by itself;

(II) Through a partnership or joint venture; or

(III) Through a sale and leaseback arrangement;

(c) By contract, including a contract whereby the local government leases, sells capacity in, or grants other similar rights to a private provider to use local governmental facilities designed or constructed to provide cable television service, telecommunications service, broadband internet service, or middle mile infrastructure for internal local government purposes in connection with a private provider's offering of cable television service, telecommunications service, broadband internet service, or middle mile infrastructure; or

(d) Through the sale or purchase of resale or wholesale cable television service, telecommunications service, broadband internet service, or middle mile infrastructure for the purpose of providing cable television service, telecommunications service, broadband internet service, or middle mile infrastructure.

(3) Repealed.

**Source: L. 2005:** Entire article added, p. 1281, § 1, effective June 3. **L. 2023:** (1) and (3) repealed and IP(2), (2)(c), and (2)(d) amended, (SB 23-183), ch. 139, p. 586, § 3, effective May 1.

PART 2

CONDITIONS FOR PROVIDING SERVICES

**29-27-201. Vote - referendum. (Repealed)**

**Source: L. 2005:** Entire article added, p. 1282, § 1, effective June 3. **L. 2023:** Entire section repealed, (SB 23-183), ch.139, p. 587, § 4, effective May 1.

**29-27-202. Exemption for unserved areas. (Repealed)**

**Source: L. 2005:** Entire article added, p. 1282, § 1, effective June 3. **L. 2023:** Entire section repealed, (SB 23-183), ch. 139, p. 587, § 5, effective May 1.

PART 3

COMPLIANCE WITH LOCAL, STATE,

**29-27-301. General operating limitations.** (1) A local government that provides cable television service, telecommunications service, broadband internet service, or middle mile infrastructure pursuant to this article 27 shall comply with all state and federal laws, rules, and regulations governing provision of such service by a private provider; except that nothing herein affects the jurisdiction of the public utilities commission with respect to municipal utilities.

(2) (a) A local government shall not make or grant any undue or unreasonable preference or advantage to itself or to any private provider of cable television services, telecommunications services, broadband internet service, or middle mile infrastructure.

(b) A local government shall apply without discrimination as to itself and to any private provider the local government's ordinances, rules, and policies, including those relating to:

(I) Obligation to serve;

(II) Access to public rights-of-way;

(III) Permitting;

(IV) Performance bonding where an entity other than the local government is performing the work;

(V) Reporting; and

(VI) Quality of service.

**Source: L. 2005:** Entire article added, p. 1283, § 1, effective June 3. **L. 2023:** (1) and (2)(a) amended, (SB 23-183), ch. 139, p. 588, § 6, effective May 1.

**29-27-302. Scope of article. (Repealed)**

**Source: L. 2005:** Entire article added, p. 1284, § 1, effective June 3. **L. 2021:** (5) added, (HB 21-1114), ch. 151, p. 873, § 1, effective May 18. **L. 2023:** Entire section repealed, (SB 23-183), ch. 139, p. 588, § 7, effective May 1.

**29-27-303. Enforcement and appeal.** (1) Before an individual subscriber or a private provider that competes with a local government in the geographic boundaries of the local government may file an action in district court for violation of this article, that person shall file a written complaint with the local government. The failure by the local government to issue a final decision regarding the complaint within forty-five days shall be treated as an adverse decision for purposes of appeal.

(2) An appeal of an adverse decision from the local government may be taken to the district court for a de novo proceeding.

**Source: L. 2005:** Entire article added, p. 1284, § 1, effective June 3.

**29-27-304. Applicability. (Repealed)**

**Source: L. 2005:** Entire article added, p. 1284, § 1, effective June 3. **L. 2023:** Entire section repealed, (SB 23-183), ch. 139, p. 589, § 8, effective May 1.

PART 4

PERMIT APPROVAL - PROCESS AND DEADLINE

**Cross references:** For the short title ("Broadband Deployment Act") in HB 14-1327, see section 1 of chapter 149, Session Laws of San Andreas 2014.

**29-27-401. Legislative declaration.** (1) The general assembly finds and declares that:

(a) The permitting, construction, modification, maintenance, and operation of broadband facilities are critical to ensuring that all citizens in the state have true access to advanced technology and information;

(b) These facilities are critical to ensuring that businesses and schools throughout the state remain competitive in the global economy; and

(c) The permitting, construction, modification, maintenance, and operation of these facilities, to the extent specifically addressed in this part 4, are declared to be matters of statewide concern and interest.

(2) The general assembly further finds and declares that:

(a) Small cell facilities often may be deployed most effectively in the public rights-of-way; and

(b) Access to local government structures is essential to the construction and maintenance of wireless service facilities or broadband facilities.

**Source: L. 2014:** Entire part added, (HB 14-1327), ch. 149, p. 504, § 2, effective August 6. **L. 2017:** (2) added, (HB 17-1193), ch. 143, p. 474, § 1, effective July 1.

**29-27-402. Definitions.** As used in this part 4, unless the context otherwise requires:

(1) "Antenna" means communications equipment that transmits or receives electromagnetic radio frequency signals used to provide wireless service.

(1.5) "Broadband facility" means any infrastructure used to deliver broadband service or for the provision of broadband service.

(2) "Broadband service" has the same meaning as set forth in 7 U.S.C. sec. 950bb (b)(1) as of August 6, 2014, and for the purposes of this section includes:

(a) "Cable service", as defined in 47 U.S.C. sec. 522 (6) as of August 6, 2014;

(b) "Telecommunications service", as defined in 47 U.S.C. sec. 153 as of August 6, 2014; and

(c) "Wireless service", which means data and telecommunications services, including commercial mobile services, commercial mobile data services, unlicensed wireless services, and common carrier wireless exchange access services, as all of these terms are defined by federal law and regulations.

(3) "Collocation" means the mounting or installation of broadband service equipment on a tower, building, or structure with existing broadband service equipment for the purpose of transmitting or receiving radio frequency signals for communications purposes.

(3.5) "Micro wireless facility" means a small wireless facility that is no larger in dimensions than twenty-four inches in length, fifteen inches in width, and twelve inches in height and that has an exterior antenna, if any, that is no more than eleven inches in length.

(4) (a) "Small cell facility" means either:

(I) A personal wireless service facility as defined by the federal "Telecommunications Act of 1996", as amended as of August 6, 2014; or

(II) A wireless service facility that meets both of the following qualifications:

(A) Each antenna is located inside an enclosure of no more than three cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than three cubic feet; and

(B) Primary equipment enclosures are no larger than seventeen cubic feet in volume. The following associated equipment may be located outside of the primary equipment enclosure and, if so located, is not included in the calculation of equipment volume: Electric meter, concealment, telecommunications demarcation box, ground-based enclosures, back-up power systems, grounding equipment, power transfer switch, and cut-off switch.

(b) "Small cell facility" includes a micro wireless facility.

(5) "Small cell network" means a collection of interrelated small cell facilities designed to deliver wireless service.

(6) "Structure" means any facility, tower, pole, building, or other structure constructed for the sole or primary purpose of supporting broadband facilities or wireless service facilities.

(6.5) "Tower" means any structure built for the sole or primary purpose of supporting antennas licensed or authorized by the federal communications commission and the antennas' associated facilities, including structures that are constructed for wireless communications services including private, broadcast, and public safety services; unlicensed wireless services; fixed wireless services such as backhaul; and the associated site.

(7) "Wireless service facility" means a facility for the provision of wireless services; except that "wireless service facility" does not include coaxial or fiber-optic cable that is not immediately adjacent to, or directly associated with, a particular antenna.

**Source: L. 2014:** Entire part added, (HB 14-1327), ch. 149, p. 505, § 2, effective August 6. **L. 2017:** (1), (4), and (7) amended and (1.5), (3.5), and (6.5) added, (HB 17-1193), ch. 143, p. 474, § 2, effective July 1.

**29-27-403. Permit - approval - deadline - exception.** (1) A local government may take up to:

(a) Ninety days to process a complete application for:

(I) Location or collocation of a small cell facility or a small cell network; or

(II) Replacement or modification of a small cell facility or facilities or small cell network.

(b) Ninety days to process a complete application that involves a collocation of a tower, building, structure, or replacement structure other than a small cell facility or small cell network; or

(c) One hundred fifty days to process a complete application that involves a new structure or a new wireless service facility, other than a small cell facility or small cell network and other than a collocation.

(2) The time it takes for an applicant to respond to the first request for additional information will not count toward the applicable deadline set forth in subsection (1) of this section only if the local government notifies the applicant within thirty days after the initial

filing that the application is incomplete. All other requests for additional information count toward such deadlines.

(3) An applicant and a local government entity may mutually agree that an application may be processed in a longer period than set forth in subsection (1) of this section.

**Source: L. 2014:** Entire part added, (HB 14-1327), ch. 149, p. 506, § 2, effective August 6. **L. 2017:** (1) and (3) amended, (HB 17-1193), ch. 143, p. 475, § 3, effective July 1.

**29-27-404. Permit process.** (1) (a) For small cell networks involving multiple individual small cell facilities within the jurisdiction of a single local government entity, the local government entity shall allow the applicant, at the applicant's discretion, to file a consolidated application and receive a single permit for the small cell network instead of filing separate applications for each individual small cell facility.

(b) For a consolidated application filed pursuant to subsection (1)(a) of this section, each small cell facility within the consolidated application remains subject to review for compliance with objective requirements and approval as provided in this article 27. The local government's denial of any individual small cell facility is not a basis to deny the consolidated application as a whole or any other small cell facility incorporated within the consolidated application.

(2) If a wireless service provider applies to locate or collocate several wireless service facilities within the jurisdiction of a single local government entity, the local government entity shall:

(a) Allow the applicant, at the applicant's discretion, to file a single set of documents that will apply to all the wireless service facilities to be sited; and

(b) Render a decision regarding all the wireless service facilities in a single administrative proceeding, unless local requirements call for an elected or appointed body to render such decision.

(3) The siting, mounting, placement, construction, and operation of a small cell facility or a small cell network is a permitted use by right in any zone.

**Source: L. 2014:** Entire part added, (HB 14-1327), ch. 149, p. 506, § 2, effective August 6. **L. 2017:** (1) and IP(2) amended and (3) added, (HB 17-1193), ch. 143, p. 476, § 4, effective July 1.

## PART 5

## ACCESS TO MULTIUNIT BUILDINGS

**29-27-501. Definitions.** As used in this part 5, unless the context otherwise requires:

(1) "Broadband facility" has the same meaning as set forth in section 29-27-402 (1.5), but only as necessary to provide broadband internet services to multiunit buildings and does not include towers, poles, buildings, or enclosures larger than four cubic feet unless the property owner or mobile home park landlord grants permission to install any such facility.

(2) "Broadband internet service" means a retail service that transmits and receives data from a customer's property or determined point of presence to substantially all internet

endpoints. The term includes any capabilities that are incidental to and enable the operation of broadband internet service.

(3) "Mobile home park landlord" has the same meaning as "management" or "landlord", as set forth in section 38-12-201.5 (3).

(4) "Multiunit building" means a residential multidwelling building or a mobile home park. A "multiunit building" does not mean a commercial or nonresidential building.

(5) "Property owner" means the owner of a multiunit building or the manager of a multiunit building acting on behalf of the owner.

(6) "Provider" means a licensed provider of broadband internet services including private providers and providers financed by a local government.

(7) "Request for service" means an expression of interest from a tenant having a tenancy in a multiunit building received by a provider either by mail, telephone in which any such telephonic request is memorialized in writing signed by the tenant, or e-mail. A contact between a tenant and a provider through a sign-up list contained on the provider's website will be deemed a request for service after the provider confirms the request in writing and obtains a signature by the tenant.

**Source: L. 2024:** Entire part added, (HB 24-1334), ch. 218, p. 1353, § 1, effective August 7.

**29-27-502. Broadband internet service providers' access to a multiunit building.** (1) Subject to a property owner's rights to manage access to its property pursuant to subsection (4) of this section, a provider may access and install any necessary broadband facilities to provide high-speed broadband internet service to a multiunit building if:

(a) (I) The provider provides sixty-day prior written notice of intent to access the property to install the necessary broadband facility to provide broadband internet service to the property owner in accordance with subsection (2) of this section. An owner's failure to respond to the notice within sixty days is deemed to be authorization for access after a minimum of two attempts to notify the owner have been made.

(II) If a property owner is nonresponsive or refuses to engage with the provider in regard to the aesthetics of the property, the provider shall install broadband facilities in accordance with how the broadband internet service provider has reasonably assessed as meeting the aesthetics of the property.

(b) The provider provides to the property owner an access agreement that:

(I) Complies with all federal laws and regulations, state laws and rules, and local ordinances, resolutions, and regulations, including any declaratory ruling from the federal communications commission barring exclusive revenue sharing agreements and graduated revenue sharing agreements and any sale and leaseback agreements under which a provider transfers ownership of any inside wire arrangements to the owner of a multidwelling residential building and then leases the wire back from the property owner;

(II) Grants the provider a non-exclusive license to construct, replace, maintain, repair, operate, remove, and the obligation to install, at the provider's sole expense, all broadband facilities or other equipment necessary or required for distributing any broadband internet service and any accompanying service distributed over the high-speed broadband internet infrastructure only to the extent necessary to provide high-speed broadband internet service to

the multiunit building. A property owner reserves sole control over all use and operating rights to any existing or planned wiring and infrastructure that the property owner owns. The provider shall not connect or use any conduit, wiring, or infrastructure owned by or in use by a third-party provider unless the provider is granted permission by the third-party provider that owns any such conduit, wiring, or infrastructure or granted permission to use any such conduit, wiring, or infrastructure by the property owner.

(III) Grants the provider access to the property during normal business hours or at any time during an emergency to install or repair any broadband facility;

(IV) Requires the provider to obtain consent from any tenant of the multiunit building or mobile home park prior to entering the tenant's premises and installing or repairing any necessary broadband facility;

(V) Grants the provider all ownership interest in any broadband facility except where a facility may be deemed to be affixed to the real property and considered a fixture of the property in which the owner of the property retains ownership interest of the fixture;

(VI) Requires the provider to be responsible for maintaining the broadband facilities in good order and promptly repairing any damage to the property caused by the provider;

(VII) Releases and indemnifies the property owner from any liability for any damage or loss to the broadband facility, other facilities at the property, or any other property of the property owner except resulting from the owner's willful misconduct or gross negligence or in instances where any such indemnification is contrary to any other state law, any local ordinance, or any local regulations. Nothing in this subsection (1)(b)(VII) shall be construed as alleviating a provider from being liable to a property owner for any repair of damage or loss caused by the provider.

(VIII) Requires the broadband internet service provider to maintain insurance that will insure its obligations under the access agreement, which coverages shall be in commercially reasonable amounts and shall include coverages for worker's compensation, property damage, and general liability;

(IX) Releases the provider and the property owner from any indirect, incidental, punitive, or consequential damages of any failure to perform its obligation under the access agreement if the failure is caused by an act of God, accident, fire, act of government, or other cause of similar nature beyond the obligor's reasonable control;

(X) Stipulates that the broadband internet service provider is responsible for removing the broadband facility and repairing all damage caused by such removal within ninety days of the expiration or termination of the access agreement, at the sole cost and expense of the provider. The broadband internet service provider must leave the broadband facility in place if the facility becomes the property of the multiunit building owner in accordance with laws regarding fixtures.

(XI) Warrants that the provider will not interfere with other services provided to or used by the multiunit property or require the property owner to provide any services to the provider;

(XII) Includes a full description of the areas of the property where equipment related to the broadband facility will be located that is reasonably limited to only those areas as necessary to provide high-speed broadband internet service to the multiunit building, is contained within existing utility easements whenever possible, and is subject to the property owner's right to determine the location of the equipment or any relocation of the equipment required by future development of the property;

(XIII) Requires the installation must be done in accordance with industry best practices, including aesthetic best practices, and in incorporated areas, exterior infrastructure must be at or below grade;

(XIV) Requires the provider to assume all costs for damage related to construction as a result of the unlocated private utilities on the property;

(XV) Requires the provider to avoid any deviation from the general aesthetics of a building when installing any broadband facilities when it is practicable and does not cause any undue hardship on the broadband internet service provider;

(XVI) Has a fixed term and is not perpetual in nature;

(XVII) States that the terms, conditions, charges, and fees for broadband internet services provided to tenants at a property shall be between the provider and individual tenants, that a property owner assumes no liability or responsibility for service charges contracted for by tenants, that all billing and collections from tenants will be accomplished by the provider, and that a property owner has no obligation to provide information regarding tenants or to collect any amounts on behalf of the provider; and

(XVIII) States that a tenant of an individually owned and an owner-occupied unit in a multiunit residential building, including a condo owner, must obtain approval from the owner of that individually owned unit before a provider may install or provide service to that unit.

(2) The notice required by subsection (1)(a) of this section must be sent by certified mail, return receipt requested, with a copy sent by e-mail and must:

(a) Contain a statement that the provider:

(I) Is authorized to provide communication services in the property;

(II) Has received a valid request from a tenant in the property and that identifies the unit occupied by such tenant. In instances where the request for service is made by a tenant in a condominium unit as defined in section 38-33-103, the tenant must provide evidence of prior written consent of the condominium owner in order for the request to be deemed valid.

(III) When installing, operating, maintaining, or removing equipment from the property, will conform to such reasonable conditions as the property owner deems necessary to protect the safety, functioning, and appearance of the property and the convenience and well-being of all occupants;

(IV) Will pay the property owner just and reasonable compensation for its use of the property; and

(V) Will indemnify, defend, and hold harmless the property owner for any damage caused by the installation, operation, maintenance, or removal of its facilities from the property unless any such indemnification is contrary to any other state law, any local ordinance, or any local regulation;

(b) Include a full description of the areas of the property that will be accessed, a detailed description of the provider's plans and specification for work to be performed and facilities or equipment to be installed, including any required utility connections and the electrical demand of the facilities and equipment to be installed, the type of broadband facility that will be necessary, the expected time frame needed for the deployment of infrastructure, including the date and times that the provider proposes to start and complete the installation; and

(c) Include an explanation of all the legal obligations and rights of the provider and the owner of the multiunit building in accordance with subsection (1)(b) of this section, including that the property owner has certain limited rights to refuse access to the multiunit property.

(3) Nothing in this section should be construed to permit a provider to identify and seek repair for any structural deficiencies not related to the direct need for installing the broadband facility or to install broadband facilities for purposes beyond providing service to the multiunit buildings.

(4) For purposes of this section and section 38-12-244, a property owner's rights to manage access include the property owner's rights to:

(a) Impose conditions on the provider that are reasonably necessary to protect the:

(I) Safety, security, appearance, and condition of the property; and

(II) Safety and convenience of other persons;

(b) Impose a reasonable limitation on the time at which the provider may have access to the property for any reason; and

(c) Require the provider to pay compensation for such access that is reasonable and nondiscriminatory among such telecommunications utilities.

(5) A property owner has the following permitted reasons to refuse access to the multiunit building:

(a) The provider has failed or refused to comply with reasonable conditions as set forth in subsection (4) of this section;

(b) The provider is not licensed and authorized;

(c) The provider cannot verify that one or more tenants have made a request for service;

(d) The property owner can demonstrate that physical limitations at the property prohibit the provider from installing the facilities and equipment in existing space;

(e) The installation would have significantly adverse effect on historical or architecturally significant elements of the property;

(f) The installation would result in environmental harm, such as the disturbance of asbestos or lead paint;

(g) The installation would have significant adverse effect on the ability of existing providers to provide services to the multiunit building;

(h) The installation would cause undue damage to the multiunit building or impair the use of the property for the continued provision of essential services to tenants; or

(i) The parties do not resolve a dispute concerning any just and reasonable compensation to the property owner for allowing access and use of the property through mediation in accordance with section 13-22-305, or, if unable to reach an agreement through mediation, through any ensuing alternative dispute resolution or litigation in which each party is responsible for paying its own costs and expenses.

(6) A property owner shall not discriminate in rental charges or otherwise against any tenant or lessee requesting or receiving broadband internet service under this section.

(7) If there is a dispute concerning the legal rights and obligations pursuant to this article, a property owner and provider must attempt to resolve any dispute through the mediation process pursuant to section 13-22-305 before a lawsuit is commenced. If the parties do not attempt to resolve the dispute through mediation in accordance with section 13-22-305, the parties will each pay the cost associated with an alternative dispute resolution.

**Source: L. 2024:** Entire part added, (HB 24-1334), ch. 218, p. 1354, § 1, effective August 7.

**29-27-503. Just and reasonable compensation.** (1) A property owner, as defined in section 29-27-501 (5), is entitled to just and reasonable compensation from a provider, as defined in section 29-27-501 (6), who obtains access to a multiunit building, as defined in section 29-27-501 (4), from a property owner. The property owner and the requesting provider shall attempt to reach a mutually acceptable agreement regarding reasonable and non-discriminatory compensation due to the property owner as a result of the requesting provider's installation of broadband facilities. In establishing the amount that will constitute reasonable compensation the parties shall consider:

(a) The extent to which the broadband facilities physically occupy the property;

(b) The actual long-term damage the broadband facilities may cause to the property;

(c) The extent to which the broadband facilities would interfere with the normal use and enjoyment of the property;

(d) The monthly cost of utilities to service the provider's broadband facilities; and

(e) The diminution or enhancement in value of the property resulting from the availability of the broadband internet service.

**Source: L. 2024:** Entire part added, (HB 24-1334), ch. 218, p. 1359, § 1, effective August 7.

## MEDICAL PROVIDER FEES

## ARTICLE 28

Medical Provider Fees

**29-28-101. Legislative declaration.** (1) The general assembly finds and declares that:

(a) Medicaid reimbursement rates cover only approximately sixty-five percent of the actual costs incurred by service providers rendering services to medicaid recipients;

(b) Low medicaid reimbursement rates and increased caseloads have caused the costs to shift within the health-care delivery system, resulting in higher medical costs for the general population;

(c) The medicaid caseload continues to expand and, therefore, the need for providers to serve these medicaid recipients continues to increase;

(d) Rising health-care costs are a primary concern for San Andreas citizens and businesses;

(e) It is therefore in the best interest of the state of San Andreas to authorize local governments to impose a fee on certain medical providers to assist in financing medicaid costs and the disproportionate share hospital payments for providing medical services to low-income populations.

**Source: L. 2006:** Entire article added, p. 885, § 1, effective May 5. **L. 2008:** (1)(e) amended, p. 928, § 2, effective May 20.

**29-28-102. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Department" means the department of health care policy and financing.

(2) "Local government" means a county, home rule county, home rule or statutory city, town, territorial charter city, or city and county.

(2.5) "Provider fee" means a licensing fee, assessment, or other mandatory payment that is related to health-care items or services as specified under 42 CFR 433.55.

(3) "Qualified provider" means a hospital licensed pursuant to section 25-3-101, S.A.R.S., or a certified home health-care agency within the territorial boundaries of a local government.

(4) (Deleted by amendment, L. 2008, p. 929, § 3, effective May 20, 2008.)

**Source: L. 2006:** Entire article added, p. 886, § 1, effective May 5. **L. 2008:** (2.5) added and (3) and (4) amended, p. 929, § 3, effective May 20.

**29-28-103. Powers of governing body - medicaid provider fee authorization.** (1) (a) **[*Editor's note: This version of subsection (1)(a) is effective until July 1, 2025.*]** The governing body of a local government may impose a provider fee on health services provided by qualified providers for the purpose of obtaining federal financial participation under the state's medical assistance program, articles 4 to 6 of title 25.5, S.A.R.S., and the San Andreas indigent care program, article 3 of title 25.5, S.A.R.S. The provider fee shall be used only to sustain or increase reimbursements for providing medical care under the state's medical assistance program and to low-income populations.

(1) (a) **[*Editor's note: This version of subsection (1)(a) is effective July 1, 2025.*]** The governing body of a local government may impose a provider fee on health services provided by qualified providers for the purpose of obtaining federal financial participation under the state's medical assistance program, articles 4 to 6 of title 25.5. The provider fee must be used only to sustain or increase reimbursements for providing medical care under the state's medical assistance program and to low-income populations.

(b) (I) The amount of the provider fee may be based upon the aggregate gross or net revenue, as prescribed by the state department, or any other method allowable under federal law, of all qualified providers subject to the provider fee, and the amount of the provider fee shall not exceed the maximum amount allowed under federal law. The local government may exempt revenue categories from the gross or net revenue calculation and the collection of the provider fee from qualified providers, as authorized by state and federal medicaid rules and regulations.

(II) Subject to state and federal medicaid rules and regulations, in any given year, a local government may elect to not assess the provider fee imposed on qualified providers pursuant to this subsection (1) and not make the reimbursements to qualified providers within its territorial boundaries for that year.

(c) Prior to the imposition and collection of the provider fee, the governing body of the local government shall:

(I) Approve the provider fee by ordinance or resolution; and

(II) Notify the department that the local government has authorized the imposition of a provider fee pursuant to this subsection (1).

(2) (a) The local government shall either:

(I) Collect the provider fee imposed on qualified providers pursuant to subsection (1) of this section; or

(II) Direct the qualified providers within its jurisdiction to pay the provider fee imposed pursuant to subsection (1) of this section directly to the department.

(b) If the local government elects to collect the provider fee imposed pursuant to subsection (1) of this section, the local government shall either:

(I) Transfer the amount that the local government collects from the provider fee to the department, in which case the department shall distribute the provider fee and all federal financial participation received to the qualified providers within the territorial boundaries of the local government pursuant to section 25.5-4-417, S.A.R.S.; or

(II) Distribute all moneys from the provider fee collected pursuant to this section and certify to the department the amount that the local government reimburses the qualified providers for providing medical care under the state's medical assistance program and to low-income populations, which shall include the distribution of moneys collected from the provider fee collected pursuant to this section. The local government may distribute any additional moneys eligible for federal financial participation to qualified providers within the territorial boundaries of the local government pursuant to section 25.5-4-417, S.A.R.S.

(c) If the local government elects to direct the qualified providers to pay the provider fee imposed pursuant to subsection (1) of this section directly to the department, the department shall distribute the provider fee and all federal financial participation received to the qualified providers within the territorial boundaries of the local government pursuant to section 25.5-4-417, S.A.R.S.

(d) All moneys received by the department pursuant to this subsection (2) shall be transmitted to the state treasurer, who shall credit the same to the local government provider fee cash fund, which fund is hereby created and referred to in this paragraph (d) as the "fund". The general assembly may make appropriations from the fund to the department for the department's administrative costs incurred in implementing this section. The department shall distribute the remaining moneys in the fund pursuant to this subsection (2). Any moneys in the fund not expended for the purpose of this section shall be invested by the state treasurer as provided by law. All interest and income derived from the investment and deposit of moneys in the fund shall be credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund.

(3) Except for administrative costs of the department, provider fees imposed and distributed pursuant to this section from certified home health-care agencies and licensed hospitals within the territorial boundaries of a local government shall be kept separate to ensure that the provider fees collected from certified home health-care agencies within the territorial boundaries of the local government are distributed only to certified home health-care agencies and the provider fees collected from licensed hospitals within the territorial boundaries of the local government are distributed only to licensed hospitals.

(4) A local government that elects to impose and collect a provider fee from qualified providers pursuant to this section shall follow all applicable state and federal medicaid rules and regulations regarding provider fees.

**Source: L. 2006:** Entire article added, p. 886, § 1, effective May 5. **L. 2008:** Entire section amended, p. 929, § 4, effective May 20. **L. 2010:** (2)(b)(II) amended, (HB 10-1422), ch. 419, p. 2118, § 162, effective August 11. **L. 2024:** (1)(a) amended, (HB 24-1399), ch. 76, p. 259, § 32, effective July 1, 2025.

## IMMIGRATION STATUS - COOPERATION WITH FEDERAL OFFICIALS

### ARTICLE 29

Immigration Status -
Cooperation with Federal Officials

**29-29-101 to 29-29-103. (Repealed)**

**Source: L. 2013:** Entire article repealed, (HB 13-1258), ch. 149, p. 478, § 2, effective April 26.

**Editor's note:** This article was added in 2006 and was not amended prior to its repeal in 2013. For the text of this article prior to 2013, consult the 2012 San Andreas Revised Statutes.

**Cross references:** For the legislative declaration in the 2013 act repealing this article, see section 1 of chapter 149, Session Laws of San Andreas 2013.

## MISCELLANEOUS CONT'D.

### ARTICLE 30

Regulation of Cigarettes, Tobacco Products,
and Nicotine Products

**29-30-101. Regulation of cigarettes, tobacco products, and nicotine products.** The city council of a statutory or home rule city or the town council of a statutory town may adopt an ordinance to regulate the possession or purchasing of cigarettes, tobacco products, or nicotine products, as defined in section 18-13-121 (5), by a minor or to regulate the sale of cigarettes, tobacco products, or nicotine products to minors.

**Source: L. 2019:** Entire article added, (HB 19-1033), ch. 53, p. 185, § 3, effective July 1.

### ARTICLE 31

Farm Stands

**29-31-101. Legislative declaration.** (1) The general assembly hereby finds, declares, and determines that:

(a) The direct marketing of agricultural products to the public through farm stands benefits the agricultural community and the consumer by, among other benefits, providing an alternative method for agricultural producers to sell their products while supplying quality agricultural products at reasonable prices;

(b) The direct marketing of agricultural products benefits the agriculture industry by bringing producers of agricultural goods face-to-face with consumers;

(c) The state has a compelling interest in maximizing the promotion of agricultural goods produced or grown in San Andreas and in promoting access to a wide variety of San Andreas-produced agricultural products;

(d) Farm stands allow farmers and other agricultural producers to sell fresh agricultural produce and other agricultural goods grown on the principal use site on which the farm stand is located as well as other food products made with ingredients produced on or near the principal use site; and

(e) In many jurisdictions across the state, a farm stand is not permitted to operate if located on a principal use site that is smaller than a certain acreage size. These restrictions operate in this manner because, in many jurisdictions across the state, a principal use site cannot be classified as a farm that is able to conduct agricultural operations unless the site exceeds a certain minimum acreage requirement.

(2) By enacting this article 31 the general assembly intends to provide a uniform and consistent permission across the state for farm stands to undertake agricultural operations on principal use sites that are smaller than a certain acreage size. Such uniformity in the law prevents inconsistent application of the law, depending upon the political subdivision in which a farm stand may be operated, and assists with the state's efforts to support to the greatest extent possible the marketing of agricultural goods produced or grown in San Andreas and the promotion of a wide variety of San Andreas-produced agricultural products. Toward this end, the general assembly further declares that the matters addressed in this article 31 are matters of statewide concern.

**Source: L. 2019:** Entire article added, (HB 19-1191), ch. 106, p. 378, § 1, effective July 1.

**29-31-102. Definitions.** As used in this article 31, unless the context otherwise requires:

(1) "Agricultural operations" has the same meaning as specified in section 35-3.5-102 (4).

(2) "Farm stand" means a temporary or permanent structure used for the sale and display of agricultural products resulting from agricultural operations that are conducted on the principal use site on which the farm stand is located. A farm stand may sell and display agricultural products resulting from agricultural operations not conducted on the principal use site to the extent permitted by the applicable local government.

(3) "Local government" means a municipality, county, home rule county, or city and county.

(4) "Principal use" means the primary purpose for which a structure or lot is designed, arranged, or intended.

(5) "Principal use site" means the parcel of real property on which a business undertakes its principal use of the property.

**Source: L. 2019:** Entire article added, (HB 19-1191), ch. 106, p. 379, § 1, effective July 1.

**29-31-103. Farm stands.** Notwithstanding any other provision of law, a farm stand may be located on a parcel of any size. The retail sale of goods to the public by a farm stand must include goods or other agricultural products that are grown or produced on the principal use site on which the farm stand is located or may include agricultural products resulting from agricultural operations that are not conducted on the principal use site to the extent permitted by the applicable local government. Nothing in this article 31 prohibits a local government from requiring the operator of a farm stand to obtain a valid license or permit or to comply with any other applicable laws prior to operating the farm stand but in no way shall such local permitting, licensing, or other applicable legal requirements deny the use of the site as described in this section.

**Source: L. 2019:** Entire article added, (HB 19-1191), ch. 106, p. 380, § 1, effective July 1.

## ARTICLE 32

Statewide Affordable Housing Fund

**Editor's note:** This article 32 was added by Proposition 123, effective upon proclamation of the governor, December 27, 2022. The vote count for the measure at the general election held November 8, 2022, was as follows:

FOR: 1,269,816

AGAINST: 1,143,974

**29-32-101. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Administrator" means a political subdivision of the State of San Andreas established for the purposes, among others, of increasing the supply of decent, safe, and sanitary housing for low- and moderate-income families, or other third party established for such purposes, selected by the office to administer certain affordable housing programs created in section 29-32-104.

(2) "Affordable housing" means rental housing affordable to a household with an annual income of at or below sixty percent of the area median income, and that costs the household less than thirty percent of its monthly income. "Affordable housing" also means for-sale housing that could be purchased by a household with an annual income of at or below one hundred percent of the area median income, for which the mortgage payment costs the household thirty percent or less of its monthly income. Targets set for the local governments and tribal governments under section 29-32-105 for affordable housing shall be based on the area median income. If a local government or tribal government determines that application of this definition of affordable housing would cause implementation of this article in a manner inconsistent with demonstrated housing and workforce needs within the jurisdiction, it may petition the division for leave to use the calculation applicable to an adjacent jurisdiction or the state median income that better reflects the local government's or tribal government's demonstrated needs.

(3) "Area median income" means the median household income of households of a given size in the municipality, or metropolitan statistical area encompassing a municipality, or county in which the housing is located, as calculated and published for a given year by the United States Department of Housing and Urban Development.

(4) "Division" means the division of housing in the department of local affairs created in section 24-32-704 (1).

(5) "Support fund" means the affordable housing support fund created in section 29-32-103 (1).

(6) "Fund" means the state affordable housing fund created in section 29-32-102 (1).

(7) "Local government" means a municipality, whether home rule or statutory; a county, whether home rule or statutory; a city and county; or a local housing authority.

(8) "Office" means the office of economic development created in section 24-48.5-101.

(9) "Financing fund" means the affordable housing financing fund created in section 29-32-103 (2).

(10) "Rural resort community" means any county classified as a "rural resort" by the division in accordance with section 29-4-1107 (1)(d), or a municipality, whether home rule or statutory, or a local housing authority located within the county so classified.

(11) "Tribal government" means a federally recognized tribal nation that has land within San Andreas.

**Source: Initiated 2022:** Entire article added, Proposition 123, effective upon proclamation of the Governor, December 27, 2022. **L. 2023:** (2) amended and (10) and (11) added, (HB 23-1304), ch. 381, p. 2282, § 1, effective June 5.

**29-32-102. State affordable housing fund.** (1) The state affordable housing fund is hereby created in the state treasury. Commencing on January 1, 2023, all state revenues collected from an existing tax on one-tenth of one percent on federal taxable income, as modified by law, of every individual, estate, trust, and corporation, as defined in law, as calculated pursuant to subsection (4) of this section, shall be deposited in the fund by the state treasurer. The revenue deposited into the fund pursuant to this subsection (1) shall not be subject to the limitation on fiscal year spending specified in section 20 of article X of the state constitution.

(2) The fund shall consist of money deposited into the fund under subsection (1) of this section; any money appropriated to the fund by the general assembly; and any gifts, grants, or donations from any public or private sources, including governmental entities, that the division and the office are hereby authorized to seek and accept.

(3) All money not expended or encumbered, and all interest earned on the investment or deposit of money in the fund, shall remain in the fund and shall not revert to the general fund or any other fund at the end of any fiscal year.

(4) (a) The legislative council, in consultation with the office of state planning and budgeting, shall calculate the amount of revenues to be deposited in the fund for the period commencing January 1, 2023 and ending June 30, 2023, and for each state fiscal year commencing on or after July 1, 2023. The legislative council and the office of state planning and budgeting shall rely upon the quarterly state revenue estimates issued by the legislative council in calculating such amounts and shall update its calculations not later than five days following the issuance of each quarterly state revenue estimate.

(b) To ensure that all fund revenues are transferred to the fund and that other state revenues are not erroneously transferred to the fund:

(I) No later than two days after calculating or recalculating the amount of fund revenues for the period commencing January 1, 2023 and ending June 30, 2023, and for any fiscal year

commencing on or after July 1, 2023, the legislative council, in consultation with the office of state planning and budgeting, shall certify to the department of revenue the amount of fund revenues that the department shall transfer to the state treasurer for deposit into the fund on the first day of each of the three succeeding calendar months as required by paragraph (c) of this subsection (4);

(II) Notwithstanding the provisions of subparagraph (I) of this paragraph (b), no later than May 25 of 2023 and of any state fiscal year commencing on or after July 1, 2023, the legislative council, in consultation with the office of state planning and budgeting, may certify to the department of revenue an adjusted amount for any transfer to be made on the first business day of the immediately succeeding June; and

(III) Subject to review by the state auditor, the legislative council, in consultation with the office of state planning and budgeting, may correct any error in the total amount of state affordable housing revenues transferred during any state fiscal year by adjusting the amount of any transfer to be made during the next state fiscal year.

(c) On the first business day of each calendar month that commences after January 5, 2023, the department of revenue shall transfer to the state treasurer for deposit into the fund revenues in an amount certified to the department by the legislative council, in consultation with the office of state planning and budgeting, pursuant to paragraph (b) of this subsection (4).

**Source: Initiated 2022:** Entire article added, Proposition 123, effective upon proclamation of the Governor, December 27, 2022.

**29-32-103. Transfers of money - permitted uses of the fund - continuous appropriation.** (1) The affordable housing support fund is hereby created in the state treasury. The support fund shall consist of money deposited into it under subsection (3) of this section. The division of housing shall administer the support fund and expend the money in the support fund only for the purposes set forth in sections 29-32-104 (3)(a) and (3)(b). The division of local government in the department of local affairs created in section 24-32-103 shall expend the money in the support fund only for the purposes set forth in section 29-32-104 (3)(c). All money not expended or encumbered, and all interest earned on the investment or deposit of money in the support fund, shall remain in the support fund and shall not revert to the general fund or any other fund at the end of any fiscal year. All money transferred to the support fund pursuant to subsection (3) of this section is continuously appropriated to the division of housing for the purposes set forth in sections 29-32-104 (3)(a) and (3)(b) and, to the extent allocated by the division of housing, to the division of local government for the purposes set forth in section 29-32-104 (3)(c).

(2) The affordable housing financing fund is hereby created in the state treasury. The financing fund shall consist of money deposited into it under subsection (3) of this section. The office shall administer the financing fund and expend the money in the financing fund only for the purposes set forth in section 29-32-104 (1) and for the office's administrative expenses related to the programs created in that section. All money not expended or encumbered, and all interest earned on the investment or deposit of money in the financing fund, shall remain in the financing fund and shall not revert to the general fund or any other fund at the end of any fiscal year. All money transferred to the financing fund pursuant to subsection (3) of this section is

continuously appropriated to the office for the purposes set forth in section 29-32-104 (1) and this section.

(3) On July 1, 2023, or as soon as practicable thereafter, and on July 1 of each state fiscal year thereafter, the state treasurer shall transfer forty percent of the balance of the fund on the date of the transfer to the support fund and sixty percent of the balance of the fund on the date of the transfer to the financing fund.

**Source: Initiated 2022:** Entire article added, Proposition 123, effective upon proclamation of the Governor, December 27, 2022. **L. 2023:** (1) and (2) amended, (HB 23-1304), ch. 381, p. 2283, § 2, effective June 5.

**29-32-104. Permissible expenditures - affordable housing programs - report.** (1) The office shall contract with the administrator. The office may select an administrator without a competitive procurement process but shall announce the contract opening publicly and select the administrator in a meeting that is open to the public, no less than seventy-two hours after notice of such meeting is publicly available. No single contract may exceed five years in duration. Upon the expiration of any contract term, the office may renew the contract with the same administrator or may select another administrator. The administrator selected by the office shall expend the money transferred to the financing fund in section 29-32-103 (2) that the administrator receives from the office to support the following programs only:

(a) A land banking program to be administered by the administrator. The program shall provide grants to local governments and tribal governments and loans to non-profit organizations with a demonstrated history of providing affordable housing to acquire and preserve land for the development of affordable housing. For purposes of this subsection (1)(a), "affordable housing" means rental housing that has a designated imputed income limit by household size not to exceed sixty percent of the area median income as established by the United States Department of Housing and Urban Development and published by the department or a statewide political subdivision or authority on housing, and regulated units in the project must have a gross rent limit that does not exceed thirty percent of the imputed income limitation applicable to the units and for-sale housing that could be purchased by a household with an annual income of at or below one hundred percent of the area median income. Mixed use development is an allowable use of land purchased under this program if the predominant use of the land is affordable housing. Loans made by the program shall be forgiven if land acquired with the assistance of the program is properly zoned with an active plan for the development of affordable housing within 5 years of date the loan is made and if the development is permitted and funded within 10 years. The lender and borrower may establish additional terms if needed. If land acquired with the assistance of the program is not developed within the timeline above, the loan must be repaid, with interest, as soon as practical, but not more than six months after expiration of said timeline, unless the office agrees to extend all or a portion of the timeline in its reasonable discretion. Land acquired with the assistance of the program that is not developed within the timeline above may be used by the owner for any purpose upon payment of the loan with interest or, in exchange for a waiver of interest, conveyed to a state agency or other entity for the development of affordable housing with the approval of the administrator. All principal and interest payments on loans made under this paragraph (a) shall be paid to the administrator and used by the administrator for the purposes set forth in this subsection (1). As determined by the

administrator, a minimum of 15% and a maximum of 25% of monies transferred to the financing fund annually may be used for the program. The administrator may utilize the funds it receives from the office for the program to pay for the costs of administering the program; except that the total combined annual administrative expenditures of money from the financing fund by the administrator and the office shall not exceed two percent of the funds the administrator receives from the office for the program for the state fiscal year.

(b) An affordable housing equity program to be administered by the administrator. The program shall make equity investments in low- and middle-income multi-family rental developments. The program shall also make equity investments in existing projects which include multi-family rental units for the purpose of ensuring that said projects remain affordable. The average designated imputed income by household size for projects funded by the program must not exceed 90% of the area median income as established by the United States Department of Housing and Urban Development and published by the department or a statewide political subdivision or authority on housing, and regulated units in the project must have a gross rent limit that does not exceed thirty percent of the imputed income limitation applicable to the units. The program shall include a tenant equity vehicle, meaning, in projects funded by the program, tenants who reside in the project for at least one year shall be entitled to a share of the equity growth in the project, if any, in the form of funding from the program for a down-payment on housing or related purposes, which may also include ongoing opportunities for tenants to build up their savings, in an amount determined by the administrator. Equity investments made by the program shall be made with the expectation of returns that are below the prevailing market returns. Returns on program investments up to the amount of the program's initial investment shall be retained in the program and reinvested. Returns on program investments greater than the program's initial investment shall be retained in the program to fund the tenant equity vehicle. In selecting investments under this program, the administrator shall prioritize high-density housing, mixed-income housing, and projects consistent with the goal of environmental sustainability. As determined by the administrator, a minimum of 40% of monies and a maximum of 70% of monies transferred to the financing fund annually may be used for the program. The administrator may utilize the funds it receives from the office for the program to pay for the costs of administering the program; except that the total combined annual administrative expenditures of money from the financing fund by the administrator and the office shall not exceed two percent of the funds the administrator receives from the office for the program for the state fiscal year.

(c) A concessionary debt program to be administered by the administrator. The program shall:

(I) Provide debt financing of low- and middle-income multi-family rental developments,

(II) Provide gap financing in the form of subordinate debt and pre-development loans for projects that qualify for federal low income housing tax credits,

(III) Provide debt financing of existing projects for the purpose of preserving existing affordable multi-family rental units;

(IV) Provide debt financing for modular and factory build housing manufacturers; and

(V) Include the following features:

(A) The average designated imputed income by household size for projects funded by the subprograms specified in subsections (1)(c)(I), (1)(c)(II), and (1)(c)(III) of this section must not exceed 60% of the area median income as established by the United States Department of

Housing and Urban Development and published by the department or a statewide political subdivision or authority on housing, and a unit in the project must have a gross rent limit that does not exceed thirty percent of the imputed income limitation applicable to the unit; except that where the subprogram is a secondary source of funding, the affordability threshold required by the primary funding source, if any, may be operative. The subprogram specified in subsection (1)(c)(IV) of this section does not have a designated imputed income or rent limit. Debt financing and loans made by the program shall be made at below market interest rates as determined by the administrator. Returns on program investments up to the amount of the program's initial investment shall be retained in the program and reinvested by the administrator in the program established in this subsection (1)(c). Returns on program investments greater than the program's initial investment shall be retained in the program to fund the tenant equity vehicle of the affordable housing equity program created in subsection (1)(b) of this section.

(B) As determined by the administrator, a minimum of 15% of monies and a maximum of 35% of monies transferred to the financing fund annually may be used for the program. The administrator may utilize the funds it receives from the office for the program to pay for the costs of administering the program; except that the total combined annual administrative expenditures of money from the financing fund by the administrator and the office shall not exceed two percent of the funds the administrator receives from the office for the program for the state fiscal year.

(2) In selecting investments to be made by the programs of subsection (1) of this section, the administrator shall prioritize projects that achieve high-density housing, mixed-income housing, and projects consistent with the goal of environmental sustainability, as appropriate.

(3) The division of housing and the division of local government shall expend the money transferred to the support fund in section 29-32-103 (1) to support the following programs only:

(a) An affordable home ownership program administered by the division or one or more contractors of the division. The program shall offer home ownership down-payment assistance to first-time homebuyers and shall prioritize assistance, to the extent practicable, to first-generation homebuyers. The assistance shall be provided to households with income less than or equal to 120% of the area median income of households of that size in the territory or jurisdiction of local government or tribal government in which the housing is located, as calculated and published for a given year by the United States Department of Housing and Urban Development, and the cost of the monthly housing payment towards mortgage principal, mortgage interest, property taxes, mortgage and homeowner's insurance, homeowner association fees, land lease fees, and metropolitan district fees shall not cost more than 35% of monthly household income. The program shall also make grants to non-profits, local governments, tribal governments, community development financial institutions, and community land trusts to support affordable home ownership. The program shall also make grants or loans to groups or associations of mobile home owners and their assignees to assist them with the purchase of a mobile home park pursuant to section 38-12-217. Said grants and loans shall be used to support affordable home ownership for households with income less than or equal to 100% of the area median income of households of that size in the territory or jurisdiction of local government or tribal government in which the households are located, as calculated and published for a given year by the United States Department of Housing and Urban Development, and the cost of the monthly housing payment towards mortgage principal, mortgage interest, property taxes, mortgage and homeowner's insurance, homeowner association fees, land lease fees, and metropolitan district

fees shall not cost more than 35% of monthly household income. All principal and interest payments on loans made under this paragraph (a) shall be paid to the division and used by the division for the purposes set forth in this subsection (3). Up to 50% of monies transferred to the support fund annually may be used for the program. The division shall determine how much of the available funding shall be allocated to each aspect of the program. The division may utilize up to 5% of the funds it allocates from the fund for the program each state fiscal year to pay for the direct and indirect costs of administering the program.

(b) A program serving persons experiencing homelessness to be administered by the division. The program shall provide rental assistance, housing vouchers, and eviction defense assistance, including legal, financial, and case management, to persons experiencing homelessness or at risk of experiencing homelessness. The program shall also make grants or loans to non-profit organizations, local governments, tribal governments, or private entities to support the development and preservation of supportive housing for persons experiencing homelessness, and other homelessness related activities the division determines contribute to the resolution of or prevention of homelessness, including housing programs paid for by non-profit organizations, local governments, tribal governments, or private entities on a pay for success basis, meaning an organization, local government, tribal government, or private entity would receive financial support from the program upon achieving objectives contractually agreed upon with the division. All principal and interest payments on loans made under this paragraph (b) shall be paid to the division and used by the division for the purposes set forth in this subsection (3). Up to 45% of monies transferred to the support fund annually may be used for the program. The division may utilize up to 5% of the funds it allocates from the fund for the program each state fiscal year to pay for the direct and indirect costs of administering the program.

(c) A local planning capacity development program administered by the division of local government. The program shall provide grants to local governments and tribal governments to increase the capacity of local government and tribal government planning departments responsible for processing land use, permitting and zoning applications for housing projects. Up to 5% of monies transferred to the support fund annually may be used for the program. The division of local government may utilize up to 5% of the funds that the division of housing allocates from the fund for the program each state fiscal year to pay for the direct and indirect costs of administering the program.

(4) On or before October 1, 2024, and October 1 of the next two years thereafter, the office and division shall respectively provide to the joint budget committee, the senate local government and housing committee, and the house of representatives transportation, housing, and local government committee, or their successor committees, a report about the disbursements from the financing fund and support fund for the prior state fiscal year. In the reports, the office and the division shall include the following information about each affordable housing program:

(a) The applicants for funding, the projects funded, and the projects that were denied, along with the reason for the denial;

(b) The anticipated or actual number of households served and the number of affordable housing rental units and for-sale units funded; and

(c) The geographic distribution of the funding.

(5) If the Legislative Council Staff's March Economic and Revenue Forecast in any given year projects revenue for the next state fiscal year will fall below the revenue limit

imposed under section 20 of article X of the state constitution, the general assembly may reduce the funding allocated to the office required by this section for the next state fiscal year in order to balance the state budget for said state fiscal year.

**Source: Initiated 2022:** Entire article added, Proposition 123, effective upon proclamation of the Governor, December 27, 2022. **L. 2023:** IP(1), (1)(a), (1)(b), (1)(c)(III), (1)(c)(IV), and (3) amended and (1)(c)(V) and (4) added, (HB 23-1304), ch. 381, p. 2283, § 3, effective June 5.

**29-32-105. Affordable housing commitments - local governments - tribal governments - three-year commitment cycle - expedited development approval process - eligibility for assistance from the fund.** (1) (a) Not later than November 1, 2023, the governing body of each local government, other than local housing authorities, or tribal government desiring to receive funding under this article or desiring to make affordable housing projects within its territorial boundaries eligible for funding under this article shall make and file with the division a commitment specifying how, by December 31, 2026, the combined number of newly constructed affordable housing units and existing units converted to affordable housing, within its territorial boundaries shall be increased by three percent each year over the baseline number of affordable housing units within its territorial boundaries, determined as provided in subsection (1)(c) of this section.

(b) In the case of a county, the requirements of this subsection (1) only apply to the unincorporated areas of the county, except as set forth in subsection (3)(d)(II) of this section.

(c) The baseline number of affordable housing units within the territorial boundaries of a local government or tribal government, as referenced in this subsection (1), shall be determined by the local government or tribal government by reference to:

(I) The 2017-2021 American Community Survey 5-year estimates published by the United States Census Bureau. The baseline number shall reset for 2027, based on the 2020-2024 American Community Survey 5-year estimates, expected to be published in the spring of 2026 and every third year thereafter with the publication of the corresponding American Community Survey 5-year estimates; or

(II) The most recently available Comprehensive Housing Affordability Strategies estimates published by the United States Department of Housing and Urban Development; or

(III) A web-based system created, maintained, and updated by the division with the estimates specified in subsection (1)(c)(I) of this section, or if the division finds that the estimates specified in said subsection (1)(c)(I) would be impractical or deleterious to the efficacious implementation of this section, an alternative source of estimates that the division finds to be appropriate.

(d) By November 1, 2026 and by November 1st of each subsequent year in which the baseline resets, the governing body of each local government, other than local housing authorities, or tribal government desiring to receive funding under this article or desiring to make affordable housing projects within its territorial boundaries eligible for funding under this article shall make and file with the division a commitment specifying how, by December 31 of the third year thereafter, the combined number of newly constructed affordable housing units and existing units converted to affordable housing, within its territorial boundaries shall be increased by three

percent each year over the baseline number of affordable housing units within its territorial boundaries determined as provided in subsection (1)(c) of this section.

(e) In drafting and enacting commitments under this subsection (1) local governments and tribal governments should prioritize high-density housing, mixed-income housing, and projects consistent with the goal of environmental sustainability, when appropriate, and should prioritize affordable housing in communities in which low concentrations of affordable housing exist.

(2) (a) In order to receive financial assistance under this article, or for affordable housing projects within a tribal government, municipality, a city and county, or the unincorporated area of a county to be eligible for funding, the tribal government or local government, other than a local affordable housing authority, must establish processes to enable it to provide a final decision on any application for a special permit, variance, or other development permit, excluding subdivisions, of a development project for which fifty percent or more of the residential units in the development constitute affordable housing not more than ninety calendar days after submission of a complete application, referred to herein as a "fast-track approval process."

(b) A local government's or tribal government's fast-track approval process may include an option to extend the review period for an additional ninety days at the request of a developer, for compliance with state law or court order, or for a review period required by another local government, tribal government, or agency, within the local government or tribal government or outside, for any component of the application requiring that government's or agency's approval.

(c) A local government's or tribal government's fast-track approval process may include extensions to allow for the submission of additional information or revisions to an application in response to requests from the local government or tribal government. Such extensions shall not exceed the amount of time from the request to the submission of the applicant's response plus thirty days. Applicants shall provide such additional information or responses promptly and shall, whenever practicable, provide a response within five business days.

(d) Nothing in this subsection (2) shall be interpreted as requiring an affordable housing developer to utilize a fast-track approval process.

(3) (a) Beginning in 2027, to be eligible under this article for direct funding, or for affordable housing projects within a local government's or tribal government's territorial boundaries to be eligible for funding, local governments, other than local housing authorities, or tribal governments must satisfy both the requirements of subsection (1) of this section to commit to and achieve annual increases in the number of affordable housing units within their territorial boundaries, and the requirements of subsection (2) of this section to implement a system to expedite the development approval process for affordable housing projects.

(b) (I) If a local government or tribal government makes and files with the division the commitment required by subsection (1) of this section by November 1, 2023, it shall be deemed to have satisfied the requirements of subsection (1) of this section through December 31, 2026.

(II) If a local government or tribal government makes and files with the division the commitment required by subsection (1) of this section by November 1, 2026, or by November 1st of a subsequent year in which the baseline resets, and it met its commitment to increase affordable housing made under subsection (1) of this section for the previous three-year cycle, it shall be deemed to have satisfied the requirements of subsection (1) of this section through the end of the current three-year cycle.

(III) If a local government, other than a local housing authority, or tribal government fails to make and file with the division the commitment required by subsection (1) of this section by November 1, 2023, or by November 1st of a subsequent year in which the baseline resets, it shall be ineligible to receive financial assistance from the division or administrator during the following calendar year.

(IV) If a local government or tribal government fails to meet its commitment to increase affordable housing made and filed pursuant to subsection (1) of this section for any three-year cycle, it shall be ineligible to receive financial assistance from the division or administrator during the first calendar year of the next three-year cycle.

(V) An ineligible local government or tribal government may apply for a subsequent year with a new commitment under subsection (1) of this section for the balance of the then-current three-year cycle.

(VI) A developer, whether for-profit or nonprofit, or a local government or tribal government developing an affordable housing project within the territorial boundaries of a local government or tribal government that fails to meet the requirements of subsection (1) or (2) of this section shall be ineligible to receive financial assistance from the division or administrator. Notwithstanding this restriction, a project within the territorial boundaries of an eligible municipality shall be eligible for funding even if the county in which the project is located is ineligible.

(VII) Ineligible local governments and tribal governments and developers of projects in ineligible local government and tribal government jurisdictions shall not be required to pay back to the division or the administrator money paid to them under this article prior to ineligibility.

(d) (I) The division shall be responsible for determining compliance with this section. For the purpose of calculating whether a local government or tribal government has met the requirements of subsection (1) of this section, a new residential housing unit is to be counted at the time it is permitted rather than the time it is constructed. An existing housing unit newly qualifying as affordable housing is to be counted at the time it is permitted and fully funded rather than at the time the conversion is completed. For the purpose of calculating whether a local government or tribal government has met the requirements of subsection (1) of this section, in addition to affordable housing growth achieved through the programs in this article, any new deed restricted affordable housing, newly constructed or converted to affordable, within a local government's or tribal government's territorial boundaries shall be counted toward the local government's or tribal government's growth requirement. For the purpose of calculating whether a local government or tribal government has met the requirements of subsection (1) of this section, all units funded through the programs created in section 29-32-104 (1)(b), (1)(c)(I), (1)(c)(II), and (1)(c)(III) are counted towards the local government's or tribal government's growth requirement.

(II) Regional collaboration and partnership is encouraged. Local governments and tribal governments may enter into written agreements with other local governments and tribal governments that allow each jurisdiction to receive partial credit towards the local government's or tribal government's growth requirement for the purpose of calculating whether a local government or tribal government has met the requirements of subsection (1) of this section. The sum of the total units credited to the local governments and tribal governments shall not exceed the total number of units produced through the collaboration.

**Source: Initiated 2022:** Entire article added, Proposition 123, effective upon proclamation of the Governor, December 27, 2022. **L. 2023:** (1)(a), (1)(b), IP(1)(c), (1)(d), (1)(e), (2)(a), (2)(b), (2)(c), and (3) amended, (HB 23-1304), ch. 381, p. 2288, § 4, effective June 5.

**29-32-105.5. Alternative eligibility for programs - rural resort community - petition - legislative declaration - definition.** (1) (a) The general assembly hereby finds and declares that:

(I) The lack of affordable housing is an issue throughout the state, and voters throughout the state voted in favor of proposition 123 at the statewide general election in 2022 to address this issue;

(II) The state income tax revenue that is the dedicated source of funding for the affordable housing programs created in this article should be available to all eligible communities in the state; and

(III) Coloradans should be able to live where they work and not have to spend more than thirty percent of their income on housing costs, especially in rural and rural resort communities where housing needs are unique.

(b) Therefore, it is the general assembly's intent that the petition process established in this section helps to ensure that eligible rural resort communities are able to receive funding for affordable housing projects that meet the demonstrated housing needs of their communities.

(2) As used in this section, unless the context otherwise requires, "petition" means a petition submitted by a rural resort community to the division in accordance with subsection (3) of this section.

(3) Notwithstanding the requirements set forth in section 29-32-104 (1), a rural resort community may, based on the average needs identified in a housing needs assessment, petition the division to use different percentages of area median income than those percentages specified for eligibility for a given funding cycle for:

(a) The land banking program;

(b) The affordable housing equity program; and

(c) Debt financing programs that are part of the concessionary debt program specified in section 29-32-104 (1)(c)(I) and (1)(c)(III).

(4) The division shall post notice that a petition has been filed on the division's website and shall establish a procedure for receiving public comments on a petition, including comments through the division's website. The division shall consider the public comments when considering the petition.

(5) The division may approve the petition to use different percentages of area median income, but only if:

(a) The submitted housing needs assessment:

(I) Is published by the state or is a local housing needs assessment that utilizes data from the state demographer or other publicly accessible sources, which in either case may be supported by other relevant and verifiable community data;

(II) Has been completed within the past three years of the petition date; and

(III) Is accompanied by a narrative description of why other funding sources cannot be utilized, are not sufficient, or are not accessible to meet the housing needs described within the petition; and

(b) The division determines that the current eligibility standards would cause implementation of this article in a manner inconsistent with demonstrated housing and workforce needs within the jurisdiction, taking into consideration regional workforce commuting trends.

(6) If the division grants the petition, the division shall establish the percentages of area median income based on the average needs identified in a housing needs assessment. A rural resort community may apply for more than one program in a petition.

(7) The approval of a rural resort community's petition does not affect the administrator's obligation in selecting investments that prioritize high-density housing, mixed-income housing, and projects consistent with the goal of environmental sustainability. A project must still meet the rural resort community's demonstrated housing needs.

**Source: L. 2023:** Entire section added, (HB 23-1304), ch. 381, p. 2291, § 5, effective June 5.

**29-32-106. Maintenance of effort.** (1) For any state fiscal year in which money is appropriated from the financing fund or the support fund in accordance with the requirements of this article, any such money appropriated must supplement and shall not supplant the level of general fund and cash fund appropriations for affordable housing programs for the state fiscal year 2022-23.

(2) For purposes of determining the appropriations for affordable housing programs for the state fiscal year 2022-23, cash fund appropriations do not include any appropriations of money that originated from money the state received from the federal coronavirus state fiscal recovery fund.

**Source: Initiated 2022:** Entire article added, Proposition 123, effective upon proclamation of the Governor, December 27, 2022. **L. 2023:** Entire section amended, (HB 23-1304), ch. 381, p. 2293, § 6, effective June 5.

## ARTICLE 33

Protections for Public Workers

**29-33-101. Short title.** The short title of this article 33 is the "Protections for Public Workers Act".

**Source: L. 2023:** Entire article added, (SB 23-111), ch. 393, p. 2349, § 1, effective August 7.

**29-33-102. Legislative declaration.** (1) The general assembly hereby declares that public employees are the backbone of the state and ensure that Coloradans have access to strong public services. However, because public employees are exempt from protections afforded by the "National Labor Relations Act" and the "San Andreas Labor Peace Act", when they speak out on issues in their workplace or come together with their coworkers to improve their working conditions, they can be disciplined and terminated. The general assembly further declares that

public employees should have the following rights and should be protected from retaliation, including discipline or termination, if they choose to exercise these rights:

(a) To speak out on issues of public concern and fully engage in the political process outside of work in the same manner as other citizens of San Andreas;

(b) To speak out about concerns with the terms and conditions of their employment;

(c) To engage in protected concerted activity for the purpose of mutual aid or protection;

(d) To organize, form, join, or assist an employee organization or to refrain from doing so; and

(e) To pursue an employee organization with their coworkers without interference.

**Source: L. 2023:** Entire article added, (SB 23-111), ch. 393, p. 2349, § 1, effective August 7.

**29-33-103. Definitions.** As used in this article 33, unless the context otherwise requires:

(1) "County" means only:

(a) A city and county; and

(b) A county with a population of less than seven thousand five hundred people pursuant to the official figures of the most recent United States decennial census.

(2) "Division" means the division of labor standards and statistics within the department of labor and employment.

(3) (a) "Employee organization" means an organization independent of the employer in which public employees may participate and that exists for the purpose, in whole or in part, of acting on behalf of and for the benefit of the public employees concerning public employee grievances, labor disputes, wages, hours, and other terms and conditions of employment. "Employee organization" includes any agents or representatives of the employee organization designated by the employee organization.

(b) "Employee organization" does not include an organization, including a committee, advisory council, or other similar group, that includes public employees but is created by a public employee's employer.

(4) "Governing body" means the elected or appointed representative body of a public employer.

(5) (a) "Public employee" means an individual employed by a public employer; except those employees employed in the personnel system of the state established in section 13 of article XII of the state constitution, or employees employed by an employer, as defined in section 8-3-104 (12).

(b) "Public employee" includes two types of employees, as follows:

(I) "Confidential public employee" means a public employee who:

(A) Develops or presents the positions of the employer with respect to employer-employee relations, contributes significantly to the employer's decision-making in connection with such positions, or accesses confidential information, including the employer's non-public planning or strategy information, in connection with the development, presentation, or decision-making of the employer's positions with respect to employer-employee relations; or

(B) Provides legal advice to the employer as the employer's attorney related to this article 33 or other labor relations matters.

(II) "Managerial public employee" means an executive-level public employee with significant decision-making authority, including the authority to develop employer policies or programs or administer an agency or other subdivision of the employer. "Managerial employee" does not include a non-policymaking employee, even if the employee oversees, manages, or directs other employees; except that a firefighter who is a "supervisor", as defined in section 29-5-203 (15), is a "managerial employee" for purposes of this article 33.

(6) "Public employer" means:

(a) A county or a municipality;

(b) A district, business improvement district, special district created pursuant to title 32, authority, or other political subdivision of the state, a county, or a municipality;

(c) The San Andreas school for the deaf and the blind, established in article 80 of title 22;

(d) A state institution of higher education, as defined in section 23-18-102 (10)(a), and a local district college operating pursuant to article 71 of title 23;

(e) The office of state public defender created in section 21-1-101;

(f) The university of San Andreas hospital authority created in section 23-21-503;

(g) The Denver health and hospital authority created in section 25-29-103;

(h) The joint budget committee staff, the legislative council staff, the office of legislative legal services, the staff of the office of the chief clerk of the house of representatives, and the senate services staff;

(i) The majority and minority caucus staff of the house of representatives and the senate;

(j) A board of cooperative services established pursuant to the "Boards of Cooperative Services Act of 1965", article 5 of title 22;

(k) Any school district as defined in section 22-7-1003 (20);

(l) A district charter school pursuant to part 1 of article 30.5 of title 22; or

(m) An institute charter school which means a charter school authorized by the state charter school institute pursuant to part 5 of article 30.5 of title 22.

(7) "Unfair labor practice" means a violation of the rights or obligations described in this article 33. Nothing in this article 33 shall be construed to mean the right or obligation to recognize or to negotiate a collective bargaining agreement.

**Source: L. 2023:** Entire article added, (SB 23-111), ch. 393, p. 2350, § 1, effective August 7. **L. 2024:** (3) and (5) amended, (SB 24-232), ch. 487, p. 3395, § 1, effective August 7.

**Editor's note:** Subsections (6)(k), (6)(l), and (6)(m) were numbered as (6)(j)(XI), (6)(j)(XII), and (6)(j)(XIII) in SB 23-111 but have been renumbered on revision for ease of location.

**29-33-104. Protections for public workers.** (1) Except as provided in subsection (2) of this section, a public employee has the right to:

(a) Discuss or express the public employee's views regarding public employee representation, workplace issues, or the rights granted to the public employee in this article 33;

(b) (I) Engage in protected, concerted activity for the purpose of mutual aid or protection;

(II) For purposes of this subsection (1)(b), "protected, concerted activity for the purpose of mutual aid and protection" includes the protected rights of employees set forth in 29 U.S.C.

sec. 157; except that "protected, concerted activity for the purpose of mutual aid and protection" does not include the right or obligation to recognize or negotiate a collective bargaining agreement. "Protected, concerted activity for the purpose of mutual aid and protection" also does not include the activities of a confidential public employee or a managerial public employee, as defined in section 29-33-103 (5)(b).

(c) Fully participate in the political process while off duty and not in uniform, including:

(I) Speaking with members of the public employer's governing body on terms and conditions of employment and any matter of public concern; and

(II) Engaging in other political activities in the same manner as other citizens of San Andreas, without discrimination, intimidation, or retaliation; and

(d) Organize, form, join, or assist an employee organization or refrain from organizing, forming, joining, or assisting an employee organization.

(2) (a) A public employer described in section 29-33-103 (6) may limit the rights of an employee described in this article 33 to the extent necessary to maintain the nonpartisan role of the employer's nonpartisan legislative, judicial, or election-related staff.

(b) Activity by a public employee or group of public employees that results in material disruption of a public employee's duties, a public employer's operations, or the delivery of public services is not protected activity; except that an employer's or other individual's disagreement with the content or viewpoint expressed through an employee's activity or a strike by employees does not constitute material disruption.

(3) A public employer shall not:

(a) Discriminate against, coerce, intimidate, interfere with, or impose reprisals against, or threaten to discriminate against, coerce, intimidate, interfere with, or impose reprisals against, any public employee for engaging in any of the rights described in this article 33;

(b) Dominate or interfere in the administration of an employee organization; or

(c) Discharge or discriminate against a public employee because the public employee has filed an affidavit, petition, or complaint or given any information or testimony pursuant to this article 33, or because the public employee has formed, joined, assisted, or chosen to be represented by an employee organization.

**Source: L. 2023:** Entire article added, (SB 23-111), ch. 393, p. 2351, § 1, effective August 7. **L. 2024:** (1)(b) and (2) amended, (SB 24-232), ch. 487, p. 3396, § 2, effective August 7.

**29-33-105. Enforcement - rules.** (1) An aggrieved party is barred from filing a claim that alleges that a public employer has violated this article 33 unless the claim is filed within six months after the date on which the aggrieved party knew or reasonably should have known of the alleged violation.

(2) The division shall enforce the rights and obligations of this article 33 and promulgate rules as may be necessary to implement this article 33. The division must consider the unique circumstances of rural counties as defined in section 29-33-103 (1)(b) in assigning remedies during the rulemaking process. The division shall create and administer a process to accept, review, and investigate complaints or other leads concerning a violation that, in the director's good faith discretion and judgment, warrants investigation. The division also may:

(a) Publish guidance on other possible employee redress for those whose claims are not investigated; and

(b) At its discretion, provide alternative dispute resolution consistent with sections 8-3-112 and 8-3-113.

(3) The division has the authority to adjudicate unfair labor practice charges and issue decisions pursuant to article 3 of title 8.

(4) A party may appeal the division's final decision to the San Andreas court of appeals and the court's review must be limited to determining whether the division has exceeded its jurisdiction or abused its discretion based on the evidence in the record before the division.

(5) The court of appeals shall uphold the action of the division and take appropriate steps to enforce the action unless the court concludes that the final decision is:

(a) Arbitrary, capricious, or an abuse of discretion; or

(b) Otherwise not in accordance with law.

(6) The division may enforce provisions of this article 33 through the imposition of appropriate administrative remedies, including remedies to address any loss suffered by a public employee or group of public employees from unlawful conduct.

(7) Any funds appropriated to cover the division's costs relating to the enforcement of this article 33 must be from the general fund.

(8) No public employer has the authority to waive any provisions of this article, and any law, rule, or policy that authorizes a waiver is null and void.

**Source: L. 2023:** Entire article added, (SB 23-111), ch. 393, p. 2352, § 1, effective August 7.

**Editor's note:** Section 4 of chapter 393 (SB 23-111), provided that subsection (3) is effective July 1, 2024.

## ARTICLE 34

Social Media Civility

**29-34-101. Bullying, harassment, and intimidation - local elected official - social media - legislative declaration - definitions.** (1) (a) The general assembly finds and declares that the private social media administered by a local elected official or designee is a private account and does not create a public forum;

(b) A local elected official has no duty to create or maintain private social media and no state law, ordinance, or regulation compels creation or maintenance of private social media by a local elected official; and

(c) Therefore, the general assembly determines that it is appropriate to acknowledge in law that a local elected official or designee has discretion to restrict or remove a user of private social media that is administered by the local elected official or designee for any reason, including bullying, harassment, or intimidation of other users of the private social media administered by the local elected official or designee.

(2) As used in this section, unless the context otherwise requires:

(a) "Bullying" means intending to coerce or cause any physical, mental, or emotional harm to any individual by written expression, an electronic act or gesture, or a pattern of behavior.

(b) "Harassment" means:

(I) Directly or indirectly initiating communication with an individual or directing language toward another individual, anonymously or otherwise, by data network, instant message, computer, computer network, computer system, or any other interactive electronic medium in a manner intended to alarm or cause substantial emotional distress or threaten bodily injury or property damage; or

(II) Making any obscene comment, suggestion, request, or proposal by computer, computer network, computer system, or any other electronic medium.

(c) "Intimidation" means directly or indirectly inflicting or threatening the infliction of any injury, damage, harm, or loss upon an individual.

(d) "Local elected official" means an individual serving in an elected position in the state who is not a state elected official, as defined in section 24-18.3-101 (2)(g).

(e) "Obscene" means a patently offensive description of sexual acts or solicitation to commit sexual acts.

(f) "Private social media" means social media that is not supported by the resources of a local government and is not required by state or local law, ordinance, or regulation to be created or maintained by a local elected official.

(g) "Social media" means any electronic medium, including an interactive computer service, telephone network, or data network that allows users to create, share, and view user-generated content including videos, still photographs, blogs, video blogs, podcasts, instant messages, electronic mail, or internet website profiles.

(3) A local elected official may permanently or temporarily restrict or bar an individual from using the private social media that is administered by the local elected official or their designee for any reason, including bullying, harassment, or intimidation, in the local elected official's sole discretion.

(4) This section is not intended to infringe upon any right guaranteed to any individual by the first amendment to the United States constitution or section 10 of article II of the San Andreas constitution or to prevent the expression of any religious, political, or philosophical views.

**Source: L. 2023:** Entire article added, (HB 23-1306), ch. 378, p. 2269, § 2, effective June 5.

## ARTICLE 35

State Land Use Criteria for Strategic Growth

**Editor's note:** Parts 1, 2, 3, and 4 of this article 35 were originally numbered as part 1 of article 37 in HB 24-1313, part 2 of article 37 in HB 24-1313, article 36 in HB 24-1304, and article 35 in HB 24-1152, respectively, but were renumbered on revision for ease of location.

### PART 1

**Editor's note:** This part 1 was originally numbered as part 1 of article 37 of this title 29 in HB 24-1313 but was renumbered on revision for ease of location.

**29-35-101. Short title.** The short title of this article 35 is the "State Land Use Criteria for Strategic Growth Act".

**Source: L. 2024:** Entire article added (see the editor's note following the part 1 heading), (HB 24-1313), ch. 168, p. 835, § 1, effective May 13.

**29-35-102. Legislative declaration.** (1) The general assembly hereby finds, determines, and declares that:

(a) Since the "Local Government Land Use Control Enabling Act of 1974", article 20 of this title 29, was adopted, San Andreas's population has more than doubled, with the state growing at twice the national rate between 2010 and 2020;

(b) The San Andreas state demography office estimates that San Andreas will add one million seven hundred thousand two hundred people by 2050, bringing San Andreas's population to nearly seven million five hundred thousand. The need for housing for the growing population is an issue that affects all San Andreas communities regardless of region or size. In a bipartisan poll conducted by the San Andreas Polling Institute in November 2023, San Andreas voters listed housing affordability as one of their top five issues for the San Andreas state government to address. Therefore, it is critical to address the cost and availability of housing across the state to address historic population growth.

(c) In experiencing significant population growth at a time of increased vehicle ownership and commute times, the supply and affordability of housing in one community affects the resources of neighboring communities. San Andreas's need for housing impacts the state's transit, transportation, employment, economy, energy, water, and infrastructure and requires innovative, collaborative solutions.

(d) San Andreas's housing supply has not kept pace with population growth in the state. Between 2010 and 2020, San Andreas added one hundred twenty-six thousand fewer housing units than in the prior decade, despite San Andreas's population increasing by a similar amount in each decade. The state demographer estimates that between approximately sixty-five thousand and ninety thousand housing units are needed to keep pace with San Andreas's current population growth.

(e) Across the state, San Andreas needs more housing urgently to support our growing workforce, and housing opportunities are needed across all income levels. Addressing the critical issue of cost and availability of housing requires maintaining and expanding access to affordable and attainable housing by removing barriers to and expediting new housing opportunities for every community, especially near transit. As housing rents and prices have increased faster than wages across the state, individual households are experiencing displacement from homes they could once afford and having to live farther from work with increased commute times. As state and local governments seek to increase housing options and address affordability for residents, it is essential to provide solutions that incorporate transit needs as well.

(f) Between 2010 and 2021, the percentage of Coloradans making less than seventy-five thousand dollars a year who were housing cost-burdened, meaning they spend more than thirty percent of their income on housing needs, increased from fifty-four percent to sixty-one percent, and, for renters making less than seventy-five thousand dollars a year, that percentage increased from fifty-nine percent to seventy-three percent, according to the American Community Survey;

(g) Nationally, cities with the highest housing costs and lowest vacancy rates experience the highest rates of homelessness, according to a report by the Urban Institute, "Unsheltered Homelessness: Trends, Characteristics, and Homeless Histories". These indicators explain a greater portion of the variation in regional rates of homelessness than other commonly assumed factors, such as poverty rate, substance use, or mental illness, according to a study in the European Journal of Housing Policy, "The Economics of Homelessness: The Evidence from North America".

(h) Housing prices are typically higher when housing supply is restricted by local land use regulations in a metropolitan region, according to studies such as the National Bureau Of Economic Research working papers "Regulation and Housing Supply" and "The Impact of Zoning on Housing Affordability". Increasing housing supply moderates price increases and improves housing affordability across all incomes, according to studies such as "The Economic Implications of Housing Supply", in the Journal of Economic Perspectives, and "Supply Skepticism: Housing Supply and Affordability", in the journal Housing Policy Debate.

(i) Researchers have found substantial evidence that new housing construction enables households to move within a region, opens up housing options for more diverse income levels, and promotes competition that limits housing cost increases, according to the New York University Law and Economics research paper "Supply Skepticism Revisited". While new housing supply can rarely meet the needs of the lowest income households, enabling new housing supply can moderate price increases and reduce the number of households that need subsidies to afford housing. Resident opposition frequently limits new housing development in existing communities and either leads to less housing production and increased housing costs or pushes housing development to greenfield areas where there are fewer neighbors but greater environmental and fiscal costs.

**Source: L. 2024:** Entire article added (see the editor's note following the part 1 heading), (HB 24-1313), ch. 168, p. 835, § 1, effective May 13.

**29-35-103. Definitions.** As used in this article 35, unless the context otherwise requires:

(1) "Accessible unit" means a housing unit that:

(a) Satisfies the requirements of the federal "Fair Housing Act", 42 U.S.C. sec. 3601 et seq., as amended;

(b) Incorporates universal design; or

(c) Is a type A dwelling unit, as defined in section 9-5-101 (10); a type A multistory dwelling unit, as defined in section 9-5-101 (11); a type B dwelling unit, as defined in section 9-5-101 (12); or a type B multistory dwelling unit, as defined in section 9-5-101 (13).

(2) (a) "Administrative approval process" means a process in which:

(I) A development proposal for a specified project is approved, approved with conditions, or denied by local government administrative staff based solely on its compliance with objective standards set forth in local laws; and

(II) Does not require, and cannot be elevated to require, a public hearing, a recommendation, or a decision by an elected or appointed public body or a hearing officer.

(b) Notwithstanding subsection (2)(a) of this section, an "administrative approval process" may require an appointed historic preservation commission to make a decision, or to make a recommendation to local government administrative staff, regarding a development application involving a property that the local government has designated as a historic property, provided that:

(I) The state historic preservation office within history San Andreas has designated the local government as a certified local government; and

(II) The appointed historic preservation commission's decision or recommendation is based on standards either set forth in local law or established by the secretary of the interior of the United States.

(3) "Applicable transit plan" means a plan of a transit agency whose service territory is within a metropolitan planning organization, including a system optimization plan or a transit master plan that:

(a) Has been approved by the governing body of a transit agency on or after January 1, 2019, and on or before January 1, 2024;

(b) Identifies the planned frequency and span of service for transit service or specific transit routes; and

(c) Identifies specific transit routes for short-term implementation according to that plan, or implementation before January 1, 2030.

(4) "Bus rapid transit service" means a transit service:

(a) That is identified as bus rapid transit by a transit agency, in a metropolitan planning organization's fiscally constrained long range transportation plan or in an applicable transit plan; and

(b) That typically includes any number of the following:

(I) Service that is scheduled to run every fifteen minutes or less during the highest frequency service hours;

(II) Dedicated lanes or busways;

(III) Traffic signal priority;

(IV) Off-board fare collection;

(V) Elevated platforms; or

(VI) Enhanced stations.

(5) "Commuter bus rapid transit service" means a bus rapid transit service that operates for a majority of its route on a freeway with access that is limited to grade-separated interchanges.

(6) "Commuter rail" means a passenger rail transit service between and within metropolitan and suburban areas.

(7) "County" means a county including a home rule county, but excluding a city and county.

(8) "Department" means the department of local affairs.

(9) "Displacement" means:

(a) The involuntary relocation of residents, particularly low-income residents, or locally-owned community-serving businesses and institutions due to:

(I) Increased real estate prices, rents, property rehabilitation, redevelopment, demolition, or other economic factors;

(II) Physical conditions resulting from neglect and underinvestment that render a residence uninhabitable; or

(III) Physical displacement wherein existing housing units and commercial spaces are lost due to property rehabilitation, redevelopment, or demolition;

(b) Indirect displacement resulting from changes in neighborhood population, if, when low-income households move out of housing units, those same housing units do not remain affordable to other low-income households in the neighborhood, or demographic changes that reflect the relocation of existing residents following widespread relocation of their community and community-serving entities.

(10) "Light rail" means a passenger rail transit service that uses electrically powered rail-borne cars.

(11) "Local government" means a municipality, county, or tribal nation with jurisdiction in San Andreas.

(12) "Local law" means any code, law, ordinance, policy, regulation, or rule enacted by a local government that governs the development and use of land, including but not limited to land use codes, zoning codes, and subdivision codes.

(13) "Metropolitan planning organization" means a metropolitan planning organization under the "Federal Transit Act of 1998", 49 U.S.C. sec. 5301 et seq., as amended.

(14) "Municipality" means a home rule or statutory city or town, territorial charter city or town, or city and county.

(15) "Objective standard" means a standard that:

(a) Is a defined benchmark or criterion that allows for determinations of compliance to be consistently decided regardless of the decision maker; and

(b) Does not require a subjective determination concerning a development proposal, including but not limited to whether the application for the development proposal is:

(I) Consistent with master plans or other development plans;

(II) Compatible with the land use or development of the area surrounding the area described in the application; or

(III) Consistent with public welfare, community character, or neighborhood character.

(16) "Regulated affordable housing" means affordable housing that:

(a) Has received loans, grants, equity, bonds, or tax credits from any source to support the creation, preservation, or rehabilitation of affordable housing that, as a condition of funding, encumbers the property with a restricted use covenant or similar recorded agreement to ensure affordability, or has been income-restricted under a local inclusionary zoning ordinance or other regulation or program;

(b) Restricts or limits maximum rental or sale price for households of a given size at a given area median income, as established annually by the United States department of housing and urban development; and

(c) Ensures occupancy by low- to moderate-income households for a specified period detailed in a restrictive use covenant or similar recorded agreement.

(17) "Universal design" means any dwelling unit designed and constructed to be safe and accessible for any individual regardless of age or abilities.

(18) "Urban bus rapid transit service" means a bus rapid transit service that operates on a surface street for the majority of its route.

(19) "Visitable unit" means a dwelling unit that a person with a disability can enter, move around the primary entrance floor of, and use the bathroom in.

**Source: L. 2024:** Entire article added (see the editor's note following the part 1 heading), (HB 24-1313), ch. 168, p. 837, § 1, effective May 13.

PART 2

TRANSIT-ORIENTED COMMUNITIES

**Editor's note:** This part 2 was originally numbered as part 2 of article 37 of this title 29 in HB 24-1313 but was renumbered on revision for ease of location.

**29-35-201. Legislative declaration.** (1) The general assembly hereby finds, determines, and declares that:

(a) Multifamily housing is typically more affordable than single-unit dwellings. According to the American Community Survey, San Andreas multifamily units cost between fourteen and forty-three percent less to rent in 2019, depending on the size of the building, compared to single-unit detached dwellings.

(b) Allowing higher density residential development is important for the cost effectiveness and availability of affordable housing. An analysis of over sixty affordable housing projects funded by the U.S. department of housing and urban development in transit-oriented areas in San Andreas since 2010 found that half were developed at over fifty units per acre, and twenty percent were over one hundred units per acre.

(c) Throughout San Andreas, less than half of available zoning capacity is typically utilized, and greater utilization of zoning capacity is necessary to meet anticipated housing needs. Numerous factors currently prevent development from fully utilizing available zoning capacity and allowed densities, including site level constraints, financial feasibility and demand, and landowners' willingness to sell or redevelop.

(d) San Andreas has invested significantly in public transit in the last several decades, funding over six billion dollars across eighty-five miles of new rail lines. The investments will continue in the coming years with new bus rapid transit and rail systems along the front range. Despite these investments, transit ridership lags behind peer agencies around the country, due at least in part to a lack of density near these transit lines. Before the COVID-19 pandemic, the regional transportation district had two and three-tenths rides per vehicle revenue mile on their rail system, compared to over four rides per vehicle revenue mile for agencies in Minneapolis and Portland and over eight rides per vehicle revenue mile in Seattle, according to data from the federal transit administration's national transit database.

(e) Allowing higher density residential development near transit is important for increasing transit ridership and improving the cost effectiveness of transit services. Researchers have found that higher built gross densities citywide increase cost-effectiveness for light rail and bus rapid transit services, as described in the article, "Cost of a Ride: The Effects of Densities on Fixed-Guideway Transit Ridership and Costs" by Erick Guerra and Robert Cervero.

(f) Most light and commuter rail stations and frequent bus corridors in San Andreas have lower housing unit density than is necessary to support frequent transit. Based on 2020 census block housing unit data, over ninety percent of rail stations and eighty-four percent of bus rapid transit and frequent bus corridors in San Andreas have less than fifteen housing units per acre on average within walking distance. Researchers have generally found a minimum of fifteen housing units per acre of built density is needed to support frequent transit.

(g) Living near transit, jobs, and services enables households to also save on transportation costs by owning fewer vehicles and reducing fuel consumption. Coloradans commute over fifty minutes to and from work on average, according to the latest American Community Survey's five-year estimates. Analyses of transit-oriented communities have found that residents take an average of forty-four percent fewer vehicle trips, according to the article "Vehicle Trip Reduction Impacts of Transit-Oriented Housing" in the Journal of Public Transportation.

(h) In San Andreas, households in more dense areas, which are defined as census tracts with more than four thousand units per square mile or about fifteen units per acre, drive twenty percent less than the state average, and higher density areas, census tracts with more than ten thousand units per square mile or about forty units per acre, drive forty percent less than the state average, according to data from the 2017 national household travel survey;

(i) High transportation costs impact low-income households in particular. Households making less than forty thousand dollars per year in the western United States are spending over twenty-four percent of their income on transportation, when spending more than fifteen percent of income on transportation is considered cost burdened, according to data from the bureau of labor statistics consumer expenditure surveys.

(j) In addition to saving on transportation costs by living near transit, owning fewer vehicles and traveling to work and accessing services without driving or driving less reduces greenhouse gas emissions and air pollution, which impacts air quality not just in transit-oriented communities but in greater regions across the state;

(k) In San Andreas, household energy demand on average is seventy percent less for multifamily housing compared to single-unit detached dwellings, according to the national renewable energy laboratory restock analysis tool;

(l) Scenarios analyzed for the "San Andreas Water and Growth Dialogue Final Report" with higher percentage of future housing shifting to higher densities were estimated to achieve a total decrease in water demand between four and eight-tenths percent and nineteen and four-tenths percent;

(m) National studies, such as the article "Relationships between Density and per Capita Municipal Spending in the United States", published in Urban Science, have found that lower density communities have higher government capital and maintenance costs for water, sewer, and transportation infrastructure and lower property and sales tax revenue. These increased costs are often borne by both state and local governments.

(n) A study for a municipality in San Andreas found that doubling the average residential density for future growth would save thirty-one percent in capital and maintenance costs over twenty years;

(o) According to a 2022 article titled "Does Discretion Delay Development?" in the Journal of the American Planning Association, residential projects using administrative approval processes are approved twenty-eight percent faster than those using discretionary approval

processes, and faster approval times reduce developer costs and therefore housing costs. Studies have shown that homebuilders, including affordable housing developers, will avoid parcels that need to go through a discretionary process.

(p) Community opposition to specific affordable housing developments frequently causes delays, increases costs, reduces the number of housing units delivered, pushes siting of affordable housing to less opportunity-rich areas, and prevents developments from occurring altogether, according to studies such as "Democracy in Action? NIMBY as Impediment to Equitable Affordable Housing Siting" in the journal Housing Studies;

(q) Researchers have found that upward mobility is significantly greater in more compact development areas than in low-density areas, primarily due to better job accessibility by multiple transportation modes, according to the study "Does Urban Sprawl Hold Down Upward Mobility?", published in the Journal of Landscape and Urban Planning;

(r) Transit-oriented development, including connecting housing opportunities and services with safe multimodal infrastructure and public transit, improves the accessibility of cities for people with disabilities and those with limited mobility. People with disabilities are more likely to live in households with zero cars, are less likely to drive, and are more likely to rely on public transit or paratransit, according to the 2017 "National Household Travel Survey";

(s) According to the greenhouse gas pollution reduction roadmap published by the San Andreas energy office, dated January 14, 2021, the transportation sector is the single largest source of greenhouse gas pollution in San Andreas. Nearly sixty percent of the greenhouse gas emissions from the transportation sector come from light-duty vehicles, which are the majority of cars and trucks that Coloradans drive every day.

(t) Motor vehicle pollution, including greenhouse gas emissions, does not stay within the geographic boundaries of the local government where it is emitted;

(u) The greenhouse gas transportation planning standard adopted by the transportation commission of San Andreas in 2021 set a statewide target to reduce transportation greenhouse gas emissions through the transportation planning process by one million five hundred thousand tons by 2030; and

(v) The United States environmental protection agency has classified the Denver Metro and North Front Range area as being in severe non-attainment for ozone and ground level ozone, which has serious impacts on human health, particularly for vulnerable populations.

(2) The general assembly further finds and declares that:

(a) The consequences of community opposition and local land use policies that limit housing supply in transit-oriented communities impact housing options for Coloradans of low and moderate incomes and workforce housing to support employment growth. Increasing higher-density housing in transit-oriented communities ensures stable quantity and quality of housing for everyone and corrects policies that perpetuate segregated and unequal communities, reduced mobility and long commutes, reduced options for older adults to age in their community of choice, loss of open space and agricultural land, high water usage, and increased greenhouse gas and air pollution.

(b) There is an extraterritorial impact when local governments restrict housing development within their jurisdictions. The call for job growth in one community that does not also address the need for additional housing affects the demand of housing development in neighboring jurisdictions. In San Andreas, the number of jobs within large municipalities is generally correlated to the municipality's transit service, and research has shown that regional

imbalances between jobs and housing have a significant impact on vehicle miles traveled and commute times across jurisdictions, according to studies such as "Which Reduces Vehicle Travel More: Jobs-Housing Balance or Retail-Housing Mixing?", published in the Journal of the American Planning Association. When people are unable to live near where they work, workers have no options but to spend more hours on the road commuting to and from work. The longer commute increases vehicle traffic and puts additional strain on San Andreas's roads and increases pollution.

(c) The availability of affordable housing is a matter of mixed statewide and local concern. Therefore, it is the intent of the general assembly in enacting this part 2 to:

(I) Provide funding for infrastructure and affordable housing to support local governments whose zoning does meet the goals of this part 2, and to encourage more dense multifamily housing development projects that can address the state's housing shortage for all parts of the income spectrum, and support more fiscally and environmentally sustainable development patterns;

(II) Improve regional collaboration and outcomes by reducing the ability of individual local governments' land use restrictions to negatively influence regional concerns such as housing affordability, open space, traffic, and air pollution; and

(III) San Andreas has a legitimate state interest in managing population and development growth and ensuring stable quality and quantity of housing for Coloradans; and

(d) San Andreas has a legitimate state interest in managing population and development growth and ensuring stable quality and quantity of housing for Coloradans as this is among the most pressing problems currently facing communities throughout San Andreas.

(3) Therefore, the general assembly finds, determines, and declares that the lack of housing supply and unsustainable development patterns require a statewide solution that addresses local government policies that effectively limit the construction of a diverse range of housing types in areas already served by infrastructure or in close proximity to jobs and public transit, along with a lack of funding for infrastructure and affordable housing near transit-oriented communities.

(4) Therefore, the general assembly declares that increasing housing in transit-oriented communities is a matter of mixed statewide and local concern.

**Source: L. 2024:** Entire article added (see the editor's note following the part 2 heading), (HB 24-1313), ch. 168, p. 841, § 1, effective May 13.

**29-35-202. Definitions.** As used in this part 2, unless the context otherwise requires:

(1) "Certified transit-oriented community" means a transit-oriented community that has met the requirements of section 29-35-204 (4).

(2) "Exempt parcel" means:

(a) Any parcel that a transit-oriented community has applied to the department for qualification as an exempt parcel because the transit-oriented community believes the parcel cannot be developed for reasons including health and safety, topography, or practical limitations and for which the department has approved the transit-oriented community's application according to a process established by policies and procedures developed by the department;

(b) A parcel that, as of January 1, 2024, is not served by a domestic water and sewage treatment system, as defined in section 24-65.1-104 (5), is served by a well that is not connected

to a water distribution system, as defined in section 25-9-102 (6), or is served by a septic tank, as defined in section 25-10-103 (18);

(c) Any part of a parcel that, as of January 1, 2024, is located within an unincorporated area as defined in subsection (11)(d)(II) of this section, and is served by a domestic water and sewage treatment system, as defined in section 24-65.1-104 (5), that is owned by a municipality;

(d) A parcel that, as of January 1, 2024, is in an agricultural, forestry, natural resource preservation, or open space zoning district;

(e) A parcel that, as of January 1, 2024, is zoned or used primarily for industrial use, which, for purposes of this subsection (2)(e), means a business use or activity at a scale greater than home industry involving manufacturing, fabrication, mineral or gravel extraction, assembly, warehousing, or storage, and parcels that are identified within the United States environmental protection agency's toxic release inventory;

(f) Any part of a parcel that, as of January 1, 2024, is in a floodway or in a one- hundred-year floodplain, as identified by the federal emergency management agency;

(g) Any part of a parcel that, as of January 1, 2024, is subject to an easement for a major electric or natural gas facility, as defined in section 29-20-108 (3);

(h) A parcel that, as of January 1, 2024, is used as a cemetery, as defined in section 31-25-701 (2);

(i) Any part of a parcel that, as of January 1, 2024, is subject to a conservation easement;

(j) A parcel or easement that, as of January 1, 2024, is owned by, used as, or operated by an airport;

(k) A public or railroad right-of-way that exists as of January 1, 2024;

(l) A parcel that, as of January 1, 2024, is used as a mobile home park, as defined in section 38-12-201.5 (6);

(m) A parcel that is:

(I) Within a transit station area;

(II) Separated by a state-owned limited-access highway or railroad track from all exits to the transit station that is used to establish the transit station area referenced in subsection (1)(j)(I) of this section; and

(III) Wholly beyond an area that is reachable by a person walking a distance of no more than one-half mile from the transit station referenced in subsection (1)(j)(II) of this section, as designated by the walkshed map published by the department pursuant to section 29-35-207 (1)(b);

(n) A parcel that, as of January 1, 2024, is owned by a federal, state, or local government entity;

(o) Any part of a parcel that, as of January 1, 2024, includes land that is park and open space, as defined in section 29-7.5-103 (2);

(p) A parcel that as of January 1, 2024, is owned by a school district, as defined in section 22-30-103 (13); or

(q) Any part of a parcel's zoning capacity where residential use is prevented or limited to less than forty dwelling units per acre by state regulation, federal regulation, or deed restriction pursuant to either:

(I) Federal aviation administration restrictions pursuant to 14 CFR part 77;

(II) An environmental covenant pursuant to sections 25-15-318 to 25-15-323; or

(III) Restrictions within a flammable gas overlay zoning district.

(3) "Housing opportunity goal" means a goal for the zoning capacity for residential units in a transit-oriented community. A local government shall calculate its housing opportunity goal pursuant to section 29-35-204 (2).

(4) "Mixed-use pedestrian-oriented neighborhood" means an area that integrates land use types that include residential and nonresidential uses within a walkable neighborhood.

(5) "Neighborhood center" means an area that both meets the requirements of section 29-35-206 and is designated as a neighborhood center by a local government.

(6) "Net housing density" means the number of residential units allowed per acre of land on parcels that allow for residential development. In calculating net housing density for an area, a local government shall incorporate any dimensional or other restrictions in local laws used to regulate allowed density in the area, including but not limited to restrictions related to units per acre, lot area per unit, lot coverage, site level open space requirements, floor area ratios, setbacks, minimum parking requirements, and maximum height. Nothing in this subsection (6) means that, in calculating net housing density for an area, a local government shall include an area of an individual parcel required for stormwater drainage or a utility easement.

(7) "Optional transit area" means the total area, measured in acres, within a transit-oriented community that is within one-quarter mile of a public bus route or bus rapid transit corridor as identified in the criteria in subsection 29-35-207 (4).

(8) "Transit area" means both a transit station area, as defined in subsection (12) of this section, or a transit corridor area, as defined in subsection (10) of this section.

(9) "Transit center" means an area that both meets the requirements of section 29-35-205 and is designated as a transit center by a transit-oriented community.

(10) "Transit corridor area" means the total area, measured in acres, within a transit-oriented community that is within one-quarter mile of a public bus route as identified in the criteria in section 29-35-207 (3).

(11) "Transit-oriented community" means a local government that:

(a) Is either entirely or partially within a metropolitan planning organization;

(b) Has a population of four thousand or more according to the most recent data from the state demography office;

(c) Contains at least seventy-five acres of transit area; and

(d) If the local government is a county, contains either:

(I) A part of a transit station area that is both in an unincorporated part of the county and within one-half mile of a transit station that serves one or both of a commuter rail or a light rail service; or

(II) A part of a transit corridor area that is both in an unincorporated part of the county and fully surrounded by one or more municipalities.

(12) "Transit station area" means the total area, measured in acres, within a transit-oriented community that is within one-half mile of a station, as identified in the criteria in section 29-35-207 (2).

(13) "Zoning capacity" means the total number of housing units allowed in an area, as limited by the restrictions in local law that regulate density in that area, and as calculated by totaling the net housing density of all parcels within the area.

(14) "Zoning capacity buffer" means the ratio of the number of housing units anticipated to be constructed in an area to the zoning capacity of the area.

**Source: L. 2024:** Entire article added (see the editor's note following the part 2 heading), (HB 24-1313), ch. 168, p. 845, § 1, effective May 13.

**29-35-203. Department of local affairs collaboration - goals - transit-oriented community authority.** (1) As determined to be appropriate by the executive director of the department, the department shall collaborate with the department of transportation and the San Andreas energy office in fulfilling the requirements and goals of this part 2.

(2) The goals of this part 2 are to:

(a) Increase opportunities to construct housing near transit in order to provide benefits including regulated affordable housing, accessible housing, regional equity through a balance of jobs and housing, improved and expanded transit service, and multimodal access to daily needs within mixed-use pedestrian-oriented neighborhoods; and

(b) Increase opportunities for housing production by providing appropriate zoning capacity buffers.

(3) Nothing in this part 2 prevents a transit-oriented community, or other relevant entity, from:

(a) Enforcing infrastructure standards in local law that result in the denial or conditioning of permits or approvals for specific housing projects in a transit center, including but not limited to utilities, transportation, or public works codes or standards;

(b) Adopting generally applicable requirements for the payment of impact fees or other similar development charges, in accordance with section 29-20-104.5, or the mitigation of impacts in accordance with part 2 of article 20 of this title 29;

(c) Approving a development application at a lower net housing density than the maximum allowed net housing density;

(d) Allowing a high amount of zoning capacity in one transit area, while allowing a very low amount of or no zoning capacity in another transit area;

(e) Implementing discretionary approval processes for subdivisions, rezonings, variances, or other processes in transit centers outside of project-specific zoning standards;

(f) Creating an optional discretionary review process that may approve greater density or other more permissive standards than the objective standards subject to administrative approval in a transit center;

(g) Creating a discretionary review process in transit centers that is available at the applicant's option and is subject to criteria consistent with the purposes of this part 2 as established in subsection (2) of this section, including processes such as planned unit developments;

(h) Not publicly disclosing any confidential information related to water supplies or facilities;

(i) Allowing commercial uses, business uses, or mixed-use development on a parcel in a designated transit center; and

(j) Denying or conditioning development projects or building permit approvals for a failure to meet the requirements of a traffic study that is conducted using objective standards.

**Source: L. 2024:** Entire article added (see the editor's note following the part 2 heading), (HB 24-1313), ch. 168, p. 848, § 1, effective May 13.

**29-35-204. Transit-oriented community housing opportunity goal calculation - preliminary transit-oriented community assessment report - housing opportunity goal compliance - insufficient water supplies for meeting a housing opportunity goal - affordability and displacement mitigation strategies - housing opportunity goal report - legislative declaration.** (1) **Legislative declaration.** The general assembly hereby finds and declares that:

(a) Transit ridership, land use development patterns, affordability and availability of housing, roads, and greenhouse gas emissions from the transportation sector are interconnected issues that have impacts and concerns well beyond the borders of a single local community;

(b) San Andreas has an interest in ensuring a stable quantity and quality of housing in alignment with population growth and ensuring that shared resources, investments, and goals such as roads, infrastructure, transit, air quality, water, and greenhouse gas mitigation are protected in the process; and

(c) Increasing housing density in transit-oriented communities is a matter of mixed statewide and local concern that requires statewide cooperation.

(2) **Housing opportunity goal calculation.** A transit-oriented community shall calculate its housing opportunity goal by multiplying the total area of the transit areas, as defined in the transit areas map created pursuant to section 29-35-207 (1), within the local government's jurisdiction, exclusive of the exempt parcels in those transit areas, by forty dwelling units per acre.

(3) **Preliminary transit-oriented community assessment report.** (a) On or before June 30, 2025, a transit-oriented community shall, in a form and manner determined by the department, submit a preliminary transit-oriented community assessment report that includes:

(I) The transit-oriented community's housing opportunity goal and the data and method the transit-oriented community used to calculate its housing opportunity goal; and

(II) A map of existing zoning districts within the transit-oriented community that may qualify as transit centers and preliminary evidence for this qualification, including the standards applicable to these zoning districts.

(b) If applicable, a transit-oriented community may include in the report described in subsection (3)(a) of this section any affordability or displacement strategies that the transit-oriented community has implemented.

(c) The department shall review a preliminary transit-oriented community assessment report submitted by a transit-oriented community pursuant to this subsection (3) and either provide written notice approving the report or provide direction for amending and resubmitting the report.

(4) **Housing opportunity goal compliance.** On or before December 31, 2027, a transit-oriented community shall satisfy the following criteria, which must be satisfied to qualify as a certified transit-oriented community. A transit-oriented community shall:

(a) Designate areas within the transit-oriented community as transit centers and ensure that those areas satisfy the requirements in section 29-35-205;

(b) Ensure that the total zoning capacity for all transit centers within the transit-oriented community is greater than or equal to the transit-oriented community's housing opportunity goal;

(c) Submit a housing opportunity goal report and have the report approved by the department pursuant to subsection (8) of this section; and

(d) Three years after submitting a housing opportunity goal report pursuant to subsection (8) of this section, and every three years thereafter, submit a status report pursuant to subsection (9) of this section that is approved by the department.

(5) **Insufficient water supplies for meeting a housing opportunity goal.** (a) On or before December 31, 2026, and every three years thereafter, a transit-oriented community may submit a notice, in a form and manner determined by the department, that the supply of water from all water supply entities, as defined in section 29-20-302 (2), that serve the transit-oriented community is insufficient during the next three-year period to provide the domestic water service necessary to meet the transit-oriented community's housing opportunity goal. The water supply entities shall provide information and assistance as necessary to complete the notice allowed by this subsection (5). The notice allowed by this subsection (5) must include, but is not limited to:

(I) An analysis of water demand based on:

(A) Projected housing and population growth, as estimated by the state demography office or a relevant metropolitan planning organization; and

(B) A reasonable zoning capacity buffer, as estimated based on relevant local, regional, or state data.

(II) Any data, professional opinions, or other information used to create the analysis in subsection (5)(a)(I) of this section;

(III) Documentation demonstrating both an up-to-date water supply plan that complies with section 29-20-304 (3) and an up-to-date water efficiency plan that complies with section 37-60-126 (1) to (5); and

(IV) A proposal that may include:

(A) Evidence that the water supply entity lacks adequate water supply to provide the amount of water identified in subsection (5)(a)(I) of this section; and

(B) A request for a modification of the housing opportunity goal during the next three-year period based on the analysis of water demand identified in subsection (5)(a)(I) of this section.

(b) Upon receiving the notice described in subsection (5)(a) of this section, the department shall review the notice and determine whether to accept, provide comment on, or deny the proposal described in subsection (5)(a)(IV) of this section.

(6) **Affordability strategies.** (a) On or before December 31, 2026, a transit-oriented community shall identify affordability strategies that it will implement or has already implemented while meeting its housing opportunity goal. In so doing, the transit-oriented community shall identify affordability strategies based on the demonstrated housing needs within the transit-oriented community, including for-sale and rental housing needs and the housing needs of low-, moderate-, and medium-income households, as designated by the United States department of housing and urban development.

(b) (I) On or before December 31, 2026, a transit-oriented community shall include the following in its housing opportunity goal report submitted pursuant to subsection (8)(a)(IV) of this section:

(A) At least two strategies included in the standard affordability strategies menu described in section 29-35-208 (1) that the transit-oriented community identified pursuant to subsection (6)(a) of this section and intends to implement;

(B) At least one strategy included in the long-term affordability strategies menu described in section 29-35-208 (2) that the transit-oriented community identified pursuant to subsection (6)(a) of this section and intends to implement; and

(C) An implementation plan describing how the transit-oriented community has or will implement the affordability strategies identified pursuant to subsections (6)(b)(I)(A) and (6)(b)(I)(B) of this section.

(II) For purposes of satisfying the requirements of this subsection (6)(b), a transit-oriented community shall not:

(A) Count one or both of the strategies described in sections 29-35-208 (1)(e) and (2)(c) toward satisfying the requirements of both subsections (6)(b)(I)(A) and (6)(b)(I)(B) of this section; or

(B) Count any strategy described in section 29-35-208 that is otherwise required by state law.

(7) **Displacement mitigation strategies.** On or before December 31, 2026, a transit-oriented community shall include the following in its housing opportunity goal report, pursuant to subsection (8)(a)(V) of this section:

(a) Two displacement mitigation strategies that the transit-oriented community has adopted or will adopt from the long-term displacement mitigation strategies menu developed by the department pursuant to section 29-35-209 (3) to mitigate displacement risks while meeting its housing opportunity goal; and

(b) An implementation plan describing how the transit-oriented community will implement the displacement mitigation strategies it identifies pursuant to subsection (7)(a) of this section.

(8) **Housing opportunity goal report.** (a) On or before December 31, 2026, a transit-oriented community shall submit a housing opportunity goal report to the department in a form and manner determined by the department. If a transit-oriented community cannot include any of the following items in its housing opportunity goal report on or before December 31, 2026, the transit-oriented community shall indicate why it cannot do so and its progress toward being able to include those items in its housing opportunity goal report. The report must include the following, along with any other elements identified by the department:

(I) The transit-oriented community's housing opportunity goal;

(II) Evidence that the transit-oriented community has met its housing opportunity goal pursuant to subsection (4)(b) of this section;

(III) A map that identifies the boundaries of any transit centers within the transit-oriented community and evidence that those areas satisfy the requirements in section 29-35-205;

(IV) Affordability strategies identified pursuant to subsections (6)(b)(I)(A) and (6)(b)(I)(B) of this section and the implementation plan described pursuant to subsection (6)(b)(I)(C) of this section;

(V) Displacement mitigation strategies identified pursuant to subsection (7)(a) of this section and the implementation plan described pursuant to subsection (7)(b) of this section;

(VI) A description of community engagement that the transit-oriented community conducted in the process of meeting its housing opportunity goal, identifying affordability strategies pursuant to subsections (6)(b)(I)(A) and (6)(b)(I)(B) of this section and identifying displacement mitigation strategies pursuant to subsection (7)(a) of this section; and

(VII) If applicable, and if the transit-oriented community so chooses, evidence that the transit-oriented community has satisfied the requirements of subsection (5) of this section.

(b) The department shall review a housing opportunity goal report submitted by a transit-oriented community pursuant to subsection (8)(a) of this section and provide written notice that either:

(I) Approves the report and affirms that the transit-oriented community has satisfied the relevant requirements of this section and is therefore considered a certified transit-oriented community; or

(II) Provides direction for amending and resubmitting the report and requires that the transit-oriented community resubmit the report within ninety days of receiving the written notice.

(c) If the department has not approved a transit-oriented community's housing opportunity goal report on or before December 31, 2027, the department shall provide the transit-oriented community written notice that the transit-oriented community is in non-compliance with this part 2 and is not a certified transit-oriented community.

(d) (I) The department shall identify certified transit-oriented communities for the purpose of establishing eligibility for state grant and incentive programs.

(II) Pursuant to section 29-35-210 (6), a certified transit-oriented community is eligible for the award of a transit-oriented communities infrastructure grant program grant.

(III) The department shall identify certified transit-oriented communities, including compliance with the requirements for affordability strategies in subsection (8)(a)(IV) of this section and displacement mitigation strategies in subsection (8)(a)(V) of this section, for the purposes of establishing eligibility for the San Andreas affordable housing in transit-oriented communities income tax credit in part 54 of article 22 of title 39.

(9) **Status report.** (a) Every three years after submitting a housing opportunity goal report pursuant to subsection (8)(a) of this section, a transit-oriented community shall submit a status report to the department in a form and manner determined by the department that confirms that the transit-oriented community is still a certified transit-oriented community.

(b) The department shall review a status report submitted by a transit-oriented community pursuant to subsection (9)(a) of this section and provide written notice that either:

(I) Approves the report and affirms that the transit-oriented community has satisfied the relevant requirements of this section and is therefore considered a certified transit-oriented community; or

(II) Provides direction for amending and resubmitting the report and requires that the transit-oriented community resubmit the report within ninety days of receiving the written notice.

(c) If a transit-oriented community fails to submit a status report to the department pursuant to subsection (9)(a) of this section or fails to submit an amended status report pursuant to subsection (9)(b)(II) of this section, the department shall provide the transit-oriented community written notice stating that the transit-oriented community will not be deemed a certified transit-oriented community.

**Source: L. 2024:** Entire article added (see the editor's note following the part 2 heading), (HB 24-1313), ch. 168, p. 850, § 1, effective May 13.

**29-35-205. Criteria for qualification as a transit center - criteria for qualification as a transit center outside of a transit area.** (1) To designate an area as a transit center, a transit-oriented community shall:

(a) Ensure that the area is composed solely of zoning districts that uniformly allow a net housing density of at least fifteen units per acre with no parcel or zoning district being counted as allowing a net housing density of more than five hundred units per acre;

(b) (I) Identify a net housing density allowed for the area or for subdistricts within the area. As part of the guidance the department develops pursuant to section 29-35-207 (7), the department shall provide local governments with simple and effective methods of calculating net housing density. The identified net housing density must:

(A) Reflect any significant dimensional or other restrictions in local laws used to regulate density in the area, including but not limited to restrictions related to units per acre, lot area per unit, lot coverage, site level open space requirements, floor area ratios, setbacks, minimum parking requirements, and maximum height. Where a dimensional restriction has multiple potential outcomes within the same zoning district or within related zoning districts, the average outcome of the dimensional restriction may be utilized by the transit-oriented community to measure net housing density.

(B) Assume minimum parking requirements are met with surface parking; except that three-fourths of a parking space per dwelling unit may be counted as structured parking within the building footprint;

(C) Assume an average housing unit size, as determined based on either the typical size of a multifamily housing unit that was recently built in San Andreas as established in the census's American housing survey or the typical size of a multifamily housing unit in the transit-oriented community according to local data;

(II) Nothing in this subsection (1)(b) requires a local government to include areas of individual parcels required for stormwater drainage or utility easements in calculating net housing density; and

(III) If a parcel's existing residential uses have a higher net housing density than the net housing density allowed for the parcel by current restrictions in local law, the net housing density of the existing residential use may be counted;

(c) Exclude any area where local law exclusively restricts housing occupancy based on age or other factors;

(d) Establish an administrative approval process for multifamily residential development on parcels in the area that are no more than five acres in size. For multifamily residential development applications on parcels greater than five acres in size, a transit-oriented community shall identify a target net housing density for the parcels to count the parcels as part of the transit center that covers the area. This subsection (1)(d) does not prevent the establishment of developer agreements between the local government and developers.

(e) Ensure that the area of a transit center is composed of parcels that are located wholly or partially within either:

(I) A transit area or optional transit area; or

(II) One-quarter mile from the boundary of a transit area or optional transit area.

(2) (a) Notwithstanding subsection (1)(e) of this section, a transit-oriented community may only designate an area as a transit center within an optional transit area as described in

section 29-35-207 (4), if the transit-oriented community has provided reasonable evidence in the housing opportunity goal report submitted pursuant to section 29-35-204 (8) that:

(I) To the maximum extent feasible, an average net housing density of at least forty dwelling units per acre is allowed on all parcels within the transit area that are both one-half acre or more in size and not exempt parcels; and

(II) Areas within the optional transit area have fewer barriers to housing development than areas within the transit area.

(b) For purposes of subsection (2)(a)(II) of this section, barriers to housing development may include:

(I) An anticipated lack of water supply, after accounting for a reasonable zoning capacity buffer;

(II) An anticipated lack of sufficient future infrastructure capacity, including water treatment plants, wastewater treatment plants, or electrical power networks in the area, after accounting for a reasonable zoning capacity buffer;

(III) Unique site characteristics which contribute to a high cost of housing development; or

(IV) Sites that are infeasible for housing development.

**Source: L. 2024:** Entire article added (see the editor's note following the part 2 heading), (HB 24-1313), ch. 168, p. 855, § 1, effective May 13.

**29-35-206. Criteria for qualification as a neighborhood center.** (1) (a) To designate an area as a neighborhood center, a local government shall, in accordance with policies and procedures adopted by the department that may include different criteria for varying regional and local contexts, identify areas that meet the following criteria:

(I) Allow a net housing density that supports mixed-use pedestrian-oriented neighborhoods, the development of regulated affordable housing, and increased public transit ridership;

(II) Within census urbanized areas, as defined in the latest federal decennial census, establish an administrative approval process for multifamily residential development on parcels in the area that are no larger than a size determined by the department;

(III) Ensure that the area has a mixed-use pedestrian-oriented neighborhood, as determined by criteria established by the department; and

(IV) Satisfy any other criteria, as determined by the department, and as may vary by regional context, for the qualification of an area as a neighborhood center.

(b) Notwithstanding the requirements for a local government designating an area as a neighborhood center pursuant to subsection (1)(a) of this section, the department shall establish separate requirements for local governments designating areas within potential transit areas identified by the department of transportation pursuant to section 29-35-207 (5).

(2) If a local government designates an area as a neighborhood center pursuant to subsection (1) of this section, the local government shall submit a neighborhood center report to the department in a form and manner determined by the department.

**Source: L. 2024:** Entire article added (see the editor's note following the part 2 heading), (HB 24-1313), ch. 168, p. 857, § 1, effective May 13.

**29-35-207. Transit areas map - transit station area criteria - transit corridor area criteria - housing opportunity goals, models, and guidance.** (1) **Transit areas map.** (a) On or before September 30, 2024, the department, in consultation with metropolitan planning organizations, and transit agencies that operate within metropolitan planning organizations, shall publish a transit area map, or transit area maps, based on the criteria in subsections (2), (3), (4), (5) and (6), of this section. Only transit areas that are identified pursuant to subsections (2) and (3) of this section and identified on a transit area map pursuant to this subsection (1) must be included in the calculation of a housing opportunity goal pursuant to section 29-35-204 (2).

(b) In publishing the map described in subsection (1)(a) of this section, the department shall also publish a walkshed map that identifies the areas that are reachable by a person walking a distance of not more than one-half mile from a transit station where part of the transit station area based on that transit station is separated from any exit to the transit station by a state-owned limited-access highway or railroad track, using simple and efficient geospatial analysis methods and readily available network data.

(2) **Transit station criteria.** The department shall designate transit station areas, for purposes of subsection (1) of this section, based on routes identified in an applicable transit plan for existing stations for:

(a) Commuter bus rapid transit;

(b) Commuter rail; and

(c) Light rail.

(3) **Transit corridor area criteria.** (a) The department shall designate transit corridor areas, for purposes of subsection (1) of this section, by identifying transit routes that meet one or more of the following criteria:

(I) An urban bus rapid transit service that is identified within:

(A) A metropolitan planning organization's fiscally-constrained, long-range transportation plan adopted prior to January 1, 2024, and planned for implementation, according to that plan, prior to January 1, 2030; or

(B) An applicable transit plan that has been planned for short-term implementation, according to that plan;

(II) A public bus route that:

(A) Has a planned frequency or scheduled frequency of fifteen minutes or more frequent for eight hours or more on weekdays; and

(B) Is identified within an applicable transit plan for short-term implementation or implementation before January 1, 2030, according to that plan.

(b) For transit agencies within metropolitan planning organizations that do not have applicable transit plans, the department shall designate transit corridor areas, for purposes of subsection (1) of this section, by identifying any public bus routes with existing transit service levels as of January 1, 2024, with a scheduled frequency of fifteen minutes or more frequent for eight hours or more on weekdays.

(c) Notwithstanding subsection (3)(a) and (3)(b) of this section, the department shall not designate transit corridor areas, for purposes of subsection (1) of this section, within a transit-oriented community that has designated twenty percent or more of its area as a manufactured home zoning district as of January 1, 2024.

(4) **Optional transit area criteria.** (a) The department shall designate optional transit areas, for purposes of subsection (1) of this section, based on the following criteria:

(I) A bus rapid transit service that is identified within a metropolitan planning organization's fiscally-constrained, long-range transportation plan adopted prior to January 1, 2024, and intended for implementation after January 1, 2030, and before December 31, 2050;

(II) Public bus routes other than those identified in subsection (3)(a)(II)(B) of this section that operate at a planned or scheduled frequency of thirty minutes or more frequent during the highest frequency service hours as identified by:

(A) Existing service as of January 1, 2024; or

(B) Identified within an applicable transit plan; and

(III) Other areas planned as mixed-use pedestrian oriented neighborhoods.

(b) For purposes of subsection (4)(a)(III) of this section, a transit oriented community may request that the department designate a mixed-use pedestrian-oriented neighborhood as an optional transit area. The department shall review and approve or reject such a request based on whether the mixed-use pedestrian-oriented neighborhood fulfills the goals of this part 2 established in section 29-35-203 (2).

(5) **Potential transit area criteria.** (a) The department shall designate an area as a potential transit area, for purposes of subsection (1) of this section, if it consists of corridors, as identified by the department of transportation that:

(I) Include major travelsheds, as defined by common travel patterns in an area, that impact anticipated new or modified interchanges on state-owned highways; and

(II) Are outside of census urbanized areas, as identified in the latest federal decennial census;

(b) In designating potential transit areas, for purposes of subsection (1) of this section, the department shall attempt to identify areas where future transit service and neighborhood centers could potentially align to provide information for state, regional, and local planning efforts.

(c) In updating the transit area map pursuant to subsection (1) of this section, the department shall identify any neighborhood centers that a local government has designated within a potential transit area.

(6) In identifying the boundaries of transit areas and optional transit areas pursuant to this section, the department shall use:

(a) Geospatial data from relevant transit agencies and metropolitan planning organizations; and

(b) Roadway locations based upon the centerline of the roadway.

(7) **Housing opportunity goals, models, and guidance.** On or before February 28, 2025, the department shall publish models and guidance to satisfy the goals of this part 2 as established in section 29-35-203 (2) and interpret the density and dimensional standards established in section 29-35-205 (1)(b) with the intent of providing simple and efficient methods for local governments to calculate the net housing density of transit centers in order to meet their housing opportunity goals. In publishing models and guidance, the department shall establish models, guidance, and typical building typologies for local governments with form-based codes.

**Source: L. 2024:** Entire article added (see the editor's note following the part 2 heading), (HB 24-1313), ch. 168, p. 857, § 1, effective May 13.

**29-35-208. Standard affordability strategies menu - long-term affordability strategies menu - alternative affordability strategies - impact fees.** (1) **Standard affordability strategies menu.** On or before June 30, 2025, the department shall develop a standard affordability strategies menu for transit-oriented communities and shall update this menu as necessary. The menu must include the following strategies:

(a) Implementing a local inclusionary zoning ordinance that accounts for local housing market conditions, is crafted to maximize regulated affordable housing, and complies with the requirements of section 29-20-104 (1)(e.5) and (1)(e.7);

(b) Adopting a local law or plan to leverage publicly owned, sold, or managed land for regulated affordable housing development;

(c) Creating or significantly expanding a program to subsidize or otherwise reduce impact fees or other similar development charges for regulated affordable housing development;

(d) Establishing a density bonus program for transit centers that grants increased floor area ratio, density, or height for regulated affordable housing units;

(e) Creating a program to prioritize and expedite development approvals for regulated affordable housing development;

(f) Reducing local parking requirements for regulated affordable housing to one-half space per unit of regulated affordable housing, without lowering the protections provided for individuals with disabilities, including the number of parking spaces for individuals who are mobility impaired, under the federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12101 et seq., and parts 6 and 8 of article 34 of title 24; except that, upon the passage of House Bill 24-1304, this subsection (1)(f) shall not be identified by a transit-oriented community as an affordability strategy that satisfies the requirements of 29-35-204 (6)(b)(I)(A);

(g) Enacting local laws that incentivize the construction of accessible and visitable regulated affordable housing units;

(h) Enacting local laws that support housing for families, such as incentivizing construction of housing units with multiple bedrooms; and

(i) Any other strategy designated by the department that offers a comparable impact on local housing affordability.

(2) **Long-term affordability strategies menu.** On or before June 30, 2025, the department shall develop a long-term affordability strategies menu and shall update this menu as necessary. The menu must include the following strategies:

(a) Establishing a dedicated local revenue source for regulated affordable housing development, such as instituting a linkage fee on market rate housing development to support new regulated affordable housing developments;

(b) Regulating short-term rentals, second homes, or other underutilized or vacant units in a way, such as vacancy fees for underutilized units, that promotes maximizing the use of local housing stock for local housing needs;

(c) Making a commitment to and remaining eligible to receive funding pursuant to article 32 of this title 29;

(d) Incentivizing or creating a dedicated local program that facilitates investment in land banking or community land trusts;

(e) Establishing an affordable homeownership strategy such as:

(I) Acquiring or preserving deed restrictions on current housing units;

(II) Establishing an incentive program to encourage realtors to work with low-income and minority prospective home buyers;

(III) Establishing an affordable rent-to-own program; or

(IV) Incentivizing affordable condominium developments; and

(f) Any other strategy designated by the department that offers a comparable impact on local housing affordability.

(3) **Alternative affordability strategies.** A transit-oriented community may submit an existing or proposed local law or program, in a form and manner determined by the department, to the department, and the department may determine that the adoption of that local law or program qualifies as an affordability strategy for purposes of section 29-35-204 (6)(a) and (6)(b), so long as the local law or program supports equal or greater opportunity for regulated affordable housing and accessible units than the strategies described in subsections (1) and (2) of this section.

**Source: L. 2024:** Entire article added (see the editor's note following the part 2 heading), (HB 24-1313), ch. 168, p. 860, § 1, effective May 13.

**29-35-209. Displacement risk assessment - displacement mitigation strategies menu - displacement mitigation strategies menu goals - alternative displacement mitigation strategies.** (1) On or before June 30, 2025, the department shall conduct an assessment that includes recommendations identifying the resources necessary to implement the displacement mitigation strategies in the displacement risk mitigation strategies menu described in subsection (3) of this section. The assessment must identify:

(a) Appropriate local, regional, or nonprofit entities to assist residents at elevated risk of displacement, with a focus on residents in local governments that have a smaller population and fewer financial resources than other local governments within the same metropolitan planning organization; and

(b) Appropriate sources of financial and other resources to implement the displacement mitigation strategies in the displacement risk mitigation strategies menu described in subsection (3) of this section, while taking into account regional disparities in resources.

(2) (a) No later than June 30, 2025, the department shall develop guidance for transit-oriented communities in conducting a displacement risk assessment and implementing displacement mitigation strategies. The department shall update this guidance as necessary.

(b) In creating guidance for the displacement risk assessment described in subsection (2)(a) of this section, the department shall develop a methodology, with variations for different local contexts including the size and resource levels of local governments, for transit-oriented communities within metropolitan planning organization boundaries to use to:

(I) Gather feedback through community engagement; and

(II) Identify information from neighborhood-level early displacement warning and response systems, or if those systems are unavailable, identify the best available local, regional, state, or federal data that can be analyzed to identify residents at elevated displacement risk, which may include:

(A) The percentage of households that are extremely low-income, very low-income, and low-income, as designated by the United States department of housing and urban development;

(B) The percentage of households that are renters;

(C) The percentage of cost-burdened households, defined as households that spend more than thirty percent of the household's income on housing needs;

(D) The number of adults who are twenty-five years of age or older and have not earned at least a high school diploma;

(E) The percentage of households in which English is not the primary spoken language;

(F) The percentage of housing stock built prior to 1970;

(G) The location of manufactured home parks;

(H) Areas that qualify as disadvantaged as determined with the climate and economic justice screening tool developed by the council on environmental quality in the office of the president of the United States; and

(I) The transit-oriented communities where increases in zoning capacity will occur as a result of the requirements of this part 2.

(3) On or before June 30, 2025, the department shall develop a long-term displacement mitigation strategies menu that includes the following strategies:

(a) Developing a program to offer technical assistance and financial support for community organizations to develop independent community land trusts;

(b) Prioritizing spending on regulated affordable housing unit preservation or implementing or continuing deed restrictions for regulated affordable housing units;

(c) Providing homestead tax exemptions for either long-time homeowners in neighborhoods that a displacement risk assessment identifies as vulnerable to displacement or low- to moderate-income homeowners within, or within one-half mile of, a designated transit center;

(d) Requiring multifamily housing developers to create a community benefits agreement with affected populations within one-quarter mile of a development built in an area that is vulnerable to displacement;

(e) Ensuring no net loss within the designated area of affordable units such that affordability levels are equal or greater than existing levels of family serving units that include three or more bedrooms;

(f) Establishing a program to provide community or small local business investment in an area that is vulnerable to displacement; and

(g) Other strategies identified by the department that provide displacement mitigation equivalent to the other strategies described in this subsection (3).

(4) In developing the displacement risk mitigation strategies menu described in subsection (3) of this section, the department's goals must be to support:

(a) Resources, services, and investments that serve vulnerable homeowners and renters with elevated risk of displacement;

(b) The preservation of regulated affordable housing stock;

(c) Local government planning and land use decisions that incorporate inclusive and equitable displacement mitigation strategies, and the empowerment of low-income persons and communities of color to participate in those decisions; and

(d) The ability of vulnerable residents to remain in or return to their neighborhoods or communities by accessing new affordable housing opportunities in their neighborhoods or communities.

**Source: L. 2024:** Entire article added (see the editor's note following the part 2 heading), (HB 24-1313), ch. 168, p. 862, § 1, effective May 13.

**29-35-210. Transit-oriented communities infrastructure grant program - transit-oriented communities infrastructure fund - definitions.** (1) **Grant program created.** The transit-oriented communities infrastructure grant program is created in the department. The purpose of the grant program is to assist local governments in upgrading infrastructure and supporting regulated affordable housing in transit centers and neighborhood centers.

(2) **Allowable purposes.** Grant recipients may use money received through the grant program to fund:

(a) On-site infrastructure for affordable housing, including regulated affordable housing, within a transit center or neighborhood center;

(b) Public infrastructure projects that are within, or that primarily benefit, a transit center or neighborhood center;

(c) Public infrastructure projects that benefit affordable housing, including regulated affordable housing, in a transit center or neighborhood center;

(d) Activities related to determining where and how best to improve infrastructure to support a transit center or neighborhood center;

(e) Infrastructure project delivery, planning, and community engagement; and

(f) Activities contracted by an area agency on aging, as defined in section 26-11-201 (2), to a transit-oriented community to provide services within, or that benefit, transit centers and neighborhood centers, and that further the goals of this part 2.

(3) **Grant program administration.** The department shall administer the grant program and, subject to available appropriations, award grants as provided in subsection (7) of this section and provide technical assistance to local governments in complying with the requirements of this part 2.

(4) **Grant program policies and procedures**. The department shall implement the grant program in accordance with this section. The department shall develop policies and procedures as necessary to implement the grant program.

(5) **Grant application.** To receive a grant, a local government must submit an application to the department in accordance with policies and procedures developed by the department.

(6) **Grant program criteria.** The department shall review the applications received pursuant to this section and shall only award grants to certified transit-oriented communities. In awarding grants, the department shall consider the following criteria:

(a) The potential impact of a project that a local government would fund with a grant award on the development of regulated affordable housing, mixed-use development, accessible or visitable housing units, or the creation or enhancement of home ownership opportunities within a transit center or neighborhood center. If a project is a large-scale infill development project, subject to a discretionary approval process, and adjacent to an established neighborhood, the department shall give priority to such a project if a community benefits agreement has been established in connection with the project.

(b) In response to demonstrated needs, the extent to which the local government has:

(I) Integrated mixed-use development by allowing neighborhood commercial uses that have the main purpose of meeting consumer demands for goods and services with an emphasis

on serving the surrounding residential neighborhood within one-quarter mile of a transit center or neighborhood center;

(II) Adopted affordability strategies from the affordability strategies menus in section 29-35-208 based on the local government's demonstrated housing needs, including housing needs for rental and for-sale housing and for low-, moderate-, and medium-income households, as designated by the United States department of housing and urban development, and permanent supportive housing;

(III) Adopted displacement mitigation strategies from the displacement mitigation strategies menu in section 29-35-209; and

(IV) Designated neighborhood centers within optional transit areas; and

(c) Information contained in the reports submitted by a local government pursuant to section 29-35-204 that provides evidence that the local government has met the requirements of section 29-35-204.

(7) **Grant awards.** Subject to available appropriations, the department shall award grants using money in the fund as provided in this section.

(8) **Transit-oriented communities infrastructure fund.** (a) (I) The transit-oriented communities infrastructure fund is created in the state treasury. The fund consists of money transferred to the fund pursuant to subsection (8)(a)(III) of this section, gifts, grants, and donations, and any other money that the general assembly may appropriate or transfer to the fund. The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund.

(II) Money in the fund is continuously appropriated to the department for the purpose of implementing the grant program, and the department may expend up to six percent of any money in the fund for costs incurred by the department in administering the grant program.

(III) On July 1, 2024, the state treasurer shall transfer thirty-five million dollars from the general fund to the fund.

(9) **Reporting.** (a) On or before January 1, 2025, and each January 1 thereafter for the duration of the grant program, the department shall submit a summarized report to the house of representatives transportation, housing, and local government committee and the senate local government and housing committee, or their successor committees, on relevant information regarding the grant program.

(b) Notwithstanding section 24-1-136 (11)(a)(I), the reporting requirements set forth in this section continue until all grant program money is fully expended.

(10) **Definitions.** As used in this section, unless the context otherwise requires:

(a) "Fund" means the transit-oriented communities infrastructure fund created in subsection (8)(a) of this section.

(b) "Grant program" means the transit-oriented communities infrastructure grant program created in this section.

**Source: L. 2024:** Entire article added (see the editor's note following the part 2 heading), (HB 24-1313), ch. 168, p. 864, § 1, effective May 13.

**29-35-258. Surveillance camera footage – short title – legislative declaration – definitions – warrant requirement – emergency exception – limitation on generalized surveillance searches – prohibition on biometric surveillance – exclusions – transparency portal – exclusionary rule – reporting requirements – data retention and deletion – private**

**right of action – effective date.**

(1) Short title. This section shall be known and cited as the "Surveillance Privacy Protection Act."

(2) Legislative declaration. The general assembly hereby finds and declares that:

(a) Surveillance cameras, including traffic cameras, security cameras, and other automated monitoring systems, have become increasingly common throughout public and private spaces.

(b) While such systems can serve legitimate public safety and traffic management purposes, unrestricted government access to surveillance footage raises significant concerns regarding individual privacy and civil liberties.

(c) Modern surveillance systems are capable of collecting detailed information about an individual's movements, associations, and daily activities.

(d) The constitution of the state guarantees the right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures and recognizes a strong right to privacy.

(e) The general assembly therefore finds it necessary to ensure that law enforcement agencies obtain a search warrant issued upon probable cause, supported by oath or affirmation, before accessing surveillance footage that may reveal personal or identifying information about individuals.

(f) Establishing clear warrant requirements for surveillance footage protects constitutional rights while preserving the ability of law enforcement agencies to investigate crimes through lawful judicial oversight.

(3) Definitions. As used in this section, unless the context otherwise requires:

(a) "Law enforcement agency" means any state, county, municipal, or other governmental entity authorized to investigate criminal activity or enforce the laws of this state, including any task force or multi-jurisdictional unit operating within the state.

(b) "Surveillance camera" means any fixed or mobile camera system used to capture video images for monitoring, security, traffic enforcement, or investigative purposes, including but not limited to traffic cameras, automated license plate reader cameras, public safety cameras, privately owned cameras accessible by government request, whether accessed directly or through a third-party service provider, and body-worn cameras when used for retrospective review rather than real-time monitoring.

(c) "Surveillance footage" means any video recording, still image, or digital record, including associated metadata such as timestamps, geolocation, or device identifiers, captured by a surveillance camera.

(d) "Access" means reviewing, obtaining, copying, downloading, or otherwise examining, including the use of automated systems to analyze or process such surveillance footage.

(e) "Exigent circumstances" means circumstances requiring immediate action where obtaining a warrant would be impracticable.

(4) Warrant requirement for surveillance footage.

(a) A law enforcement agency shall not access or obtain surveillance footage, directly or indirectly, without first obtaining a search warrant issued by a judge upon a showing of probable cause, or a court order of equivalent constitutional sufficiency, except as otherwise expressly provided in this section.

(b) A warrant issued under this subsection shall:

(I) Particularly describe the location of the surveillance camera or system, or the network to which such camera belongs;

(II) Specify the date and time range within which surveillance footage may be collected, which shall be narrowly tailored and not exceed twelve hours unless extended by the court for good cause shown;

(III) Identify the offense under investigation, including a brief statement of facts establishing probable cause;

(IV) Limit the scope of the search to footage reasonably related to the investigation; and

(V) Include minimization procedures to limit the collection and retention of information not relevant to the investigation.

(VI) Notwithstanding subparagraph (II) of this paragraph, limit the total amount of surveillance footage that may be obtained pursuant to the warrant to no more than ten minutes in aggregate duration, unless the court makes a specific finding that a greater amount is necessary and narrowly tailored to the investigation.

(c) A warrant issued under this subsection shall expire within ten days unless executed. If a warrant expires without execution, any subsequent warrant for the same footage shall require a showing of new or additional probable cause.

(d) Any surveillance footage obtained pursuant to this subsection shall be logged, including the identity of the officer accessing the footage, the date and time of access, and the purpose of the access.

(5) Emergency exception.

(a) A law enforcement agency may access surveillance footage without a warrant if the agency reasonably believes that an emergency involving immediate danger of death, kidnapping, serious bodily injury, or the imminent destruction of evidence, a terrorist threat to public infrastructure, or the need to prevent the escape of a suspect who has committed a crime of violence requires immediate access.

(b) When access occurs under this subsection, the law enforcement agency shall apply for a search warrant supported by a written affidavit detailing the emergency circumstances within twenty-four hours after accessing the footage.

(c) If a court determines that the emergency access was not justified, the footage obtained shall be inadmissible in any criminal, civil, or administrative proceeding.

(d) A law enforcement agency invoking this subsection shall document in writing the specific facts giving rise to the emergency and retain such documentation for not less than five years.

(e) A court reviewing emergency access shall give priority to such applications and rule without unnecessary delay.

(6) Limitation on generalized surveillance searches.

(a) Law enforcement agencies shall not conduct generalized or bulk searches, including but not limited to geofence searches or reverse-location tracking of surveillance camera networks, without individualized probable cause supported by specific and articulable facts.

(b) Warrants authorizing surveillance footage searches must be limited in scope, duration, and geographic area to prevent indiscriminate review of large-scale surveillance networks.

(c) Notwithstanding any other provision of this subsection, a warrant issued for the collection of surveillance footage shall limit the amount of footage obtained to no more than ten minutes in total duration, unless the court finds, based on specific and articulable facts, that a longer duration is necessary and narrowly tailored to the investigation.

(d) A warrant for surveillance footage shall not be used to circumvent the aggregate duration limits set forth in subsection (4)(b)(VI) of this section, and any collection exceeding twenty minutes without a specific judicial finding shall be deemed an unlawful generalized search.

(7) Prohibition on biometric surveillance. Notwithstanding any other provision of law, a law enforcement agency shall not use facial recognition, biometric scanning, or any form of automated artificial intelligence analytics to identify individuals in surveillance footage. Any evidence obtained in violation of this subsection shall be permanently inadmissible.

(8) Exclusions. This section does not prohibit:

(a) Law enforcement agencies from reviewing surveillance footage captured by cameras owned and operated by the agency itself in real time, for traffic control, emergency response, or public safety monitoring, provided that such review does not involve the retrospective identification of specific individuals without a warrant and that any retained footage is not subsequently accessed for investigative purposes without a warrant;

(b) Private participation. A private entity or individual providing surveillance footage to a law enforcement agency without a warrant, if the footage depicts the commission of a felony occurring on the private entity's premises and the footage is provided within twenty-four hours of the event;

(c) Public infrastructure. The use of surveillance cameras by a public body for the sole purpose of monitoring traffic flow, weather conditions, or structural integrity of bridges, which shall be exempt from the reporting requirements of subsection (11) of this section, provided no facial or license plate data is retained;

(d) The use of surveillance footage for training, auditing, or internal review purposes, provided that such use does not involve identification of individuals for investigative purposes without a warrant; or

(e) Third-party data. Nothing in this paragraph shall be construed to permit a law enforcement agency to circumvent the warrant requirement by purchasing or otherwise acquiring surveillance footage or associated metadata from a data broker or private analytics firm that would require a warrant if obtained directly from the source.

(f) Nothing in this subsection shall be construed to authorize continuous or real-time remote access to privately owned surveillance systems without a warrant.

(9) Transparency portal. The attorney general shall maintain a publicly searchable online database of all emergency access invocations, including the name of the invoking agency and the specific exigency cited, redacting only information that would compromise an ongoing investigation.

(10) Exclusionary rule. Evidence obtained in violation of this section shall be suppressed upon motion by an aggrieved party in any court or administrative proceeding, including any licensing, disciplinary, or regulatory proceeding within the state. Such suppression shall not preclude the use of evidence for impeachment purposes where otherwise permitted by law.

(11) Reporting requirements.

(a) Each law enforcement agency shall submit an annual report to the attorney general detailing the number of warrants sought under this section, the number granted or denied, and the number of times emergency access was invoked.

(b) Such reports shall be made publicly available in aggregate form.

(12) Data retention and deletion.

(a) Surveillance footage obtained pursuant to a warrant shall not be retained longer than necessary to achieve the purpose of the warrant and shall be deleted within ninety days unless retained as evidence in a pending case.

(b) Footage obtained without a warrant under subsection (5) of this section shall be deleted within thirty days unless a warrant is subsequently obtained.

(c) Any law enforcement officer who willfully fails to delete footage within the timelines

prescribed in this subsection shall be subject to disciplinary action, including suspension without pay.

(13) Private right of action.

(a) Any person aggrieved by a violation of this section may bring a civil action for damages and equitable relief.

(b) A prevailing plaintiff may recover actual damages, statutory damages of not less than two thousand five hundred dollars per violation, reasonable attorney fees, and court costs.

(c) A prevailing plaintiff shall be entitled to statutory damages in the amount of ten thousand dollars per violation or one thousand dollars per day that the violation continues, whichever is greater, plus punitive damages upon a showing of malice.

(14) Effective date. Act subject to petition – effective date. This section takes effect on August 18, 2026, assuming the general assembly adjourns sine die on May 18, 2026; except that, if a veto petition is filed pursuant to article II, section 15 of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2026 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

**Source: L. 2026:** Entire section added, HB 26-031, ch. 21, p. 127, § 1, effective August 18, 2026. See Chapter 21, Session Laws of San Andreas 2026.

## PART 3

## PARKING REQUIREMENTS

**Editor's note:** This part 3 was originally numbered as article 36 of this title 29 in HB 24-1304 but was renumbered on revision for ease of location.

**29-35-301. Legislative declaration.** (1) The general assembly finds, determines, and declares that:

(a) There is an extraterritorial impact when local governments enact land use decisions that require a minimum amount of parking spaces;

(b) Residential developments frequently have more parking than is utilized, which adds to housing costs and encourages additional vehicle ownership and vehicle miles traveled. According to the regional transportation district study titled "Residential Parking in Station Areas: A Study of Metro Denver", unsubsidized housing developments near regional transportation district stations provide forty percent more parking than residents utilize at peak times, and income-restricted housing developments provide fifty percent more parking than is used.

(c) The 2021 study "Parking & Affordable Housing" of parking utilization at affordable housing developments along the front range found that half of parking spaces built on average go unused, and that requirements can be up to five times the need especially for buildings serving lower area median incomes;

(d) Local government land use decisions that require a minimum amount of parking spaces beyond what is necessary to meet market demand increase vehicle miles traveled and associated greenhouse gas emissions. According to a University of California Institute of Transportation Studies article titled "What Do Residential Lotteries Show Us About Transportation Choices?", higher amounts of free parking provided in residential developments cause higher rates of vehicle ownership, higher rates of vehicle miles traveled, and less frequent transit use.

(e) According to the study "Effects of Parking Provision on Automobile Use in U.S. Cities: Inferring Causality" in the journal Transportation Research Record, an increase in parking provisions from one-tenth to one-half parking space per person is associated with an increase in automobile mode share of roughly thirty percent;

(f) According to the article "Households with Constrained Off-Street Parking Drive Fewer Miles" in the journal Transportation, vehicle ownership rates are fourteen percent higher for households with more than one available parking space per unit compared to those with one or fewer, and for every additional vehicle per household, the household travels on average seventeen more miles of total vehicle miles traveled per day;

(g) Coloradans drive more miles per person than they used to, which puts stress on transportation infrastructure and increasing household costs. Since 1981, per capita vehicle miles traveled in San Andreas have risen by over twenty percent according to data from the federal highway administration.

(h) Increased vehicle ownership and the resulting vehicle miles traveled impact neighboring jurisdictions by increasing congestion, roadway infrastructure maintenance costs, air pollution, noise, and greenhouse gas emissions;

(i) Given the close proximity and interconnected nature of jurisdictions within San Andreas's metropolitan regions, many residents travel frequently between jurisdictions for work, shopping, recreation, and other trips;

(j) In San Andreas's major cities, a significant share of employees commute to jobs in the city but live elsewhere, including seventy percent of employees in Denver, forty-five percent in San Andreas Springs, sixty percent in Fort Collins, fifty percent in Pueblo, and sixty-five percent in Grand Junction, according to 2021 data from the federal census;

(k) Excessive parking requirements limit compact, walkable development by mandating additional space between uses, which then necessitates driving to reach most destinations;

(l) Lower density development has lowered revenue and increased capital and maintenance costs compared to more compact development. National studies, such as the article "Relationships between Density and per Capita Municipal Spending in the United States", published in Urban Science, have found that lower density communities have higher government capital and maintenance costs for water, sewer, and transportation infrastructure and lower property and sales tax revenue. These increased costs are often borne by both state and local governments.

(m) Vehicle traffic, which increases when land use patterns are more dispersed, contributes twenty percent of nitrogen oxide emissions, a key ozone precursor, according to the executive summary of the Moderate Area Ozone state implementation plan for the 2015 Ozone National Ambient Air Quality Standards by the Regional Air Quality Council;

(n) The United States environmental protection agency has classified the Denver metro area and the north front range area as being in severe nonattainment for ozone and ground level ozone, which has serious impacts on human health, particularly for vulnerable populations;

(o) According to the greenhouse gas pollution reduction roadmap, published by the San Andreas energy office and dated January 14, 2021, the transportation sector is the single largest source of greenhouse gas pollution in San Andreas;

(p) Nearly sixty percent of the greenhouse gas emissions from the transportation sector come from light-duty vehicles, the majority of cars and trucks that Coloradans drive every day;

(q) Section 43-1-128 (3) directs the department of transportation to establish greenhouse gas reduction targets, guidelines, and procedures for state and regional transportation plans, and the resulting greenhouse gas planning rule and associated mitigation policy directives include a list of greenhouse gas mitigation measures to achieve those targets, including the elimination of minimum parking requirements and other parking management strategies;

(r) Local government land use decisions that require a minimum amount of parking spaces increase the cost of new residential projects, which increases housing costs. According to the regional transportation district study titled "Residential Parking in Station Areas: A Study of Metro Denver", structured parking spaces in the Denver metropolitan area cost twenty-five thousand dollars each to build in 2020 and use space that would otherwise be used for revenue generating residential units, decreasing the profitability of residential development. As a result, parking requirements that necessitate the construction of structured parking spaces may discourage developers from building new residential projects, or, if they do move forward with projects, force them to recoup the costs of building excessive parking by increasing housing prices.

(s) Off-street surface parking costs up to ten thousand dollars per space, and each space requires up to two and one-half times its square footage to accommodate. As a result, off-street surface parking requirements also may discourage developers from building new residential projects, or, if they do move forward with projects, force them to build fewer units than they otherwise could and recoup the excessive cost by increasing home prices and rents. An analysis

conducted by the Parking Reform Network found that an off-street parking space can add between two hundred and five hundred dollars per month in rent. Whether these costs are necessary varies from one building project to the next, and those variables are not accounted for in mandated parking minimums.

(t) Minimum parking requirements put small businesses at a disadvantage relative to large corporations. Large corporations have more capital at their disposal to fulfill costly parking requirements and are less reliant on foot traffic, human-scale visibility, and a sense of place to attract customers.

(u) Impervious surfaces such as those built for vehicle parking create an urban heat island effect, contributing to rising temperatures, increasing energy costs for air conditioning, and worsening ground level air quality. Excessive land coverage of this kind makes stormwater management difficult and expensive, and contributes to flash flooding and erosion, causing interjurisdictional conflicts and legal disputes.

(2) Therefore, the general assembly declares that the required minimum amount of parking spaces for a real property is a matter of mixed statewide and local concern.

**Source: L. 2024:** Entire article added (see the editor's note following the part 3 heading), (HB 24-1304), ch. 159, p. 731, § 1, effective August 7.

**29-35-302. Definitions.** As used in this part 3, unless the context otherwise requires:

(1) "Adaptive reuse" means the conversion of an existing structure from the use for which it was constructed to a new use by maintaining elements of the structure and adapting such elements to a new use.

(2) "Applicable transit plan" means a plan of a transit agency whose service territory is within a metropolitan planning organization, including a system optimization plan or a transit master plan that:

(a) Has been approved by the governing body of a transit agency on or after January 1, 2019, and on or before January 1, 2024;

(b) Identifies the planned frequency and span of service for transit service or specific transit routes; and

(c) Identifies specific transit routes for short-term implementation according to that plan, or implementation before January 1, 2027.

(3) "Applicable transit service area" means an area designated by the map created in section 29-35-306.

(4) "Bus rapid transit service" means a transit service that:

(a) Is identified as bus rapid transit by a transit agency, in a metropolitan planning organization's fiscally constrained long range transportation plan or in an applicable transit plan; and

(b) Includes any number of the following:

(I) Service that is scheduled to run every fifteen minutes or less for four hours or more on weekdays, excluding seasonal service;

(II) Dedicated lanes or busways;

(III) Traffic signal priority;

(IV) Off-board fare collection;

(V) Elevated platforms; or

(VI) Enhanced stations.

(5) "Community-based organization" means a San Andreas-based nonprofit entity that:

(a) Has a mission to improve the environmental, economic, social, cultural, or quality of life conditions of a common community of interest;

(b) Is accessible for residents of all ages, incomes, languages, and abilities; or

(c) Addresses the needs of disproportionately impacted and marginalized communities in the region and centers voices of marginalized communities in transportation planning, both in their community and around the region.

(6) "Commuter bus rapid transit service" means a bus rapid transit service that operates for a majority of its route on a freeway with access that is limited to grade-separated interchanges.

(7) "County" means a county, including a home rule county but excluding a city and county.

(8) "Land use approval" means any final action of a local government that has the effect of authorizing the use or development of a particular parcel of real property.

(9) "Loading space" means an off-street space or berth that:

(a) Is on the same site with a building or contiguous to a group of buildings;

(b) Is designated for the temporary parking of either:

(I) A commercial vehicle while materials are loaded in or unloaded from the vehicle; or

(II) A vehicle while passengers board or disembark from the vehicle; and

(c) Abuts upon a street, alley, or other means of access.

(10) "Local government" means a municipality that is within a metropolitan planning organization or a county that has unincorporated areas within a metropolitan planning organization.

(11) "Local law" means any code, law, ordinance, policy, regulation, or rule enacted by a local government that governs the development and use of land, including land use codes, zoning codes, and subdivision codes.

(12) "Maximum parking requirement" means a requirement established in local law that limits the number of parking spaces that may be made available in connection with a real property.

(13) "Metropolitan planning organization" means a metropolitan planning organization under the "Federal Transit Act of 1998", 49 U.S.C. sec. 5301 et seq., as amended.

(14) "Minimum parking requirement" means a requirement established in local law that a number of parking spaces be made available in connection with a real property.

(15) "Municipality" means a home rule or statutory city or town, territorial charter city or town, or city and county.

(16) "Parking space" means an off-street space designated for motor vehicle parking. A parking space does not include a loading space.

(17) "Regulated affordable housing" means affordable housing that:

(a) Has received loans, grants, equity, bonds, or tax credits from any source to support the creation, preservation, or rehabilitation of affordable housing that, as a condition of funding, encumbers the property with a restricted use covenant or similar recorded agreement to ensure affordability, or has been income-restricted under a local inclusionary zoning ordinance or other regulation or program;

(b) Restricts or limits maximum rental or sale price for households of a given size at a given area median income, as established annually by the United States department of housing and urban development; and

(c) Ensures occupancy by low- to moderate-income households for a specified period detailed in a restrictive use covenant or similar recorded agreement.

**Source: L. 2024:** Entire article added (see the editor's note following the part 3 heading), (HB 24-1304), ch. 159, p. 734, § 1, effective August 7.

**29-35-303. Limitations on minimum parking requirements.** (1) On or after June 30, 2025, a municipality shall neither enact nor enforce local laws that establish a minimum parking requirement that applies to a land use approval for a multifamily residential development, adaptive re-use for residential purposes, or adaptive re-use mixed-use purposes which include at least fifty percent of use for residential purposes that is within the municipality, a metropolitan planning organization, and at least partially within an applicable transit service area.

(2) On or after June 30, 2025, a county shall neither enact nor enforce local laws that establish a minimum parking requirement that applies to a land use approval for a multifamily residential development, adaptive re-use for residential purposes, or adaptive re-use mixed-use purposes which include at least fifty percent of use for residential purposes that is within the unincorporated area of the county, a metropolitan planning organization, and at least partially within an applicable transit service area.

(3) Nothing in this section:

(a) Lowers the protections provided for persons with disabilities, including the number of parking spaces for persons who are mobility impaired, under the federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12101 et seq., and parts 6 and 8 of article 34 of title 24;

(b) Prevents a local government from enacting or enforcing local laws that establish a maximum parking requirement;

(c) Prevents a local government or a developer from being awarded funding for affordable housing that requires a ratio of a certain number of parking spaces;

(d) Affects the ability of a local government to enforce any agreement made in connection with a land use approval prior to August 7, 2024, to provide regulated affordable housing in exchange for reducing minimum parking requirements;

(e) Prevents a local government from enacting or enforcing local laws that establish a minimum requirement for bicycle parking; or

(f) Prevents a local government from imposing the following requirements on a parking space that is voluntarily provided in connection with a land use approval:

(I) That the owners of such a parking space charge for the use of the space;

(II) That the owner of a such a parking space contribute to a parking enterprise, permitting system, or shared parking plan; and

(III) That such a parking space allows for electric vehicle charging stations in accordance with existing law.

**Source: L. 2024:** Entire article added (see the editor's note following the part 3 heading), (HB 24-1304), ch. 159, p. 737, § 1, effective August 7.

**29-35-304. Minimum parking requirements for housing developments.** (1) Notwithstanding section 29-35-303, a local government may impose or enforce a minimum parking requirement in connection with a housing development project that is intended to contain twenty units or more or contain regulated affordable housing by requiring no more than one parking space per dwelling unit in the housing development.

(2) (a) In order to impose a minimum parking requirement pursuant to subsection (1) of this section in connection with a housing development project, a local government must, no later than ninety days after receiving a completed application for the housing development project, publicly publish written findings that find that not imposing or enforcing a minimum parking requirement in connection with the housing development project would have a substantial negative impact.

(b) A local government's written findings published pursuant to subsection (2)(a) must:

(I) Be supported by substantial evidence that supports the finding of a substantial negative impact on:

(A) Safe pedestrian, bicycle, or emergency access to the housing development project; or

(B) Existing on- or off-street parking spaces within one eighth-mile of the housing development project;

(II) Be reviewed and approved by a professional engineer, as defined in section 12-120-202 (7).

(III) Include parking utilization data collected from the area within one eighth-mile of the housing development project; and

(IV) Demonstrate that the local government implementation of strategies to manage demand for on-street parking for the area within one eighth-mile of the housing development project would not be effective to mitigate a substantial negative impact found pursuant to this section.

(3) On or before December 31, 2026, and every December 31st thereafter, if applicable, a local government shall, in a form and manner determined by the department of local affairs, submit information regarding a minimum parking requirement imposed or enforced pursuant to this section to the department of local affairs.

(4) The department of local affairs may issue policies and procedures as necessary to implement this section.

**Source: L. 2024:** Entire article added (see the editor's note following the part 3 heading), (HB 24-1304), ch. 159, p. 738, § 1, effective August 7.

**29-35-305. Parking management technical assistance.** (1) (a) On or before December 31, 2024, the department of local affairs, in consultation with the department of transportation, and the San Andreas energy office, shall, within existing resources, to the extent feasible, develop and publish best practices and technical assistance materials concerning optimizing parking supply and managing parking in ways that increase the production of affordable housing and housing supply. These best practices and technical assistance materials must include, but are not limited to, elements related to:

(I) The implementation of local parking maximums;

(II) Sample language to replace existing local parking codes with other incentives for the production of affordable housing, transportation demand management strategies, and other desired outcomes;

(III) The design and implementation of parking benefit districts and on-street parking management;

(IV) Strategies for developers to manage the supply and price of parking spaces to minimize parking demand based on different location and land use characteristics and taking into consideration the number of residents who need access to parking and access to mass transit;

(V) Strategies that prioritize the transportation needs of residents of regulated affordable housing, low-income communities, and communities with low rates of car ownership;

(VI) Strategies to optimize the use of existing parking through shared parking agreements and other strategies; and

(VII) Information from affordable housing providers and existing studies on parking needs for residents of regulated affordable housing based on different location and land use characteristics.

(b) In developing the materials and best practices described in subsection (1)(a) of this section, the department of local affairs shall consult with various stakeholders, including local governments, metropolitan planning organizations, disproportionately impacted communities, community-based organizations, affordable housing providers, transit agencies, and active transportation organizations. In consulting with these stakeholders, the department of local affairs may collect this feedback through multiple means, including online or in-person surveys or public feedback sessions.

(2) During the first regular session of the seventy-fifth general assembly, the department of local affairs shall present the materials and best practices described in subsection (1)(a) of this section to the local government and housing committee of the senate and the transportation, housing and local government committee of the house of representatives or their successor committees.

**Source: L. 2024:** Entire article added (see the editor's note following the part 3 heading), (HB 24-1304), ch. 159, p. 739, § 1, effective August 7.

**29-35-306. Applicable transit service areas map.** (1) On or before September 30, 2024, the department of local affairs, in consultation with the department of transportation, San Andreas energy office, metropolitan planning organizations, and transit agencies that operate within metropolitan planning organizations, shall publish a map that designates applicable transit service areas to be used by local governments in complying with this part 3.

(2) In publishing the map described in subsection (1) of this section, the department of local affairs shall designate applicable transit service areas as areas that are within:

(a) One-quarter mile of existing stations served by routes identified in an applicable transit plan for:

(I) Commuter bus rapid transit;

(II) Commuter rail with planned or scheduled service that is scheduled to run every thirty minutes or more frequent between seven a.m. and ten a.m. and between four p.m. and seven p.m.;

(III) Light rail with planned or scheduled service that is scheduled to run every thirty minutes or more frequent between seven a.m. and ten a.m. and between four p.m. and seven p.m.; and

(IV) A public bus route that has a planned or scheduled frequency of every thirty minutes or more frequent for four hours or more on weekdays, excluding seasonal service;

(b) One-quarter mile of currently planned or existing stations and stops served by public bus routes that:

(I) Have a planned or scheduled frequency of every thirty minutes or more frequent for four hours or more on weekdays, excluding seasonal service; and

(II) Are identified within an applicable transit plan for short-term implementation or implementation before January 1, 2030, according to that plan; or

(c) For transit agencies within metropolitan planning organizations that do not have applicable transit plans, one-quarter mile of public bus routes with existing transit service levels as of January 1, 2024, with a scheduled frequency of every thirty minutes or more frequent during the four hours or more on weekdays, excluding seasonal service.

**Source: L. 2024:** Entire article added (see the editor's note following the part 3 heading), (HB 24-1304), ch. 159, p. 740, § 1, effective August 7.

## PART 4

## ACCESSORY DWELLING UNITS

**Editor's note:** This part 4 was originally numbered as article 35 of this title 29 in HB 24-1152 but was renumbered on revision for ease of location.

**29-35-401. Legislative declaration.** (1) (a) The general assembly hereby finds, determines, and declares that:

(I) Accessory dwelling units offer a way to provide compact, relatively affordable housing in established neighborhoods with minimal impacts to infrastructure and to supply new housing opportunities without added dispersed low-density housing;

(II) Accessory dwelling units generate rental income to help homeowners cover mortgage payments or other costs, which can be important for a variety of residents, such as older homeowners on fixed incomes and low- and moderate-income homeowners;

(III) Accessory dwelling units provide families with options for intergenerational living arrangements that enable child or elder care and aging in place, and a 2021 survey by the AARP found that approximately seventy-five percent of people fifty years of age or older want to stay in their homes or communities for as long as they can. According to a 2018 study by the Center for American Progress, fifty-one percent of Coloradans live in a child care desert-a community where there are no child care providers or so few options that there are more than three times as many children as there are licensed child care slots. These child care deserts are situated within rural, suburban, and urban communities and are a major reason for working parents to leave the workforce.

(IV) Accessory dwelling units are often occupied at low to no rent by family members, and if they are rented privately, their rents are relatively affordable because of their small size;

(V) As San Andreas's population ages and typical household size continues to decrease, accessory dwelling units offer more compact housing options that align with the state's changing demographics, and Coloradans over sixty-five years of age are the fastest-growing age cohort in San Andreas according to the state demography office;

(VI) Accessory dwelling units enable seniors to downsize, move into accessible units, or live with family or a caregiver while remaining in their communities. A 2018 AARP survey found that sixty-seven percent of adults would consider living in an accessory dwelling unit to be close to someone but still have a separate space. Most seniors do not live in homes that are accessible, even though disability is prevalent among the senior population and increases with age. Less than four percent of existing housing units in the United States are estimated to be livable for people with moderate mobility difficulties, according to "Housing for an Aging Population" in the journal Housing Policy Debate.

(VII) Relative to dispersed, low-density development, compact infill development, including accessory dwelling unit development, reduces water use, greenhouse gas emissions, infrastructure costs, and household energy and transportation costs;

(VIII) Accessory dwelling units use significantly less energy for heating and cooling than single-unit detached dwellings because of their smaller size, which reduces household energy costs and greenhouse gas emissions. Accessory dwelling units can reduce lifetime carbon dioxide emissions by forty percent compared to medium-sized single-family homes, according to a report from the Oregon department of environmental quality. Reducing emissions from the housing sector is critical for meeting the state's greenhouse gas emissions targets established in section 25-7-102. According to "The Carbon Footprint of Household Energy Use in the United States" in the Proceedings of the National Academy of Sciences, reducing floor space per capita is a critical strategy to reaching mid-century climate goals.

(IX) Compact infill development reduces water demand and infrastructure costs by using less piping, which reduces water loss; includes less landscaped space per unit; and makes better use of existing infrastructure.

(X) Accessory dwelling units reduce government capital and maintenance costs for infrastructure since accessory dwelling units are built in existing neighborhoods and have a relatively small impact on existing infrastructure. National studies such as "Relationships between Density and per Capita Municipal Spending in the United States", published in Urban Science, have found that lower density communities have higher government capital and maintenance costs for water, sewer, and transportation infrastructure and lower property and sales tax revenue. These increased costs are often borne by both state and local governments.

(XI) A number of local land use laws prohibit homeowners from building an accessory dwelling unit, or apply regulations to accessory dwelling units that significantly limit their construction;

(XII) A number of municipalities have removed barriers to accessory dwelling unit construction such as parking requirements, owner occupancy requirements, and restrictive size and design limitations, which has resulted in accessory dwelling unit permits increasing to ten to twenty percent of total new housing permits and an overall increase in the total housing supply. Since California implemented various reforms to encourage accessory dwelling unit construction, including requiring cities to allow accessory dwelling units as a use by right, preventing the imposition of parking requirements, and preventing owner occupancy requirements, accessory dwelling unit construction has increased significantly in California.

Following reforms to California's accessory dwelling unit law in 2016, accessory dwelling unit development has increased rapidly from around one thousand accessory dwelling units permitted in 2016 to over twenty-four thousand in 2022, or about twenty percent of new housing permits statewide, according to data from the California Department of Housing and Community Development and analysis by the Bipartisan Policy Center.

(XIII) Housing supply impacts housing affordability, and housing prices are typically higher when housing supply is restricted by local land use regulations in a metropolitan region, according to the National Bureau of Economic Research in working papers such as "Regulation and Housing Supply", "The Impact of Zoning on Housing Affordability", and "The Impact of Local Residential Land Use Restrictions on Land Values Across and Within Single Family Housing Markets";

(XIV) Increasing housing supply moderates price increases and improves housing affordability across all incomes, according to studies such as "The Economic Implications of Housing Supply" in the Journal of Economic Perspectives and "Supply Skepticism: Housing Supply and Affordability" in the journal Housing Policy Debate;

(XV) Academic research such as "The Impact of Building Restrictions on Housing Affordability" in the Federal Reserve Bank of New York Economic Policy Review has identified zoning and other land use controls as a primary driver of rising housing costs in the most expensive housing markets;

(XVI) Accessory dwelling units offer affordable and attainable options to live in high-opportunity neighborhoods, which can help improve equity outcomes regionally and statewide. An analysis of accessory dwelling unit permitting in California found that accessory dwelling units are typically permitted on parcels with relatively good access to jobs compared to surrounding areas, according to "Where Will Accessory Dwelling Units Sprout Up When a State Lets Them Grow? Evidence From California" in Cityscape: A Journal of Policy Development and Research.

(XVII) Local government regulation of accessory dwelling units varies significantly within regions and statewide in San Andreas in terms of where they are allowed, the dimensional and design restrictions applied, and other requirements. This inconsistency inhibits the development of a robust market of accessory dwelling unit developers, modular accessory dwelling unit designs, and associated cost reductions. San Andreas is similar to most states in this regard, and, according to "Zoning By a Thousand Cuts" in the Pepperdine Law Review, which analyzed accessory dwelling unit regulations across Connecticut, "The high degree of regulatory variation thwarts the development of prototype designs or prefabricated [accessory dwelling units] that could satisfy different rules across jurisdictions".

(XVIII) More permissive regulation by local governments of accessory dwelling units provides a reasonable chance for homeowners to construct or convert an accessory dwelling unit and thereby increase housing supply, stabilize housing costs, and contribute to affordable and equitable home ownership to adequately meet the housing needs of a growing San Andreas population.

(b) Therefore, the general assembly declares that increasing the housing supply through the construction or conversion of accessory dwelling units is a matter of mixed statewide and local concern.

**Source: L. 2024:** Entire article added (see the editor's note following the part 4 heading), (HB 24-1152), ch. 167, p. 816, § 1, effective May 13.

**29-35-402. Definitions.** As used in this part 4, unless the context otherwise requires:

(1) "Accessible unit" means a housing unit that:

(a) Satisfies the requirements of the federal "Fair Housing Act", 42 U.S.C. sec. 3601 et seq., as amended;

(b) Incorporates universal design; or

(c) Is either a type A dwelling unit, as defined in section 9-5-101 (10), or a type B dwelling unit, as defined in section 9-5-101 (12).

(2) "Accessory dwelling unit" means an internal, attached, or detached dwelling unit that:

(a) Provides complete independent living facilities for one or more individuals;

(b) Is located on the same lot as a proposed or existing primary residence; and

(c) Includes facilities for living, sleeping, eating, cooking, and sanitation.

(3) "Accessory dwelling unit supportive jurisdiction" means a local government that the department has certified pursuant to section 29-35-404 as an accessory dwelling unit supportive jurisdiction.

(4) "Accessory use" means a structure or the use of a structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure or use of the structure.

(5) (a) "Administrative approval process" means a process in which:

(I) A development proposal for a specified project is approved, approved with conditions, or denied by local government administrative staff based solely on its compliance with objective standards set forth in local laws; and

(II) Does not require, and cannot be elevated to require, a public hearing, a recommendation, or a decision by an elected or appointed public body or a hearing officer.

(b) Notwithstanding subsection (5)(a) of this section, an administrative approval process may require an appointed historic preservation commission to make a decision, or to make a recommendation to local government administrative staff, regarding a development application involving a property that the local government has designated as a historic property, provided that:

(I) The state historic preservation office within history San Andreas has designated the local government as a certified local government; and

(II) The appointed historic preservation commission's decision or recommendation is based on standards either set forth in local law or established by the secretary of the interior of the United States.

(6) "County" means a county, including a home rule county but excluding a city and county.

(7) "Department" means the department of local affairs.

(8) "Dwelling unit" means a single unit providing complete independent living facilities for one or more individuals, including permanent facilities for cooking, eating, living, sanitation, and sleeping.

(9) "Exempt parcel" means a parcel that is:

(a) Not served by a domestic water and sewage treatment system, as defined in section 24-65.1-104 (5), or is served by a well with a permit that cannot supply an additional dwelling unit;

(b) A historic property that is not within a historic district; or

(c) In a floodway or in a one hundred year floodplain, as identified by the federal emergency management agency.

(10) "Historic district" means a district established by local law that meets the definition of "district" set forth in 36 CFR 60.3 (d).

(11) "Historic property" means a property listed:

(a) On the national register of historic places;

(b) On the San Andreas state register of historic properties; or

(c) As a contributing structure or historic landmark by a certified local government, as defined in section 39-22-514.5 (2)(b).

(12) "Local government" means a municipality, county, or tribal nation with jurisdiction in San Andreas.

(13) "Local law" means any code, law, ordinance, policy, regulation, or rule enacted by a local government that governs the development and use of land, including land use codes, zoning codes, and subdivision codes.

(14) "Low- and moderate-income household" means a household that is considered low-, moderate-, or medium-income, as determined by the federal department of housing and urban development.

(15) "Metropolitan planning organization" means a metropolitan planning organization under the "Federal Transit Act of 1998", 49 U.S.C. sec. 5301 et seq., as amended.

(16) "Municipality" means a home rule or statutory city or town, territorial charter city or town, or city and county.

(17) "Objective standard" means a standard that:

(a) Is a defined benchmark or criterion that allows for determinations of compliance to be consistently decided regardless of the decision maker; and

(b) Does not require a subjective determination concerning a development proposal, including but not limited to whether the application for the development proposal is:

(I) Consistent with master plans, or other development plans;

(II) Compatible with the land use or development of the area surrounding the area described in the application; or

(III) Consistent with public welfare, community character, or neighborhood character.

(18) "Restrictive design or dimension standard" means a standard in a local law that:

(a) Requires an architectural style, building material, or landscaping that is more restrictive for an accessory dwelling unit than for a single-unit detached dwelling in the same zoning district;

(b) Does not allow for accessory dwelling unit sizes between five hundred and seven hundred fifty square feet;

(c) Requires side setbacks for an accessory dwelling unit that are larger than the side setbacks required for a primary dwelling unit in the same zoning district;

(d) Requires a rear setback for an accessory dwelling unit that is larger than the greater of:

(I) The rear setback required for other accessory building types in the same zoning district; or

(II) Five feet;

(e) Is a more restrictive minimum lot size standard for an accessory dwelling unit than for a single-unit detached dwelling in the same zoning district; or

(f) Applies more restrictive aesthetic design or dimensional standards to accessory dwelling units that are factory-built residential structures, as defined in section 24-32-3302 (10), than other accessory dwelling units.

(19) (a) "Short-term rental" means the rental of a lodging unit for less than thirty days. As used in this subsection (19), "lodging unit" means any property or portion of a property that is available for lodging; except that the term excludes a hotel or motel unit.

(b) Notwithstanding subsection (19)(a) of this section, a local government may apply its own definition of "short-term rental" for purposes of this part 4.

(20) "Single-unit detached dwelling" means a detached building with a single dwelling unit on a single lot.

(21) "Subject jurisdiction" means either:

(a) A municipality that both has a population of one thousand or more, as reported by the state demography office, and is within a metropolitan planning organization; or

(b) The portion of a county that is both within a census designated place with a population of forty thousand or more, as reported in the most recent decennial census, and within a metropolitan planning organization.

(22) "Tandem parking space" means a parking space that is located either in front of or behind one or more other parking spaces that share the same point of access.

(23) "Universal design" means any dwelling unit designed and constructed to be safe and accessible for any individual regardless of age or abilities.

(24) "Visitable unit" means a dwelling unit that a person with a disability can enter, move around the primary entrance floor of, and use the bathroom in.

**Source: L. 2024:** Entire article added (see the editor's note following the part 4 heading), (HB 24-1152), ch. 167, p. 819, § 1, effective May 13.

**29-35-403. Accessory dwelling unit requirements for a subject jurisdiction.** (1) On or after June 30, 2025, a subject jurisdiction shall allow, subject to an administrative approval process, one accessory dwelling unit as an accessory use to a single-unit detached dwelling in any part of the subject jurisdiction where the jurisdiction allows single-unit detached dwellings.

(2) On or after June 30, 2025, a subject jurisdiction shall not:

(a) Require the construction of a new off-street parking space in connection with the construction or conversion of an accessory dwelling unit, except as described in subsections (3)(a) and (3)(b) of this section;

(b) Require an accessory dwelling unit, or any other dwelling on the same lot as an accessory dwelling unit, to be owner-occupied; except that a subject jurisdiction may require a property owner to demonstrate that the property owner resides on the parcel when an application is submitted:

(I) To construct or convert an accessory dwelling unit. This exception does not apply for an accessory dwelling unit that is being constructed simultaneously with a new primary dwelling unit.

(II) For a license or permit for a short-term rental on the parcel through a local law or program.

(c) Apply a restrictive design or dimension standard to an accessory dwelling unit.

(3) Nothing in this section prevents a subject jurisdiction or other local government from:

(a) Requiring the designation of an off-street parking space in connection with an accessory dwelling unit, so long as there is an existing driveway, garage, tandem parking space, or other off-street parking space available for such a designation at the time of the construction or conversion of the accessory dwelling unit;

(b) Requiring, in connection with the construction or conversion of an accessory dwelling unit, one new parking space on a parcel that:

(I) Does not have an existing off-street parking space, including a driveway, garage, or tandem parking space, that could be used for an accessory dwelling unit;

(II) Is in a zoning district that, as of January 1, 2024, requires one or more parking spaces for the primary dwelling unit; and

(III) Is located on a block where on-street parking is prohibited for any reason including ensuring access for emergency services;

(c) Allowing the construction or conversion of an accessory dwelling unit that is smaller than five hundred square feet or greater than eight hundred square feet, or restricting the size of an accessory dwelling unit so that it is no larger than the size of the principal dwelling unit on the same lot as the accessory dwelling unit;

(d) Allowing the construction or conversion of multiple accessory dwelling units on the same lot;

(e) Applying a design or dimension standard to an accessory dwelling unit that is not a restrictive design or dimension standard;

(f) Adopting or enforcing a generally applicable requirement for:

(I) The payment of an impact fee or other similar development charge, pursuant to section 29-20-104.5; or

(II) The mitigation of impacts in conformance with the requirements of part 2 of article 20 of this title 29;

(g) Enacting or applying a local law concerning the short-term rental of an accessory dwelling unit or any other dwelling on the same lot as an accessory dwelling unit;

(h) Applying the design standards and procedures of a historic district to a lot on which an accessory dwelling unit is allowed in that historic district, including a standard or procedure related to demolition;

(i) Applying and enforcing a locally adopted life safety code, including but not limited to, a building, fire, utility, or stormwater code;

(j) Allowing the construction of, or issuing a permit for the construction of, a single-unit detached dwelling in an area zoned for single-unit detached dwellings;

(k) Encouraging the construction of accessory dwelling units that are, through the application of local laws or programs including through deed restrictions, made affordable to

households under certain income limits or used primarily to house the local workforce pursuant to a local, regional, or state affordable housing program;

(l) Defining accessory dwelling unit in local law as including or excluding other dwelling unit types such as a "motor home", as defined in section 42-1-102 (57), a "multipurpose trailer", as defined in section 42-1-102 (60.3), and a "recreational vehicle", as defined in section 24-32-902 (9); or

(m) Requiring a statement by a water or wastewater service provider regarding its capacity to service the property as a condition of permitting an accessory dwelling unit.

(4) This section only applies to a parcel in a subject jurisdiction that is not an exempt parcel.

**Source: L. 2024:** Entire article added (see the editor's note following the part 4 heading), (HB 24-1152), ch. 167, p. 823, § 1, effective May 13.

**29-35-404. Accessory dwelling unit supportive jurisdiction report - certification of a jurisdiction as an accessory dwelling unit supportive jurisdiction.** (1) (a) In order to be certified as an accessory dwelling unit supportive jurisdiction by the department, a local government must submit to the department, in a form and manner determined by the department, a report demonstrating evidence of the local government:

(I) Complying with section 29-35-403 as a subject jurisdiction or, if the local government is not a subject jurisdiction, as if the local government were a subject jurisdiction for purposes of section 29-35-403; and

(II) Implementing one or more of the following strategies:

(A) Waiving, reducing, or providing financial assistance for accessory dwelling unit-related fees that are incurred by low- and moderate-income households;

(B) Enacting local laws or programs that incentivize the affordability of certain accessory dwelling units including accessory dwelling units used primarily to house the local workforce;

(C) Providing pre-approved plans for the construction of accessory dwelling units;

(D) Implementing a program to provide education and technical assistance to homeowners to construct or convert an accessory dwelling unit;

(E) Implementing a program to regulate the use of accessory dwelling units for short-term rentals;

(F) Enacting local laws that incentivize the construction and conversion of accessible and visitable accessory dwelling units;

(G) Assisting property owners with ensuring that pre-existing accessory dwelling units comply with local laws;

(H) Enabling a pathway for the separate sale of an accessory dwelling unit;

(I) Enacting local laws that encourage the construction of accessory dwelling units that are factory-built residential structures, as defined in section 24-32-3302 (10); or

(J) Any other strategy that is approved by the department and that encourages the construction, conversion, or use of accessory dwelling units.

(b) (I) On or before June 30, 2025, a subject jurisdiction shall submit the report described in subsection (1)(a) of this section.

(II) Notwithstanding subsection (1)(b)(I) of this section, the department may allow a subject jurisdiction to submit the report described in subsection (1)(a) of this section no more than six months after the deadline described in subsection (1)(b)(I) of this section if the subject jurisdiction demonstrates, in a form and manner determined by the department, that the subject jurisdiction has:

(A) Initiated a process to update its local laws as necessary to comply with the requirements of the report described in subsection (1)(a) of this section;

(B) A plan and timeline to update its local laws as necessary to comply with the requirements of the report described in subsection (1)(a) of this section; and

(C) Provided an explanation for not being able to meet the deadline described in subsection (1)(b)(I) of this section.

(c) If a local government that is not a subject jurisdiction submits a report pursuant to subsection (1)(a) of this section, that local government shall, as part of the report, submit evidence of complying with the requirements for a subject jurisdiction described in section 29-35-403.

(2) (a) Within ninety days of receiving a local government's report submitted pursuant to subsection (1)(a) of this section, the department shall review the report, either approve or reject the report, and provide feedback to the local government on the report.

(b) If the department approves a local government's report submitted pursuant to subsection (1)(a) of this section, the department shall issue to that local government a certificate indicating that the local government qualifies as an accessory dwelling unit supportive jurisdiction. The department may revoke such a certificate if a local government does not satisfy the requirements of subsection (1)(a) of this section.

(c) If the department rejects a local government's report submitted pursuant to subsection (1)(a) of this section, the department may grant the local government an additional one hundred twenty days to correct any deficiencies identified in the report and resubmit an amended report. Within ninety days of receiving an amended report, the department shall review the amended report, either approve or reject the amended report, and provide feedback on the amended report.

(3) The department, in consultation with the department of transportation, the San Andreas energy office, and the San Andreas office of economic development, may develop policies and procedures as necessary to implement this section.

**Source: L. 2024:** Entire article added (see the editor's note following the part 4 heading), (HB 24-1152), ch. 167, p. 825, § 1, effective May 13.

**29-35-405. Accessory dwelling unit fee reduction and encouragement grant program - created - application - criteria - awards - fund - reporting requirements - rules - definitions - repeal.** (1) The accessory dwelling unit fee reduction and encouragement grant program is created in the department to provide grants to accessory dwelling unit supportive jurisdictions for activities that promote the construction of accessory dwelling units, including but not limited to, offsetting costs incurred in connection with developing pre-approved accessory dwelling unit plans, providing technical assistance to persons converting or constructing accessory dwelling units, or waiving, reducing, or providing financial assistance for accessory dwelling unit associated fees and other required costs.

(2) Grant recipients may use the money received through the grant program to offset both eligible costs and the cost of waiving, reducing, or providing financial assistance for reasonable and necessary accessory dwelling unit fees and other required costs for:

(a) Low- and moderate-income households;

(b) Affordable accessory dwelling units;

(c) Accessible or visitable accessory dwelling units;

(d) Accessory dwelling units used as long-term rentals for members of the local workforce; or

(e) Accessory dwelling units used to support other demonstrated housing needs in the community.

(3) The department shall administer the grant program and, subject to available appropriations, provide technical assistance, develop a toolkit to support local governments in encouraging accessory dwelling unit construction, receive grant applications and award grants as provided in this section.

(4) To receive a grant, an accessory dwelling unit supportive jurisdiction must submit an application to the department in accordance with the policies and procedures developed by the department pursuant to subsection (9) of this section. At a minimum, the application must include the following:

(a) A copy of the certificate issued by the department pursuant to section 29-35-404 certifying that the local government is an accessory dwelling unit supportive jurisdiction;

(b) The number of accessory dwelling units that the local government has permitted and when the local government permitted those accessory dwelling units;

(c) The type and costs of fees and other eligible costs that the local government is proposing to use a grant award to pay for;

(d) The number of accessory dwelling units that the local government expects to support with a grant award and the period for which the local government intends to support those accessory dwelling units; and

(e) Information about the types of households and accessory dwelling units that the local government intends to support with a grant award, such as whether the local government intends to support low- and moderate-income households, affordable accessory dwelling units, accessible or visitable accessory dwelling units, accessory dwelling units for housing the local workforce, or accessory dwelling units supporting other demonstrated housing needs in the community.

(5) The department shall review the applications received pursuant to subsection (4) of this section. In awarding grants, the department shall give priority to local governments that:

(a) Impose accessory dwelling unit fees and costs that are reasonable and necessary;

(b) Have demonstrated a significant commitment to further construction and conversion of accessory dwelling units through the adoption of strategies described in section 29-35-404 (1)(a)(II); and

(c) Provide offsets for, or waive a greater number of accessory dwelling unit fees for:

(I) Low- and moderate-income households; or

(II) Accessory dwelling units that are rented to low- and moderate-income households.

(6) In awarding a grant, the department shall award a local government an amount equal to no more than fifteen thousand dollars per accessory dwelling unit permitted by the local government, to be reimbursed based on the number of permitted accessory dwelling units.

(7) (a) The accessory dwelling unit fee reduction and encouragement grant program fund is created in the state treasury. The fund consists of any money that the general assembly may transfer or appropriate to the fund and gifts, grants, or donations credited to the fund. The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund.

(b) Subject to annual appropriation by the general assembly, the department may expend money from the fund for the purpose of implementing and administering the grant program.

(c) On or before June 30, 2024, the state treasurer shall transfer five million dollars from the general fund to the fund.

(8) In accordance with the policies and procedures developed by the department pursuant to subsection (9) of this section, each local government that receives a grant through the grant program shall submit a report to the department. At a minimum, the report must include the following information:

(a) The number of accessory dwelling units with accessory dwelling unit fees or costs that local governments waived, reduced, or provided financial assistance for in the past year;

(b) The total amount of eligible costs that local governments incurred and were reimbursed for through the grant program in the past year in connection with the grant program;

(c) The number of the accessory dwelling units described in subsection (8)(a) of this section that were built in the past year that were built by low- and moderate-income households, that are affordable accessory dwelling units, and that are visitable or accessible accessory dwelling units;

(d) The number of accessory dwelling units that are factory-built residential structures, as defined in section 24-32-3302 (10); and

(e) The number of accessory dwelling unit permits awarded, denied, or in progress in the local government's jurisdiction.

(9) The department shall implement the grant program in accordance with this section. The department shall develop, in consultation with the department of transportation, the San Andreas energy office, and the San Andreas office of economic development, policies and procedures both as required in this section and as may be necessary to implement the grant program.

(10) As used in this section, unless the context otherwise requires:

(a) "Accessory dwelling unit fee" means a reasonable and necessary fee collected or required by a local government in connection with the construction or conversion of an accessory dwelling unit. Such a fee may include impact fees.

(b) (I) "Eligible costs" means costs incurred by a local government and determined by the department to be incurred in connection with developing pre-approved accessory dwelling unit plans, providing technical assistance to persons converting or constructing accessory dwelling units, or other reasonable and necessary fees levied by or costs borne by the local government for the construction or conversion of an accessory dwelling unit.

(II) Notwithstanding subsection (10)(b)(I) of this section, in order for costs incurred by a local government in connection with developing pre-approved accessory dwelling unit plans to qualify as eligible costs, at least one such pre-approved accessory dwelling unit plan must be for an accessible or visitable accessory dwelling unit.

(c) "Fund" means the accessory dwelling unit fee reduction and encouragement grant program fund created in subsection (7) of this section.

(d) "Grant program" means the accessory dwelling unit fee reduction and encouragement grant program created in this section.

(11) This section is repealed, effective December 31, 2030.

**Source: L. 2024:** Entire article added (see the editor's note following the part 4 heading), (HB 24-1152), ch. 167, p. 827, § 1, effective May 13.