S T A T E O F N E W Y O R K

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I N A S S E M B L Y

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Introduced by M. of A. BRENNAN, ORTIZ, PHEFFER, ROSENTHAL, MILLMAN -- Multi-Sponsored by -- M. of A. COLTON, GOTTFRIED, HOOPER, JACOBS, McENENY, NOLAN -- read once and referred to the Committee on Energy

AN ACT to amend the public authorities law, in relation to cogeneration among companies organized pursuant to the private housing finance law

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 1005 of the public authorities law is amended by adding a new subdivision 10-b to read as follows:

10-B. A. TO COOPERATE WITH AND, WHERE THE TRUSTEES DEEM IT FEASIBLE AND ADVISABLE, ENTER INTO CONTRACTS WITH ANY MUTUAL COMPANY, MUTUAL HOUSING COMPANY, OR MUTUAL REDEVELOPMENT COMPANY, AS DEFINED IN SUBDIVISION FOURTEEN-A OF SECTION TWO OF THE PRIVATE HOUSING FINANCE LAW, OR ANY NON-PROFIT COMPANY ORGANIZED PURSUANT TO ARTICLE TWO OF THE PRIVATE HOUSING FINANCE LAW AND THE NOT-FOR-PROFIT CORPORATION LAW, TO CONSTRUCT, IMPROVE, REHABILITATE, FINANCE, LEASE, OWN AND/OR OPERATE A COGENERATION FACILITY AS DEFINED IN SUBDIVISION TWO-A OF SECTION TWO OF THE PUBLIC SERVICE LAW, EXCEPT THAT IN NO EVENT MAY THE AUTHORITY OWN TITLE TO MORE THAN FIFTY PERCENT OF SUCH A FACILITY, AND IN NO EVENT SHALL THE AUTHORITY FINANCE MORE THAN NINETY-FIVE PERCENT OF THE TOTAL COST OF THE COGENERATION FACILITY. THE AUTHORITY AND THE COMPANY MAY FURTHER CONTRACT FOR THE DISPOSITION OF THE ELECTRIC AND THERMAL OUTPUT OF SUCH FACILITY. THE AUTHORITY MAY LEND THE PROCEEDS OF ANY NOTES OR BONDS ISSUED FOR THE PURPOSES OF THIS SUBDIVISION, IN EXCESS OF ITS OWNERSHIP INTEREST IN THE COGENERATION FACILITY, TO SUCH COMPANY, AND TAKE A SECURITY INTEREST IN ANY STRUCTURES AND EQUIPMENT, AND THE OUTPUT THEREFROM, OF THE COGENERATION FACILITY. IN NO EVENT SHALL THE LIEN OF SUCH A SECURITY INTEREST TAKE PRIORITY OVER THE LIEN OF ANY MORTGAGE UPON THE REAL PROPERTY OF SUCH COMPANY.

B. THE AUTHORITY IS FURTHER AUTHORIZED AND DIRECTED, WHERE THE TRUSTEES DEEM IT FEASIBLE AND ADVISABLE AND CONSISTENT WITH THE EXEMPTION

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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FROM TAXATION OF AUTHORITY BONDS PURSUANT TO SECTION ONE HUNDRED THREE OF THE INTERNAL REVENUE CODE, TO CONTRACT WITH ANY OTHER LIMITED PROFIT HOUSING COMPANY ORGANIZED PURSUANT TO ARTICLE TWO OF THE PRIVATE HOUSING FINANCE LAW, ANY LIMITED DIVIDEND HOUSING COMPANY ORGANIZED PURSUANT TO ARTICLE FOUR OF THE PRIVATE HOUSING FINANCE LAW, ANY REDEVELOPMENT COMPANY ORGANIZED PURSUANT TO ARTICLE FIVE OF THE PRIVATE HOUSING FINANCE LAW AND ANY PROJECT ORGANIZED PURSUANT TO THE NEW YORK STATE URBAN DEVELOPMENT CORPORATION ACT IN ORDER TO CONSTRUCT, IMPROVE, REHABILITATE, FINANCE, LEASE, OWN AND/OR OPERATE A COGENERATION FACILITY AS DEFINED IN SUBDIVISION TWO-A OF SECTION TWO OF THE PUBLIC SERVICE LAW, EXCEPT THAT IN NO EVENT MAY THE AUTHORITY OWN TITLE TO MORE THAN FIFTY PERCENT OF SUCH A FACILITY, AND IN NO EVENT SHALL THE AUTHORITY FINANCE MORE THAN NINETY-FIVE PERCENT OF THE TOTAL COST OF THE COGENERATION FACILITY. THE AUTHORITY AND THE COMPANY MAY FURTHER CONTRACT FOR THE DISPOSITION OF THE ELECTRIC AND THERMAL OUTPUT OF SUCH FACILITY. THE AUTHORITY MAY LEND THE PROCEEDS OF ANY NOTES OR BONDS ISSUED FOR THE PURPOSES OF THIS SUBDIVISION, IN EXCESS OF ITS OWNERSHIP INTEREST IN THE COGENERATION FACILITY, TO SUCH COMPANY, AND TAKE A SECURITY INTEREST IN ANY STRUCTURES AND EQUIPMENT, AND THE OUTPUT THEREFROM, OF THE COGENERATION FACILITY. IN NO EVENT SHALL THE LIEN OF SUCH A SECURITY INTEREST TAKE PRIORITY OVER THE LIEN OF ANY MORTGAGE UPON THE REAL PROPERTY OF SUCH COMPANY.

C. THE AUTHORITY MAY COOPERATE WITH AND, WHERE THE TRUSTEES DEEM IT FEASIBLE AND ADVISABLE, ENTER INTO CONTRACTS WITH THE NEW YORK STATE HOUSING FINANCE AGENCY AND/OR THE DIVISION OF HOUSING AND COMMUNITY RENEWAL, WITH RESPECT TO STATE AIDED PROJECTS, AND THE SUPERVISING AGENCY, WITH RESPECT TO MUNICIPALLY AIDED PROJECTS, REGARDING THE PLANNING, SITING, DEVELOPMENT, CONSTRUCTION, OWNERSHIP, LEASING, FINANCING AND OPERATION OF ANY COGENERATION FACILITY BY ANY OF THE COMPANIES DESCRIBED IN PARAGRAPHS A AND B OF THIS SUBDIVISION.

D. THE AUTHORITY IS FURTHER AUTHORIZED AND, WHERE THE TRUSTEES DEEM IT FEASIBLE AND ADVISABLE, DIRECTED TO ENTER INTO CONTRACTS WITH ANY PERSON, PARTNERSHIP, ASSOCIATION OR CORPORATION, TO CONSTRUCT, REHABILITATE, FINANCE, LEASE, OWN AND/OR OPERATE A COGENERATION FACILITY, FOR THE BENEFIT OF ANY COMPANY DESCRIBED IN PARAGRAPHS A AND B OF THIS SUBDIVISION, EXCEPT THAT IN NO CASE SHALL THE AUTHORITY OWN TITLE TO MORE THAN FIFTY PERCENT OF SUCH FACILITY.

E. WHERE THE AUTHORITY AND THE HOUSING COMPANY, OR THE AUTHORITY AND ANY STATE AGENCY DESCRIBED IN PARAGRAPH C OF THIS SUBDIVISION, ENTER INTO CONTRACTUAL ARRANGEMENTS PURSUANT TO PARAGRAPHS A, B, C AND D OF THIS SUBDIVISION, THE AUTHORITY MAY FURTHER CONTRACT TO PROVIDE STANDBY, BREAKDOWN OR SUPPLEMENTAL POWER AND SELL AND/OR PURCHASE EXCESS ELECTRIC ENERGY TO OR FROM SUCH COGENERATION FACILITIES. THE AUTHORITY, THE COMPANY OR ANY PERSON MAY FURTHER CONTRACT TO SELL EXCESS ENERGY OR CAPACITY TO ANY LOCAL UTILITY.

(1) THE RATES TO BE CHARGED THE COGENERATION FACILITY FOR THE PROVISION OF STANDBY, BREAKDOWN OR SUPPLEMENTARY SERVICE SHALL BE:

(I) JUST AND REASONABLE AND IN THE PUBLIC INTEREST; AND

(II) NON-DISCRIMINATORY TOWARD THE COGENERATION FACILITY.

(2) CHARGES FOR ANY TRANSMISSION AND/OR INTERCONNECTION SERVICES PROVIDED BY ANY LOCAL UTILITY SHALL BE APPROVED BY THE AUTHORITY, AND SHALL NOT EXCEED THE TRANSMISSION, DISTRIBUTION AND INTERCONNECTION CHARGES DETERMINED TO BE PROPER FOR SUCH LOCAL UTILITY BY THE PUBLIC SERVICE COMMISSION PURSUANT TO APPLICABLE PROVISIONS OF TITLE SIXTEEN, SECTION 824A-3 OF THE UNITED STATES CODE, SECTION TWO HUNDRED TEN OF THE PUBLIC UTILITY REGULATORY POLICIES ACT OF NINETEEN HUNDRED

SEVENTY-EIGHT, AS IT MAY BE AMENDED FROM TIME TO TIME, AND SECTION SIXTY-SIX-C OF THE PUBLIC SERVICE LAW.

(3) THE RATES TO BE CHARGED BY THE COGENERATION FACILITY FOR THE PURCHASE OF ELECTRIC ENERGY OR CAPACITY OR BOTH, SHALL BE:

(I) JUST AND REASONABLE IN THE PUBLIC INTEREST; AND

(II) NOT IN EXCESS OF THE INCREMENTAL COST TO THE AUTHORITY OF THE ELECTRIC ENERGY WHICH, BUT FOR THE PURCHASE FROM THE COGENERATION FACILITY, THE AUTHORITY WOULD GENERATE OR PURCHASE FROM ANOTHER SOURCE; PLUS

(III) A FAIR AND REASONABLE CHARGE FOR ANY SERVICES PROVIDED BY A LOCAL UTILITY, IN ACCORDANCE WITH SUBPARAGRAPH TWO OF THIS PARAGRAPH.

(4) (I) WHERE ANY LOCAL UTILITY SHALL GIVE TO THE AUTHORITY OR THE HOUSING COMPANY ACTUAL OR CONSTRUCTIVE NOTICE OF ITS REFUSAL TO INTERCONNECT WITH A COGENERATION FACILITY, THE AUTHORITY OR THE HOUSING PROJECT SHALL APPLY TO THE PUBLIC SERVICE COMMISSION FOR ORDERS REQUIRING SUCH INTERCONNECTION PURSUANT TO SECTION SIXTY-SIX-C OF THE PUBLIC SERVICE LAW.

(II) WHERE ANY LOCAL UTILITY SHALL GIVE TO THE AUTHORITY OR THE HOUSING COMPANY ACTUAL OR CONSTRUCTIVE NOTICE OF ITS REFUSAL TO WHEEL ELECTRIC ENERGY BETWEEN THE AUTHORITY AND THE COGENERATION FACILITY, THE AUTHORITY OR THE HOUSING COMPANY SHALL APPLY TO THE PUBLIC SERVICE COMMISSION OR TO THE FEDERAL ENERGY REGULATORY COMMISSION FOR ORDERS REQUIRING WHEELING PURSUANT TO SECTIONS TWO HUNDRED TWO, TWO HUNDRED THREE AND TWO HUNDRED FOUR OF THE PUBLIC UTILITY REGULATORY POLICIES ACT OF NINETEEN HUNDRED SEVENTY-EIGHT, TITLE SIXTEEN, SECTIONS 824I, 824J AND 824K OF THE UNITED STATES CODE, AS THEY MAY BE AMENDED FROM TIME TO TIME.

F. THE AUTHORITY AND THE SUPERVISING AGENCY OF ANY HOUSING COMPANY DESCRIBED IN PARAGRAPHS A AND B OF THIS SUBDIVISION SHALL ANNUALLY DETERMINE THE DIFFERENCE IN COST TO THE HOUSING COMPANY OF THE ELECTRICITY AND THERMAL ENERGY PROVIDED BY THE COGENERATION FACILITY AND THE PURCHASE OF AN EQUIVALENT AMOUNT OF ELECTRICITY AND THERMAL ENERGY. TO THE EXTENT THAT A COGENERATION FACILITY PROVIDES LOWER-COST ENERGY TO THE HOUSING COMPANY, THE AUTHORITY AND THE SUPERVISING AGENCY SHALL REQUIRE THAT TWENTY-FIVE PERCENT OF ANY COST SAVINGS BE APPLIED TO A REDUCTION IN EQUAL PROPORTIONS OF THE SUM TOTAL OF ARREARS OF ANY INDEBTEDNESS SECURED BY A MORTGAGE LIEN UPON THE REAL PROPERTY OF THE HOUSING COMPANY AND ARREARS OF REAL PROPERTY TAXES OF SUCH COMPANY.

S 2. Paragraph (i) of subdivision 6 of section 1010 of the public authorities law, as amended by chapter 552 of the laws of 1962, is amended and seven new paragraphs (j), (k), (l), (m), (n), (o) and (p) are added to read as follows:

(i) defining the acts or omissions to act which shall constitute a default in the duties of the authority to holders of its obligations and providing the rights and remedies of such holders in the event of a default[.];

(J) IN CARRYING OUT THE PURPOSES OF SUBDIVISION TEN-B OF SECTION ONE THOUSAND FIVE OF THIS TITLE, THE AUTHORITY SHALL CREATE A SEPARATE FUND, TO BE KNOWN AS THE HOUSING COGENERATION FACILITIES CAPITAL RESERVE FUND, AND SHALL PAY INTO SUCH FUND (1) ANY MONIES APPROPRIATED BY THE STATE FOR THE PURPOSES OF SUCH FUND, WHICH MONIES SHALL BE TREATED AS ADVANCES TO THE AUTHORITY SUBJECT TO THE APPLICABLE PROVISIONS OF SECTION ONE THOUSAND THIRTEEN OF THIS TITLE, (2) ANY PROCEEDS OF THE SALE OF NOTES OR BONDS FOR THE PURPOSES OF SUBDIVISION TEN-B OF SECTION ONE THOUSAND FIVE OF THIS TITLE, AND (3) ANY OTHER MONIES WHICH MAY BE MADE AVAILABLE TO THE AUTHORITY FOR THE PURPOSE OF SUCH FUND. ALL MONIES HELD IN THE CAPITAL RESERVE FUND SHALL BE USED SOLELY FOR THE PAYMENT OF THE PRINCI-

PAL OF BONDS OF THE AUTHORITY AS THE SAME MATURE, REQUIRED PAYMENTS TO ANY SINKING FUND ESTABLISHED IN A RESOLUTION OF THE AUTHORITY FOR THE AMORTIZATION OF TERM BONDS, THE PURCHASE OR REDEMPTION OF BONDS OF THE AUTHORITY AND THE PAYMENT OF INTEREST ON SUCH BONDS OF THE AUTHORITY OR THE PAYMENT OF ANY REDEMPTION PREMIUM REQUIRED TO BE PAID WHEN SUCH BONDS ARE REDEEMED PRIOR TO MATURITY; PROVIDED, HOWEVER, THAT MONIES IN SUCH FUNDS SHALL NOT BE WITHDRAWN THEREFROM AT ANY TIME IN SUCH AMOUNT AS WOULD REDUCE THE AMOUNT OF SUCH FUND TO LESS THAN THE MAXIMUM AMOUNT OF PRINCIPAL AND INTEREST MATURING AND BECOMING DUE AND SINKING FUND PAYMENTS REQUIRED TO BE MADE IN ANY SUCCEEDING CALENDAR YEAR ON ALL BONDS OF THE AUTHORITY THEN OUTSTANDING. IN COMPUTING THE MAXIMUM AMOUNT OF PRINCIPAL MATURING AT A SINGLE FUTURE DATE IN ANY SUCCEEDING CALENDAR YEAR FOR THE PURPOSES OF THIS SUBDIVISION, THE PRINCIPAL AMOUNT OF ANY SUCH TERM BONDS WHICH ARE SUBJECT TO MANDATORY REDEMPTION BY SINKING FUND PAYMENTS PRIOR TO SUCH FUTURE DATE SHALL NOT BE INCLUDED IN SUCH COMPUTATION. ANY INCOME OR INTEREST EARNED BY, OR INCREMENT TO, THE CAPITAL RESERVE FUND CREATED PURSUANT TO THIS PARAGRAPH DUE TO THE INVESTMENT THEREOF MAY BE TRANSFERRED BY THE AUTHORITY TO THE GENERAL RESERVE FUND TO THE EXTENT IT DOES NOT REDUCE THE AMOUNT OF SUCH CAPITAL RESERVE FUND BELOW THE MAXIMUM AMOUNT OF PRINCIPAL AND INTEREST MATURING AND BECOMING DUE AND SINKING FUND PAYMENTS REQUIRED TO BE MADE IN ANY SUCCEEDING CALENDAR YEAR ON ALL SUCH BONDS OF THE AUTHORITY;

(K) THE AUTHORITY SHALL NOT ISSUE BONDS SECURED BY THE HOUSING COGENERATION FACILITIES CAPITAL RESERVE FUND AT ANY TIME IF THE MAXIMUM AMOUNT OF PRINCIPAL AND INTEREST MATURING AND BECOMING DUE AND SINKING FUND PAYMENTS REQUIRED TO BE MADE IN A SUCCEEDING CALENDAR YEAR ON SUCH BONDS THEN TO BE ISSUED AND ON ALL OTHER BONDS ISSUED FOR THE PURPOSES DESCRIBED IN SUBDIVISION TEN-B OF SECTION ONE THOUSAND FIVE OF THIS TITLE WILL EXCEED THE AMOUNT OF THE CAPITAL RESERVE FUND AT THE TIME OF ISSUANCE UNLESS THE AUTHORITY, AT THE TIME OF ISSUANCE OF SUCH BONDS, SHALL DEPOSIT IN SUCH FUND FROM THE PROCEEDS OF THE BONDS SO TO BE ISSUED, OR OTHERWISE, AN AMOUNT WHICH, TOGETHER WITH THE AMOUNT THEN IN SUCH FUND, WILL BE NOT LESS THAN THE MAXIMUM AMOUNT OF PRINCIPAL AND INTEREST MATURING AND BECOMING DUE AND SINKING FUND PAYMENTS REQUIRED TO BE MADE IN ANY SUCCEEDING CALENDAR YEAR ON SUCH BONDS THEN TO BE ISSUED AND ON ALL OTHER BONDS ISSUED FOR THE PURPOSES OF SUBDIVISION TEN-B OF SECTION ONE THOUSAND FIVE OF THIS TITLE THEN OUTSTANDING;

(L) THE AUTHORITY SHALL NOT ISSUE ANY NOTES OR BONDS PURSUANT TO ANY OF THE PURPOSES OF THIS SECTION, UNLESS, IN THE BEST JUDGMENT OF THE AUTHORITY, THE COST OF ANY COGENERATION FACILITY PROJECT SHALL BE RECOVERED WITHIN TEN YEARS;

(M) THE AUTHORITY SHALL NOT ISSUE BONDS AND NOTES SECURED BY THE HOUSING COGENERATION FACILITIES CAPITAL RESERVE FUND IN AN AGGREGATE PRINCIPAL AMOUNT EXCEEDING ONE HUNDRED MILLION DOLLARS, EXCLUDING BONDS AND NOTES ISSUED TO REFUND OUTSTANDING BONDS AND NOTES;

(N) THE AUTHORITY SHALL ANNUALLY, BUT NO LATER THAN DECEMBER FIRST OF EACH YEAR, MAKE AND DELIVER TO THE GOVERNOR, THE DIRECTOR OF THE BUDGET AND THE NEW YORK STATE PUBLIC AUTHORITIES CONTROL BOARD ITS CERTIFICATE OF THE PRINCIPAL AMOUNT OF BONDS AND NOTES ISSUED IN THE FISCAL YEAR JUST ENDED AND THE TOTAL AGGREGATE PRINCIPAL AMOUNT OF BONDS AND NOTES OUTSTANDING ISSUED FOR SUCH PURPOSES. THE GOVERNOR, IN CONSULTATION WITH THE AUTHORITY AND THE STATE DIVISION OF HOUSING AND COMMUNITY RENEWAL, SHALL SET FORTH, IN THE BUDGET SUBMITTED ANNUALLY BY THE GOVERNOR TO THE LEGISLATURE, A STATEMENT OF SUCH PROPOSED APPROPRIATIONS TO THE HOUSING COGENERATION FACILITIES RESERVE FUND AS MAY BE NECESSARY TO ASSURE THE

CONTINUED SOLVENCY AND OPERATIONS OF THE AUTHORITY FOR THE PUBLIC PURPOSES OF SUCH FUND;

(O) ANY BONDS OR NOTES OF THE AUTHORITY ISSUED FOR THE PURPOSES OF SUBDIVISION TEN-B OF SECTION ONE THOUSAND FIVE OF THIS TITLE SHALL BE SUBJECT TO THE APPROVAL OF THE NEW YORK STATE PUBLIC AUTHORITIES CONTROL BOARD;

(P) THE AUTHORITY SHALL ESTABLISH A SPECIAL FUND, KNOWN AS THE GENERAL RESERVE FUND, AND SHALL PAY INTO SUCH FUND ALL FEES, CHARGES, AND RENTALS COLLECTED BY THE AUTHORITY PURSUANT TO PARAGRAPHS A THROUGH E OF SUBDIVISION TEN-B OF SECTION ONE THOUSAND FIVE OF THIS TITLE. SUCH MONIES AND ANY OTHER MONIES PAID INTO THE GENERAL RESERVE FUND, MAY IN THE DISCRETION OF THE AUTHORITY BUT SUBJECT TO AGREEMENTS WITH BONDHOLDERS AND NOTEHOLDERS, BE USED BY THE AUTHORITY FOR (1) THE REPAYMENT OF ADVANCES BY THE STATE IN ACCORDANCE WITH THE PROVISIONS OF REPAYMENT AGREEMENTS BETWEEN THE AUTHORITY AND THE STATE DIRECTOR OF THE BUDGET, (2) FUEL AND THE OPERATIONS AND MAINTENANCE EXPENSES OF THE COGENERATION FACILITIES, (3) TO REIMBURSE THE AUTHORITY FOR THE REASONABLE COSTS OF SERVICES PERFORMED BY THE AUTHORITY PURSUANT TO SUBDIVISION TEN-B OF SECTION ONE THOUSAND FIVE OF THIS TITLE, INCLUDING ALL COSTS OF FINANCING, (4) FOR TRANSFERS TO THE HOUSING COGENERATION FACILITIES CAPITAL RESERVE FUND, (5) FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON BONDS OR NOTES ISSUED FOR THE PUBLIC PURPOSES OF THIS SECTION WHEN THE SAME SHALL BECOME DUE, WHETHER AT MATURITY OR ON CALL FOR REDEMPTION, AND FOR THE PAYMENT OF REDEMPTION PREMIUM REQUIRED TO BE PAID WHERE SUCH BONDS OR NOTES ARE REDEEMED PRIOR TO THEIR STATED MATURITIES, OR (6) FOR SUCH OTHER CORPORATE PURPOSES OF THE AUTHORITY AS IT MAY IN ITS DISCRETION DETERMINE.

S 3. Section 2428 of the public authorities law is amended by adding a new subdivision 1-b to read as follows:

1-B. THE AGENCY IS AUTHORIZED, SUBJECT TO THE PROVISIONS OF THIS ARTICLE, TO MAKE COMMITMENTS TO INSURE, AND TO CONTRACT TO INSURE, HOUSING COGENERATION FACILITIES LOANS FOR THE PURPOSES DESCRIBED IN SUBDIVISION TEN-B OF SECTION ONE THOUSAND FIVE OF THIS CHAPTER.

S 4. Subdivision 2 of section 2428 of the public authorities law, as amended by chapter 354 of the laws of 1984, is amended to read as follows:

2. The agency shall limit its insurance on a rehabilitation or preservation OR HOUSING COGENERATION FACILITIES loan to an amount not in excess of fifty per centum of the outstanding principal indebtedness, provided, however, that the agency may insure an amount not in excess of seventy-five per centum of the outstanding principal indebtedness of a rehabilitation loan if it shall find, pursuant to rules or regulations which it shall establish that the extent of rehabilitation is sufficient to justify such additional insurance, provided further, however, that the agency may insure an amount equal to the full outstanding principal indebtedness when the loan has been made by a public benefit corporation of the state of New York which public benefit corporation has issued or will issue bonds or notes, some or all of the proceeds of which bonds or notes were used or will be used to make such loan, or when the loan has been made by a public employee pension fund.

However, the sum of the percentage of any mortgage loan insured by the agency and the percentage of such loan insured or to be insured by any other party shall not exceed one hundred per centum of the outstanding principal indebtedness.

S 5. This act shall take effect immediately.