Photo courtesy of the N.C. Housing Finance Agency

From Wall Street to Four Oaks, N.C.

The North Carolina Housing Finance Agency

by Bill Finger

A battery of bankers and financiers are crowded into a conference room in the skyscraper of Raleigh's state government complex, the Archdale Building. New York bond underwriters adjust their pinstripes. Investment specialists up from Charlotte unsnap briefcases. Builders and realtors in from the coastal counties settle into their directors seats. A chatter of excitement fills the second floor room, as if Merrill Lynch and E.F. Hutton are about to finalize a merger.

John Crosland, a second-generation Charlotte builder and a director of the National Association of Home Builders since 1968, slips into the empty chair at the front of the table. Just as he has throughout his four-year tenure as chairman of the board of the N.C. Housing Finance Agency, Crosland takes charge. "I'm sorry we're so crowded today," he apologizes to the onlookers standing against the wall. "We're not used to being so popular."

Some of the veteran observers in the room may have caught the irony. Since its beginning in 1974, the N.C. Housing Finance Agency (HFA) has more often than not been criticized for lacking aggressiveness. In a state where 1 of every 12 people still lives in substandard housing, a lot is expected of the HFA – the state's major vehicle for providing housing funds at below-market interest rates for low- and moderate-income people. The legislature has authorized it to issue up to $750 million in tax-exempt bonds. To date, the N.C. HFA has issued only $224 million. Still, that amounts to a

A typical multifamily project financed by the N.C. Housing Finance Agency.

considerable improvement over its predecessor, the N.C. Housing Corporation, which issued no bonds in its lackluster five-year history.

In 1981, a new director, Gary Paul Kane, came to the N.C. HFA. Formerly the counsel to the Mortgage Roundtable in Washington, D.C. – a group of 16 chief executive officers of major financial institutions – and counsel to the California HFA, Kane brought a new breadth of experience to the state. Meanwhile, the N.C. HFA, after intensive legislative maneuvering, gained quasi-independent status in 1981 and moved out of the Department of Natural Resources and Community Development (NRCD). With a new director and a structure more independent of the state bureaucracy, the N.C. HFA floated $90 million (of the total $224 million) in bonds in 18 months.

Few of the HFA board of directors meetings have been jam-packed affairs, like this gathering on May 13, 1982. And few have contained the kind of gushy, euphoric spirit that's sparkling across the well-lined bankers' faces, a spirit infectious perhaps even among the skeptics in the crowd.

The central agenda item, a $52 million bond

Bill Finger is editor of N.C. Insight. *Priscilla Cobb, the assistant editor for this issue of* N.C. Insight, *assisted with research for this article.*

issue to finance multifamily housing, has been in the works for months. Most of the people at the meeting have had a role in getting the bond deal over the financial shoals stretching from the highly volatile credit markets on Wall Street to little Four Oaks, N.C., site of one of the 29 projects to be financed by the bond sale. The Salomon Brothers, Inc. underwriting firm and Brown, Wood, Ivey, Mitchell, and Petty bond counsel law firm have been playing the New York scene along with their North Carolina teammates, First Union National Bank, the N.C. HFA's trustee, and Wachovia Bank and Trust, a credit backer participating in this bond issue.

In North Carolina, U.S. Department of Housing and Urban Development (HUD) officials in Greensboro have been in close contact with the N.C. HFA staff, the State Treasurer's office, and the Local Government Commission, which must approve all HFA bond issues. Meanwhile, developers – desperate for business after a 42-month building recession – have completed the preliminary and final HUD approval procedure, a two and one-half year process in the case of the Four Oaks project. Mortgage bankers, in dire need of new sources of funding, have been wishing the issue along. And waiting in the wings are the ultimate beneficiaries of this complex process, people who need a decent apartment and qualify as "low-income" through the HUD Section 8 rental assistance program. (The box on page 4 summarizes all the HFA programs, including the multifamily rental assistance efforts.)

Board chairman Crosland turns the floor over to George Graham, the boyish-looking underwriter from Salomon Brothers, to explain how the newest bond issue of the N.C. Housing Finance Agency works. "In January of this year, the municipal bond market looked bad, so we started working with a different structure," Graham begins. "This issue gives bondholders the ability to put the bond back to the agency (N.C. HFA) after five years and get paid at par." Graham seems to catch himself moving into stockbroker's slang. "We needed a bank to stand behind the issue," he adds simply, "basically a line of credit worth over $50 million, so the agency could buy the bonds and resell them in five years if necessary." This arrangement, giving bondholders a "put option," [1] made the bonds more attractive and helped bring down the effective interest rate.

Salomon Brothers priced the bond with a 9 3/4 percent coupon. The interest rate would have been about 12 1/2 percent without the put option feature, to which Wachovia Bank agreed in exchange for an annual fee of 1.08 percent of the amount of bonds outstanding. (Wachovia also received $125,000 for their costs in originating the issue, including the expenses of legal counsel.) The N.Y.

Photo by Paul Cooper

HFA Board of Directors Chairman John Crosland (left) and HFA Executive Director Gary Paul Kane at the May 13, 1982, HFA board meeting.

HFA, Graham points out, floated a comparable bond issue with no put option; its rate was over 13 percent. The lower interest rate the N.C. HFA has to pay on its bonds, the lower the borrowing rate for the developers, and the lower the rents in the 29 projects.

Kane takes up where Graham leaves off, preparing the board of directors for the formal vote. "The underwriters are offering to the agency today a bond issue lower than any housing agency has been able to offer in several months," Kane says.

Two directors who say they might benefit monetarily from the issue declare a potential conflict of interest and remove themselves from the vote. A high number of such abstentions, necessary because of the makeup of the board (see box on page 13), has been a source of criticism leveled at the agency in the past. But abstentions seem a minor issue today. The board passes the bond issue on a quick voice vote. At the front table, Kane turns to Crosland, pushing what looks like an old-fashioned dinner bell in his direction.

"In New York, after all the papers are signed," Kane explains, "someone always rings a bell to mark the completion of the deal." Crosland breaks into a grin, looking more like his 1951 Davidson College graduation photo than the head of the state's largest home building business. As Crosland rings the bell, the N.C. HFA formally sets into motion a program that will put $52 million into the state's economy and benefit some 1,400 renters when the projects are completed in about a year.

But who really hears the ringing of the bell? What is the relationship of a roomful of financiers

Programs of the N.C. Housing Finance Agency

The N.C. Housing Finance Agency operates three state housing programs, is about to begin a fourth, performs various technical-assistance and data-gathering functions, and administers two federal housing programs. Below is a summary of the seven major HFA programs.

State Programs

1. **Single-Family Mortgage Purchase Program.** The HFA issues tax-exempt bonds and uses the proceeds to purchase mortgages from private lenders at below-market interest rates. The HFA has made four such bond issues, which have financed some 4,185 single-family homes, as shown below:

Year	Bonds Issued	Homes Financed
1976	$ 16 million	703
1979	37 million	1,161
1980	58 million	1,621
1981	30 million	700 (all not yet made)
Total	$141 million	4,185

2. **Multifamily Mortgage Purchase Program.** The HFA has made two tax-exempt bond issues which have supplied permanent financing for over 2,200 apartment units, both new and rehabilitated.

Year	Bonds Issued	Apartments Financed
1980	$24 million	775
1982	52 million	1,443 (under construction)
Total	$76 million	2,218

3. **Multifamily Construction Loan Program.** The HFA has made one $7 million bond issue which supplied the construction financing for six projects (236 units). A federal financing system, the Government National Mortgage Association's "tandem program," will supply the permanent financing.

4. **Home Improvement Loan Program.** Pending favorable market conditions, the HFA will soon make a $3 million bond issue, which 11 local communities will use to leverage $730,000 in federal Community Development Block Grant funds. Through this process, home improvement loans of up to $15,000, with interest rates ranging from 1 to 12 percent, will go to 340 homeowners.

5. **Miscellaneous.** The HFA has four housing development officers that supply technical assistance through N.C. Department of Natural Resources and Community Development field offices in Winston-Salem, Raleigh, and Wilmington. It is also sponsoring a major analysis of the 1980 U.S. Census housing data.

Federal Programs

6. **Section 8 Housing Assistance Payments.** The HFA administers this federal rental assistance program on all the multifamily units it has financed (see item number 2 above) and on some 872 apartments which it has not financed.

7. **Appalachian Regional Commission (ARC) Housing Program.** The HFA has distributed ARC funds, both grants and loans, to eligible sponsors for planning, construction, or rehabilitation of 3,200 housing units in the state's 29 western counties.

with the public purpose of the legislation creating the N.C. HFA, to provide housing for low-income people? How much public money is invested in "the deal," as Kane and the others referred to the bond issue throughout the May 13 meeting? Has the N.C. HFA finally assumed the innovative posture long needed to alleviate a serious housing problem in North Carolina? And how will the agency cope with the future?

"False Start" to $135 Million – North Carolina Lurches into the Market

State-level agencies are relative newcomers to the business of providing housing assistance to needy people. From the New Deal to the 1960s, the federal government generated most housing assistance programs, channeling its aid to local housing authorities and into urban renewal efforts. As the anti-poverty programs expanded during the 1960s, Massachusetts, New York, and other states began taking a more direct involvement in housing. The housing finance agency (HFA) model emerged as a means of financing housing at below-market interest rates, primarily through the sale of state-sanctioned, tax-exempt bonds.

Three factors helped the HFA model expand from 12 states in 1970 to more than 40 states by the late 1970s. First, in the Housing and Urban Development Act of 1968, Congress gave HFAs preference in the allocation of federal housing funds, particularly the Section 236 rental assistance program. While the Nixon administration's housing moratorium of 1973 halted the 236 program, Congress gave the HFAs a second significant boost in 1974 by passing Section 8 of the Housing and Community Development Act. This act "set-aside" (i.e., reserved) many of the Section 8 funds, a rental assistance payments program, for state HFAs. The major economic recession of the mid-1970s provided a third major stimulant to the expansion of HFAs. With limited capital available for housing, financial and building interests came to view the ability of HFAs to float sizeable, tax-exempt bond issues as a way to tinker with a tight money market and bring some funds into the building industry.

North Carolina formally entered the housing world in 1969 with the creation of the N.C. Housing Corporation. The General Assembly appropriated $500,000 to the Corporation, authorized it to issue $200 million in bonds, and charged it to help develop 10,000 new subsidized housing units a year through the purchase of federally insured mortgages, through federally insured construction or mortgage loans, and through technical assistance to builders, developers, and consumers. The Housing Corporation proved a "false start," as one official remembers the dismal failure of the group. From 1969 until 1973, it issued no bonds and approved loans of only $100,000.

The legislature closed down the Housing Corporation in 1973 and established a study commission to examine options for how the state should proceed. The study commission recommended a revamped housing effort, and in 1974, the legislature established the N.C. Housing Finance Agency. The General Assembly appropriated $4 million to the HFA to be used as a reserve fund for issuing bonds, with one-half of the interest from this principal available to the HFA for operating expenses and one-half of the interest to be returned to the state General Fund. It granted the agency authority to issue $40 million in bonds (a ceiling which was raised to $750 million in 1979), and allowed the HFA to purchase privately insured and uninsured mortgages (the Housing Corporation could only purchase federally insured mortgages).

The new legislation emphasized the purchase or rehabilitation of single-family homes as an agency priority. But the new legislation did not pledge the full faith and credit or the "moral obligation" of the state to the HFA bonds. The HFA alone was financially liable for any failures, not the state. A pledge of full faith and credit might have produced somewhat lower interest rates, but by making the HFA itself liable, the legislature sought to protect the state's bond rating, historically one of the nation's highest, from being damaged by a poorly chosen housing bond issue. Even so, the state's good name in the bond market helps the HFA. "North Carolina has impeccable credit," says Peter Schmitt, director of fixed-income research for Prescott, Ball, and Turben, a brokerage house that follows the performance of HFAs. "The bonds are bought and put away, rarely seen in a secondary market. Whether it is appropriate or not, the general credit of a state influences how investors view the activities of that state's agencies."

The lawmakers placed the HFA within the Department of State Treasurer, which dealt regularly with the private financial sector and regulated all bond issues by state and local governments. In addition, the legislation established an HFA board of directors composed of four legislators and nine members of various housing and financial interest groups. Even at the outset, this arrangement caused some concern. "It provides for no representatives of the people for whom the housing effort is intended," wrote Chief Capital Correspondent Ferrel Guillory of *The News and Observer* of Raleigh in the paper's December 2, 1973, issue. "In a crunch, will the proposed agency's board seek merely to protect the special interest of bankers, home builders, realtors, and savings and loan companies or should it not have people on the inside who will keep it focused on the real-life problems of people with housing without proper plumbing, without comfort, without enough space for a family?"

From the beginning, then, tensions existed in the very structure of the agency, tensions which reflected the dual nature of the HFA. Established to provide assistance to low-income people, the HFA has to operate proficiently in a highly complex financial world and assume responsibility for managing tens (and eventually) hundreds of millions of dollars. It has two very different objectives: low-income housing delivery and fiscal credibility.

The structural tensions increased in 1977 when the HFA was moved into the reorganized Department of Natural Resources and Community Development. (Approval of its bonds stayed in the Department of State Treasurer). "The transfer of the agency to the DNRCD was a political and bureaucratic move that required extensive fence mending when completed," concluded Kent Hiteshew, a housing analyst at the University of North Carolina, in a study of the N.C. HFA in 1978. "HFA activities were brought to a near standstill for almost one year." [2]

Before the reorganization in 1977, the HFA had sold $16 million in a single-family bond issue (1976) and had thus begun to bring some capital from the New York bond market into the North Carolina housing industry. Because of the reorganization and a lack of aggressiveness of the HFA in its early years, there was a long hiatus in activity from 1976-1979. Between 1979 and 1980, however, the HFA sold three more bond issues: two single-family issues ($37 million in 1979 and $58 million in 1980), and its first multifamily issue ($24 million in 1980). From 1973 through 1980 then, the agency sold some $135 million in bonds, established procedures for distributing the bond proceeds to lending agencies, set qualification guidelines for who could benefit from the bond sales, and administered other smaller programs such as the federally funded Appalachian Regional Commission's housing program for the western 29 counties.

Despite the increased activity in 1979 and 1980, the agency kept a low public profile. Meanwhile tensions between NRCD and HFA leadership increased. An NRCD internal evaluation of the HFA was conducted in 1980, and the findings were summarized in a June 13, 1980, memo to NRCD Secretary Howard Lee. The NRCD review found the HFA had "performed commendably in successfully initiating the program, gaining lendor [sic] acceptance and participation in the program, and operating the program on a sound fiscal basis." But the report went on to make 11 specific recommendations, including the need for quantitative affirmative action goals and for the HFA to target where its loans are placed. "The allocation

Where Do N.C. Housing Finance Agency Funds Go? *

Housing Financed by N.C. Housing Finance Agency, 1974-July 1, 1982
Top Ten Counties, with Number of Substandard Units in Each County, 1980

County	Units Financed			Substandard Units[3]	
	single-family	multifamily[1]	total[2]	number	% of total units in county
Mecklenburg	591	100	691	6,702	4.3
Durham	74	459	533	2,875	4.9
Cumberland	435	0	435	4,996	6.1
Forsyth	387	28	415	3,784	4.0
Guilford	238	48	286	5,766	4.8
Wake	185	50	235	5,547	4.9
New Hanover	204	0	204	1,558	3.8
Edgecombe	60	98	158	3,357	16.6
Richmond	16	139	155	1,862	10.9
Craven	57	82	139	2,226	8.7

Source: N.C. Housing Finance Agency (1982 data) and 1980 U.S. Census.

FOOTNOTES

[1] This total includes units that are under construction.

[2] This total does not include the units which HFA has assisted through its management of Section 8 projects, its administration of the Appalachian Regional Commission's housing program or its Home Improvement Program.

[3] Substandard includes units with more than one person per room and/or units which lack complete plumbing for the exclusive use of its occupants. The map on page 43 shows the percentage of substandard units for all counties.

system to lenders has relied heavily on the lenders themselves to determine effective loan demand," Stephen Gheen wrote in his memo to Secretary Lee.

But no mechanism existed for these recommendations – or for other evaluations – to reach the public. (Gaining access to the Gheen memo even in 1982 proved extremely difficult.) No legislative panel had review authority over the HFA, except for the Fiscal Research Division of Legislative Services which reviews the budgets of all state departments.

Power Politics, Federal Restrictions, and a White Knight – The HFA Flexes its Muscles

The first half of 1981 proved a critical period for the N.C. HFA for three distinct, yet interrelated reasons. First, a new director arrived, hailed by observers of the housing industry as a kind of white knight for North Carolina. "Gary Paul Kane has impressed us with his concern for running a top-flight HFA," says Thad Woodard, president of the N.C. Savings and Loan League. "We were lucky to get him." Second, a major new federal law regulating HFA bond issues took effect. And third, the organizational tensions surrounding HFA reached a head.

In February, Kane moved down from Washington, D.C. with nearly a decade of experience with HFAs. One of his first tasks was to read and digest a handsomely bound, half-inch thick volume, "Impact of the Mortgage Subsidy Bond Tax Act of 1980," which the Salomon Brothers underwriting firm dispatched to the N.C. HFA on February 24, 1981. The report analyzed what has become known as the Ullman legislation, a far-reaching federal law that placed substantial restrictions on the nature of bonds that HFAs could sell and the scope of persons who could benefit from the bond proceeds.[3]

Former U.S. Rep. Al Ullman (D-Ore.), as chairman of the House Ways and Means Committee, had pushed through the federal legislation in response to a flurry of tax-exempt housing bonds which were engineered by New York underwriters primarily for middle- and even upper-income people. "E.F. Hutton, for example, earned $2.3 million for packaging Chicago's initial $100-million tax-exempt, single-family offering," reported Michael Stegman of the University of North Carolina at Chapel Hill in the October 1981 issue of the *Journal of Housing*. "Of the 53 local mortgage bond issues marketed in the first four months of 1979, 42 had maximum mortgage limits of at least $60,000 while 18 had no limits at all. In Evanston, Illinois, . . . households with incomes as high as $50,000 a year were eligible to receive subsidized mortgage loans." Subsidizing higher-income groups was widely criticized in Congress, resulting in numerous restrictive provisions being included in the Ullman bill.

While the excesses that prompted the Ullman legislation occurred outside North Carolina, the new federal restrictions affected all 50 states. The Ullman Act limited the volume of single-family

Where Don't N.C. Housing Finance Agency Funds Go?*

Counties with No Units Financed by the N.C. HFA as of July 1, 1982, with Percent of Substandard Units in Each County, 1980

County	Substandard Units as a % of Total Units in County	County	Substandard Units as a % of Total Units in County
Avery	10.1	Macon	7.0
Bertie	25.7	Martin	16.9
Cherokee	10.8	Mitchell	10.4
Chowan	13.8	Person	16.0
Clay	9.4	Rutherford	8.4
Gates	26.1	Swain	11.9
Hyde	23.1	Tyrrell	19.4
Jackson	9.2	Washington	15.0
McDowell	10.6		

*The 1981 single-family bond issue, which will assist about 700 families, is not included in these tabulations since only 240 mortgages have been made so far, and the HFA has not broken these down by county.

bonds that an HFA could issue, banned any single-family issues after December 31, 1983, imposed low-income occupancy requirements on multi-family bond programs, and imposed a number of complex restrictions.

When federal regulations implementing the law went into effect in July of 1981, a new single-family issue had to clear formidable hurdles. For example, Congress limited the spread between the interest rate the HFA pays out on its bonds and the interest rate it receives on its investment of bond proceeds. HFAs invest their bond proceeds in two basic ways. First, HFAs invest in non-mortgage investments (i.e., certificates of deposit, etc.) before the bond proceeds are actually distributed to the lenders for mortgages. In North Carolina, according to Kane, this distribution process takes about six months. Second, HFAs invest in the mortgages themselves. The Ullman legislation regulated the interest spread – referred to as arbitrage – on both types of investments.

Prior to the Ullman law, arbitrage was an important source of operating income for HFAs, allowing an HFA to make money on a bond issue. After Ullman, however, the HFA had to subsidize a bond issue. Ullman limited the interest spread to one percent (i.e., 100 basis points) between what an HFA can charge for its mortgages and what it pays on its bonds. "But it costs us about 120 basis points to put the money out in a single-family bond issue," says Kane, ticking off the various costs: legal counsel, underwriters who structure and sell the bonds, the "origination fee" to the lenders who make the loans (one percent of the mortgage), a "servicing fee" to the lender for the life of the loan (3/8 of a percent), and others. "So we lose money on a bond issue," says Kane.

In addition to coping with new, complex regulations, Kane also moved into a bubbling kettle of political intrigue. For two years, the HFA had been placed within a new NRCD Division of Community Housing, with one person heading both the Division and the HFA and reporting to two bosses – NRCD Sec. Howard Lee and HFA Board Chairman John Crosland. Kane remembers the position like this: "I was working for a board of directors and a cabinet-level secretary, and a person just can't have two masters."

The crux of the conflict between the HFA and NRCD lay in philosophical orientation and in power politics. The central HFA actors, Crosland and Kane, wanted to function more in the private sector while the central NRCD actor, Lee, wanted to mesh the HFA into his department's housing program. But Lee, despite having demonstrated a commitment to housing as mayor of Chapel Hill, was having difficulty developing a clear housing program within NRCD.

"The NRCD bureaucracy kept us from operating in a more businesslike fashion," says Crosland. "In responding to the bond market, in hiring personnel with particular expertise, and in introducing some legislation, we needed more independence. They (NRCD) are not there to run like a business; they're supposed to run like government, which isn't very efficient."

The HFA Board took the issue directly to the legislature, where Sen. Sam Noble (D-Robeson), also a HFA board member, introduced a bill to move the agency out of NRCD. To help the bill along, the HFA called on its general counsel, Travis Porter, a prominent Durham attorney who sits on the University of North Carolina at Chapel Hill Board of Trustees. Porter and a colleague in the Powe, Porter, and Alphin firm, James "Harvey" Stuart, were registered with the N.C. Secretary of State as HFA lobbyists during the 1981 session and according to reports in the Secretary of State's office, received $14,000 from the HFA in compensation as lobbyists. This was an unusual, if not unprecedented action: an agency (HFA) within a state department (NRCD) hiring its own lobbyists to work against the mother department. Moreover, Porter and Stuart were at the same time lobbying for the N.C. Home Builders Association and the Association of State Chartered Thrift Institutions, Inc., a trade group for savings and loans and credit unions.

Porter was no newcomer to the legislature or the HFA. He served on the 1973 legislative study

Photo courtesy of the N.C. Housing Finance Agency

This home in Roanoke Rapids was financed through the $58 million single-family bond issue sold by the N.C. HFA in 1980.

commission, which recommended the formation of the HFA, and has been the HFA's general counsel since its beginning. Since 1973, the N.C. HFA has paid the Powe, Porter, and Alphin firm more than $100,000 in fees and expenses, $47,000 in 1981 alone.

The News and Observer in its June 2, 1981, "Under the Dome" column, framed the fight like this: "The state's home-building industry is seeking to move the N.C. Housing Finance Agency from the state agencies that oversee it. . . . Crosland and the industry, which dominates the agency's board, have fought attempts by Howard N. Lee, secretary of NRCD, to use the agency as part of his efforts to promote housing for the poor. Industry officials want to operate the agency as a financial institution that would not only provide housing for the poor but also boost the building industry."

Mr. Porter defended the bill as giving the agency room to function in a more efficient manner, "to be operated like a business . . . pay for itself," as he told *The News and Observer*.

While HFA had the benefit of Porter's lobbying, there were few advocates of retaining HFA in NRCD. Lee was on his way out of the Hunt administration at the time. Consequently, the Noble bill was enacted, establishing the HFA as a quasi-independent organization, independent in most respects from "the direction, supervision, or control of the Office of State Budget and Management."[4]

But to get the bill through, the HFA reluctantly had to absorb six NRCD housing development officers onto the HFA staff. Kane had terminated the six in a letter dated June 11 because of "legislative action." But on July 2, Kane rescinded the action, writing to the six that the HFA "has accepted your transfer."A final part of the legislative compromise was the approval of a bill establishing a Housing Study Commission to undertake a major review of all housing programs in the state (see page 44).

Throughout the HFA-NRCD dogfight, Kane had to contend with other legislative maneuvering. A provision of the Ullman legislation limited a state to issuing $200 million in housing bonds per year, and state legislatures had to decide who had control of the $200 million. Several groups active in the local bond market (as "bonds" were defined by Ullman) wanted to reserve some of the $200 million for local efforts. The North Carolina National Bank Community Development Corporation, a wholly-owned, non-profit subsidiary of NCNB, had used a local bond issue in the highly-publicized restoration of the Fourth Ward area of Charlotte. The President of NCNB Community Development Corporation, Dennis Rash, discovered that a bill before the legislature would have reserved the entire $200 million for the state HFA. "I have confidence in the HFA," says Rash, "but we needed some remedial legislation. The entire $200 million would have been a fiefdom." The sides in this squabble matched up fairly evenly. "With the help of the N.C. League of Municipalities, seven banks in Charlotte, the mayor of Greensboro, and the state Treasurer," remembers Rash, the legislature reserved $30 million of the $200 for local bond issues.

The Kane Administration – On the Move

By the time the regular 1981 legislative session came to a close in July, Kane seemed to have gotten the agency on the move. During his 18-month tenure, Kane has had four notable accomplishments: a new single-family bond issue, a multifamily issue, a home improvement loan program, and a construction loan bond issue.

Single-Family Program. In a "Review of 1981" for his board members, Kane summarized his first major accomplishment this way: "In South Carolina, they said it couldn't be done. But two weeks later we did it. N.C. HFA was the first state Housing Finance Agency in the country to issue a traditional 30-year, fixed-rate bond since passage of the Ullman Act." And the agency sold the bonds at a rock-bottom 12.8 percent on the day when Wall Street plummeted to a six-month low. This feat allows some 700 first-time home buyers to get a mortgage at 13 percent instead of 14 percent, 15 percent, or even higher.

Kane, while certainly putting his best foot forward to his board members, does not seem to have been exaggerating his case. On October 27, 1981, *The Charlotte Observer* quoted Steve Mayfield, executive director of the S.C. Housing Authority, as saying: "The Mortgage Subsidy Bond Tax Act of 1980 killed us deader than a doornail."

Kane had one advantage over his South Carolina colleague. In 1980, the legislature had appropriated $2 million to the N.C. HFA as a reserve fund to support a single family issue. Before the HFA (under its old leadership) had made a bond issue utilizing this reserve, the Ullman Act passed, which virtually froze all nationwide housing bond activity from late 1980 through the fall of 1981. Meanwhile, the $2 million appropriation accrued interest, which could be used to subsidize a new bond issue. And as explained earlier, the Ullman limitation on arbitrage to one percent made the cost of a new bond issue prohibitive without some kind of backup funds. "State funds are the reason the single-family issue was possible in North Carolina," says Kane. (See box on page 9 for the steps involved in this bond issue.)

While the 1981 single-family issue certainly indicated a new level of sophistication at the HFA, it did not demonstrate how well the agency was meeting its public purpose: "to make additional residential housing available to persons and families of lower income by promoting the construction thereof."[5] In order to issue and sell tax-exempt bonds, an agency must, under the state Constitution, meet a public purpose.[6] The legislated purpose of the HFA had been challenged under the old Housing Corporation and had survived the test in 1970.[7] In 1979, the legislature amended the statute to include housing for moderate-income people as a public purpose as well.[8]

At the same time that the Ullman legislation is trying to target the use of tax exempt bonds for housing to low-income persons, the HFA, through the state courts, is trying to raise the income limit on the people its programs may serve to include moderate- as well as low-income persons. In designing the 1981 single-family issue, the HFA at first attempted to include moderate-income persons under the eligibility guidelines. This would have raised the maximum income levels by $4,000, thus benefiting fewer persons at the lower end of the income range. The Local Government Commission refused to approve having moderate-income levels included in the bond issue, fearing possible litigation since the 1979 legislation had not been tested in court for the validity of its public purpose. Consequently, the bond issue was restructured to include only low-income persons, as defined by the HFA. The HFA then filed a "friendly" suit against the Local Government Commission in order to get a test-case ruling on the moderate-income question. The HFA alleged that the issuance of tax-exempt bonds to supply housing for moderate-income persons was not in conflict with the state Constitution. The HFA won the case in Wake County Superior Court and is now awaiting a ruling from the N.C. Supreme Court.[9]

If moderate-income limits are included in future single-family issues, low-income people will have an increasingly difficult time participating in the program. The average income of the home buyers in the first issue in 1976 was $10,384. By the third issue in 1980, the average had climbed to $15,415. And by the 1981 issue, the guidelines for "low income" went as high as $23,500 for a family of up to four members in an urban area, hardly a poverty stricken income. (The income limits increase $500 per family member after the fourth.) Because of the cost of

How the HFA Issues Bonds

by Judy Bynum

Chronicling the steps involved in one recent N.C. Housing Finance Agency bond-issue sale helps explain how the process works. In this case, preliminary planning began in March 1981 and by the end of that year the HFA had sold a $30 million single-family bond issue, which will eventually provide 13 percent mortgage financing for about 700 homes.

Here are the major stages of that sale:

- HFA set guidelines to determine who could qualify for mortgages financed by the bond proceeds; these qualifications, mandated by federal legislation (the Ullman Act), set ceilings on earnings levels (for example, $23,500 for an urban family of up to four) and on the cost of the homes (depending on the geographical area, from $40,320 to $97,680 for a new house, and from $38,880 to $53,680 for an existing home).
- HFA then determined sufficient demand for about 700 mortgage loans by surveying the state's financial institutions.
- The agency entered into commitments with 28 lenders willing to originate and service mortgage loans meeting the guidelines. The bond issue was structured to cover the total amount of these commitments.
- HFA staffers worked with underwriters on a financial analysis of the bond issue's feasibility, to ensure that the mortgage payments will cover the agency's debt service to the bond holders.
- HFA bond counsel prepared necessary legal documents.
- The agency's board of directors adopted a resolution authorizing the bond sale.
- The Local Government Commission approved the sale.
- Closing occurred about one month later on Wall Street; the underwriter bought the bonds and marketed them to investors.

Since February 1982, HFA has been dispersing the bond proceeds to the lenders, as mortgages and persons meeting the guidelines are approved. Funds not yet distributed have been invested in a fixed-rate certificate of deposit, necessary to avoid a major loss in a volatile market.

Judy Bynum is chief of publications and information services for the N.C. Housing Finance Agency.

housing and the interest rates on mortgages – even the lower rates that can be obtained by financing through tax-exempt bonds – the single-family program of the HFA is rapidly becoming a middle-income program.

But if federal restrictions are not lifted soon, the days of the single-family bond issue may be numbered anyway. The N.C. HFA has begun to plan for a new single-family issue but has not yet set a date for when the bond would be sold.

Multifamily Program. While the single-family program drifts toward middle-income assistance – in reality if not by name – the multifamily program continues to reach persons with very low incomes. The $52 million multifamily issue described at the beginning of this article indicates an aggressiveness on the part of the HFA towards programs serving low-income persons. This was only the second multifamily bond issue produced by HFA, and it was twice as large as the first. In 1980, a $24 million issue was sold and financed 775 apartment units. The $52 million issue in 1982 is financing 1,400 units.

M. Durwood Stephenson, Jr., past president of the N.C. Home Builders Association and a member of the current Housing Study Commission, is building the Four Oaks project, a 41-unit facility and the first of its kind in the tiny Johnston County community. "We make a preliminary submission to the HFA to show there is a need for low-income housing," says Stephenson. "Then it goes to HUD for final approval. We have to show the rents will repay the mortgage." Stephenson got 11 3/4 percent financing through the Cameron Brown Company, a mortgage banker participating in the multifamily project. "We're the only HFA in the county that has a rate below 12 percent," says Stephenson. The low rate was possible because the HFA was able to sell the bonds at 9 3/4 percent. The HFA package benefits builders like Stephenson ("I'm a small rural builder in a cash-intensive business," he says), lenders like Cameron Brown, and the low-income persons filling apartment units from Four Oaks (41) and Fuquay-Varina (50) to Granite Falls (30) and Gibson (30). And the ripple effects in the economy are also important. "Four Oaks was having a budget battle just as we were approved," says Stephenson. "They haven't been adding to their tax base. I notified them of our project and they decided to keep a policeman instead of letting him go [for lack of funds]."

All the units in the 29 projects are subsidized by the HUD Section 8 new construction/moderate rehabilitation rental assistance program, where the federal government makes a commitment, before the units are built or rehabilitated, to subsidize the future tenants. HUD agrees to pay the difference

Table 1. Housing Finance Agencies in the South, July 1982

State	Year Established	Year of First Bond Issue	State-imposed Debt Limit (millions of Dollars)	Bonds Outstanding[1] (millions of dollars)	Single-family Mortgages, Cumulative (millions of dollars)	Multifamily Mortgages, Cumulative (millions of dollars)	Whether had Bond Issue Since Passage of Ullman Act[2]
Alabama	1980	1980	none	250	155	0	yes
District of Columbia	1980	–	none	0	0	0	no
Florida	1980	1981	none	253	138	70	yes
Georgia	1974	1976	400	210	191	0	no
Kentucky	1972	1973	1,125	647	393	66	yes
Louisiana	1980	1981	none	170	134	11	yes
Maryland	1970	1972	none	638	208	355	yes
Mississippi	1980	1980	350	150	123	0	no
North Carolina	1974	1976	750	224	148	76	yes
South Carolina	1971	1979	none	278	226	26	yes
Tennessee	1973	1974	932	534	457	77	yes
Texas	1979	1980	none	150	131	0	no
Virginia	1972	1973	none	1,582	679	660	yes
West Virginia	1968	1971	900	569	238	223	yes

FOOTNOTES

[1]Total includes all bonds issued to finance single-family, multifamily, and all special programs and, in some cases, to cover operating costs. Some of these totals include recently issued bonds for which the agencies have not yet channeled the proceeds into mortgages.

[2]Since the Mortgage Subsidy Bond Tax Act of 1980 (P.L. 96-499) took effect in July of 1981.

[3]"No" indicates HFAs which are not located in a department of state government. But in all cases, state HFAs have been created by state legislative action.

[4]This does not include participation in federal programs such as the Appalachian Regional Commission and the U.S. Department of Housing and Urban Development's Section 8 rental assistance programs. It only includes state programs not covered in the single-family and multifamily categories.

[5] The Chairman of the Board of Directors and other board members are the only staff (part-time).

[6]Loan from the D.C. Department of Housing and Community Development to cover operating expenses.

[7] Six million of this amount is a loan of which the agency may only spend the interest.

[8] Seed money appropriation, repaid in 1978.

[9]The $6 million, appropriated in 1974 ($4 million) and 1980 ($2 million), serves as a reserve fund. The principal of this sum is not available for operating expenses. The 1974 appropriation of $4 million has increased to a $5.3 million reserve; the HFA may use 50 percent of the interest from this fund for operating expenses and must return 50 percent of the interest to the state's General Fund.

between the market rent for a unit and 25 percent of the tenant's income. In return, the owner of the project agrees to select the tenants in accord with HUD's income eligibility standards. Incomes must be no more than 80 percent of the median income in the area where the project is to be built. Both the below-market interest rate on the financing *and* the Section 8 rental assistance payments are needed to make the "numbers work," as Stephenson puts it.

After celebrating the $52 million multifamily issue at their May 13 meeting, the board members sounded pessimistic about future multifamily projects. The Section 8 "set-aside" will be eliminated after the current fiscal year, a severe blow to future projects. "I don't think new construction is realistic," said board member George Carr, Jr. of the Greater Greensboro Housing Foundation, Inc. "The majority will have to be rehab, maybe an old hospital."

Without the Section 8 "set-aside," the HFA is left with only the shallow subsidy of tax-exempt bond financing. The low-interest HFA loans by themselves can only reduce the rents of the apartments HFA finances to an average of some $400 per month; some other type of subsidy is needed to lower the rents to the levels which tenants are currently paying in Section 8 HFA apartments. The HFA is currently exploring ways to make a multifamily project "work" without a federal subsidy. Board members speculate that this may require raising the income limits as high as $19,200 (rural) and $21,000 (urban), and adjusting these limits upward annually. How many persons at those income levels think of themselves as low-income? The increases in income limits could, however, only apply to 80 percent of a project's tenants. The Ullman Act provides that 20 percent of the units in HFA-financed multifamily projects must be available to low-income persons (defined as persons with incomes no higher than 80 percent of the median income), whether or not Section 8 rental subsidies are available.

If the HFA wins its court test on the moderate-income question, it could raise the income limits on the 80 percent of the units even higher. The agency would be able to "serve more people" as one board member put it, but would in the process be serving the poor less and less. The end of the Section 8 assistance for new construction, combined with the high cost of building, means "the low income will suffer," explains Stephenson. "There will be no sheltered construction for them."

The HFA administers Section 8 housing assistance payments not only on the units it has financed, but also on 872 apartment units which it has not financed. In return for a fee from HUD, the HFA advertises the availability of funds, reviews the project proposals, and makes recommendations to HUD about which projects should receive commitments of funds. Once the commitments have been made and the buildings are constructed, the HFA transfers the rental assistance payments from HUD to the owners. HFA also inspects the projects during construction and at least once a year thereafter for compliance with HUD construction and maintenance standards.

Home Improvement Program. In a new step for the HFA, Kane initiated a partnership program with 11 cities to rehabilitate some 340 homes.[10] During the summer of 1982, the HFA plans to sell a bond issue of about $3.3 million and distribute these funds to the 11 participating cities. The towns would use both the HFA funds and HUD-administered Community Development Block Grant (CDBG) funds for the home improvement projects. The program illustrates one way the state can assist local areas in leveraging limited federal funds. Combining $730,000 of their CDBG funds with the HFA bond proceeds enables the cities to make loans at less than the tax-exempt lending rate the HFA must charge. The improvement loans will range from 1 to 12 percent, depending upon the borrower's ability to pay and local program criteria. The maximum loan amount will be $15,000 for a term of up to 15 years.

Construction Loan Note Issue. In April of

te Appropri-ons Received Since Start (millions of dollars)	State Agency[3]	Full-Time Staff	Special Programs in Operation[4]
18.60	no	0[5]	none
.48[6]	no	7	none
6.38[7]	yes	3	none
.24[8]	no	50	none
0.00	no	34	none
6.00	yes	5	none
23.50	yes	100	migratory worker, rehabilitation (residential and commercial), energy conservation
0.00	no	2	none
6.00[9]	yes	30	home improvement
.40[10]	yes	35	none
.45[11]	no	71	disabled
1.10[12]	yes	9	none
.19[13]	no	110	urban preservation, energy conservation
2.00[14]	no	92	small development program

[10] This is an annual appropriation which has been returned to the state each year.

[11] Seed money appropriation, repaid.

[12] $270,000 has been spent to cover agency start-up costs, the rest has been returned to the state.

[13] Seed money appropriation, repaid.

[14] Appropriated for a revolving loan fund.

Source: *1981 Survey of Housing Finance Agencies*, Council of State Housing Agencies, as updated in a telephone survey conducted by Priscilla Cobb at the N.C. Center for Public Policy Research, July 1982.

1982, the HFA issued a $7.4 million construction loan note on the Wall Street market. The note proceeds provided the construction financing for six apartment projects in Clayton, Dunn, East Arcadia, Fairmont, Sylva, and Whiteville. Multifamily projects like these six require two stages of financing: construction financing, which carries the project until it is ready for occupancy, and permanent financing, which carries the project for 30-40 years. The multifamily bond issues discussed above apply only to the permanent financing stage of the project. This program applies to the construction financing cost of developers; the lower rate of the financing will result in lower rents. In this project, 100 percent of the units receive Section 8 rental assistance and the federal Government National Mortgage Association (GNMA, or "Ginnie Mae") helps with the permanent financing.

Other Programs. The HFA continues to administer the Appalachian Regional Commission's (ARC) housing assistance program for 29 western counties. Since 1974, the HFA has been the state agency appointed by the governor to administer the ARC funds, federal monies primarily from the Farmers Home Administration and HUD. The HFA reviews applications and awards seed-money grants or low-interest loans, according to policies it has established. In a cooperative arrangement with six Councils of Governments in the western area, the HFA also supplies technical assistance through ARC housing specialists.[11] Through the ARC program, the HFA has aided in the construction or rehabilitation of over 3,200 housing units. The future of the ARC program beyond the next two years, however, is uncertain. Finally, the HFA has four housing development officers (HDOs) working out of NRCD field offices, who supply technical assistance to individual communities.[12] These are the positions that were transferred from NRCD during the 1981 legislative session (only four of the six positions remain).

Accomplishments of the HFA

After nearly a decade of experience, the N.C. HFA has an established track record and pattern of doing business. It has recorded at least eight significant accomplishments.

1. **The N.C. HFA has issued $224 million in bonds.** The HFA's predecessor, the N.C. Housing Corporation (1969-73) proved ineffective, and the HFA lacked aggressiveness from 1974-79. But since 1979, the HFA has come to life. Its cumulative record, $224 million in bonds issued out of a $750 million authorization, compares favorably to other HFAs in the South (See Table 1). These bond issues have financed over 4,100 single-family homes and supplied permanent financing for over 2,200 apartment units (see box on page 4).

2. **The N.C. HFA issued the nation's first traditional 30-year, fixed-rate bond after passage of the Ullman Act.** The HFA made the $30 million bond issue in November 1981.

3. **The N.C. HFA made a $52 million multifamily bond issue at an interest rate below what other states could do.** Using an innovative technique called a "put option," in May of 1982 the N.C. HFA made this bond issue at a 9 3/4 percent interest level. The New York HFA made a similar bond issue at over 13 percent.

4. **The N.C. HFA has established procedures for the complex task of distributing the bond proceeds.** The HFA has developed an efficient administrative system for distributing the bond proceeds to the lending agencies and for determining who can benefit from the bond sale.

5. **The N.C. HFA has initiated a home improvement loan program in partnership with 11 municipalities.** This program, which will use a $3.3 million bond issue to leverage $730,000 in Community Development Block Grant funds, illustrates how the HFA can extend the benefits of a federal program.

6. **The N.C. HFA achieved a workable compromise on controlling a limited amount of bond issues per year.** Working with various local interests, the HFA has developed a system, which was approved by the legislature, for regulating the maximum $200 million per year in bond issues which the Ullman Act allows. The legislature reserved $30 million for local bond issues, the rest for the N.C. HFA.

7. **The N.C. HFA has stabilized its personnel.** Since Gary Paul Kane became executive director in 1981, the HFA staff has become more stable with clearer program responsibilities.

8. **The N.C. HFA has achieved a quasi-independent status within state government.** The HFA board of directors felt such a status was needed to operate in "a more businesslike manner," as Board Chairman Crosland puts it. This is a significant accomplishment in the view of the HFA board of directors and some within the building and lending industries. Others in government and in the private sector believe the HFA could function equally as well with a more defined role within a state department.

Problems with the HFA Record

Despite the eight accomplishments named above, six problem areas remain. These are not necessarily failures of the HFA alone. The lack of commitment to state housing programs from the Governor and the legislature have contributed to the six findings detailed below.

The North Carolina Housing Finance Agency Board of Directors, July 1982

Member[1]	Hometown (all in N.C.)	Occupation	Appointed by[2]	Term[3]
John Crosland, Jr.* Chairman	Charlotte	President, John Crosland Co., home builder	Majority of Board (Governor approved)	1978-1982
Robert D. Brown*	Dallas	Vice President, Summey Building Systems, Inc. (Manufactured Housing)**	Governor	1977-1985
William E. Antone	Lumberton	Antone Real Estate and Insurance Co.	General Assembly (President of the Senate)	1982-1983
George E. Carr, Jr.	Greensboro	Executive Director, Greater Greensboro Housing Foundation, Inc. (Community Planning)**	Governor	1977-1985
Sherrill H. Faw	Wilkesboro	President, Sherrill H. Faw Construction (Subsidized Housing)**	Governor	1978-1982
Ernest E. Ford*	Lake Waccamaw	Retired, Past President, Pioneer Savings and Loan (Savings and Loan)**	General Assembly (President of the Senate)	1977-1983
James K. Haley	Winston-Salem	The Shelton Company, real estate	Governor	1978-1982
Mickey Hanula	Raleigh	Owner, Players Retreat Restaurant	General Assembly (Speaker of the House)	1982-1983
James Hartis*	Kinston	President and Owner, Kinston Realty (Real Estate Broker)**	General Assembly (Speaker of the House)	1980-1982
George Hayworth*	Winston-Salem	Senior Vice President, Wachovia Mortgage Corporation (Mortgage Servicing)**	General Assembly (Speaker of the House)	1980-1982
Robert L. Jones	Raleigh	President, Davidson-Jones Corp., general contractor and developer	General Assembly (President of the Senate)	1982-1983
William A. Taylor	Cary	Vice President, L.A. Taylor Building Company	General Assembly (Speaker of the House)	1982-1983
Mark E. Tipton	Greenville	Vice President, Tipton Builders (Home Builder)**	General Assembly (President of the Senate)	1979-1985

*Indicates a member of the Board's executive committee.
**Indicates a "categorical appointee," as required by N.C.G.S. 122A-4, stipulating that certain areas of experience be represented by a member of the board. The category is in parenthesis.

FOOTNOTES

1. Following the N.C. Supreme Court's January 12, 1982, decision in *Wallace v. Bone* and its implication that legislators serving on certain boards and commissions might violate the separation of powers provision of the state constitution, four legislators resigned from the N.C. HFA Board of Directors (Rep. Graham Bell, Rep. Ruth Cook, Sen. Walter Cockerham, and Sen. Sam Noble).

2. The Separation of Powers Act of 1982 (H.B. 1486) amended G.S. 122A, Section 4, to delegate the authority to appoint eight board members to the entire General Assembly, upon the recommendations of the Speaker of the House (four members) and the President of the Senate (four members). (The Speaker and Senate President formerly had appointed these eight directly.)

3. These terms include reappointments for which all board members are eligible. The 1982 appointments are initially one-year terms. The terms for each appointee are specified in Section 4 of N.C.G.S. 122-A.

1. The major HFA programs – the single-family and multifamily financing efforts – are no longer designed exclusively for low-income people. Families making as much as $23,500 qualified for the latest single-family HFA-assisted mortgages. The latest multifamily project did aid 100 percent low-income people, as defined by HUD standards. But since federal Section 8 rental assistance will not be available past FY 1982, the HFA has begun to plan an "unsubsidized" multifamily project where persons making up to $21,000 could qualify for 80 percent of the units. The needs of low-income people for housing assistance remain large, and neither the HFA, the Governor, nor the legislature appear to have a plan for addressing these needs. Both the executive and legislative branches are now awaiting the guidance of the Housing Study Commission.

2. The state has contributed very little financial support to housing through the HFA. The legislature has never made an appropriation for HFA operating expenses. In 1974, it appropriated $4 million and in 1980 another $2 million to the agency; these funds are kept in reserve accounts. Only the interest that accrues from these principal amounts can be spent. And in the case of the $4 million appropriation, one-half of the interest returns to the state. Traditionally, HFAs in most states aspire to run their programs as cost-effective businesses, not depending on legislatures for funds. (See Table 1 for the funding levels for all southern HFAs.) This method of doing business reinforces the N.C. HFA's desire to work outside regular state-agency channels, in a quasi-independent fashion. Indeed, 7 of the 14 HFAs in the South function entirely outside of state government (see Table 1). If the legislature and the executive branch want more accountability out of the HFA, they need to invest more resources in the agency.

3. The North Carolina lending industry, which distributes HFA tax-exempt bond proceeds, does not reach the areas with the worst housing. The HFA utilizes the existing lending industry, primarily savings and loan associations and mortgage bankers, to distribute the bond proceeds and pays a mortgage origination fee for this service. "North Carolina has a very efficient originating and servicing network," says Kane. "It's working very well with us right now." But in fact, the lenders who work well with the HFA are the most sophisticated offices, usually located in urban areas.

The box on page 6 shows that the eight counties with the most units financed by the HFA are all urban. Yet the 17 counties which have had no units financed by the HFA are all rural and have high percentages of substandard units. It is difficult to get lenders, especially in small-town financial institutions, to participate. The complexities of the subsidized lending business are formidable. For example, to participate in the HFA single-family program, a lender must cope with a 28-page packet of information, execute a 39-page "Forward Commitment Mortgage Purchase Agreement – Conventional Mortgages," and finally sign a 23-page "Servicing Agreement."

"We have not felt comfortable participating in their program yet," says Harold King, treasurer of the Smithfield Savings and Loan. Even HFA board member George Hayworth of Wachovia Bank admits the difficulty in getting lenders to participate: "We've come a long way but we still have to massage this thing very positively."

To address the needs of counties not reached by the HFA, the HFA could pursue either of two courses. It might, like Virginia, develop a system of originating mortgages directly to consumers. This process requires a very large staff (note in Table 1 the 100-person Virginia staff compared to the 30-person North Carolina staff). The savings on the origination fees that an HFA pays to lenders would have to cover the costs of the extra staff. This step would cut out much of the assistance the HFA currently provides to the lending industry, a politically difficult step to take (see number 4 below). Secondly, the HFA could target rural counties through seminars, training sessions with local lenders, and other techniques to alleviate the urban-dominated utilization of HFA bond proceeds.

4. The N.C. HFA subsidizes the state's lending and building industries. HFA bond proceeds are distributed by private lenders, which receive an origination and servicing fee. The building industry has received a shot in the arm from the $52 million multifamily bond issue; the HFA itself extols the fact that these funds will have a significant multiplier effect, creating 1,500 new jobs and putting $250 million into the state's economy. Nothing about this system is illegal or immoral; no excessive fees are charged. On the contrary, it is a great benefit to the state. But two points must be kept in mind: 1) the HFA was established to benefit low-income people, not the lending or building industry; and 2) a government subsidy – proceeds of a bond sale made possible by tax-exemption for interest on the bonds – is supporting these industries.

5. The HFA has done very little targeting of its resources to particular groups or to geographical areas. The HFA has assisted the elderly significantly (39 percent of multifamily units financed in 1980 were for the elderly and 31 percent of the multifamily units financed in 1982). But, unlike such states as Maryland (migrants) and Tennessee (disabled), North Carolina has not targeted other groups. "I don't know how you determine what group has greater needs than another," says Kane. "Our purpose is to serve low- and moderate-income individuals."

Nor has the HFA tried to direct its financing into geographical areas of particular need. "Our function, as I read the legislative direction," says Kane, "is to spread our resources as equitably as we can, to distribute our resources across the state rather than to target." In addition, the HFA has not developed the full range of services allowed under the legislation to target such special needs as energy conservation, a specific authorization in the legislation added in 1977.[13]

6. **The persons that run the N.C. HFA come almost exclusively from the building and lending industries, which has resulted in three types of conflict of interest.** First, some HFA board members have repeatedly abstained from important votes on bond issues because of a potential benefit to the business for which they work. Second, the board has hired a private law firm to handle HFA legal matters; virtually all other state agencies depend upon either in-house counsel or the staff of the Attorney General's office for legal advice. This firm – Powe, Porter, and Alphin in Durham – has among its clients some of the state's major building and lending associations. Third, Travis Porter and Harvey Stuart, the attorneys that handle most HFA business, lobby for the HFA before the General Assembly, while also lobbying for building and lending interests.

Conclusion

The Housing Finance Agency model has reached a turning point in its organizational life, in North Carolina and throughout the country. The fate of the single-family program rests largely with the various efforts to amend the Ullman legislation. The multifamily program remains uncertain in an era without Section 8 rental assistance. Given the nature of the bond market and building costs, it appears that the N.C. HFA will not be able to assist low-income people through its traditional vehicle, tax-exempt bonds.

Kane does not seem overly pessimistic, however. "It's not a bad idea for us to begin housing programs which don't rely on federal subsidies because federal subsidies are traditionally turned on and off by the whim of the federal bureaucracy," says Kane. "For the long term needs of the state, I think we're better off setting up a program that isn't relying on federal subsidy assistance."

Thus far, neither the HFA nor the legislature has come forward with such a program. Housing programs in North Carolina have always reacted to federal initiatives rather than taking the lead. If the tax-exempt bond route becomes more and more limited because of federal restrictions and trends beyond the control of state officials, then other housing programs must be developed. The question then becomes, should these programs be engineered by the HFA and what might they be? The burden rests, at least in part, with the Governor, the legislature, and now the Housing Study Commission to steer the HFA programs back onto the low-income course that the HFA was created to pursue and from which financial pressures are diverting them.

Can the policymakers in the legislature and in the executive branch, together with the financial wizardry available through the HFA, design such programs? If not, low-income people – the group for whom the entire HFA structure is justified – will not receive any assistance. And they will continue to listen for the faint ringing of the all too distant bell that signals the end of another deal. □

FOOTNOTES

[1] The "put option" allows the bond holder to sell (i.e., "put") the bonds back to the HFA after five years. Should a bond holder choose to exercise this option, Wachovia Bank has, for a fee, promised to purchase those bonds from the HFA.

[2] Kent Hiteshew, "North Carolina's Housing Finance Agency: Can it be More Effective?" *carolina planning*, fall 1978, vol. 4, no. 2, p. 30.

[3] The Mortgage Subsidy Bond Tax Act of 1980 (Public Law 96-499).

[4] 1981 Session Laws, c. 895, s. 1, as cited in N.C.G.S. 122A-4.

[5] *Martin v. N.C. Housing Corporation,* 277 N.C. 29, 175 S.E.2d 665 (1970) determined this to be the public purpose of the HFA legislation, N.C.G.S. 122A.

[6] N.C. Constitution, Article V, Section 2 (1), "Power of Taxation."

[7] *Martin v. N.C. Housing Corporation,* op. cit.

[8] N.C.G.S. 122A-5.4, 1979 Session Laws, c. 810.

[9] *In re: Housing Bonds* and the denial of approval to issue thirty million ($30,000,000.00) of single-family housing bonds and thirty million ($30,000,000.00) of multifamily housing bonds for persons of moderate income, 10th District of Wake County, Superior Court. The N.C. Supreme Court will hear the case, having granted a petition allowing the case to bypass the N.C. Court of Appeals (July 13, 1982).

[10] Participating cities include Asheville, Charlotte, Durham, Gastonia, Greensboro, Lenoir, New Bern, Tarboro, Washington, Wilmington, and Winston-Salem.

[11] The six Councils of Governments are: Region A, Southwestern N.C. Planning and Economic Development Commission; Region B, Land-of-Sky Regional Council; Region C, Isothermal Planning and Economic Development Council; Region D, Region D Council of Governments (COG); Region E, Western Piedmont COG; Region I, Northwest Piedmont COG.

[12] Two of the HDOs work out of Winston-Salem, one out of Raleigh, and one out of Wilmington.

[13] N.C.G.S. 122A-5.3.