

First Extraordinary Session, 2006

SENATE BILL NO. 49

BY SENATORS DUPLESSIS, HINES AND MOUNT AND REPRESENTATIVES
DORSEY, GALLOT, HAMMETT AND SALTER

HOUSING. Creates the Louisiana Housing and Land Trust Corporation. (gov sig)

AN ACT

To enact Chapter 3-C of Title 40 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 40:600.51 through 600.60, relative to the Louisiana Housing and Land Trust Corporation; to create and provide for such trust and its board of directors and their powers, duties, functions and responsibilities; to provide a tax exemption status for the trust; to provide a termination date for the trust; to provide an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Chapter 3-C of Title 40 of the Louisiana Revised Statutes of 1950, comprised of R.S. 40:600.51 through 600.60 is hereby enacted to read as follows:

CHAPTER 3-C. LOUISIANA HOUSING AND

LAND TRUST CORPORATION

§600.51. Short title

This Chapter may be cited as the "Louisiana Housing and Land Trust Corporation Act."

§600.52. Legislative findings and intent

Hurricanes Katrina and Rita destroyed thousands of residential housing

1 units in the state of Louisiana, left thousands of residential housing units in the
2 state substantially damaged and created an unprecedented housing shortage
3 throughout the state. In the aftermath of hurricanes Katrina and Rita,
4 thousands of Louisiana residents have been forced to find temporary housing
5 outside of the state, and many properties damaged by the hurricanes are not
6 likely to be repaired without assistance. The exodus of Louisiana residents and
7 the lack of habitable housing in the state poses a serious threat to the economic
8 stability of the state and local governmental subdivisions. The existence of
9 uninhabitable housing units will stagnate reinvestment by property owners
10 wanting to rebuild and will have a negative impact on livability in
11 neighborhoods and communities. The areas impacted by hurricanes Katrina
12 and Rita must be repopulated to restore the economic base of both the core
13 disaster area and the state. The state must utilize additional tools, tied to both
14 state and federal resources, to access and invest funds to acquire or renovate
15 hurricane damaged properties and help resettle displaced residents.

16 **§600.53. Creation of the Louisiana Housing and Land Trust Corporation**

17 A. There is hereby created the Louisiana Housing and Land Trust
18 Corporation, hereafter referred to as the "trust," a non-profit corporation
19 incorporated under the laws of the state of Louisiana, domiciled in the parish
20 of East Baton Rouge, state of Louisiana. The corporation shall apply for tax
21 exempt status under Section 501 of the Internal Revenue Code possessing
22 corporate powers as provided in this Chapter, whose primary mission and
23 purpose is the economic stabilization and redevelopment of areas within
24 Louisiana that were devastated or significantly distressed by Hurricane Katrina
25 or Hurricane Rita.

26 B. The trust is placed within the office of the governor and shall perform
27 and exercise its powers, duties, functions, and responsibilities in the manner
28 provided for agencies transferred in accordance with the provisions of R.S.
29 **36:801.1.**

1 C. The activities of the trust shall be limited to the parishes designated
2 for individual assistance by the federal emergency management association as
3 a result of Hurricane Katrina or Hurricane Rita. The parishes shall be divided
4 into the following areas:

5 (1) Southwest Region, which shall include the parishes of Acadia, Allen,
6 Beauregard, Calcasieu, Cameron, Evangeline, Iberia, Jefferson Davis,
7 Lafayette, Sabine, St. Landry, St. Martin, St. Mary, Vermilion and Vernon.

8 (2) Southeast Region, which shall include the parishes Ascension,
9 Assumption, East Baton Rouge, East Feliciana, Iberville, Jefferson, Lafourche,
10 Plaquemines, Pointe Coupe, St. Bernard, St. Charles, St. James, St. John the
11 Baptist, Terrebonne, West Baton Rouge, and West Feliciana.

12 (3) North Shore Region, which shall include the parishes of Livingston,
13 St. Helena, St. Tammany, Tangipahoa and Washington.

14 (4) Orleans Region, which shall include the parish of Orleans.

15 §600.54. Board of directors; members; officers

16 A. The trust shall be governed by a board of directors referred to in this
17 Chapter as the "board" consisting of eleven members comprised of the
18 following:

19 (1) The chairman of the Louisiana Recovery Authority or his designee.

20 (2) The chairman of the Housing Task Force of the Louisiana Recovery
21 Authority or his designee.

22 (3) The commissioner of administration or his designee.

23 (4) The president of the Louisiana Housing Finance Agency or his
24 designee.

25 (5) One person appointed by the speaker of the House of Representatives
26 who, by virtue of his education, training or experience in banking, mortgage
27 financing, housing development, land use or urban planning are especially
28 qualified to serve on the board.

29 (6) One person appointed by the president of the Senate who, by virtue

1 of his education, training or experience in banking, mortgage financing, housing
2 development, land use or urban planning are especially qualified to serve on the
3 board.

4 (7) One person appointed by the governor from a list of three names
5 submitted by the Colleges or Schools of Urban and Public Affairs at any
6 Louisiana College or University of individuals who, by virtue of their education,
7 training or experience in banking, mortgage financing, housing development,
8 land use or urban planning are especially qualified to serve on the board.

9 (8) One person appointed by the governor from a list of three names
10 submitted by the Louisiana Home Builders Association of individuals who, by
11 virtue of their education, training or experience in banking, mortgage financing,
12 housing development, land use or urban planning are especially qualified to
13 serve on the board.

14 (9) One person appointed by the governor from two lists of three names
15 each submitted by the Louisiana Bankers Association and the Louisiana
16 Mortgage Lenders Association of individuals who, by virtue of their education,
17 training or experience in banking, mortgage financing, housing development,
18 land use or urban planning are especially qualified to serve on the board.

19 (10) One person appointed by the governor from two lists of three names
20 each submitted by the Council for a Better Louisiana and the Public Affairs
21 Research Council of individuals who, by virtue of their education, training or
22 experience in banking, mortgage financing, housing development, land use or
23 urban planning are especially qualified to serve on the board.

24 (11) One person appointed by the governor from a list of three names
25 submitted by the Louisiana Association of Nonprofit Organizations of
26 individuals who, by virtue of their education, training or experience in banking,
27 mortgage financing, housing development, land use or urban planning are
28 especially qualified to serve on the board.

29 B. At least five of the appointed members of the board shall be from the

1 core disaster area as provided in R.S. 40:600.53(D). One member shall be from
2 the north shore region of the state, one member shall be from the southwest
3 region of the state, one member from the southeast region of the state, and two
4 members shall be from the Orleans region. The members of the board
5 appointed by the governor shall be subject to Senate confirmation and shall
6 serve at the pleasure of the governor and may be removed at her discretion.

7 C. The governor shall select the chairperson of the board from among
8 the members of the board. The members of the board of directors shall elect a
9 vice chairperson and such other officers as the members determine necessary.

10 D. Any vacancy on the board of directors shall be filled in the manner
11 in which the original appointment was made.

12 E. No member, officer, or employee of the trust shall have an interest,
13 either direct or indirect, in any contract to which the trust is, or is to be, a party,
14 or in any lending institution requesting a loan from, or offering to purchase
15 from or sell real property to the trust. Each member of the board, officer and
16 employee of the trust, or members of their immediate family, shall comply with
17 R.S. 42:1113(B).

18 F. Members of the board and persons acting on the trust's behalf, while
19 acting within the scope of their duties or employment, shall not be subject to
20 any personal liability resulting from carrying out the powers and duties
21 conferred on them pursuant to this Chapter, and shall have the indemnification
22 rights provided in R.S. 13:5108.1 with respect to such actions.

23 G. The board and its records shall be subject to the Open Meetings Law
24 and the Public Records Law.

25 §600.55. Funding and reports

26 A. The trust may receive appropriations or grants from any agency of
27 the United States or the state of Louisiana. The trust may also receive grants
28 or donations from non-governmental entities.

29 B. The trust shall submit to the governor and the legislature not later

1 than thirty days prior to the beginning of each regular session, a report on the
2 activities of and the progress of the trust for the previous period.

3 C. The trust shall submit to the governor and the Joint Legislative
4 Committee on the Budget each quarter, a report on the activities of and the
5 progress of the trust for the previous quarter.

6 D. All funding received, expended, or disbursed by the trust shall be
7 subject to audit, review, and examination by an independent accounting firm
8 or firms engaged by the state or any agency of the state to oversee the receipt
9 and disbursement of funds as well as audit by the legislative auditor pursuant
10 to R.S. 24:513.

11 E. To the extent consistent with allocation restrictions imposed by the
12 sources of any funds received, the trust shall allocate all funds among the
13 impacted parishes in proportion to the total amount of property damage in and
14 the number of residents displaced for more than forty-five days from the
15 parishes, respectively.

16 §600.56. Mission, powers and duties of the trust

17 A. The primary mission and purpose of the trust shall be the economic
18 stabilization and redevelopment of areas within Louisiana that were devastated
19 or significantly distressed by Hurricane Katrina or Hurricane Rita.

20 B. The trust shall have the powers necessary to carry out and effectuate
21 the purposes and provisions of this Chapter, including the following:

22 (1) Adopt, alter, and use a corporate seal.

23 (2) Provide for a chief executive officer, a chief financial officer, and
24 such other officers and employees as may be necessary to perform the functions
25 of the trust and define their duties. The chief executive officer and the chief
26 financial officer shall be subject to Senate confirmation.

27 (3) Fix the compensation and number of, and appoint, employees for any
28 position established by the trust.

29 (4) Sue and be sued, provided that venue for any suit brought by or

1 against the trust shall be in the Nineteenth Judicial District Court.

2 (5) With the consent of any executive agency, department, or
3 independent agency utilize the information, services, staff, and facilities of such
4 department or agency in carrying out this Chapter.

5 (6) Prescribe, by the board of directors, bylaws that are consistent with
6 law to provide for:

7 (a) The management and operational structure of the trust.

8 (b) The manner in which general operations are to be conducted.

9 (c) Such other matters as the board of directors determines to be
10 appropriate.

11 C. In executing its economic stabilization and redevelopment mandate,
12 the trust shall adhere to the policy guidelines for rebuilding and recovery set
13 forth by the Louisiana Recovery Authority and adhere to the policy of local and
14 regional planning authorities.

15 D. A plan of operation shall be adopted by the governing board of the
16 trust and after approval by the Louisiana Recovery Authority, shall be filed
17 with and approved by the Joint Legislative Committee on the Budget. The Joint
18 Legislative Committee on the Budget may reject or order that a portion of the
19 plan be rewritten to ensure compliance with the provisions of this Chapter. Any
20 amendments of the plan of operation adopted by the governing board of the
21 trust shall be filed with and approved by the Joint Legislative Committee on the
22 Budget. Once the Joint Legislative Committee on the Budget approves the plan,
23 the plan of operation shall be approved by resolution by a majority of the
24 members of the House and Senate. Nothing herein shall prohibit the legislature
25 from adopting a resolution which shall amend the plan of operation.

26 §600.57. Internal audit

27 A. The board of directors shall establish an internal audit division which
28 shall report to the board of directors of the trust and the Louisiana Recovery
29 Authority monthly on the office's reviews of the activities, contracts, and

1 financial statements of the trust.

2 B. The board of directors shall solicit and receive an external audit on
3 an annual basis. The board of directors shall issue a request for proposals to
4 prospective accounting firms who are qualified to perform such an audit of the
5 trust. The name and qualifications of the accounting firm chosen shall be
6 submitted to the Senate Committee on Finance and the House Committee on
7 Appropriations along with a copy of the report. The report shall also be made
8 to the board of directors, Louisiana Recovery Trust Authority and the
9 legislative auditor pursuant to R.S. 24:513.

10 §600.58. Referral for financial counseling

11 The trust shall refer residential property owners to housing resource
12 centers for financial counseling and advising on housing rehabilitation,
13 replacement of damaged homes, sale of flood-damaged properties, and land title
14 issues.

15 §600.59. Exemption from taxation

16 It is hereby determined that the creation of the trust and the carrying out
17 of its public functions and corporate purposes is, in all respects, a public and
18 governmental purpose for the benefit of the people of the state, and for the
19 improvement of their health, safety, welfare, comfort and security and that said
20 functions and purposes are public purposes and that the agency will be
21 performing an essential governmental function in the exercise of the powers
22 conferred upon it by this Chapter. The money, assets, revenues and operations
23 of the trust shall be exempt from all taxation by the state or any of its political
24 subdivisions. The trust shall not be required to pay any recording fee or
25 transfer tax of any kind on account of instruments recorded by it or on its
26 behalf.

27 §600.60. Dissolution of trust

28 A. The trust shall terminate on June 30, 2016.

29 B. Any right, title, interest, or obligation of the trust with respect to

1 **liabilities or assets of the trust which have not been fully disposed of upon**
 2 **dissolution of the trust shall transfer, as of the end of such period, to the division**
 3 **of administration who shall promptly wind up the affairs of the trust and**
 4 **dispose of such assets and liabilities.**

5 Section 2. This Act shall become effective upon signature by the governor or, if not
 6 signed by the governor, upon expiration of the time for bills to become law without signature
 7 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 8 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 9 effective on the day following such approval.

The original instrument was prepared by Ann S. Brown. The following digest, which does not constitute a part of the legislative instrument, was prepared by Jerry J. Guillot.

DIGEST

Duplessis (SB 49)

Proposed law creates the Louisiana Housing and Land Trust Corporation.

Proposed law provides that the trust is a nonprofit corporation, placed within the office of the governor and domiciled in EBR Parish.

Proposed law provides that the activities of the trust are limited to the parishes designated for individual assistance by the Federal Emergency Management Association as a result of Hurricane Katrina or Hurricane Rita, divided as follows:

- (1) Southwest Region, which shall include the parishes of Acadia, Allen, Beauregard, Calcasieu, Cameron, Evangeline, Iberia, Jefferson Davis, Lafayette, Sabine, St. Landry, St. Martin, St. Mary, Vermilion and Vernon.
- (2) Southeast Region, which shall include the parishes Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Jefferson, Lafourche, Plaquemines, Pointe Coupe, St. Bernard, St. Charles, St. James, St. John the Baptist, Terrebonne, West Baton Rouge, and West Feliciana
- (3) North Shore Region, which shall include the parishes of Livingston, St. Helena, St. Tammany, Tangipahoa and Washington.
- (4) Orleans Region, which shall include the parish of Orleans.

Proposed law provides that the trust shall be governed by a eleven member board of directors consisting of the following members:

- (1) The chairman of the Louisiana Recovery Authority or his designee.
- (2) The chairman of the Housing Task Force of the Louisiana Recovery Authority or his designee.
- (3) The commissioner of administration or his designee.

- (4) The president of the Louisiana Housing Finance Agency or his designee.
- (5) One person appointed by the speaker of the House of Representatives who, by virtue of his education, training or experience in banking, mortgage financing, housing development, land use or urban planning are especially qualified to serve on the board.
- (6) One person appointed by the president of the Senate who, by virtue of his education, training or experience in banking, mortgage financing, housing development, land use or urban planning are especially qualified to serve on the board.
- (7) One person appointed by the governor from a list of three names submitted by the Colleges or Schools of Urban and Public Affairs at any Louisiana college or university of individuals who, by virtue of their education, training or experience in banking, mortgage financing, housing development, land use or urban planning are especially qualified to serve on the board.
- (8) One person appointed by the governor from a list of three names submitted by the Louisiana Home Builders Association of individuals who, by virtue of their education, training or experience in banking, mortgage financing, housing development, land use or urban planning are especially qualified to serve on the board.
- (9) One person appointed by the governor from two lists of three names each submitted by the Louisiana Bankers Association and the Louisiana Mortgage Lenders Association of individuals who, by virtue of their education, training or experience in banking, mortgage financing, housing development, land use or urban planning are especially qualified to serve on the board.
- (10) One person appointed by the governor from two lists of three names each submitted by the Council for a Better Louisiana and the Public Affairs Research Council of individuals who, by virtue of their education, training or experience in banking, mortgage financing, housing development, land use or urban planning are especially qualified to serve on the board.
- (11) One person appointed by the governor from a list of three names submitted by the Louisiana Association of Nonprofit Organizations of individuals who, by virtue of their education, training or experience in banking, mortgage financing, housing development, land use or urban planning are especially qualified to serve on the board.

Proposed law provides that five members of the board are from the core disaster area. Additionally, proposed law provides that one member is from the north shore region of the state, one member is from the southwest region of the state, one member is from the southeast region of the state, and two members are from the Orleans region.

Proposed law provides that no member, officer, or employee of the trust shall have an interest, either direct or indirect, in any contract to which the trust is, or is to be, a party, or in any lending institution requesting a loan from, or offering to purchase from or sell real property to, the trust. Requires compliance with certain provisions of the Code of Governmental Ethics.

Proposed law provides for the board and its records to be subject to the Open Meetings Law and the Public Records Law.

Proposed law provides that the trust may receive appropriations or grants from any agency of the United States or the state of Louisiana. The trust may also receive grants or donations from non-governmental entities.

Proposed law provides that the trust shall submit to the governor and the legislature a report on the activities of and the progress of the trust for the previous period. Further provides that the trust shall submit to the governor and the Joint Legislative Committee on the Budget each quarter, a report on the activities of and the progress of the trust for the previous quarter.

Provides that all funding received, expended, or disbursed by the trust shall be subject to audit, review, and examination by an independent accounting firm or firms engaged by the state or any agency of the state to oversee the receipt and disbursement of funds as well as audit by the legislative auditor pursuant to R.S. 24:513.

Requires that to the extent consistent with allocation restrictions imposed by the sources of any funds received, the trust allocate all funds among the impacted parishes in proportion to the total amount of property damage in and the number of residents displaced for more than 45 days from the parishes, respectively.

Proposed law provides that the primary mission and purpose of the trust shall be the economic stabilization and redevelopment of areas within Louisiana that were devastated or significantly distressed by Hurricane Katrina or Hurricane Rita.

Proposed law provides that the trust will have the powers necessary to carry out and effectuate its' purposes, including the following:

- (1) Adopt, alter, and use a corporate seal.
- (2) Provide for a chief executive officer, a chief financial officer, and such other officers and employees as may be necessary to perform the functions of the trust and define their duties. The chief executive officer and the chief financial officer are subject to Senate confirmation.
- (3) Fix the compensation and number of, and appoint, employees for any position established by the trust.
- (4) Sue and be sued, provided that venue for any suit brought by or against the trust shall be in the Nineteenth Judicial District Court.
- (5) With the consent of any executive agency, department, or independent agency utilize the information services, staff, and facilities of such department or agency in carrying out its' duties.
- (6) Prescribe, by the board of directors, bylaws that are consistent with law to provide for:
 - (a) The management and operational structure of the trust.
 - (b) The manner in which general operations are to be conducted.
 - (c) Such other matters as the board of directors determines to be appropriate.

Proposed law provides that the trust, in executing its economic stabilization and redevelopment mandate, will adhere to the policy guidelines for rebuilding and recovery set forth by the Louisiana Recovery Authority and adhere to the policy of local and regional planning authorities.

Proposed law provides that the board of directors shall establish an internal audit division which shall report to the board of directors of the trust and the Louisiana Recovery Authority monthly on the office's reviews of the activities, contracts, and financial statements of the trust.

Requires that the board solicit and receive an external audit on an annual basis by issuing a request for proposals to prospective accounting firms who are qualified to perform such an audit of the trust. The name and qualifications of the accounting firm chosen shall be submitted to the Senate Committee on Finance and the House Committee on Appropriations along with a copy of the report. The report shall also be made to the board of directors, Louisiana Recovery Trust Authority and the legislative auditor pursuant to R.S. 24:513.

Proposed law provides that the trust shall refer residential property owners to Housing Resource Centers for financial counseling and advising on housing rehabilitation, replacement of damaged homes, sale of flood-damaged properties, and land title issues.

Proposed law provides that the money, assets, revenues and operations of the trust shall be exempt from all taxation by the state or any of its political subdivisions. Further provides that the trust shall not be required to pay any recording fee or transfer tax of any kind on account of instruments recorded by it or on its behalf.

Proposed law provides that the trust shall terminate on 6/30/ 2016.

Proposed law provides that upon the termination date any right, title, interest, or obligation of the trust with respect to liabilities or assets of the trust which have not been fully disposed of upon dissolution of the trust shall transfer, as of the end of such period, to the division of administration who shall promptly wind up the affairs of the trust and dispose of such assets and liabilities.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 40:600.51-600.60)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Local and Municipal Affairs to the original bill.

1. Adds the College of Urban and Public Affairs at the University of New Orleans to the list of entities required to submit names to the governor for appointment to the board.
2. Adds four members to be appointed to the board from the core disaster area.
3. Provides for the board and its records to be subject to the Open Meetings Law and the Public Records Law.
4. Adds appraisal services to the list of private sector service providers the trust is encouraged to utilize.
6. Provides that 15% of residential units on trust recovered land be affordable housing to residents earning above 60% of AMI.
7. Provides for permissive rather than mandatory disposal of certain properties by the trust.

Senate Floor Amendments to engrossed bill.

1. Creates trust as nonprofit corporation.
2. Arranges parish to be served by regions.
3. Increases board members from 7 to 11.

4. Increases board member from core disaster area from 4 to 5 and requires one member from the southeast region of the state.
5. Provides all funding received, expended, or disbursed be subject to audits.
6. To the extent permitted, trust is to allocate funds among impacted parishes in proportion to total amount of property damage in and the number of residents displaced for more than 45 days from the parish.
7. Provides for appointment, and Senate confirmation of a chief executive officer and a chief financial officer.
8. Reduces powers of corporation.