

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILLNo. 2344 Session of
1992

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JANUARY 28, 1992

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
OCTOBER 5, 1992

AN ACT

1 Amending the act of December 3, 1959 (P.L.1688, No.621),
2 entitled, as amended, "An act to promote the health, safety
3 and welfare of the people of the Commonwealth by broadening
4 the market for housing for persons and families of low and
5 moderate income and alleviating shortages thereof, and by
6 assisting in the provision of housing for elderly persons
7 through the creation of the Pennsylvania Housing Finance
8 Agency as a public corporation and government
9 instrumentality; providing for the organization, membership
10 and administration of the agency, prescribing its general
11 powers and duties and the manner in which its funds are kept
12 and audited, empowering the agency to make housing loans to
13 qualified mortgagors upon the security of insured and
14 uninsured mortgages, defining qualified mortgagors and
15 providing for priorities among tenants in certain instances,
16 prescribing interest rates and other terms of housing loans,
17 permitting the agency to acquire real or personal property,
18 permitting the agency to make agreements with financial
19 institutions and Federal agencies, providing for the purchase
20 by persons of low and moderate income of housing units, and
21 approving the sale of housing units, permitting the agency to
22 sell housing loans, providing for the promulgation of
23 regulations and forms by the agency, prescribing penalties
24 for furnishing false information, empowering the agency to
25 borrow money upon its own credit by the issuance and sale of
26 bonds and notes and by giving security therefor, permitting
27 the refunding, redemption and purchase of such obligations by
28 the agency, prescribing remedies of holders of such bonds and
29 notes, exempting bonds and notes of the agency, the income
30 therefrom, and the income and revenues of the agency from
31 taxation, except transfer, death and gift taxes; making such

1 bonds and notes legal investments for certain purposes; and
2 indicating how the act shall become effective," further
3 providing for ~~the membership of the agency and the powers of~~ <—
4 the agency, for use of nondistributed profits, for
5 nondiscrimination, for making and purchasing loans and
6 mortgages, for allocation of loans, for qualified bonds and
7 notes and for eligibility; further providing for the
8 Homeowners' Emergency Mortgage Assistance Program; and
9 repealing certain provisions relating to expiration of act.

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

12 Section 1. Section 102(7) of the act of December 3, 1959
13 (P.L.1688, No.621), known as the Housing Finance Agency Law,
14 amended December 5, 1972 (P.L.1259, No.282), is amended to read:

15 Section 102. Findings and Declaration of Policy.--It is
16 hereby determined and declared as a matter of legislative
17 finding that--

18 * * *

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

1 mortgages to corporations, individuals, joint ventures,
2 partnerships, limited partnerships, trusts, cooperatives and
3 condominiums, which are unable to obtain such financing in the
4 general market or who are unable to participate in specialized
5 Federal housing programs because of lack of available Federal
6 funds, and through cooperation with and assistance to the
7 Pennsylvania Department of Community Affairs as such department
8 carries into effect the powers and duties vested in it, thus
9 improving and stimulating the distribution of investment capital
10 for housing and neighborhood revitalization projects. Such
11 purposes are public purposes for which public money may be
12 spent.

13 ~~Section 2. Section 202 of the act, amended December 16, 1986~~ <—
14 ~~(P.L.1666, No.189), is amended to read:~~

15 ~~Section 202. Agency Membership. The members of the agency~~
16 ~~shall be the Secretary of Community Affairs, the State~~
17 ~~Treasurer, the Secretary of Commerce and the Secretary of~~
18 ~~Banking, and the respective successors in office of each of them~~
19 ~~[and six], one member appointed by the Majority Leader of the~~
20 ~~Senate, one member appointed by the Minority Leader of the~~
21 ~~Senate, one member appointed by the Majority Leader of the House~~
22 ~~of Representatives, one member appointed by the Minority Leader~~
23 ~~of the House of Representatives and three additional members~~
24 ~~whom the Governor shall appoint. One of the members of the~~
25 ~~agency appointed by the Governor [with the advice and consent of~~
26 ~~the Senate] shall be a representative of a community based~~
27 ~~nonprofit group which assists low income and moderate income~~
28 ~~individuals in housing matters and one shall be a builder or a~~
29 ~~representative of a Statewide builders organization. Annually at~~
30 ~~the first meeting held during the calendar year, the members~~

1 ~~shall elect one of the members to serve as chairperson. [The~~
2 ~~members initially appointed shall serve for terms of one, two,~~
3 ~~three, four, five and six years, respectively, the particular~~
4 ~~term of each to be designated by the Governor at the time of~~
5 ~~appointment.] The terms of all their successors shall be six~~
6 ~~years each, except that any person appointed to fill a vacancy~~
7 ~~shall serve only for the unexpired term. [Every member's term~~
8 ~~shall extend until his successor is appointed and qualified.]~~
9 ~~Any appointment made by the Governor of a member of the agency~~
10 ~~made hereafter shall be subject to the advice and consent of a~~
11 ~~majority of all the members of the Senate. Any appointed member~~
12 ~~of the agency shall be eligible for reappointment. The members~~
13 ~~of the agency shall not receive compensation for their services~~
14 ~~as members, but shall receive reimbursement for all necessary~~
15 ~~expenses incurred in connection with the performance of their~~
16 ~~duties as members. A member who fails to attend meetings for~~
17 ~~three consecutive months shall forfeit his seat unless the~~
18 ~~chairperson of the agency, upon written request from the member,~~
19 ~~finds that the member should be excused from a meeting because~~
20 ~~of illness or the death of an immediate family member. Members~~
21 ~~appointed by the Majority Leader and the Minority Leader of the~~
22 ~~Senate and the Majority Leader and the Minority Leader of the~~
23 ~~House of Representatives shall serve at the pleasure of the~~
24 ~~appointing authority.~~

25 Section 3 2. Section 205(7) of the act, amended December 5, <—
26 1972 (P.L.1259, No.282), is amended and the section is amended
27 by adding clauses to read:

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

30 * * *

(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.

* * *

(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.

(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.

Section 4 3. Section 207 of the act is amended to read: <—

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.

Section 5 4. Section 402-A(d) and (f) of the act, added <—

1 December 5, 1972 (P.L.1259, No.282), are amended to read:

2 Section 402-A. Mortgage Loans.--* * *

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

10 * * *

11 (f) Nondiscrimination. The agency shall require that
12 occupancy of all housing financed or otherwise assisted under
13 this act be open to all persons regardless of race, national
14 origin, religion, gender, handicap or disability, familial
15 status or creed, subject only to such exceptions allowable by
16 law, and that mortgagors, contractors and subcontractors engaged
17 in the construction, rehabilitation, sale or rental of such
18 housing, shall provide equal opportunity for employment without
19 discrimination as to race, national origin, religion, gender,
20 handicap or disability, familial status or creed, subject only
21 to such exceptions allowable by law.

22 * * *

23 Section ~~6~~ 5. Sections 401-B and 402-B of the act, added <—
24 December 31, 1981 (P.L.594, No.176), are amended to read:

25 Section 401-B. General Statement.--The agency is hereby
26 authorized to make or purchase loans or mortgages by contract
27 with lending institutions to finance the purchase, construction,
28 improvement or rehabilitation of owner-occupied single-family
29 residences pursuant to the provisions of the Mortgage Subsidy
30 Bond Tax Act of 1980 (Public Law 96-499) or any Federal tax

1 legislation or program which may be a successor to the act or
2 which may be similar to the act. The agency may acquire, and
3 contract and enter into advance commitments to acquire by
4 assignment or otherwise, loans secured by insurance or by
5 mortgages owned by lending institutions or participations
6 therein at such purchase price and upon such other terms as the
7 agency shall determine. The agency may make and execute
8 contracts with lending institutions for the origination and
9 servicing of such loans and pay the value of services rendered
10 under such contracts.

11 Section 402-B. Allocation of Loans.--[(a) The agency shall
12 geographically allocate the proceeds of any qualified mortgage
13 bond issue, authorized by section 501-A.1, in the following
14 manner:

15 (1) Fifty (50) percent of the proceeds shall be allocated
16 among municipalities, except for municipalities electing local
17 issuance pursuant to section 501-A.1, in a manner reasonably
18 proportional to the distribution of the population of housing
19 units.

20 (2) Fifty (50) percent of the proceeds shall be allocated
21 among municipalities, except for municipalities electing local
22 issuance pursuant to section 501-A.1, in a manner reasonably
23 proportional to the distribution of the market value of
24 residential property.

25 (3) Municipalities to which proceeds shall be allocated
26 include counties, groups of counties, and cities of fifty
27 thousand (50,000) or greater population.

28 (4) Municipalities electing local issuance pursuant to
29 section 501-A.1, shall be allocated a portion of the State
30 ceiling for aggregate annual issuance, determined pursuant to

1 the Mortgage Subsidy Bond Tax Act of 1980, equivalent to the
2 portion of the proceeds of any qualified mortgage bond issue
3 which would be allocated to such municipalities, under this
4 section, if they did not elect local issuance: Provided, That
5 any municipality which issued mortgage subsidy bonds prior to
6 January 1, 1981 shall be allocated a portion of the State
7 ceiling in an amount as described herein, or in an amount at
8 least equal to the average yearly amount of mortgage subsidy
9 bonds issued in the municipality during the three (3) years
10 immediately prior to the enactment of this act, whichever is
11 greater. The annual ceilings for municipalities electing local
12 issuance shall be recommended by the agency and proclaimed by
13 the Governor which allocations may be amended from time to time.

14 (5) If six (6) months following issuance of any qualified
15 mortgage bonds, the agency determines that it cannot distribute
16 the proceeds in the manner set forth in this subsection, the
17 agency may reallocate the proceeds in a manner designed to meet
18 State housing policy objectives.

19 (6) If six (6) months after the amount allocation the agency
20 determines a reallocation would better achieve State housing
21 policy objectives, the agency may recommend and the Governor may
22 proclaim an amended allocation plan.

23 (b) The agency shall annually, by resolution adopted by the
24 board, allocate the aggregate borrowing authority assigned to
25 the agency pursuant to the Mortgage Subsidy Bond Tax Act of
26 1980, into the following categories of loans:

27 (1) Sixty (60) percent of the allocation shall be used to
28 purchase mortgages for newly constructed homes and existing
29 homes.

30 (2) Thirty-five (35) percent of the allocation shall be used

1 to purchase mortgages to rehabilitate residences or for home
2 improvement loans which qualify for FHA Title I insurance or
3 successor programs or for home improvement loans which are
4 authorized to be made by Pennsylvania regulated financial
5 institutions.

6 (3) Five (5) percent of the allocation shall be used for
7 home energy efficiency improvement loans which qualify for FHA
8 Title I insurance or successor programs including, but not
9 limited to, solar hot water heating and home weatherization. The
10 distribution of proceeds into these categories need not be made
11 separately for each municipality allocated loans pursuant to
12 this section.

13 (c) The agency shall develop appropriate standards and
14 procedures to ensure that all loans made with the proceeds of
15 any qualified mortgage bond issued by the agency are made in a
16 manner which encourages community conservation and promotes
17 local land use planning objectives.

18 (d) The agency shall develop appropriate standards and
19 procedures to implement the targeted area requirements of the
20 Mortgage Subsidy Bond Tax Act of 1980.

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

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

1 (g) The agency and any municipality electing local issuance
2 shall contract with lending institutions to make loans with the
3 proceeds of qualified mortgage bonds. The agency and any
4 municipality electing local issuance may acquire and contract
5 and enter into advance commitments to acquire by assignment or
6 otherwise, loans secured by insurance or by mortgages made or
7 owned by lending institutions or participations therein. The
8 agency and any municipality electing local issuance shall make
9 and execute contracts with lending institutions for the
10 origination and servicing of such loans and pay the value of
11 services rendered under such contracts.] (a) The agency shall
12 geographically allocate the proceeds of any qualified mortgage
13 bond issue in accordance with rules and regulations promulgated
14 by the agency. Such rules shall be designed to encourage maximum
15 use and equitable distribution of proceeds of bond issues
16 throughout this Commonwealth.

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

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

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

30 (e) The agency and any municipality engaging in local

1 issuance, as authorized by section 501-A, may contract with
2 lending institutions to make loans with the proceeds of
3 qualified mortgage bonds. The agency and any municipality
4 electing local issuance may acquire and contract and enter into
5 advance commitments to acquire by assignment or otherwise, loans
6 secured by insurance or by mortgages made or owned by lending
7 institutions or participations therein. The agency and any
8 municipality electing local issuance may make and execute
9 contracts with lending institutions for the origination and
10 servicing of such loans and pay the value of services rendered
11 under such contracts.

12 Section 7 6. Section 401-C(a) of the act, amended May 31, <—
13 1984 (P.L.364, No.73), is amended by adding a clause to read:

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

27 * * *

28 (5) The mortgagor is more than thirty-six (36) months
29 delinquent or in default for more than thirty-six (36) months,
30 pursuant to the terms of mortgagor's residential mortgage. This

1 requirement shall mean that if the mortgagor is more than
2 thirty-six (36) consecutive or nonconsecutive months in arrears
3 on the residential mortgage in question, no matter what the
4 reason therefor, the agency shall not be authorized to make any
5 loans hereunder to such mortgagor.

6 * * *

7 Section 7. Section 403-C of the act is amended by adding a <—
8 subsection to read:

9 Section 403-C. Notice Requirements.--* * *

10 (f) Notwithstanding any other provisions of this section, a
11 mortgagee shall not be required to send the uniform notice
12 provided in subsection (b) to any mortgagor who is more than
13 thirty-six (36) months delinquent or in default for more than
14 thirty-six (36) months, pursuant to the terms of mortgagor's
15 residential mortgage with mortgagee. This requirement shall mean
16 that if the mortgagor is more than thirty-six (36) consecutive
17 or nonconsecutive months in arrears on the residential mortgage
18 in question, no matter what the reason therefor, he shall be
19 ineligible to receive the notice in subsection (b).

20 Section 8. Section 404-C(b) of the act, amended or added <—
21 December 23, 1983 (P.L.385, No.91) and May 31, 1984 (P.L.364,
22 No.73), is amended and subsection (a) is amended by adding a
23 clause to read:

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

27 * * *

28 (12) The mortgagor is not more than thirty-six (36) months
29 delinquent or in default for more than thirty-six (36) months
30 pursuant to the terms of mortgagor's residential mortgage. This

1 requirement shall mean that if the mortgagor is more than
2 thirty-six (36) consecutive or nonconsecutive months in arrears
3 on the residential mortgage in question, no matter what the
4 reason therefor, he shall be ineligible for assistance.

5 (b) Upon a determination that the conditions of eligibility
6 described in subsection (a) have been met by a mortgagor and
7 money is available in the Homeowner's Emergency Mortgage
8 Assistance Fund, the mortgagor shall become eligible for the
9 assistance described in section 405-C. If the agency determines
10 that a mortgagor has not met the conditions of eligibility
11 described in subsection (a), the mortgagor shall be prohibited
12 from reapplying for assistance under this article for a period
13 of [six (6)] twenty-four (24) months from the date of such
14 determination unless there is a material change in
15 circumstances: Provided, however, That nothing in this
16 subsection shall prohibit any mortgagee from commencing legal
17 action to enforce the mortgage without any further restriction
18 or requirement under this article whenever the agency determines
19 that the mortgagor is ineligible for assistance as provided in
20 this section.

21 Section ~~10~~ 9. Section 411-C of the act is repealed. <—

22 Section ~~11~~ 10. Section 501-A.1 of the act, added December <—
23 31, 1981 (P.L.594, No.176), is amended to read:

24 Section 501-A.1. Qualified [Mortgage] Housing Bonds.--(a)
25 The agency shall have the power and is hereby authorized from
26 time to time by resolution of the members, and subject to the
27 written approval by the Governor, to issue qualified [mortgage]
28 housing bonds and notes, pursuant to the Mortgage Subsidy Bond
29 Tax Act of 1980, and subsequent amendments, or any Federal tax
30 legislation or program which authorizes Federal tax exemption

1 for bonds issued to provide housing. The agency may issue such
2 bonds or notes in such principal amounts, as [is] permitted by
3 Federal law and the act of December 20, 1985 (P.L.483, No.113),
4 known as the "Tax-Exempt Bond Allocation Act," and [is] as are
5 in the opinion of the agency, necessary to provide sufficient
6 funds for the Owner Occupied Residential Mortgage Program
7 authorized by Article IV.-B and the Rental Housing Program
8 authorized by Article IV.-A. These bonds and notes shall be
9 issued, to the extent permitted by [the Mortgage Subsidy Bond
10 Tax Act of 1980] Federal law, in conformity with all other
11 provisions of Article V.-A.

12 (b) In determining the limitation on the aggregate amount of
13 qualified [mortgage] housing bonds issued during any calendar
14 year, [as provided by section 103(g) of the Mortgage Subsidy
15 Bond Tax Act of 1980] which are eligible for exemption from
16 Federal taxation under Federal law, the total State ceiling
17 shall be completely allocated to the agency for its programs
18 under Article IV.-B, except for amounts allocated to
19 municipalities electing local issuance.

20 (c) [Mortgage] Qualified housing bonds may be locally issued
21 by election of any of the following entities [upon notification
22 to the agency] which may apply to the agency for the allocation
23 of local authority for the purpose of issuing housing bonds
24 subject to annual volume cap:

25 (1) Cities of the first, second and second class A and
26 cities of the third class with a population of fifty thousand
27 (50,000) or greater.

28 (2) Counties of the second class.

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

1 bonds.

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

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

27 ~~Section 12. The reduction in the number of appointments to~~ <—
28 ~~the Pennsylvania Housing Finance Agency by the Governor shall be~~
29 ~~accomplished as follows:~~

30 ~~(1) Any position which would be filled by an appointment~~

1 ~~of the Governor which is vacant on the effective date of this~~
2 ~~act is hereby abolished.~~

3 ~~(2) Any position which would be filled by an appointment~~
4 ~~of the Governor which on the effective date of this act is~~
5 ~~occupied by a person serving until a successor is appointed~~
6 ~~is hereby abolished.~~

7 Section ~~13~~ 11. This act shall take effect immediately.

<—