

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1407 Session of
1972

INTRODUCED BY SESLER, STAUFFER, COPPERSMITH, HOWARD, HOBBS,
OESTERLING, FRAME, DWYER, STAPLETON, HILL, MELLOW, MESSINGER,
ROVNER, MAZZEI, LAMB and WADE, MAY 9, 1972

AS AMENDED ON THIRD CONSIDERATION, JUNE 28, 1971

AN ACT

1 Amending the act of December 3, 1959 (P.L.1688), entitled "An
2 act to promote the health, safety and welfare of the people
3 of the Commonwealth by broadening the market for low-priced
4 private homes and alleviating shortages thereof, and by
5 assisting in the provision of housing for elderly persons
6 through the creation of the Pennsylvania Housing Agency as a
7 public corporation and government instrumentality; providing
8 for the organization, membership and administration of the
9 agency, prescribing its general powers and duties and the
10 manner in which its funds are kept and audited, empowering
11 the agency to make housing loans to eligible mortgagors upon
12 the security of insured mortgages, defining eligible
13 mortgagors and providing for priorities among them in certain
14 instances, prescribing interest rates and other terms of
15 housing loans, permitting the agency to make agreements with
16 financial institutions and Federal agencies, permitting the
17 agency to sell housing loans, providing for the promulgation
18 of regulations and forms by the agency, prescribing penalties
19 for furnishing false information, empowering the agency to
20 borrow money upon its own credit by the issuance and sale of
21 bonds and notes and by giving security therefor, permitting
22 the refunding, redemption and purchase of such obligations by
23 the agency, prescribing remedies of holders of such bonds and
24 notes, exempting bonds and notes of the agency, the income
25 therefrom, and the income and revenues of the agency from
26 taxation, except transfer, death and gift taxes; making such
27 bonds and notes legal investments for certain purposes; and
28 indicating how the act shall become effective," extending
29 the act to rental housing and to persons of low and moderate
30 income; changing the name of the act and the name and
31 membership of the administering agency; further providing for
32 the powers and duties of the agency; and providing penalties.

33 The General Assembly of the Commonwealth of Pennsylvania

1 hereby enacts as follows:

2 Section 1. The title and sections 101, 102, 103, 201 and
3 202, act of December 3, 1959 (P.L.1688), known as the "Housing
4 Agency Law," clause (7) of section 102 amended July 31, 1968
5 (P.L.914), are amended to read:

6 AN ACT

7 To promote the health, safety and welfare of the people of the
8 Commonwealth by broadening the market for [low-priced private
9 homes] housing for persons and families of low and moderate
10 income and alleviating shortages thereof, and by assisting in
11 the provision of housing for elderly persons through the
12 creation of the Pennsylvania Housing Finance Agency as a
13 public corporation and government instrumentality; providing
14 for the organization, membership and administration of the
15 agency, prescribing its general powers and duties and the
16 manner in which its funds are kept and audited, empowering
17 the agency to make housing loans to [eligible] qualified
18 mortgagors upon the security of insured and uninsured
19 mortgages, defining [eligible] qualified mortgagors and
20 providing for priorities among [them] tenants in certain
21 instances, prescribing interest rates and other terms of
22 housing loans, permitting the agency to acquire real or
23 personal property, permitting the agency to make agreements
24 with financial institutions and Federal agencies, providing
25 for the purchase by persons of low and moderate income of
26 housing units, and approving the sale of housing units,
27 permitting the agency to sell housing loans, providing for
28 the promulgation of regulations and forms by the agency,
29 prescribing penalties for furnishing false information,
30 empowering the agency to borrow money upon its own credit by

1 the issuance and sale of bonds and notes and by giving
2 security therefor, permitting the refunding, redemption and
3 purchase of such obligations by the agency, prescribing
4 remedies of holders of such bonds and notes, exempting bonds
5 and notes of the agency, the income therefrom, and the income
6 and revenues of the agency from taxation, except transfer,
7 death and gift taxes; making such bonds and notes legal
8 investments for certain purposes; and indicating how the act
9 shall become effective.

10 Section 101. Short Title.--This act shall be known and may
11 be cited as the "Housing Finance Agency Law."

12 Section 102. Findings and Declaration of Policy.--It is
13 hereby determined and declared as a matter of legislative
14 finding that--

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

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

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

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

23 (5) [Private industry, if provided with market and financial
24 conditions warranting greater expenditure of private capital for
25 housing and for the development of technological advances in
26 housing construction, can supply the low-priced private homes
27 needed in this Commonwealth.] Private industry alone has been
28 and now is unable to provide the financing necessary, at a cost
29 which persons and families of low and moderate income can
30 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 [low-priced] private homes and of rental housing for [elderly] 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 [low-priced] private homes and for housing for [elderly] persons and families of low and moderate income, including the elderly, through the provision of specialized financing secured by [insured] mortgages to [persons or to agencies who] 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

1 of Community Affairs as such department carries into effect the
2 powers and duties vested in it, thus improving and stimulating
3 the distribution of investment capital for housing. Such
4 purposes are public purposes for which public money may be
5 spent.

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

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

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

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

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

19 (5) "Mortgage" means a first mortgage on a fee simple estate
20 in real estate located in Pennsylvania, given to secure advances
21 on or the unpaid purchase price of the real estate under the
22 laws of Pennsylvania, together with the credit instruments, if
23 any, secured thereby; the term "mortgage," unmodified by the
24 word "insured," includes both insured mortgages and those which
25 are not insured.

26 (6) "Insured mortgage" means a mortgage insured or approved
27 to be insured [by the Federal Housing Administration, pursuant
28 to the National Housing Act of June 27, 1934, and its amendments
29 and supplements, heretofore and hereinafter enacted] or
30 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,

1 recreational, educational and welfare facilities as the agency
2 determines to be necessary, convenient or desirable
3 appurtenances.

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

28 All costs shall be subject to approval and audit by the
29 agency. The agency may adopt rules and regulations specifying in
30 detail the types and categories of cost which shall be allowable

1 if actually incurred in the construction or reconstruction of a
2 project.

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

8 Section 202. Agency Membership.--The members of the agency
9 shall be the Secretary of [Commerce] Community Affairs, his
10 successors in office, and six additional members whom the
11 Governor shall appoint. The members initially appointed shall
12 serve for terms of one, two, three, four, five and six years,
13 respectively, the particular term of each to be designated by
14 the Governor at the time of appointment. The terms of all their
15 successors shall be six years each, except that any person
16 appointed to fill a vacancy shall serve only for the unexpired
17 term. Every member's term shall extend until his successor is
18 appointed and qualified. ANY APPOINTMENT OF A MEMBER OF THE <—
19 AGENCY MADE HEREAFTER SHALL BE SUBJECT TO THE ADVICE AND CONSENT
20 OF TWO-THIRDS OF ALL THE MEMBERS OF THE SENATE. Any appointed
21 member of the agency shall be eligible for reappointment. The
22 members of the agency shall not receive compensation for their
23 services as members, but shall receive reimbursement for all
24 necessary expenses incurred in connection with the performance
25 of their duties as members.

26 Section 2. Section 204 of the act is repealed.

27 Section 3. Section 205 of the act, clauses (5), (7.1) and
28 (13), amended or added July 31, 1968 (P.L.914), is amended to
29 read:

30 Section 205. Agency Powers.--The agency shall have the

1 following powers:

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

3 (2) To make and alter bylaws for the management and
4 regulation of its affairs and to make and from time to time
5 amend and repeal rules and regulations governing the conduct of
6 the business of the agency.

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

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

13 (5) To accept grants-in-aid, gifts, donations, legacies or
14 usages of money made or extended by individuals, organizations,
15 public or private corporations, department or instrumentalities
16 of the Commonwealth, or the Federal government, and to return
17 money advanced for its usage not otherwise required for its
18 purposes or for the Capital Reserve Fund created in accordance
19 with section [508] 504-A of this act.

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

22 (7) In accordance with the provisions of [article III. and
23 article IV. of] this act to make commitments to purchase and to
24 purchase, service and sell [insured] mortgages, and to make
25 loans directly upon the security of [insured] mortgages.

26 (7.1) To cooperate with and assist the Pennsylvania
27 Department of Community Affairs as such department carries into
28 effect the powers and duties vested in it.

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

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

4 (10) [To acquire real property, or any interest therein, by
5 purchase or foreclosure, where such acquisition is necessary or
6 appropriate to protect any loan in which the agency has an
7 interest; to sell, transfer and convey any such property to a
8 buyer and in the event such sale, transfer or conveyance cannot
9 be effected with reasonable promptness or at a reasonable price,
10 to lease such property to a tenant.] Acquire by purchase, gift
11 or foreclosure any real or personal property, or any interest
12 therein, to enter into any lease of property and to hold, sell,
13 assign, lease, encumber, mortgage or otherwise dispose of any
14 real or personal property, or any interest therein, or mortgage
15 lien interest owned by it or under its control, custody or in
16 its possession and release or relinquish any right, title,
17 claim, lien, interest, easement or demand however acquired,
18 including any equity or right of redemption, in property
19 foreclosed by it and to do any of the foregoing by public or
20 private sale, with or without public bidding, notwithstanding
21 the provisions of any other law.

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

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

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

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

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

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

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

18 Section 4. Articles III., IV., V. and VI. of the act are
19 repealed and four articles are added to read:

20 ARTICLE III.-A

21 Housing Purchase Program

22 Section 301-A. Housing Purchase Program.--(a) The agency may
23 make loans to any mortgagor for the construction, reconstruction
24 or rehabilitation of housing units for sale to individual
25 purchasers of low or moderate income as provided by the agency
26 in its rules and regulations and to any such individual
27 purchaser for the long-term financing of a housing unit. A loan
28 under this section may be in an amount not to exceed one hundred
29 per cent of the total project cost as approved by the agency.

30 (b) While such loan is outstanding, any sale by the

1 mortgagor or any subsequent resale shall be subject to approval
2 by the agency and the agency shall provide in its rules and
3 regulations concerning such sales and resales that the price of
4 the housing unit sold, the method of making payments thereafter,
5 the security afforded and the interest rates, fees and charges
6 to be paid shall at all times be sufficient to permit the agency
7 to make the payments on its bonds and notes plus any
8 administrative or other costs of the agency in connection with
9 the transactions. Housing units shall be sold under terms that
10 provide for monthly payments including principal, interest,
11 taxes and insurance.

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

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

23 ARTICLE IV.-A

24 Rental Housing Program

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

29 (1) Make first mortgage loans secured by real property or a
30 leasehold estate, including mortgages insured by a Federal

agency, to finance projects designed and planned to be available for low and moderate income persons and families or elderly persons and others.

(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

1 prescribed by the certificate of incorporation or bylaws of such
2 mortgagor. In the absence of fraud or bad faith, officers or
3 directors so appointed shall not be personally liable for debts,
4 obligations or liabilities of such mortgagor. Officers or
5 directors so appointed shall serve only for a period coexistent
6 with the duration of such violation or until the agency is
7 assured in a manner satisfactory to it that such violation, or
8 violations of a similar nature, have not and will not reoccur.
9 Officers or employes of the agency who are so appointed as
10 officers or directors shall serve in such capacity without
11 compensation, but shall be entitled to be reimbursed, if and as
12 the certificate of incorporation or bylaws of such mortgagor may
13 provide, for all necessary expenses incurred in the discharge of
14 their duties as officers or directors so appointed of such
15 mortgagor and such other necessary expenses incurred in the
16 discharge of their duties as officers or directors of such
17 eligible mortgagor as determined by the agency.

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

1 and guarantees as the agency may deem necessary.

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

13 (c) Limited Profit. A mortgagor may not make distributions
14 in any one year, with respect to a project financed by the
15 agency, in excess of six per cent of the mortgagor's equity in
16 such project, except that the right to such distribution shall
17 be cumulative. The mortgagor's equity in a project shall consist
18 of the difference between the mortgage loan and the total
19 project cost. A LOAN MAY BE IN AN AMOUNT NOT TO EXCEED ONE
20 HUNDRED PER CENT OF THE PROJECT COST AS APPROVED BY THE AGENCY
21 IN THE CASE OF A NON-PROFIT HOUSING CORPORATION OR INDIVIDUAL
22 PURCHASER AND IN AN AMOUNT NOT TO EXCEED NINETY PER CENT OF THE
23 PROJECT COST AS APPROVED BY THE AGENCY IN THE CASE OF A LIMITED
24 DIVIDEND HOUSING CORPORATION. With respect to every project, the
25 agency shall, pursuant to regulations adopted by it, establish
26 the mortgagor's equity at the time of the making of the final
27 mortgage advance and for purposes of this paragraph, that figure
28 shall remain constant during the life of the agency's mortgage
29 on such project. In the case of a nonprofit mortgagor receiving
30 a mortgage loan in the amount of one hundred per cent of the

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1 total project cost, no distributions shall be permitted.

2 (d) Use of Nondistributed Profits. Whenever a mortgagor
3 accumulates earned surplus in addition to such reserves for
4 replacement as the agency may require, in excess of ten per cent
5 of the current annual rent roll for the project, rents in the
6 project shall be reduced to the extent necessary to lower the
7 earned surplus accumulation to such ten per cent figure in the
8 following fiscal year.

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

17 (f) Nondiscrimination. The agency shall require that
18 occupancy of all housing financed or otherwise assisted under
19 this act be open to all persons regardless of race, national
20 origin, religion, or creed, and that mortgagors, contractors and
21 subcontractors engaged in the construction, rehabilitation, sale
22 or rental of such housing, shall provide equal opportunity for
23 employment without discrimination as to race, national origin,
24 religion or creed.

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

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

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

19 Section 403-A. Rental Charges.--In order to encourage
20 developments which are not economically homogeneous and to
21 achieve rent charges which will make units available to persons
22 and families of low income at low rentals and moderate income at
23 moderate rentals the agency and a mortgagor may use measures
24 including, but not limited to: direct rental assistance in the
25 form of partial rent subsidy from any county, municipal,
26 Commonwealth or Federal source, allocation of lower rents, and
27 the raising of rents in the majority of apartments in the
28 project in order to lower the rents of those in the lower rent
29 charge category. With respect to each project the agency shall,
30 prior to initial occupancy, allocate and prescribe the number of

1 lower rental units and the rents to be charged therefor. The
2 allocation may be reviewed and adjusted from time to time. The
3 method of achieving lower rental charges shall, in each
4 instance, be prescribed by the agency.

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

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

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

16 ARTICLE V.-A

17 Bonds and Notes

18 Section 501-A. Issuance of Bonds and Notes.--(a) The agency
19 shall have the power and is hereby authorized from time to time
20 to issue its negotiable bonds, either as serial bonds maturing
21 in annual installments or as term bonds, or any combination
22 thereof, and notes in such principal amount as, in the opinion
23 of the agency, shall be necessary to provide sufficient funds
24 for achieving its corporate purposes, including the housing
25 programs established in Articles III-A and IV-A, the payment of
26 interest on bonds and notes of the agency, establishment of
27 reserves to secure such bonds and notes, and all other
28 expenditures of the agency incident to and necessary or
29 convenient to carry out its corporate purposes and powers. The
30 agency shall have power, from time to time, to issue renewal

1 notes, to issue bonds to pay notes and whenever it deems
2 refunding expedient to refund any bonds by the issuance of new
3 bonds, whether the bonds to be refunded have or have not
4 matured, and to issue bonds partly to refund bonds then
5 outstanding and partly for any other purpose. The refunding
6 bonds shall be sold and the proceeds applied to the purchase,
7 redemption or payment of the bonds to be refunded.

8 (b) The notes and bonds shall be authorized by resolution of
9 the members, shall bear such date or dates, and shall mature at
10 such time or times, in the case of any such note, or any
11 renewals thereof, not exceeding five years from the date of
12 issue of such original note, and in the case of any such bond
13 not exceeding fifty years from the date of issue, as such
14 resolution or resolutions may provide. The notes and bonds shall
15 bear interest at such rate or rates, be in such denominations,
16 be in such form, either coupon or registered, carry such
17 registration privileges, contain such terms and provisions
18 relating to, but not limited to, pledges of the agency's assets,
19 setting aside of reserves, limitations on additional notes and
20 bonds, and such other matters as may affect the security or
21 protection of the notes and bonds, be executed in such manner,
22 be payable in such medium of payment, at such place or places
23 and be subject to such terms of redemption as such resolution or
24 resolutions may provide. The notes and bonds of the agency may
25 be sold at public or private sale, at such price or prices as
26 the agency shall determine.

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

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

11 Section 502-A. Credit of Commonwealth or Any Subdivision
12 Thereof Not Pledged.--Except as may otherwise be expressly
13 provided by the agency, its bonds and notes shall be general
14 obligations of the agency payable out of any moneys or revenues
15 of the agency, including the proceeds of mortgage loans made
16 under this act, reserve funds created therefor by the agency,
17 any mortgage insurance contracts pertaining thereto and other
18 lawfully available money, subject only to any agreements with
19 holders of the bonds or notes pledging any receipts or revenues.
20 Bonds and notes issued under the provisions of this act shall
21 not be deemed to constitute a debt of the Commonwealth or of any
22 political subdivision thereof or a pledge of the faith and
23 credit of the Commonwealth or of any such political subdivision.
24 All such bonds and notes shall contain on the face thereof a
25 statement to the effect that neither the agency nor the
26 Commonwealth nor any political subdivision thereof shall be
27 obligated to pay the same or the interest thereon except from
28 such proceeds, reserve fund or mortgage insurance contracts and
29 that neither the faith and credit nor the taxing power of the
30 Commonwealth or any political subdivision thereof is pledged to

1 the payment of the principal of or the interest on such bonds.

2 Section 503-A. General Fund.--(a) The agency shall create
3 and establish a general fund, herein referred to as the "General
4 Fund," and shall pay into such General Fund any moneys
5 appropriated and made available by the Commonwealth for the
6 purposes of such General Fund, and any other moneys which may be
7 available to the agency for its general purposes from any source
8 or sources other than proceeds from the issuance and sale of
9 notes or bonds by the agency.

10 Section 504-A. Capital Reserve Fund.--(a) The agency shall
11 create and establish a separate special fund, herein referred to
12 as the "Capital Reserve Fund," and shall pay into such Capital
13 Reserve Fund any moneys appropriated and made available by the
14 Commonwealth for the purposes of such fund, any proceeds of sale
15 of notes or bonds to the extent provided in the resolution of
16 the agency authorizing issuance thereof, and any other moneys
17 which may be available to the agency for the purpose of such
18 fund from any other source or sources. All moneys held in the
19 Capital Reserve Fund, except as hereinafter provided, shall be
20 used solely for the payment of the principal of bonds of the
21 agency as the same mature, required payments to any sinking fund
22 established for the amortization of term bonds (hereinafter
23 referred to as "sinking fund payments"), the purchase of bonds
24 of the agency, the payment of interest on such bonds of the
25 agency or the payment of any redemption premium required to be
26 paid when such bonds are redeemed prior to maturity: Provided,
27 however, That moneys in such fund shall not be withdrawn
28 therefrom at any time in such amount as would reduce the amount
29 of such fund to less than the maximum amount of principal and
30 interest maturing and becoming due and sinking fund payments

1 required to be made in any succeeding calendar year on all bonds
2 of the agency then outstanding, except for the purpose of paying
3 the principal, interest and sinking fund payments becoming due
4 on such bonds of the agency maturing and becoming due and for
5 the payment of which other moneys of the agency are not
6 available. For the purpose of this subdivision, in computing the
7 maximum amount of principal maturing in any succeeding calendar
8 year, the principal amount of any term bonds which are to be
9 authorized by sinking fund payments shall not be included in the
10 computation. Any income or interest earned by, or increment to,
11 the Capital Reserve Fund due to the investment thereof may be
12 transferred to the General Fund or any other fund of the agency
13 to the extent it does not reduce the amount in such Capital
14 Reserve Fund below the maximum amount of principal and interest
15 maturing and becoming due and sinking fund payments required to
16 be made in any succeeding calendar year on all bonds of the
17 agency then outstanding and secured by such Capital Reserve
18 Fund.

19 (b) The agency shall not issue bonds at any time if the
20 maximum amount of principal and interest maturing and becoming
21 due and sinking fund payments required to be made in a
22 succeeding calendar year on such bonds then to be issued and on
23 all other bonds of the agency then outstanding will exceed the
24 amount of the Capital Reserve Fund at the time of issuance
25 unless the agency, at the time of issuance of such bonds, shall
26 deposit in such fund from the proceeds of the bonds so to be
27 issued, or otherwise, an amount which together with the amount
28 then in such fund, will be not less than the maximum amount of
29 principal and interest maturing and becoming due and sinking
30 fund payments required to be made in any succeeding calendar

1 year on such bonds then to be issued and on all bonds of the
2 agency then outstanding.

3 (c) To assure the continued operation and solvency of the
4 agency for the carrying out of the public purposes of this act,
5 provision is made in subsection (a) for the accumulation in the
6 Capital Reserve Fund of an amount equal to the maximum amount of
7 principal and interest maturing and becoming due and sinking
8 fund payments required to be made in any succeeding calendar
9 year on all bonds of the agency then outstanding. In order
10 further to assure such maintenance of the Capital Reserve Fund
11 the agency, at least thirty days before the beginning of each
12 legislative session, shall submit to the Governor and General
13 Assembly an estimate of any funds expected to be necessary
14 during the following year to make up any deficiencies in the
15 Capital Reserve Fund or otherwise to avoid default in the
16 payment of interest or principal upon bonds or notes issued by
17 the agency, or in sinking fund payments required to be made, and
18 the Governor shall cause the amount of such deficiency, if any,
19 to be placed in the budget of the Commonwealth for the next
20 succeeding fiscal year, so that the General Assembly shall be
21 enabled to provide appropriation sufficient to make up any such
22 deficiency or otherwise to avoid any default. Such amount
23 appropriated, if any, shall be repaid to the Commonwealth as
24 soon as possible by the agency from moneys in the General Fund
25 in excess of the amount required to make and keep the agency
26 self-supporting.

27 (d) In computing the amount of the Capital Reserve Fund for
28 the purposes of this section, securities in which all or a
29 portion of such fund are invested shall be valued at par, or if
30 purchased at less than par, at their cost to the agency.

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

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

25 Section 506-A. Bonds and Notes Tax Exempt.--The creation of
26 the agency is in all respects for the benefit of the people of
27 the Commonwealth and for the improvement of their health,
28 safety, welfare, comfort and security, and its purposes are
29 public purposes and the agency will be performing an essential
30 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.

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.

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

1 obligations, together with interest thereon, with interest on
2 any unpaid installments of interest, and all costs and expenses
3 in connection with any action or proceedings by or in behalf of
4 such holders, are fully met and discharged or provided for. The
5 agency may include this pledge and agreement of the Commonwealth
6 in any agreement with the holders of bonds, bond anticipation
7 notes and other obligations issued by the agency.

8 ARTICLE VI.-A

9 Liberal Construction, Fraud Penalty and Effective Date

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

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

25 Section 603-A. Effective Date; Proclamation.--This act shall
26 become effective when the Governor by proclamation declares that
27 sufficient funds are available to administer this act. For the
28 purposes of this determination and then thereafter, in addition
29 to any appropriations as are made to the agency, the
30 Commonwealth is authorized to accept for the account of the

1 agency grants-in-aid, donations and gifts of every manner and
2 type from the Federal Government or from any other private or
3 public corporation or person. Upon such declaration, such funds
4 as have been collected shall immediately be paid to the
5 treasurer of the agency, or if a treasurer has not been
6 appointed, to such other person as the Governor may designate as
7 acting treasurer.