

HOUSING FINANCE AGENCY LAW
Act of Dec. 3, 1959, P.L. 1688, No. 621
AN ACT

Cl. 64

To promote the health, safety and welfare of the people of the Commonwealth by broadening the market for housing for persons and families of low and moderate income and alleviating shortages thereof, and by assisting in the provision of housing for elderly persons through the creation of the Pennsylvania Housing Finance Agency as a public corporation and government instrumentality; providing for the organization, membership and administration of the agency, prescribing its general powers and duties and the manner in which its funds are kept and audited, empowering the agency to make housing loans to qualified mortgagors upon the security of insured and uninsured mortgages, defining qualified mortgagors and providing for priorities among tenants in certain instances, prescribing interest rates and other terms of housing loans, permitting the agency to acquire real or personal property, permitting the agency to make agreements with financial institutions and Federal agencies, providing for the purchase by persons of low and moderate income of housing units, and approving the sale of housing units, permitting the agency to sell housing loans, providing for the promulgation of regulations and forms by the agency, prescribing penalties for furnishing false information, empowering the agency to borrow money upon its own credit by the issuance and sale of bonds and notes and by giving security therefor, permitting the refunding, redemption and purchase of such obligations by the agency, prescribing remedies of holders of such bonds and notes, exempting bonds and notes of the agency, the income therefrom, and the income and revenues of the agency from taxation, except transfer, death and gift taxes; making such bonds and notes legal investments for certain purposes; and indicating how the act shall become effective. (Title amended Dec. 5, 1972, P.L.1259, No.282)

Compiler's Note: Section 301(a)(9) of Act 58 of 1996, which created the Department of Community and Economic Development and abolished the Department of Community Affairs, provided that housing, community assistance and other functions under Act 621 are transferred from the Department of Community Affairs to the Department of Community and Economic Development.

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Bonds and Notes

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The General Assembly of the Commonwealth of Pennsylvania
hereby enacts as follows:

ARTICLE I. GENERAL PROVISIONS

Section 101. Short Title.--This act shall be known and may
be cited as the "Housing Finance Agency Law."
(101 amended Dec. 5, 1972, P.L.1259, No. 282)
Section 102. Findings and Declaration of Policy.--It is
hereby determined and declared as a matter of legislative
finding that--

(1) The welfare of the Commonwealth is threatened by the fact that throughout Pennsylvania the supply of private homes and rental units for persons and families of low and moderate income is inadequate to meet the need for such housing created by an expanding population, the wearing out of older dwellings and the elimination of substandard dwellings by governmental action, and by a shortage of suitable dwellings for elderly persons.

(2) Because of higher construction costs, a scarcity of financing available for housing and the resulting increase in interest rates, the housing need which exists in fact has not been able to find economic expression in a market demand sufficient to encourage greater production of homes and rental housing by private industry for persons and families of low and moderate income, including the elderly.

(3) Persons and families whose residences are condemned by governmental action in the prosecution of necessary public works in urban slum clearance programs and under regulatory laws protecting health and safety, face insuperable difficulties in finding new housing which is adequate, safe and sanitary. Many such persons and families are not eligible to occupy public housing administered by governmental agencies and are also unable to rent or purchase adequate, safe and sanitary housing because of the economic conditions described. Unless it becomes economically feasible for these persons and families to acquire housing in place of the dwellings now being eliminated by urban renewal programs in blighted areas and other dwellings removed by reason of other public works, such necessary governmental activities face serious curtailment or interruption.

(4) The Commonwealth has a strong moral responsibility to assist in providing opportunity for the rental or purchase of relocation housing by persons and families who are displaced by necessary governmental action, as well as a general and continuing responsibility to eliminate conditions which prevent private industry from supplying housing to relieve the general shortage of housing.

(5) Private industry alone has been and now is unable to provide the financing necessary, at a cost which persons and families of low and moderate income can afford, for housing for such persons and families and therefore, the specialized financing provided for in this act will encourage greater expenditure of private capital for housing.

(6) The relationship of a sufficient provision of adequate, safe and sanitary housing to the advancement of the public health and morals and to the prevention of fire, accident and crime is clear.

(7) Therefore, it is hereby declared to be the policy of the Commonwealth of Pennsylvania to promote the health, safety and welfare of its inhabitants by the creation of a body corporate and politic, to be known as the "Pennsylvania Housing Finance Agency," which shall exist and operate for the purposes of alleviating the hardship which results from insufficient production of private homes and of rental housing for persons and families of low and moderate income, including the elderly, the hardship resulting from the relocation of persons displaced by governmental action, the deleterious effect of inadequate housing upon the general welfare of the Commonwealth, and the disadvantages, resulting from economic conditions, which bar private industry from satisfying a vital need, by broadening the market for private homes and for housing for persons and families of low and moderate income, including the elderly, through the provision of specialized financing secured by

mortgages to corporations, individuals, joint ventures, partnerships, limited partnerships, trusts, cooperatives and condominiums, which are unable to obtain such financing in the general market or who are unable to participate in specialized Federal housing programs because of lack of available Federal funds, and through cooperation with and assistance to the Pennsylvania Department of Community Affairs as such department carries into effect the powers and duties vested in it, thus improving and stimulating the distribution of investment capital for housing and neighborhood revitalization projects. Such purposes are public purposes for which public money may be spent. ((7) amended Dec. 18, 1992, P.L.1652, No.182)

(102 amended Dec. 5, 1972, P.L.1259, No.282)

Section 102.1. Further Declaration of Policy.--The welfare of the Commonwealth of Pennsylvania is threatened by an inadequate supply of safe affordable housing for its citizens. Projected needs for housing supply have been created by existing and expanding population and governmental action to eliminate existing substandard dwellings. Increased construction costs, a scarce monetary supply for financing of housing and the resultant increase of mortgage interest rates have created a market demand situation that is unable to be satisfied through traditional methods.

The United States Congress has, as a matter of policy, enacted legislation which will help alleviate the desperate housing needs of Pennsylvania. Through the adoption of the act of November 26, 1980, known as the Omnibus Reconciliation Act of 1980 (94 Stat. 2599), the Federal Government has recognized the issuance of tax-free mortgage revenue bonds as a proper innovative method for the states to ensure an adequate supply of money for mortgages. Under the provisions of the Mortgage Subsidy Bond Tax Act of 1980 (Public Law 96-499, 94 Stat. 2599), Title 11, of the Omnibus Reconciliation Act of 1980, the Congress has set forth specific actions which state governments may and may not be involved in for a specified period of time.

The General Assembly hereby finds that it is appropriate for the Commonwealth of Pennsylvania to assist its citizens in acquiring safe affordable shelter through the issuance of tax-free mortgage revenue bonds.

(102.1 added Dec. 31, 1981, P.L.594, No.176)

Section 103. Definitions.--As used in this act unless otherwise indicated--

(1) "Agency" means the "Pennsylvania Housing Finance Agency," the public body, corporate and politic, created by this act.

(2) "Board" means the governing body of the agency.

(3) "Bonds" and "notes" mean the bonds and notes which the agency is authorized to issue pursuant to article V.-A of this act.

(4) "Federal agency" means the United States of America, the President or any department of the United States or any corporation, agency or instrumentality, heretofore or hereafter created, designated or established by the United States.

(5) "Mortgage" means a lien, other than a judgment, on a fee simple estate or leasehold in real property located in Pennsylvania, together with the credit instruments, if any, secured thereby; the term "mortgage," includes both insured mortgages and those which are not insured. ((5) amended Dec. 23, 1983, P.L.385, No.91)

(6) "Insured mortgage" means a mortgage insured or approved to be insured or guaranteed by a Federal agency and shall

include instruments or certificates which are guaranteed by a Federal agency and secured by insured or guaranteed mortgages.

(7) "Act" means this act and the rules and regulations adopted by the agency hereunder.

(8) "Annual income" shall mean the total annual income of all members of a family, from whatever source derived, including but not limited to, pension, annuity, retirement and social security benefits; provided, however, that there may be excluded from income (i) such reasonable allowances for dependents, (ii) such reasonable allowances for medical expenses, (iii) all or any proportionate part of the earnings of gainfully employed minors or family members other than the chief wage earner, or (iv) such income as is not received regularly, as the agency by rule or regulation may determine.

(9) "Earned surplus" shall have the same meaning as in generally accepted accounting standards.

(10) "Elderly or elderly person or persons" shall mean any individual who is qualified, by reason of age, to draw benefits from Federal Old Age and Survivors Insurance or from any other pension or annuity in which the age of the recipient is the criterion for entitlement, or in the absence of entitlement to insurance of the above types, one who has attained the age at which Federal Old Age and Survivors Insurance benefits would be payable if the individual had been covered by that insurance system.

(11) "Mortgagor" shall mean individuals, joint ventures, partnerships, limited partnerships, trusts, corporations, cooperatives and condominiums, whether nonprofit or organized for profit.

(12) "F.H.A." shall mean the Federal Housing Administration, United States Department of Housing and Urban Development and any successor to its functions.

(13) "Low income persons or families" and "moderate income persons or families" shall mean families and persons who cannot afford to pay the amounts at which private enterprise, without the assistance of this act is providing a substantial supply of decent, safe and sanitary housing. The income limits for the admission of such families and persons to projects shall be those established pursuant to the rules and regulations established by the agency.

(14) "Moderate rentals" shall mean rent charges less than those rents generally charged for new dwelling units of comparable size and location built by the unassisted efforts of private enterprise and financed at then current market interest rates.

(15) "Low rentals" shall mean rent charges at least ten per cent lower than moderate rentals.

(16) "Rent" or "rentals" shall mean the charges paid by moderate and low-income persons for occupancy in a project under this act, whether the project is operated on a landlord-tenant basis or as a condominium or cooperative.

(17) "Project" shall mean a number of dwelling units constructed, rehabilitated or converted to a cooperative or condominium with the assistance of a mortgage loan from the agency, including the acquisition, construction or rehabilitation of lands, buildings, equipment, improvements and other ancillary facilities such as, but not limited to streets, sewers, utilities, parks, site preparation, landscaping, and such ancillary facilities, offices and other nonhousing facilities such as administrative, community, health, recreational, educational and welfare facilities as the agency determines to be necessary, convenient or desirable

appurtenances and including the acquisition, construction or rehabilitation of such ancillary commercial facilities as the agency determines to be necessary to make the remainder of the project economically feasible.

(18) "Total project cost" means the sum total of all costs incurred in the development of a project, which are approved by the agency as reasonable and necessary, which costs shall include, but are not necessarily limited to, (i) cost of land acquisition and any buildings thereon, (ii) cost of site preparation, demolition and development, (iii) architect, engineer, legal, agency and other fees paid or payable in connection with the planning, execution and financing of the project, (iv) cost of necessary studies, surveys, plans and permits, (v) insurance, interest, financing, tax and assessment costs and other operating and carrying costs during construction, (vi) cost of construction, reconstruction, fixtures, and equipment related to the real property, (vii) cost of land improvements, (viii) necessary expenses in connection with initial occupancy of the project, (ix) a reasonable profit or fee to the builder and developer, (x) an allowance established by the agency for working capital and contingency reserves, and reserves for any anticipated operating deficits during the first two years of occupancy, (xi) the cost of such other items, including tenant relocation, as the agency shall determine to be reasonable and necessary for the development of the project, less any and all net rents and other net revenues received from the operation of the real and personal property on the project site during construction.

All costs shall be subject to approval and audit by the agency. The agency may adopt rules and regulations specifying in detail the types and categories of cost which shall be allowable if actually incurred in the construction or reconstruction of a project.

(19) "Federal housing assistance program" means a housing assistance program under which a mortgage loan or project receives assistance from a Federal agency, department or other Federally related entity in the form of a Federal guarantee, insurance, co-insurance, interest reduction payments, rental subsidies, commitment for permanent financing of a project upon completion of construction, or other assistance, pursuant to section 8 of the United States Housing Act of 1937, as amended by the Housing and Community Development Act of 1974; section 236 of the National Housing Act of 1934; section 802 of the Housing and Community Development Act of 1974; section 244 of the National Housing Act of 1934, as amended by the Housing and Community Development Act of 1974; section 101 of the Housing and Urban Development Act of 1965; section 23 of the United States Housing Act of 1937; section 515 of Title V of the Housing Act of 1949; and any similar or other program or programs which amend, supplement, replace or succeed such a program. ((19) added Apr. 7, 1976, P.L.73, No.33)

(20) "Lending institution" means any bank, bank and trust company, trust company, savings bank, national banking association, Federal national mortgage association, approved mortgage banker, FHA approved mortgage service company, savings and loan association, Federal savings and loan association, building and loan association, credit union or other financial institution which customarily provides service or otherwise aids in the financing of mortgages on residential housing in the Commonwealth. ((20) added Dec. 31, 1981, P.L.594, No.176)

(103 amended Dec. 5, 1972, P.L.1259, No.282)

Section 104. Constitutional Construction.--If any provision of this act, or the application of any provision to particular circumstances, is held unconstitutional, the remainder of the act, or the application of that provision to other circumstances, shall not be affected. The legislative intention is that this act would have been adopted had that provision not been included.

ARTICLE II. THE AGENCY

Section 201. Agency Creation.--A body corporate and politic, named the "Pennsylvania Housing Finance Agency," is hereby created as a public corporation and government instrumentality to have continuing succession until its existence shall be terminated by law.

(201 amended Dec. 5, 1972, P.L.1259, No.282)

Section 202. Agency Membership.--The members of the agency shall be the Secretary of Community Affairs, the State Treasurer, the Secretary of Commerce and the Secretary of Banking, and the respective successors in office of each of them, one member appointed by the Majority Leader of the Senate, one member appointed by the Minority Leader of the Senate, one member appointed by the Majority Leader of the House of Representatives, one member appointed by the Minority Leader of the House of Representatives and six additional members whom the Governor shall appoint. One of the members of the agency appointed by the Governor with the advice and consent of the Senate shall be a representative of a community-based nonprofit group which assists low-income and moderate-income individuals in housing matters. Annually at the first meeting held during the calendar year, the members shall elect one of the members to serve as chairperson. The members initially appointed shall serve for terms of one, two, three, four, five and six years, respectively, the particular term of each to be designated by the Governor at the time of appointment. The terms of all their successors shall be six years each, except that any person appointed to fill a vacancy shall serve only for the unexpired term. Every member's term shall extend until his successor is appointed and qualified. Any appointment made by the Governor of a member of the agency made hereafter shall be subject to the advice and consent of a majority of all the members of the Senate. Any appointed member of the agency shall be eligible for reappointment. The members of the agency shall not receive compensation for their services as members, but shall receive reimbursement for all necessary expenses incurred in connection with the performance of their duties as members. A member who fails to attend meetings for three consecutive months shall forfeit his seat unless the chairperson of the agency, upon written request from the member, finds that the member should be excused from a meeting because of illness or the death of an immediate family member. Members appointed by the Majority Leader of the Senate, the Minority Leader of the Senate, the Majority Leader of the House of Representatives and the Minority Leader of the House of Representatives shall not be, themselves, current members of the General Assembly and shall serve at the pleasure of the appointing authority.

(202 amended Dec. 18, 1992, P.L.1652, No.182)

Compiler's Note: The Secretary of Public Welfare, referred to in this section, was redesignated as the Secretary of Human Services by Act 132 of 2014.

Compiler's Note: Section 903(a) of Act 58 of 1996, which created the Department of Community and Economic Development and abolished the Department of Community Affairs, provided that, in place of the membership of the Secretary of Community Affairs on the Pennsylvania Housing Finance Agency under this section, the Secretary of Public Welfare shall serve on that agency. Section 903(b) of Act 58 of 1996 provided that the Secretary of Community and Economic Development shall continue to be a member of the Pennsylvania Housing Finance Agency, and, on and after the effective date of Act 58, the Secretary of Banking shall serve as chairperson of that agency.

Section 203. Agency Governing Body.--The governing body of the agency shall be a board, consisting of the members of the agency. The board shall elect a chairman from among its members at the first meeting of the board, and at its first meeting in each year thereafter. A majority of the members shall constitute a quorum for the purpose of organizing the agency, conducting its business and exercising all powers of the agency. A vote of the majority of the members present shall be sufficient for all actions of the board, unless the bylaws require a greater number.

Section 204. Agency Administration.--(204 repealed Dec. 5, 1972, P.L.1259, No.282)

Section 205. Agency Powers.--The agency shall have the following powers:

(1) To adopt, use and alter at will a corporate seal.

(2) To make and alter bylaws for the management and regulation of its affairs and to make and from time to time amend and repeal rules and regulations governing the various programs of the agency pursuant to this act and the conduct of its business. ((2) amended Apr. 7, 1976, P.L.73, No.33)

(3) To enter into contracts of all kinds and to execute all instruments necessary or convenient for carrying on its operations.

(4) To accept grants and subsidies from and to enter into agreements or other transactions with any Federal agency or agency of the Commonwealth or other entity.

(5) To accept grants-in-aid, gifts, donations, legacies or usages of money made or extended by individuals, organizations, public or private corporations, departments or instrumentalities of the Commonwealth, or the Federal government, and to return money advanced for its usage not otherwise required for its purposes or for any capital reserve fund created in accordance with section 504-A of this act. ((5) amended Apr. 7, 1976, P.L.73, No.33)

(6) To be a party litigant in any court having jurisdiction according to law in any form of action whatsoever.

(7) In accordance with the provisions of this act, or in conjunction with Federal law or a Federal program, to make commitments to purchase and to purchase, service and sell mortgages, and to make loans directly upon the security of mortgages. ((7) amended Dec. 18, 1992, P.L.1652, No.182)

(7.1) To cooperate with and assist the Pennsylvania Department of Community Affairs as such department carries into effect the powers and duties vested in it.

(7.2) To make commitments to purchase and to purchase loans with respect to rehabilitation or home improvements of residences with such security as determined by the agency. ((7.2) added Dec. 31, 1981, P.L.594, No.176)

(8) To acquire, hold and dispose of personal property, tangible and intangible.

(9) To acquire, hold and dispose of real property, or any interest therein, to be used by the agency for the purpose of its offices and operations.

(10) Acquire by purchase, gift or foreclosure any real or personal property, or any interest therein, to enter into any lease of property and to hold, sell, assign, lease, encumber, mortgage or otherwise dispose of any real or personal property, or any interest therein, or mortgage lien interest owned by it or under its control, custody or in its possession and release or relinquish any right, title, claim, lien, interest, easement or demand however acquired, including any equity or right of redemption, in property foreclosed by it and to do any of the foregoing by public or private sale, with or without public bidding, notwithstanding the provisions of any other law.

(11) To borrow money for the operation and work of the agency by the making of notes and by the issuance of bonds in accordance with the provisions of article V. of this act.

(12) To invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement, in such investments as may be lawful for fiduciaries under any law of the Commonwealth, including insured mortgages, which for such temporary purposes alone, need not be made by a mortgagor or involve real estate located in Pennsylvania.

(13) To conduct housing studies and to enter into contracts with the Department of Community Affairs and to do all things necessary or convenient to carry out the powers granted by this act or other acts.

(14) Employ an executive director and such other officers, agents, employes, professional and business advisers as may from time to time be necessary in its judgment and to fix their compensation; and to promote and discharge such officers, employes and agents.

(15) Appear in its own behalf before boards, commissions, departments or other agencies of government, municipal, State or Federal.

(16) Procure insurance against any loss in connection with its property in such amounts, and from such insurers, as may be necessary or desirable.

(17) To do all things necessary or convenient to carry out the powers granted by this act or other acts.

(18) Subject to any agreement with bondholders or noteholders, to collect, enforce the collection of, and foreclose on any collateral securing its loans and acquire or take possession of such collateral and sell the same at public or private sale, with or without bidding, and otherwise deal with such collateral as may be necessary to protect the interests of the agency therein or in which the agency has an interest. ((18) added Apr. 7, 1976, P.L.73, No.33)

(19) Subject to any agreement with bondholders or noteholders and with the written approval of the Governor, to consent to any modification with respect to rate of interest, time and payment of any installment of principal or interest, security or any other term of any loan to a mortgage lender or any bond or note, contract or agreement of any kind to which the agency is a party. ((19) added Apr. 7, 1976, P.L.73, No.33)

(20) To invest in, pledge capital to, lease, own, manage or develop housing projects and programs in the furtherance of the purposes set forth in this act, individually, as a shareholder, stockholder, partner, equity participant or joint venturer. ((20) added Dec. 18, 1992, P.L.1652, No.182)

(21) To form corporations under the not-for-profit laws of this Commonwealth for the purpose of owning or developing

low-income and moderate-income housing and housing for persons with disabilities, the elderly or other persons with special needs. Any such corporation shall be subject to the same oversight and auditing requirements which are applicable to the agency under this act. ((21 added Dec. 18, 1992, P.L.1652, No.182)

(205 amended Dec. 5, 1972, P.L.1259, No.282)

Section 206. Agency Moneys.--All moneys of the agency from whatever source derived shall be paid to the treasurer of the agency and deposited in the first instance in one or more banks or trust companies, in one or more special accounts, each continuously secured by pledge of direct obligations of the United States of America or of the Commonwealth, or bonds of the agency, having an aggregate market value, exclusive of accrued interest, at all times, at least equal to the balance on deposit in the account. The security shall be either deposited with the treasurer or held by a trustee or agent satisfactory to the agency. All banks and trust companies are authorized to give the security required. The moneys of the agency shall be paid out on the warrant or other order of the treasurer of the agency or of another person authorized by the agency to execute warrants or orders. Notwithstanding the provisions of this section, the agency shall have power to contract with the holders of any of its bonds or notes as to the custody, security and payment of any moneys of the agency or any moneys held in trust or otherwise to secure the payment of bonds or notes. Deposits of moneys held in trust or otherwise to secure the payment of bonds or notes may be secured in the same manner as moneys of the agency and all banks and trust companies are authorized to give security for such deposits.

(206 amended July 31, 1968, P.L.914, No.274)

Section 207. Agency Audits and Reports.--The accounts and books of the agency, including its receipts, disbursements, contracts, mortgages, investments and other matters relating to its finances, operations and affairs, shall be examined and audited from time to time by the Auditor General as provided in The Fiscal Code. Within sixty days after the end of each fiscal year of the agency, or as soon thereafter as practical, the agency shall file an annual financial statement consisting at least of a balance sheet, profit-and-loss statement and general report of operations with the Governor, the Auditor General and the General Assembly.

(207 amended Dec. 18, 1992, P.L.1652, No.182)

Section 208. Housing Studies.--The agency shall conduct a periodic study of housing needs in the Commonwealth, with particular emphasis on the needs of low-income and moderate-income individuals. Such a study shall be conducted at least every four years.

(208 added Dec. 16, 1986, P.L.1666, No.189)

ARTICLE III.

HOUSING LOANS

(Art. repealed Dec. 5, 1972, P.L.1259, No.282)

ARTICLE III.-A

Housing Purchase Program

(Art. added Dec. 5, 1972, P.L.1259, No.282)

Section 301-A. Housing Purchase Program.--(a) The agency may make loans to any mortgagor for the construction, reconstruction or rehabilitation of housing units for sale to

individual purchasers of low or moderate income as provided by the agency in its rules and regulations and to any such individual purchaser for the long-term financing of a housing unit. A loan under this section may be in an amount not to exceed one hundred per cent of the total project cost as approved by the agency.

(b) While such loan is outstanding, any sale by the mortgagor or any subsequent resale shall be subject to approval by the agency and the agency shall provide in its rules and regulations concerning such sales and resales that the price of the housing unit sold, the method of making payments thereafter, the security afforded and the interest rates, fees and charges to be paid shall at all times be sufficient to permit the agency to make the payments on its bonds and notes plus any administrative or other costs of the agency in connection with the transactions. Housing units shall be sold under terms that provide for monthly payments including principal, interest, taxes and insurance.

(c) While such loan is outstanding, the agency shall, prior to the approval of sale by the mortgagor or any subsequent resale, satisfy itself that such sale or resale is to persons of low or moderate income.

(d) Upon the sale by the mortgagor of any housing unit to an individual purchaser of low or moderate income under this subsection to whom a loan is being made by the agency, such housing unit shall be released from the mortgage running from the mortgagor to the agency and such mortgage shall be replaced as to the housing unit by a mortgage running from the individual purchaser to the agency.

(e) Loans may, in addition, be made directly to individual purchasers of low or moderate income for the construction, reconstruction, or rehabilitation of housing units by them, not in excess of one hundred per cent of the cost of such construction, reconstruction, or rehabilitation. The agency shall provide in its rules and regulations concerning such loans that the amount of the loan, the method of making payments thereafter, the security afforded and interest rates, fees and charges to be paid shall at all times be sufficient to permit the agency to make the payments on its bonds and notes plus any administrative or other costs of the agency in connection with the transactions.

(301-A added Dec. 5, 1972, P.L.1259, No.282)

ARTICLE IV.

HOUSING LOANS FOR ELDERLY PERSONS

(Art. repealed Dec. 5, 1972, P.L.1259, No.282)

ARTICLE IV.-A

Rental Housing Program

(Art. added Dec. 5, 1972, P.L.1259, No.282)

Section 401-A. Rental Housing Program.--To accomplish the declared purpose of this act of providing rental housing to persons and families of low and moderate income the agency is hereby authorized to:

(1) Make loans secured by real property or a leasehold estate, including mortgages or such other security as the agency determines to be necessary, to finance projects designed and planned to be available for low and moderate income persons and families or elderly persons and others. ((1) amended May 31, 1984, P.L.364, No.73)

(2) Sell, at public or private sale, with or without bidding, any mortgage or other obligation securing a mortgage loan, including sales of mortgages to the United States of America or the Commonwealth or any agencies, instrumentalities or departments thereof.

(3) Consent, subject to the provisions of any contract with noteholders or bondholders, whenever it deems it necessary or desirable in the fulfillment of the purposes of this act, to the modification, with respect to rate of interest, time of payment of any installment of principal or interest, or any other terms of any mortgage, mortgage loan, mortgage loan commitment, contract or agreement of any kind to which the agency is a party.

(4) In the event of a violation by the mortgagor of the terms of any agreement between the agency and the eligible mortgagor or in the event of a violation by the mortgagor of this act or of the terms of the mortgage loan agreement or of any rules and regulations of the agency duly promulgated pursuant to this act, or in the event the agency shall determine that any loan, or part thereof, made pursuant to this act is in jeopardy of not being repaid, the agency may remove any or all of the existing owners, partners, officers or directors of such mortgagor and appoint such person or persons who the agency in its sole discretion deems advisable, including officers or employees of the agency, as new officers or directors to serve in place of those removed. Officers or directors so appointed need not be stockholders or meet other qualifications which may be prescribed by the certificate of incorporation or bylaws of such mortgagor. In the absence of fraud or bad faith, officers or directors so appointed shall not be personally liable for debts, obligations or liabilities of such mortgagor. Officers or directors so appointed shall serve only for a period coexistent with the duration of such violation or until the agency is assured in a manner satisfactory to it that such violation, or violations of a similar nature, have not and will not reoccur. Officers or employees of the agency who are so appointed as officers or directors shall serve in such capacity without compensation, but shall be entitled to be reimbursed, if and as the certificate of incorporation or bylaws of such mortgagor may provide, for all necessary expenses incurred in the discharge of their duties as officers or directors so appointed of such mortgagor and such other necessary expenses incurred in the discharge of their duties as officers or directors of such eligible mortgagor as determined by the agency.

(401-A amended Dec. 5, 1972, P.L.1259, No.282)

Section 402-A. Mortgage Loans.--(a) Purpose. The agency may make mortgage loans to mortgagors for such projects as in the judgment of the agency have promise of supplying well planned, well designed apartment units which will provide housing for low and moderate income persons or families or the elderly and others in locations where there is a need for such housing. Such loans may include construction loans as well as permanent loans. The agency shall require the mortgagor receiving a loan or its contractor to post labor and materials, and construction performance, surety bonds in amounts related to the project cost as established by regulation or to execute other assurances and guarantees as the agency may deem necessary and may require its principals or stockholders to also execute such other assurances and guarantees as the agency may deem necessary.

(b) Interest and Charges. The agency shall have authority to set from time to time the interest rates at which it shall make loans, consistent with the agency's cost of borrowing money, cost of operation and its responsibilities to the holders of its bonds. In connection with the making of mortgage loans and commitments therefor, and in addition to such interest charges, the agency may make and collect such fees and charges, including but not limited to reimbursement of the agency's financing costs, service charges, insurance premiums and mortgage insurance premiums, as the agency determines to be reasonable.

(c) Limited Profit. The loan shall be subject to an agreement between the agency and the mortgagor limiting the mortgagor and its principals or stockholders to such rate of return on its investment in the housing project to be assisted with a loan from the agency as shall be fixed from time to time by the agency in its regulations, which shall take into account the prevailing rates of return available for similar investments and the risks associated with the development of the project, together with factors designed to promote the objectives of providing affordable housing throughout the Commonwealth, maintaining and improving the existing housing stock and other objectives of this act. A loan may be in an amount not to exceed one hundred per cent of the project cost as approved by the agency in the case of a nonprofit mortgagor and in an amount not to exceed ninety per cent of the project costs as approved by the agency in all other cases. ((c) amended Dec. 16, 1986, P.L.1666, No.189)

(d) Use of Nondistributed Profits. Whenever a mortgagor accumulates earned surplus in addition to such reserves for replacement as the agency may require, in excess of ten per cent of the current annual rent roll for the project, the agency may require rents in the project to be reduced to the extent necessary to lower the earned surplus accumulation to such ten per cent figure in the following fiscal year. ((d) amended Dec. 18, 1992, P.L.1652, No.182)

(e) Regulatory Agreement. The loan shall be subject to an agreement between the agency and the mortgagor which will subject said mortgagor and its principals or stockholders to limitations established by the agency as to rentals and other charges, builders' and developers' profits, dividends and fees, and the disposition of its property and franchises to the extent more restrictive limitations are not provided by the law under which the borrower is incorporated or organized.

(f) Nondiscrimination. The agency shall require that occupancy of all housing financed or otherwise assisted under this act be open to all persons regardless of race, national origin, religion, gender, handicap or disability, familial status or creed, subject only to such exceptions allowable by law, and that mortgagors, contractors and subcontractors engaged in the construction, rehabilitation, sale or rental of such housing, shall provide equal opportunity for employment without discrimination as to race, national origin, religion, gender, handicap or disability, familial status or creed, subject only to such exceptions allowable by law. ((f) amended Dec. 18, 1992, P.L.1652, No.182)

(g) Amortization and Refinancing. The ratio of loan to project value and the amortization period of loans made under this act which are insured by F.H.A. shall be governed by the F.H.A. mortgage insurance commitment for each project concerned, but shall not exceed fifty years. In the case of a mortgage loan not insured by F.H.A., the ratio of loan to project value

and the amortization period of loans shall be determined in accordance with regulations formulated and published by the agency.

(h) Project Cost Certification. No loan shall be made unless the mortgagor agrees (i) to certify upon completion of project construction or rehabilitation, subject to audit and determination by the agency, the actual total project cost as defined herein, and (ii) to pay forthwith to the agency, for application to reduction of the principal of the loan, the amount, if any, subject to audit and determination by the agency, of loan proceeds received in excess of the allowable loan based upon the percentage of loan to total project cost authorized by the agency. Notwithstanding the provisions of this subsection, the agency may accept, in lieu of any certification of total project cost as provided herein, such other assurances of the said total project cost, in any form or manner whatsoever, as will enable the agency to determine with reasonable accuracy the amount of said total project cost.

(402-A added Dec. 5, 1972, P.L.1259, No.282)

Section 403-A. Rental Charges.--In order to encourage developments which are not economically homogeneous and to achieve rent charges which will make units available to persons and families of low income at low rentals and moderate income at moderate rentals the agency and a mortgagor may use measures including, but not limited to: direct rental assistance in the form of partial rent subsidy from any county, municipal, Commonwealth or Federal source, allocation of lower rents, and the raising of rents in the majority of apartments in the project in order to lower the rents of those in the lower rent charge category. With respect to each project the agency shall, prior to initial occupancy, allocate and prescribe the number of lower rental units and the rents to be charged therefor. The allocation may be reviewed and adjusted from time to time. The method of achieving lower rental charges shall, in each instance, be prescribed by the agency.

(403-A added Dec. 5, 1972, P.L.1259, No.282)

Section 404-A. Tenants.--(a) Prior to making a loan commitment under this article, the agency shall approve a tenant selection plan submitted by the applicant for such a loan. The agency shall make regulations from time to time governing the terms of such tenant selection plans. Such plans shall include criteria for tenant selection based upon the established income limits for eligible tenants which may vary with the size and circumstances of the person or family. Such income limits shall be sufficiently flexible to avoid undue economic homogeneity among the tenants of a project. Tenant selection plans shall provide that as between applicants equally in need and eligible for occupancy of the unit, preference may be given to the elderly and to persons displaced by public action or natural disaster.

(b) The agency shall by rules and regulations provide for the periodic examination of the annual income of any person or family residing in any project constructed or rehabilitated with a loan from the agency. In the event that the annual income of a person or family residing in any such project increases and exceeds the income limits prescribed by applicable rules and regulations of the agency but is not more than twenty-five per cent above the annual income so prescribed for admission to the project, the owner or managing agent of such project shall permit the person or family to continue to occupy the unit. The agency or (with the approval of the agency) the mortgagor of any project constructed or rehabilitated with a

loan from the agency, may terminate the tenancy or interest of any person or family residing in such project whose annual income exceeds one hundred twenty-five per cent of that prescribed by applicable rules and regulations of the agency and which continues to exceed the same for a period of six months or more: Provided, That no tenancy or interest of any such person or family in any such project shall be terminated except upon reasonable notice and opportunity to obtain suitable alternate housing, in accordance with rules and regulations of the agency: Provided further, That any such person or family, with the approval of the agency, may be permitted to continue to occupy the unit, subject to payment of a rent or carrying charge surcharge to the mortgagor in accordance with a schedule of surcharges fixed by the agency. The agency may require the mortgagor to make payable such surcharge to the agency's general fund.

(404-A added Dec. 5, 1972, P.L.1259, No.282)

ARTICLE IV.-B

Owner Occupied Residential Mortgage Program (Art. added Dec. 31, 1981, P.L.594, No.176)

Section 401-B. General Statement.--The agency is hereby authorized to make or purchase loans or mortgages by contract with lending institutions to finance the purchase, construction, improvement or rehabilitation of owner-occupied single-family residences pursuant to the provisions of the Mortgage Subsidy Bond Tax Act of 1980 (Public Law 96-499) or any Federal tax legislation or program which may be a successor to the act or which may be similar to the act. The agency may acquire, and contract and enter into advance commitments to acquire by assignment or otherwise, loans secured by insurance or by mortgages owned by lending institutions or participations therein at such purchase price and upon such other terms as the agency shall determine. The agency may make and execute contracts with lending institutions for the origination and servicing of such loans and pay the value of services rendered under such contracts.

(401-B amended Dec. 18, 1992, P.L.1652, No.182)

Section 402-B. Allocation of Loans.--(a) The agency shall geographically allocate the proceeds of any qualified mortgage bond issue in accordance with rules and regulations promulgated by the agency. Such rules shall be designed to encourage maximum use and equitable distribution of proceeds of bond issues throughout this Commonwealth.

(b) The agency shall develop appropriate standards and procedures to implement the targeted area requirements of any relevant Federal tax or Federal housing legislation.

(c) The agency shall specify standards, criteria and procedures to be employed in selecting eligible mortgagors for loans made with the proceeds of any qualified mortgage bond issued by the agency.

(d) The agency may enter into agreements with county or city housing authorities, residential finance authorities, redevelopment authorities or other suitable governmental entities to assist in the administration of this article with respect to loans allocated to the municipality within the jurisdiction of the authority or governmental entity.

(e) The agency and any municipality engaging in local issuance, as authorized by section 501-A, may contract with lending institutions to make loans with the proceeds of qualified mortgage bonds. The agency and any municipality

electing local issuance may acquire and contract and enter into advance commitments to acquire by assignment or otherwise, loans secured by insurance or by mortgages made or owned by lending institutions or participations therein. The agency and any municipality electing local issuance may make and execute contracts with lending institutions for the origination and servicing of such loans and pay the value of services rendered under such contracts.

(402-B amended Dec. 18, 1992, P.L.1652, No.182)

ARTICLE IV.-C
HOMEOWNER'S EMERGENCY ASSISTANCE
(Art. added Dec. 23, 1983, P.L.385, No.91)

Section 401-C. General Authority.--(a) The Pennsylvania Housing Finance Agency, hereinafter referred to as the "agency," may make loans secured by liens on residential real property located in Pennsylvania to residents of Pennsylvania eligible for such loans as described in this article. For the purpose of this article, the term "mortgage" shall include any obligation evidenced by a security document and secured by a lien upon real property located within this Commonwealth including, but not limited to, a deed of trust and land sale agreement. The term shall also include an obligation evidenced by a security lien on real property upon which an owner-occupied mobile home is located. The provisions of this article shall not be applicable if:

(1) The property securing the mortgage is not the principal residence of the mortgagor.

(2) The property securing the mortgage is not a one or two-family owner-occupied residence.

(3) The mortgage is insured by the Federal Housing Administration under Title II of the National Housing Act (12 U.S.C. §§ 1707-1715z-18).

(4) The mortgage on the property was given by a noncorporate seller, unless the noncorporate seller elects, in writing, in the mortgage or elsewhere to be covered by this article. For purposes of this article "noncorporate seller" means any person who is given a mortgage by a buyer to secure repayment of the purchase price of real property who is not a bank, a savings and loan association, a mortgage bank, a consumer discount company or other entity in the mortgage lending business.

(5) The mortgagor is more than twenty-four (24) months delinquent or in default for more than twenty-four (24) months, pursuant to the terms of mortgagor's residential mortgage. This requirement shall mean that if the mortgagor is more than twenty-four (24) consecutive or nonconsecutive months in arrears on the residential mortgage in question, no matter what the reason therefor, the agency shall not be authorized to make any loans hereunder to such mortgagor.

(6) The aggregate amount of arrearages due to a mortgagee pursuant to the terms of the mortgage, without regard to any acceleration under the mortgage, including, but not limited to, the amount of principal, interest, taxes, assessments, ground rents, hazard insurance, any mortgage insurance or credit insurance premiums, exceeds the sum of sixty thousand dollars (\$60,000).

(7) The property is encumbered by more than two mortgages, other than a mortgage filed by the agency to secure repayment of the mortgage assistance loans, or by other liens or encumbrances which would unreasonably impair the security of the agency's mortgage.

((a) amended Dec. 21, 1998, P.L.1248, No.160)

(b) The agency shall carry out the program established by this article. Within sixty days of the effective date of this article, the agency shall adopt initial program guidelines for the implementation of this article and may revise the guidelines whenever appropriate. The agency shall report annually to the General Assembly on the effectiveness of the Homeowner's Emergency Mortgage Assistance Program in accomplishing the purposes of this article. ((b) amended May 31, 1984, P.L.364, No.73)

(c) The agency shall develop uniform notices and rules and regulations in order to implement the provisions of this article.

(d) The agency shall designate and approve nonprofit consumer credit counseling agencies in each county to be available to assist the agency in implementing the provisions of this article, including, but not limited to, mandated counseling. A "consumer credit counseling agency" shall be defined for the purpose of this article as a nonprofit consumer credit counseling agency located in Pennsylvania which is approved by the agency or a housing counseling agency certified by the United States Department of Housing and Urban Development. The agency shall maintain an up-to-date list of approved consumer credit counseling agencies for each county and publish the list on the agency's Internet website. ((d) amended July 8, 2008, P.L.841, No.60)

Section 402-C. Notice and Institution of Foreclosure Proceedings.--(a) Before any mortgagee may accelerate the maturity of any mortgage obligation covered under this article, commence any legal action including mortgage foreclosure to recover under such obligation, or take possession of any security of the mortgage debtor for such mortgage obligation, such mortgagee shall give the mortgagor notice as described in section 403-C. Such notice shall be given in a form and manner prescribed by the agency. Further, no mortgagee may enter judgment by confession pursuant to a note accompanying a mortgage, and may not proceed to enforce such obligation pursuant to applicable rules of civil procedure without giving the notice provided for in this subsection and following the procedures provided for under this article. ((a) amended May 31, 1984, P.L.364, No.73)

(b) A mortgagee shall not accelerate the maturity of any mortgage obligation covered under this article, commence any legal action including mortgage foreclosure to recover under such obligation, or take possession of any security of the mortgage debtor for such mortgage obligation until a determination has been made by the agency on a mortgagor's application for emergency mortgage assistance payments or the applicable time periods provided for in section 403-C have expired without the mortgagor applying for assistance in a timely fashion, whichever is earlier. ((b) amended July 8, 2008, P.L.841, No.60)

(c) All pending legal actions by mortgagees on mortgages covered under this article in which sheriff's sales have not been consummated on the effective date of this article shall be temporarily stayed. The notice provided in section 403-C shall be given to all mortgagors against whom such legal actions are pending on the effective date of this article. Such stay shall extend until the applicable time limits provided for in section 403-C have expired or a mortgagor's request for assistance has been denied by the agency, whichever is earlier.

(402-C added Dec. 23, 1983, P.L.385, No.91)

Section 403-C. Notice Requirements.--(a) Any mortgagee who desires to foreclose upon a mortgage shall send to such mortgagor at his or her last known address the notice provided in subsection (b): Provided, however, That such mortgagor shall be at least sixty (60) days contractually delinquent in his mortgage payments or be in violation of any other provision of such mortgage.

(b) (1) The agency shall prepare a notice which shall include all the information required by this subsection and by section 403 of the act of January 30, 1974 (P.L.13, No.6), referred to as the Loan Interest and Protection Law and referred to commonly as the Usury Law. This notice shall be in plain language and specifically state that the recipient of the notice may qualify for financial assistance under the Homeowner's Emergency Mortgage Assistance Program. This notice shall contain the telephone number and the address of a local consumer credit counseling agency. This notice shall be in lieu of any other notice required by law. This notice shall also advise the mortgagor of his delinquency or other default under the mortgage, including an itemized breakdown of the total amount past due, and that such mortgagor has thirty (30) days, plus three (3) days for mailing, to have a face-to-face meeting with a consumer credit counseling agency to attempt to resolve the delinquency or default by restructuring the loan payment schedule or otherwise. The mortgagee or other person sending the notice to the mortgagor shall simultaneously send a copy of each notice issued to the agency by regular mail, facsimile, electronic mail or another means of electronic transfer in accordance with agency guidelines. In lieu of sending a copy of each notice, the mortgagee or other person charged with sending the notice may provide the agency, within thirty (30) days of the end of each calendar quarter, a report listing the notices sent during the prior calendar quarter arranged by property address including zip code.

(2) The notice under paragraph (1) must be sent by a mortgagee at least thirty (30) days before the mortgagee:

- (i) asks for full payment of any mortgage obligation; or
- (ii) begins any legal action, including foreclosure, for money due under the mortgage obligation or to take possession of the mortgagor's security.

(3) The proposed notice under paragraph (1) shall be published by the agency in the Pennsylvania Bulletin within one hundred twenty (120) days of the effective date of this paragraph. The notice actually adopted for use by the agency shall be promulgated as part of the program guidelines required by section 401-C(b).

(4) If the mortgagor meets with a consumer credit counseling agency, the consumer credit counseling agency shall promptly notify all of the mortgagees secured by the mortgagor's real property, and no mortgagee so notified shall commence any legal action against the mortgagor's real property for a period not to exceed thirty (30) calendar days from the date that the mortgagor first meets with the consumer credit counseling agency.

(5) The notice shall include a statement that the mortgagor must have a face-to-face meeting with one of the designated consumer credit counseling agencies within thirty (30) calendar days plus three (3) additional days for mailing.

(6) If the mortgagor applies for mortgage assistance payments, the agency shall promptly notify all of the mortgagees secured by the mortgagor's real property. The agency shall make a determination of eligibility within sixty (60) calendar days

of receipt of the mortgagor's application. During the time that the application is pending, no mortgagee may commence legal action to foreclose upon its mortgage with the mortgagor. The agency shall provide notice to the mortgagee if an administrative appeal is filed.

(7) An application for mortgage assistance may be submitted to the agency beyond the thirty-day (30) period specified in paragraph (5), and, in such case, the agency shall make a determination within sixty (60) calendar days of receipt of the mortgagor's application. A late application or an administrative appeal will not stay foreclosure proceedings, but, in the event the application is approved by the agency, a commenced foreclosure proceeding shall be stayed unless and until the mortgagor fails to proceed to closing and the agency rescinds its approval.

((b) amended July 8, 2008, P.L.841, No.60)

(c) If the mortgagor fails to meet with the mortgagee or consumer credit counseling agency or meet any of the time limitations specified in the notice or if the mortgagor's application for mortgage assistance payments is denied, the mortgagee may, at any time thereafter, take any legal action to enforce the mortgage without any further restriction or requirements under this article. Financial institutions shall not be the duly authorized agents of the agency for the purpose of making any decision on the approval of assistance under this act.

(d) If, after a face-to-face meeting, the mortgagor and the mortgagee reach an agreement to resolve the delinquency or default as provided for in section 403-C(b) and if, because of circumstances beyond the mortgagor's control, the mortgagor is unable to fulfill the obligations of that agreement, the mortgagor may apply to the agency or its duly authorized agent for assistance under this article within thirty (30) days of any default in payment under the agreement previously reached. The mortgagee shall not be required to send any additional notice pursuant to this article.

(e) All parties requiring notice pursuant to this article shall be deemed to receive notice on the third business day following the date of the mailing of the notice as documented by a certificate of mailing obtained from the United States Postal Service.

(f) Notwithstanding any other provisions of this section, a mortgagee shall not be required to send the uniform notice provided in subsection (b):

(1) to any mortgagor who is more than twenty-four (24) consecutive or nonconsecutive months in arrears on the residential mortgage in question, no matter what the reason therefor; or

(2) where the aggregate amount of arrearages due to a mortgagee pursuant to the terms of the mortgage, without regard to any acceleration under the mortgage, including, but not limited to, the amount of principal, interest, taxes, assessments, ground rents, hazard insurance, any mortgage insurance or credit insurance premiums, exceeds the sum of sixty thousand (\$60,000) dollars.

((f) amended Dec. 21, 1998, P.L.1248, No.160)

(g) Notwithstanding any other provisions of this section, a mortgagee shall not be required to send the uniform notice provided in subsection (b) to any mortgagor who has already been sent the uniform notice and:

(1) who did not apply for a mortgage assistance loan;

(2) who applied for a mortgage assistance loan but whose application was denied; or

(3) whose mortgage assistance disbursements were terminated by the agency for any reason.

Unless the mortgagor has cured his or her mortgage delinquency by means of a mortgage assistance loan or otherwise, receipt of partial payments of arrears from the mortgagor, subsequent to the sending of the uniform notice, shall not mean that the mortgagee must send a new uniform notice to the mortgagor prior to legal action being taken to enforce the mortgage. A uniform notice sent to the mortgagor while the mortgagor was in bankruptcy shall be valid for the purpose of this act, and no new uniform notice need be provided as a result of any discharge or dismissal of the bankruptcy petition or relief from the automatic stay.

((g) added Dec. 21, 1998, P.L.1248, No.160)

(403-C amended May 31, 1984, P.L.364, No.73)

Section 404-C. Eligibility for Assistance.--(a) No assistance may be made with respect to a mortgage or mortgagor under this article unless all of the following are established:

(1) The property securing the mortgage, or other security interest in the case of units in cooperative or condominium projects, is a one-family residence, or two-family owner-occupied residence including one-family units in a condominium project or a membership interest and occupancy agreement in a cooperative housing project, is the principal residence of the mortgagor and is located in this Commonwealth.

(2) (i) Any mortgagee has indicated to the mortgagor its intention to foreclose; and

(ii) payments under any mortgage have been contractually delinquent for at least sixty (60) days.

(3) The mortgage is not insured by the Federal Housing Administration under Title II of the National Housing Act (12 U.S.C. §§ 1707-1715z-18).

(4) The mortgagor is a permanent resident of this Commonwealth and is suffering financial hardship due to circumstances beyond the mortgagor's control which render the mortgagor unable to correct the delinquency or delinquencies within a reasonable time and make full mortgage payments.

(5) The agency has determined that there is a reasonable prospect that the mortgagor will be able to resume full mortgage payments within twenty-four (24) months after the beginning of the period for which assistance payments are provided under this article and pay the mortgage or mortgages in full by its maturity date or by a later date agreed to by the mortgagee or mortgagees for completing mortgage payments.

(6) The mortgagor has applied to the agency for assistance on an application form prescribed by the agency for this use which includes a financial statement disclosing all assets and liabilities of the mortgagor, whether singly or jointly held, and all household income regardless of source. Any applicant who intentionally misrepresents any financial information in conjunction with the filing of an application for assistance under this article may be denied assistance or required to immediately repay any amount of assistance made as a result of such misrepresentation, and the mortgagee may, at any time thereafter, take any legal action to enforce the mortgage without any further restrictions or requirements under this article.

(7) The mortgagee is not prevented by law from foreclosing upon the mortgage.

(8) The agency has determined, based on the mortgagor's financial statement, that the mortgagor has insufficient household income or net worth to correct the delinquency or delinquencies within a reasonable period of time and make full mortgage payments.

(9) Except for the current delinquency, the mortgagor shall have had a favorable residential mortgage credit history for the previous five (5) years. This requirement shall mean that, if the mortgagor has been more than three (3) consecutive months in arrears on a residential mortgage within the previous five (5) years, he shall be ineligible for assistance, unless the mortgagor can demonstrate that the prior delinquency was the result of financial hardship due to circumstances beyond his control.

(10) For purposes of this section, in order to determine whether the financial hardship is due to circumstances beyond the mortgagor's control, the agency may consider information regarding the mortgagor's employment record, credit history and current income.

(11) The mortgagor meets any other procedural requirements established by the agency.

(12) The mortgagor is not more than twenty-four (24) months delinquent or in default for more than twenty-four (24) months pursuant to the terms of mortgagor's residential mortgage. This requirement shall mean that if the mortgagor is more than twenty-four (24) consecutive or nonconsecutive months in arrears on the residential mortgage in question, no matter what the reason therefor, he shall be ineligible for assistance.

(13) The property is not encumbered by more than two mortgages, other than a mortgage filed by the agency to secure repayment of the mortgage assistance loan, or by other liens or encumbrances which would unreasonably impair the security of the agency's mortgage.

((a) amended Dec. 21, 1998, P.L.1248, No.160)

(b) Upon a determination that the conditions of eligibility described in subsection (a) have been met by a mortgagor and money is available in the Homeowner's Emergency Mortgage Assistance Fund, the mortgagor shall become eligible for the assistance described in section 405-C. If the agency determines that a mortgagor has not met the conditions of eligibility described in subsection (a), the mortgagor shall be prohibited from reapplying for assistance under this article for a period of twenty-four (24) months from the date of such determination unless there is a material change in circumstances: Provided, however, That nothing in this subsection shall prohibit any mortgagee from commencing legal action to enforce the mortgage without any further restriction or requirement under this article whenever the agency determines that the mortgagor is ineligible for assistance as provided in this section. ((b) amended Dec. 18, 1992, P.L.1652, No.182)

(404-C added Dec. 23, 1983, P.L.385, No.91)

Section 405-C. Assistance Payments.--(a) If the agency determines that a mortgagor is eligible for assistance under this article, the agency shall pay directly to each mortgagee secured by the mortgagor's real estate payments on behalf of the mortgagor. The agency shall pay to each mortgagee the full amount then due to that mortgagee pursuant to the terms of the mortgage without regard to any acceleration under the mortgage, or the full amount of any alternate mortgage payments agreed to by the mortgagee and mortgagor. This amount shall include, but not be limited to, the amount of principal, interest, taxes, assessments, ground rents, hazard insurance, any mortgage

insurance or credit insurance premiums. The initial payment made by the agency to each mortgagee shall be an amount which makes each mortgage current and pays reasonable costs and reasonable attorneys' fees already incurred by such mortgagee. However, in no event shall the total payment exceed the sum equal to twenty-four (24) consecutive or nonconsecutive months of arrears on any residential mortgage. ((a) amended Dec. 21, 1998, P.L.1248, No.160)

(a.1) A mortgagee entitled to payments under this section shall provide to the agency within thirty (30) days of the agency's request the following documents and information:

(1) An itemized statement of the amounts due under the mortgage, including all corporate advances incurred for which reimbursement from the mortgagor is demanded by the mortgagee. Demands for attorney fees, court costs and other advances shall be reasonable and shall reflect the amount of work and expenses actually expended and may not include any amounts incurred during any period a stay is in effect under this act.

(2) Copies of the following documents from the original mortgage transaction:

(i) The HUD-1 settlement statement.

(ii) The mortgage and note.

(iii) The appraisal, if an appraisal has been performed during the last five (5) years.

((a.1) added July 8, 2008, P.L.841, No.60)

(a.2) Failure to provide in a timely fashion the documents and information required under subsection (a.1) will result in the mortgagee's forfeiture of the right to receive any late fees and attorney fees, costs and expenses. ((a.2) added July 8, 2008, P.L.841, No.60)

(a.3) Upon the agency's payment of the initial payment to the mortgagee, including all corporate advances allowed by the agency, the mortgagee shall adjust its accounts to reflect that the mortgage obligation is, as of the date of receipt of such funds, reinstated and current for all purposes. The subsequent imposition by a mortgagee of any charges, fees or other amounts that were paid or disallowed by the agency, or waived by the mortgagee, shall be in violation of the act of December 17, 1968 (P.L.1224, No.387), known as the "Unfair Trade Practices and Consumer Protection Law." ((a.3) added July 8, 2008, P.L.841, No.60)

(b) After the agency has paid any and all arrearages pursuant to subsection (a) to each mortgagee, the mortgagor may be entitled to monthly mortgage assistance payments pursuant to this article. A mortgagor on whose behalf the agency is making mortgage assistance payments shall pay monthly payments to the agency. Such payments shall be in an amount which will cause the mortgagor's total housing expense not to exceed forty (40) percent of the mortgagor's net effective income. This shall be the maximum amount the mortgagor can be required to pay during the period a mortgagor is eligible for emergency mortgage assistance: Provided, however, That beginning February 1, 1999, and continuing thereafter, any mortgagor approved for continuing monthly mortgage assistance or whose continuing mortgage assistance is approved after being recertified by the agency shall pay to the agency a minimum monthly payment of at least twenty-five (\$25) dollars for each mortgage being assisted. The mortgagor shall make the above payment to the agency at least fifteen (15) days before each mortgage payment is due to each mortgagee. Upon receipt of this payment from the mortgagor, the agency or its duly authorized agent shall send the total mortgage payment directly to each mortgagee. "Housing expense"

shall be defined as the sum of the mortgagor's monthly utility, hazard insurance expense, real estate taxes and required mortgage payments, including escrows. "Net effective income" shall be defined as gross household income less city, State and Federal income and social security taxes. "Gross household income" means the total income of the applicant, all other owner-occupants of the residence, any spouse and children residing in the same household as the applicant and any other resident of the household declared by the mortgagor as a dependent for Federal tax purposes. The income of other unrelated individuals residing in the household shall be considered part of gross household income to the extent that their income is made available in support of the household. If the mortgagor is receiving emergency mortgage assistance under a program other than that established in this article, the amount of the payment he or she is required to make to the agency under this article shall take into consideration the amount of assistance he is receiving under such other programs. ((b) amended Dec. 21, 1998, P.L.1248, No.160)

(b.1) In lieu of paying arrearages under subsection (a) or ongoing assistance under subsection (b), the agency may fund a compromise pay-off of the balance of the mortgage, if the agency determines that structuring assistance in such a manner would be in the best interest of the agency and the mortgagor, as agreed to by the mortgagee. ((b.1) added July 8, 2008, P.L.841, No.60)

(c) The amount by which the mortgagor assistance payments made by the agency to all mortgagees exceeds the amount of payments made by the mortgagor to the agency shall be a loan in that amount by the agency to the mortgagor. Such loan shall be evidenced by such documents as the agency shall determine and shall be subject to repayment with interest and secured as provided herein.

(d) If the mortgagor fails to pay to the agency any amounts due directly from him or her under this section within fifteen (15) days of the due date, the agency shall review the mortgagor's financial circumstances as provided in subsection (b) to determine whether the delinquency is the result of a change in the mortgagor's financial circumstance. If the delinquency is not the result of a change in the mortgagor's financial circumstances, the agency shall terminate the emergency mortgage assistance payments and any mortgagee may, at any time thereafter, take any legal action to enforce its mortgage without any further restriction or requirement under this article. If the delinquency is the result of a change in the mortgagor's financial circumstances, the agency shall modify the mortgagor's required payments to the agency as the agency shall determine.

(e) If any mortgagee scheduled to receive monthly payments from the agency pursuant to this article fails to receive from the agency the full amount of such monthly payment within thirty (30) days of the scheduled due date, or if a mortgagor fails to observe and perform all the terms, covenants and conditions of the mortgage, that mortgagee may, at any time thereafter, take any legal action to enforce the mortgage without any further restriction or requirement under this article. ((e) amended July 8, 2008, P.L.841, No.60)

(f) Payments under this article shall be provided for a period not to exceed twenty-four (24) months, either consecutively or nonconsecutively, whether such payments are on account of arrears, continuing monthly assistance or any combination thereof, and shall not exceed the sum of sixty

thousand (\$60,000) dollars on behalf of any mortgagor. The agency shall establish procedures for periodic review of the mortgagor's financial circumstances for the purpose of determining the necessity for continuation, termination or adjustment of the amount of the payments. Payments shall be discontinued when the agency determines that, because of the changes in the mortgagor's financial circumstances, the payments are no longer necessary in accordance with the standards set forth in section 404-C. ((f) amended Dec. 21, 1998, P.L.1248, No.160)

(f.1) The twenty-four (24) month limit on assistance available under this act established in subsection (f) and referenced in sections 401-C(a)(5), 403-C(f) and 404-C(a)(5) and (12) shall increase to thirty-six (36) months if during the month the homeowner submits an application for assistance the average rate of total unemployment in the Commonwealth, as seasonally adjusted, for the period consisting of the most recent three (3) months for which such data for the Commonwealth is published before the close of such month equals or exceeds six and one-half (6.5) percent. ((f.1) added Dec. 21, 1998, P.L.1248, No.160)

(f.2) Every five (5) years, beginning in the year 2003, the General Assembly shall review the limit on the total assistance available under this act established in subsection (f) and the minimum monthly payment established in subsection (b). The General Assembly may increase either or both upon a showing that increases in housing costs require higher loan amounts in order for the act to be beneficial to homeowners in all regions of the Commonwealth. ((f.2) added Dec. 21, 1998, P.L.1248, No.160)

(g) Repayment of amounts owed to the agency from a mortgagor shall be secured by a mortgage lien on the property and by such other obligation as the agency may require. The priority of any lien obtained by the agency under this article shall be determined in the same manner as the lien of a general secured creditor of the mortgagor. The lien or other security interest of the agency shall not be deemed to take priority over any other secured lien or secured interest in effect against the mortgagor's property on the date assistance payments begin. The agency may allow subordination of the mortgage assistance lien if such subordination is necessary to permit the mortgagor to obtain a home improvement loan for repairs necessary to preserve the property. ((g) amended Dec. 21, 1998, P.L.1248, No.160)

(h) In cases of joint mortgagors who are husband and wife, where only one spouse who is an occupant of the mortgaged premises makes application for and receives assistance under this article, the lien to secure repayment as aforesaid shall be a lien on the property of like force and effect as a mechanic's lien. ((h) added Dec. 21, 1998, P.L.1248, No.160)

(405-C added Dec. 23, 1983, P.L.385, No.91)

Section 406-C. Repayment.--Upon approval of mortgage assistance, the agency shall enter into an agreement with the mortgagor for repayment of all mortgage assistance made by the agency plus interest as provided in paragraph (5). The agreement shall provide for monthly payments by the mortgagor and be subject to the following provisions:

(1) If the mortgagor's total housing expense as defined in section 405-C is less than forty (40) percent of his or her net effective income, the mortgagor shall pay to the agency the difference between forty (40) percent of the mortgagor's net effective income and the mortgagor's total housing expense unless otherwise determined by the agency after examining the

mortgagor's financial circumstances and ability to contribute to repayment of the mortgage assistance.

(2) If the mortgagor's total housing expense is more than forty (40) percent of his or her net effective income, repayment of the mortgage assistance shall be deferred until the mortgagor's total housing expense is less than forty (40) percent of his or her net effective income: Provided, however, That beginning February 1, 1999, and continuing thereafter, any mortgagor who has received mortgage assistance shall pay to the agency a minimum monthly repayment of at least twenty-five (\$25) dollars for each mortgage that was assisted. Such minimum monthly repayment shall not result in the accrual of interest on the mortgage assistance loan pursuant to paragraph (5).

(2.1) The forty (40) percent ratio established under paragraphs (1) and (2) shall be reduced to thirty-five (35) percent if during the month the homeowner submits an application for assistance the average rate of total unemployment in the Commonwealth, as seasonally adjusted, for the period consisting of the most recent three (3) months for which such data for the Commonwealth is published before the close of such month equals or exceeds six and one-half (6.5) percent.

(3) If repayment of mortgage assistance is not made by the date any mortgage is paid, the mortgagor shall make mortgage assistance repayments in an amount not less than the mortgage payment until the mortgage assistance is repaid.

(4) The agency shall establish procedures for periodic review of the mortgagor's financial circumstances to determine the amounts of repayment required under this section. Notwithstanding any other provision of this section, the agency shall require full or partial repayment of the mortgage assistance loan once the mortgagor has established credit to the extent that there is sufficient equity in the property for the mortgagor to be able to refinance their mortgage obligations at reasonable rates and terms as determined by the agency.

(5) Interest shall accrue on all mortgage assistance made by the agency at a rate of interest to be determined by the agency prior to the end of each calendar year for loans closed in the next calendar year, which rate shall not exceed the interest rate established by the Department of Banking pursuant to section 301 of the act of January 30, 1974 (P.L.13, No.6), referred to as the Loan Interest and Protection Law and referred to commonly as the Usury Law. Interest shall start to accrue whenever the mortgagor begins to make repayment under this section. Interest shall accrue only during the period in which the mortgagor is required to make repayment under this section. When any mortgage for which mortgage assistance was made is paid, interest shall then accrue on all mortgage assistance due and owing at the same rate and on the same basis as the mortgage for which the mortgage assistance was made. ((5) amended July 8, 2008, P.L.841, No.60)

(6) All moneys received from mortgagors for repayment of mortgage assistance shall be deposited in the State Homeowner's Emergency Mortgage Assistance Fund established by the agency for the sole purpose of implementing the provisions of this article.

(406-C amended Dec. 21, 1998, P.L.1248, No.160)

Section 407-C. Financial Institutions.--A financial institution shall not be deemed to be in violation of any statute, regulation or rule of supervisory authorities by reason of any agreement, forbearance or modification of the payment or other terms of a mortgage as an effect of the assistance program or by reason of actions taken or not taken pursuant to

the program. No mortgage loan as to which assistance payments are being made shall be deemed to be delinquent or classified as such by supervisory authorities during the continuance of such assistance payments.

(407-C added Dec. 23, 1983, P.L.385, No.91)

Section 408-C. Homeowner's Emergency Mortgage Assistance Fund.--The Homeowner's Emergency Mortgage Assistance Fund is hereby created as a separate account within the agency for the sole purpose of implementing the provisions of this article. No other agency funds, moneys or interest earnings shall be utilized for the purposes of this article. Investment and interest earnings on moneys from this fund may be used by the agency for the administrative costs of the program. The Homeowner's Emergency Mortgage Assistance Fund shall operate as a revolving loan fund to which shall be credited all repayment of principal and interest by mortgagors to the agency to repay loans provided by the agency pursuant to this article as well as grants or donations from other sources and any funds that may be appropriated by the General Assembly.

(408-C amended Dec. 21, 1998, P.L.1248, No.160)

Section 409-C. Insufficient Funds.--The provisions of this article shall not be applicable to any mortgage which becomes delinquent at any time when the agency has officially declared that it does not have money currently available in the Homeowner's Emergency Mortgage Assistance Fund to approve applications for emergency mortgage assistance or to continue making assistance payments on behalf of mortgagors previously approved. The State Treasurer shall have the duty to advise the agency not less frequently than once each calendar quarter of the amount available for the purposes of this article. The agency shall be deemed to have insufficient money currently available in the Homeowner's Emergency Mortgage Assistance Fund if at any time the money available in the fund is projected by the agency to be insufficient during the next sixty (60) days to pay out on new applications which have been or are expected (based at least on the previous twelve (12) month loan approval history) to be approved during said period and to continue making disbursements on behalf of mortgagors previously approved. In the event that the funds available to the agency in the Homeowner's Emergency Mortgage Assistance Fund for purposes of this article become insufficient as officially declared by the executive director of the agency at least sixty (60) days prior to the funds being depleted, the agency shall immediately publish an announcement to that effect in the Pennsylvania Bulletin, which announcement shall include a date certain which shall be at least ninety (90) days after said announcement after which mortgagees shall no longer be subject to the provisions of this article and mortgagees may, at any time after the published date, take legal action to enforce the mortgage without any further restriction or requirement under this article. In the event that funds are replenished in sufficient amount by an appropriation or otherwise, the agency shall publish a similar notice, which shall be effective immediately, announcing that fact and mortgages shall again be subject to this article.

(409-C amended Dec. 18, 1992, P.L.1652, No.182)

Section 410-C. Funding.--(410-C repealed Dec. 21, 1998, P.L.1248, No.160)

Section 411-C. Expiration.--(411-C repealed Dec. 18, 1992, P.L.1652, No.182)

Section 412-C. Ongoing Foreclosure Study.--The agency shall monitor foreclosure activity and trends in this Commonwealth,

using data and information accumulated from notices and applications for assistance processed under this article, and shall, as appropriate, provide recommendations for addressing any problems identified in this monitoring effort.

(412-C added July 8, 2008, P.L.841, No.60)

ARTICLE IV-D

PENNSYLVANIA HOUSING AFFORDABILITY AND REHABILITATION ENHANCEMENT PROGRAM

(Art. added Nov. 23, 2010, P.L.1035, No.105)

Section 401-D. Definitions.

The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Fund." The Housing Affordability and Rehabilitation Enhancement Fund established in section 406-D.

"Persons with disabilities." Individuals with physical, sensory or mental impairment that substantially limits one or more major life activities.

"Program." The Pennsylvania Housing Affordability and Rehabilitation Enhancement Program established in section 402-D.

"Program funds." The term shall include all allocations distributed to and grants received by the Commonwealth from the United States Department of Housing and Urban Development pursuant to the Housing Trust Fund, established in section 1338 of the Housing and Economic Recovery Act of 2008 (Public Law 110-289, 122 Stat. 2654), and funds from sources other than the Commonwealth that are provided for the program established under this article. The term may also include funds specifically appropriated by the General Assembly for the program established under this article.

(401-D added Nov. 23, 2010, P.L.1035, No.105)

Section 402-D. Establishment.

There is established the Pennsylvania Housing Affordability and Rehabilitation Enhancement Program to be administered by the agency. The program shall be dependent on the availability of program funds.

(402-D added Nov. 23, 2010, P.L.1035, No.105)

Section 403-D. Program.

(a) Project types.--The program may provide funding for the following:

(1) Projects to provide safe and sanitary dwellings for sale or rent to low-income and moderate-income individuals or families.

(2) Projects to increase the availability or quality of housing for elderly persons.

(3) Projects to increase the availability or quality of accessible housing for persons with disabilities.

(4) Projects to prevent or reduce homelessness.

(5) Projects to encourage the development and rehabilitation of distressed neighborhoods.

(6) Projects to provide mortgage or rental assistance, including housing counseling, foreclosure prevention and refinancing products.

(7) Projects to provide loans, low-interest loans or grants to low-income and moderate-income individuals or families who are owner-occupants for repairs and improvement to sustain or increase the conditions of the home.

(b) Purposes.--Money for projects under subsection (a) may be used for the following:

(1) Predevelopment activities, including title searches, market studies, project planning, architectural services, legal and engineering studies and related fees.

(2) Acquisition and disposition of real or personal property.

(3) Site preparation, including demolition of existing structures and remediation of environmental conditions.

(4) Construction, reconstruction, alteration and repair of existing structures, improvements and infrastructure.

(c) Matching funds.--Program funds may be used for a set aside for matching funds for counties that have established optional county affordable housing funds under 53 Pa.C.S. Ch. 60 (relating to optional affordable housing funding). In order to receive matching funds under this subsection, a county must annually report detailed information as required by the agency on the use of the funds for county projects. The information shall be included in the agency's report under section 405-D.

(d) Limitation.--Program funds shall not supplant existing resources dedicated to affordable housing activities. Program funds may be used to support, expand and enhance other programs administered by the agency.

(e) Preferences.--The agency may adopt written policies to give preference to projects that meet specific goals, such as energy efficiency, green building standards and comprehensive design strategies, or that target identified needs.

(f) Considerations.--The agency shall take into consideration geographical distribution of program funds appropriated to the program to ensure that all areas of this Commonwealth participate to the greatest extent possible.

(g) Funding for housing program.--The agency shall make available 30% of the program funds available under this article for housing programs benefiting households with household incomes which are less than 50% of the median area income.

(403-D added Nov. 23, 2010, P.L.1035, No.105)
Section 404-D. Plan.

(a) General rule.--Within 90 days of the effective date of this section and by March 15 of each year thereafter, the agency shall adopt a plan which establishes the agency's priorities for that year and sets forth the method in which program funds will be distributed that year.

(b) Publication.--The proposed plan, including a comment response document, shall be submitted to the chair and minority chair of the Urban Affairs and Housing Committee in the Senate and the chair and minority chair of the Commerce Committee in the House of Representatives, published in the Pennsylvania Bulletin and published on the agency's Internet website for public comment no later than 45 days prior to its adoption under subsection (a). All comments submitted to the agency in writing shall be public records and shall be incorporated into the comment response document.

(404-D added Nov. 23, 2010, P.L.1035, No.105)
Section 405-D. Reporting.

Within 90 days following the close of the first calendar year after the effective date of this article and by July 1 of every year thereafter, the agency shall issue a report containing a financial statement, an itemized list of projects funded and a description of other expenditures in the preceding calendar year. The report shall be submitted to the Governor, the Auditor General and the chair and minority chair of the Urban Affairs and Housing Committee in the Senate and the chair and minority chair of the Commerce Committee in the House of

Representatives and published on the agency's Internet website.
The report shall be a public record.

(405-D added Nov. 23, 2010, P.L.1035, No.105)

Section 406-D. Fund.

(a) Establishment.--There is established in the State Treasury the Housing Affordability and Rehabilitation Enhancement Fund. Interest and any other earnings in the fund shall remain in the fund. All program funds allocated or appropriated to the program shall be deposited in the fund. Program funds in the fund and the interest accruing thereon are hereby appropriated to the agency on a continuing basis to carry out the provisions of this article.

(b) Federal allocations.--All allocations distributed to and grants received by this Commonwealth from the United States Department of Housing and Urban Development pursuant to the Housing Trust Fund, established in section 1338 of the Housing and Economic Recovery Act of 2008 (Public Law 110-289, 122 Stat. 2654), are deposited to the fund to be administered by the Pennsylvania Housing Finance Agency consistent with this article and applicable Federal law.

(c) Interfund transfers.--((c) repealed June 28, 2019, P.L.50, No.13)

(406-D added Nov. 23, 2010, P.L.1035, No.105)

Compiler's Note: Section 36 of Act 13 of 2019 provided that the addition of section 1102-C.6 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, is a continuation of subsec. (c).

Compiler's Note: Section 2 of Act 58 of 2015, which added subsec. (c), provided that the General Assembly does not intend, by enacting subsec. (c), to increase the rate of the tax imposed under section 1102-C of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

Section 407-D. Funding.

Implementation of this article shall be contingent upon sufficient program funds being deposited in the fund in accordance with section 406-D to carry out the purposes of this article. In a year in which Congress fails to approve Federal funds or there are insufficient program funds deposited into the fund for the purposes outlined in this article, the program shall cease until sufficient Federal funds are allocated to the Commonwealth, funds are specifically appropriated by the General Assembly or funds are provided by a source other than the Commonwealth.

(407-D added Nov. 23, 2010, P.L.1035, No.105)

ARTICLE V.

BONDS AND NOTES

(Art. repealed Dec. 5, 1972, P.L.1259, No.282)

ARTICLE V.-A Bonds and Notes (Art. added Dec. 5, 1972, P.L.1259, No.282)

Section 501-A. Issuance of Bonds and Notes.--(a) The agency shall have the power and is hereby authorized from time to time by resolution of the members and subject to the written approval by the Governor to issue its negotiable bonds, either as serial bonds maturing in annual installments or as term bonds, or any combination thereof, and notes in such principal amount as, in the opinion of the agency, shall be necessary to provide

sufficient funds for achieving its corporate purposes, including the housing programs established in Articles III.-A and IV.-A, the payment of interest on bonds and notes of the agency, establishment of reserves to secure such bonds and notes, and all other expenditures of the agency incident to and necessary or convenient to carry out its corporate purposes and powers. The agency shall have the power, from time to time, by resolution of the members and subject to the written approval of the Governor to issue renewal notes, to issue bonds to pay notes and whenever it deems refunding expedient to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and to issue bonds partly to refund bonds then outstanding and partly for any other purpose. The refunding bonds shall be sold and the proceeds applied to the purchase, redemption or payment of the bonds to be refunded. The agency shall not have the power to issue bond anticipation notes, provided, however, that renewal bond anticipation notes may be issued for the sole purpose of redeeming any issue or portion of any issue of bond anticipation notes heretofore issued by the agency which have not been retired through the sale of bonds. ((a) amended Apr. 7, 1976, P.L.73, No.33)

(b) The notes and bonds of the agency shall bear such date or dates, and shall mature at such time or times, in the case of any such note, or any renewals thereof, not exceeding five years from the date of issue of such original note, and in the case of any such bond not exceeding fifty years from the date of issue, as such resolution or resolutions may provide. The notes and bonds shall bear interest at such rate or rates, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, contain such terms and provisions relating to, but not limited to, pledges of the agency's assets, setting aside of reserves, limitations on additional notes and bonds, and such other matters as may affect the security or protection of the notes and bonds, be executed in such manner, be payable in such medium of payment, at such place or places and be subject to such terms of redemption as such resolution or resolutions may provide. The notes and bonds of the agency may be sold at public or private sale, at such price or prices as the agency shall determine. ((b) amended Apr. 7, 1976, P.L.73, No.33)

(c) Neither the members of the agency nor any person executing the notes or bonds shall be liable personally on the notes or bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

(d) The agency, subject to such agreement with noteholders or bondholders as may then exist, shall have power out of any funds available therefor to purchase its notes or bonds, which shall thereupon be cancelled, at a price not exceeding (i) if the notes or bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date thereupon, or (ii) if the notes or bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the notes or bonds become subject to redemption plus accrued interest to such date.

(501-A added Dec. 5, 1972, P.L.1259, No.282)

Section 501-A.1. Qualified Housing Bonds.--(a) The agency shall have the power and is hereby authorized from time to time by resolution of the members, and subject to the written approval by the Governor, to issue qualified housing bonds and notes, pursuant to the Mortgage Subsidy Bond Tax Act of 1980, and subsequent amendments, or any Federal tax legislation or

program which authorizes Federal tax exemption for bonds issued to provide housing. The agency may issue such bonds or notes in such principal amounts, as permitted by Federal law and the act of December 20, 1985 (P.L.483, No.113), known as the "Tax-Exempt Bond Allocation Act," and as are in the opinion of the agency, necessary to provide sufficient funds for the Owner Occupied Residential Mortgage Program authorized by Article IV.-B and the Rental Housing Program authorized by Article IV.-A. These bonds and notes shall be issued, to the extent permitted by Federal law, in conformity with all other provisions of Article V.-A.

(b) In determining the limitation on the aggregate amount of qualified housing bonds issued during any calendar year, which are eligible for exemption from Federal taxation under Federal law, the total State ceiling shall be completely allocated to the agency for its programs under Article IV.-B, except for amounts allocated to municipalities electing local issuance.

(c) Qualified housing bonds may be locally issued by election of any of the following entities which may apply to the agency for the allocation of local authority for the purpose of issuing housing bonds subject to annual volume cap:

(1) Cities of the first, second and second class A and cities of the third class with a population of fifty thousand (50,000) or greater.

(2) Counties of the second class.

(3) Any other municipality which by itself or through an authority prior to January 1, 1981, issued mortgage subsidy bonds.

(4) Any county or city housing authorities, redevelopment authorities or residential finance authorities within the jurisdiction of any of the above and with the approval of the incorporating municipality.

(d) A qualified entity authorized to issue bonds hereunder may use any part or all of its allocation hereunder by designating an authority in clause (4) of subsection (c) as its agent for a mortgage program. An election for local issuance may be made by any other municipality, upon recommendation of the agency and with the approval of the Governor, if the agency determines that local issuance will result in loans being made at rates significantly lower than those available from the agency, or will result in substantial reductions in administrative costs, or will allow more effective integration of State, Federal and local housing assistance programs, not available through cooperation with the agency. A municipality electing local issuance may issue amounts equal to the portion of the State ceiling allocated to the municipality by the agency and the Governor pursuant to section 402-B. If in the judgment of the agency, it will not issue bonds in the total amount available to it in any calendar year as prescribed in subsection (b), any excess availability within the State ceiling may be reallocated by resolution adopted by the agency board to any of the entities authorized to issue mortgage bonds under this act.

(501-A.1 amended Dec. 18, 1992, P.L.1652, No.182)

Section 502-A. Credit of Commonwealth or Any Subdivision Thereof Not Pledged.--Except as may otherwise be expressly provided by the agency, its bonds and notes shall be general obligations of the agency payable out of any moneys or revenues of the agency, including the proceeds of mortgage loans made under this act, reserve funds created therefor by the agency, any mortgage insurance contracts pertaining thereto and other

lawfully available money, subject only to any agreements with holders of the bonds or notes pledging any receipts or revenues. Bonds and notes issued under the provisions of this act shall not be deemed to constitute a debt of the Commonwealth or of any political subdivision thereof or a pledge of the faith and credit of the Commonwealth or of any such political subdivision. All such bonds and notes shall contain on the face thereof a statement to the effect that neither the agency nor the Commonwealth nor any political subdivision thereof shall be obligated to pay the same or the interest thereon except from such proceeds, reserve fund or mortgage insurance contracts and that neither the faith and credit nor the taxing power of the Commonwealth or any political subdivision thereof is pledged to the payment of the principal of or the interest on such bonds.

(502-A added Dec. 5, 1972, P.L.1259, No.282)

Section 503-A. Funds and Accounts.--The agency shall create such funds and accounts as may be necessary or desirable for its corporate purposes and shall pay into each such fund or account any moneys appropriated and made available by the Commonwealth for the purposes of such fund or account. Nothing contained herein shall be construed as prohibiting the agency from creating within any fund one or more accounts which may be used or pledged by the agency for a specific purpose.

(503-A amended Apr. 7, 1976, P.L.73, No.33)

Section 504-A. Reserve Funds and Appropriations.--(a) The agency may create and establish one or more special funds, herein referred to as "capital reserve funds," and shall pay into each such capital reserve fund (i) any moneys appropriated and made available by the Commonwealth for the purpose of such fund, (ii) any proceeds of sale of notes or bonds to the extent provided in the resolution or resolutions of the agency authorizing the issuance thereof, and (iii) any other moneys which may be available to the agency for the purpose of such fund from any other source or sources. All moneys held in any capital reserve fund, except as hereinafter provided, shall be used, as required, solely for the payment of the principal of bonds secured in whole or in part by such fund or of the sinking fund payments with respect to such bonds, the purchase or redemption of such bonds, the payment of interest on such bonds or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity. Moneys in any such fund shall not be withdrawn therefrom at any time in such amount as would reduce the amount of such fund to less than the minimum capital reserve fund requirement established for such fund, as hereinafter provided, except for the purpose of making, with respect to bonds secured in whole or in part by such fund, payment when due, of principal, interest, redemption premiums and the sinking fund payments with respect to such bonds for the payment of which other moneys of the agency are not available. Any income or interest earned by, or increments to, any capital reserve fund due to the investment thereof may be transferred by the agency to other funds or accounts of the agency to the extent it does not reduce the amount of that capital reserve fund below the minimum capital reserve fund requirement for such fund.

(b) The agency shall not at any time issue bonds, secured in whole or in part by a capital reserve fund; if upon the issuance of such bonds, the amount in such capital reserve fund will be less than the minimum capital reserve fund requirement for such fund, unless the agency at the time of issuance of such bonds, shall deposit in such fund from the proceeds of the

bonds to be issued, or from other sources, an amount which, together with the amount then in such fund, will not be less than the minimum capital reserve fund requirement for such fund. For the purposes of this section, the term "minimum capital reserve fund requirement" shall mean, as of any particular date of computation, an amount of money, as provided in the resolution or resolutions of the agency authorizing the bonds with respect to which such fund is established. In no event, however, shall such capital reserve fund requirement exceed an amount equal to not more than the greatest of the respective amounts, for the current or any future fiscal year of the agency, of annual debt service on the bonds of the agency secured in whole or in part by such fund, such annual debt service for any fiscal year being the amount of money equal to the aggregate of all interest and principal payable on such bonds during such fiscal year, calculated on the assumption that all such bonds are paid at maturity or if any amount of such bonds is required to be redeemed on any earlier date by operation of a sinking fund, then on the assumption that such amount of bonds is redeemed on such earlier date and that such amount is considered principal payable on such bonds during the year they are to be redeemed for purposes of this calculation.

(c) To assure the continued operation and solvency of the agency, for the carrying out of its corporate purposes, provision is made in subsection (a) for the accumulation in each capital reserve fund of an amount equal to the minimum capital reserve fund requirement for such fund. In order further to assure the maintenance of such capital reserve funds, the agency, at least thirty days before the beginning of each legislative session, shall submit to the Governor and the General Assembly a written statement of the obligations of the agency falling due within the succeeding twelve month period and of the manner in which the agency anticipates providing for such obligations by way of payment, extension, renewal or otherwise and an estimate of the funds, if any, expected to be necessary during the following year to restore to each such capital reserve fund any deficiencies in the minimum capital reserve fund requirement for such fund or otherwise to avoid default in the payment of interest or principal upon bonds or notes issued by the agency, or in sinking fund payments required to be made, and the Governor shall cause the amount of such moneys, if any, to be placed in the budget of the Commonwealth for the next succeeding fiscal year, so that the General Assembly shall be enabled to provide appropriations sufficient to restore any such deficiencies or otherwise to avoid any default. Such appropriations, if any, shall be repaid to the Commonwealth as soon as possible by the agency from moneys of the agency in excess of the amount required to make and keep the agency self-supporting.

(d) In computing the amount of any capital reserve fund for the purposes of this section, securities in which all or a portion of such fund are invested shall be valued at par if purchased at par, or if purchased at other than par, at amortized value, which when used with respect to securities purchased at a premium above or a discount below par, shall mean the value as of any given date obtained by dividing the total amount of the premium or discount at which such securities were purchased by the number of days remaining to maturity on such securities at the time of such purchase and by multiplying the amount so calculated by the number of days having passed since the date of such purchase; and (i) in the case of securities purchased at a premium, by deducting the product

thus obtained from the purchase price, and (ii) in the case of securities purchased at a discount, by adding the product thus obtained to the purchase price.

(504-A amended Apr. 7, 1976, P.L.73, No.33)

Section 505-A. Trust Agreement.--In the discretion of the agency, bonds and notes issued by it shall be secured by a trust agreement by and between the agency and a trustee, which may be any trust company or bank within the Commonwealth having the powers of a trust company. Either the resolution providing for the issuance of bonds and notes or such trust agreement may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the agency in relation to the custody, safeguarding and application of all moneys.

It shall be lawful for any bank or trust company incorporated under the laws of the Commonwealth to act as depository of the proceeds of bonds and notes or of revenues and to furnish such indemnifying bonds or to pledge such securities as may be required by the agency. Such trust agreement may set forth the rights and remedies of the bondholders and noteholders and of the trustee, and may restrict the individual right of action by bondholders and noteholders. In addition to the foregoing, such trust agreement may contain such other provision as the agency may deem reasonable and proper for the security of the bondholders and noteholders. All expenses incurred in carrying out the provisions of such trust agreement may be treated as a part of the cost of the operation of the agency.

(505-A added Dec. 5, 1972, P.L.1259, No.282)

Section 506-A. Bonds and Notes Tax Exempt.--The creation of the agency is in all respects for the benefit of the people of the Commonwealth and for the improvement of their health, safety, welfare, comfort and security, and its purposes are public purposes and the agency will be performing an essential governmental function. The Commonwealth covenants with the purchasers and all subsequent holders and transferees of the notes and bonds issued by the agency, in consideration of the acceptance of any payment for the notes and bonds, that the notes and bonds of the agency, issued pursuant to this act and the income therefrom, the income and revenues of the agency, and the agency and its property shall at all times be free from taxation or assessment of every kind and nature except for inheritance, estate, gift and transfer taxes.

(506-A added Dec. 5, 1972, P.L.1259, No.282)

Section 507-A. Notes and Bonds as Legal Investments.--The notes and bonds of the agency are securities in which all public officers and bodies of the Commonwealth and all municipalities and municipal subdivisions, all insurance companies and associations, and other persons carrying on an insurance business, all banks, trust companies, savings banks and savings associations, saving and loan associations, investment companies, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of the Commonwealth, may properly and legally invest funds, including capital, in their control or belonging to them.

(507-A added Dec. 5, 1972, P.L.1259, No.282)

Section 508-A. Covenant by Commonwealth Not to Limit or Alter Powers Vested in Agency.--The Commonwealth of Pennsylvania does hereby pledge to and covenant and agree with the holders of any bonds, bond anticipation notes or other obligations issued pursuant to the authority of this act that the

Commonwealth will not limit or alter the rights or powers hereby vested in the agency to perform and fulfill the terms of any agreement made with the holders of such bonds, bond anticipation notes or other obligations, or in any way impair the rights or remedies of such holders, until such bond, bond anticipation notes and other obligations, together with interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or in behalf of such holders, are fully met and discharged or provided for. The agency may include this pledge and agreement of the Commonwealth in any agreement with the holders of bonds, bond anticipation notes and other obligations issued by the agency.

(508-A added Dec. 5, 1972, P.L.1259, No.282)

ARTICLE VI.

EFFECTIVE DATE AND CAPITAL RESERVE FUND

(Art. repealed Dec. 5, 1972, P.L.1259, No.282)

ARTICLE VI.-A

LIBERAL CONSTRUCTION, FRAUD PENALTY AND EFFECTIVE DATE

(Art. added Dec. 5, 1972, P.L.1259, No.282)

Section 601-A. Liberal Construction.--This act, being necessary for the welfare of the Commonwealth and its inhabitants, shall be liberally construed to effect the purposes thereof.

(601-A added Dec. 5, 1972, P.L.1259, No.282)

Section 602-A. Fraud Penalty.--Any person who attempts to or obtains financial aid for a project hereunder or occupancy or continual occupancy of a dwelling unit therein by false or misleading information or who shall violate this act or who shall by fraud attempt to obtain moneys from the agency or its approval for the payment of moneys or shall fraudulently attempt to or does prevent the collection of any moneys due to the agency shall, for each offense, be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding three hundred dollars (\$300) or undergo imprisonment not exceeding one year, or both.

(602-A added Dec. 5, 1972, P.L.1259, No.282)

Section 603-A. Effective Date; Proclamation.--This act shall become effective when the Governor by proclamation declares that sufficient funds are available to administer this act. For the purposes of this determination and then thereafter, in addition to any appropriations as are made to the agency, the Commonwealth is authorized to accept for the account of the agency grants-in-aid, donations and gifts of every manner and type from the Federal Government or from any other private or public corporation or person. Upon such declaration, such funds as have been collected shall immediately be paid to the treasurer of the agency, or if a treasurer has not been appointed, to such other person as the Governor may designate as acting treasurer.

(603-A added Dec. 5, 1972, P.L.1259, No.282)

APPENDIX

Supplementary Provisions of Amendatory Statutes

1986, DECEMBER 16, P.L.1666, NO.189

Section 5. This act, with respect to the Pennsylvania Housing Finance Agency, shall constitute the legislation required to reestablish an agency under the act of December 22, 1981 (P.L.508, No.142), known as the Sunset Act.

Compiler's Note: Act 189 added or amended sections 202, 208, 402-A and 411-C of Act 621.

Section 7. The presently confirmed members of the existing Pennsylvania Housing Finance Agency as of December 31, 1986, shall continue to serve as agency members until successors are appointed and qualified.

Section 8. Each rule and regulation of the agency in effect on December 31, 1986, shall remain in effect after such date until repealed or amended by the agency.