

AN ACT

RELATING TO LOCAL ECONOMIC DEVELOPMENT; REQUIRING SECURITY FOR
STATE CONTRIBUTIONS TO LOCAL ECONOMIC DEVELOPMENT PROJECTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 5-10-10 NMSA 1978 (being Laws 1993, Chapter 297, Section 10) is amended to read:

"5-10-10. PROJECT PARTICIPATION AGREEMENT--DUTIES AND REQUIREMENTS.--

A. The local or regional government and the qualifying entity shall enter into a project participation agreement.

B. The local or regional government shall require a substantive contribution from the qualifying entity for each economic development project. Public support provided for an economic development project shall be in exchange for a substantive contribution from the qualifying entity. The contribution shall be of value and may be paid in money, in-kind services, jobs, expanded tax base, property or other thing or service of value for the expansion of the economy.

C. The qualifying entity shall provide security to each local or regional government, the state or any other New Mexico governmental entity providing public support for an economic development project. The security shall secure the qualifying entity's obligations based on terms stated in the

project participation agreement with the local or regional government and shall reflect the amount of public support provided to the qualifying entity and the substantive contribution expected from the qualifying entity.

D. If a qualifying entity fails to perform its substantive contribution, the local or regional government shall enforce the project participation agreement to recover that portion of the public support for which the qualifying entity failed to provide a substantive contribution. The recovery shall be proportional to the failed performance of the substantive contribution and shall take into account all previous substantive contributions for the economic development project performed by the qualifying entity, based on the terms stated in the project participation agreement. The project participation agreement for an economic development project that uses public support provided by the state to a local or regional government shall include a recapture agreement for the state.

E. The project participation agreement at a minimum shall set out:

(1) the contributions to be made by each party to the participation agreement;

(2) the security provided to each governmental entity that provides public support for an economic development project by the qualifying entity in the

form of a lien, mortgage or other indenture and the pledge of the qualifying business's financial or material participation and cooperation to guarantee the qualifying entity's performance pursuant to the project participation agreement;

(3) a schedule for project development and completion, including measurable goals and time limits for those goals; and

(4) provisions for performance review and actions to be taken upon a determination that project performance is unsatisfactory."

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013._____