

STATE OF NEW YORK

10469

IN ASSEMBLY

April 25, 2018

Introduced by M. of A. HYNDMAN -- read once and referred to the Committee on Aging

AN ACT to amend the elder law, in relation to establishing the New York state senior housing opportunities partnership act

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The elder law is amended by adding a new section 209-a to
2 read as follows:

3 § 209-a. The New York state senior housing opportunities partnership
4 act. 1. Short title. This section shall be known and may be cited as
5 the "New York state senior housing opportunities partnership act".

6 2. Definitions. As used in this section:

7 a. "Authority" means the New York state senior housing opportunities
8 partnership authority created by this section.

9 b. "Bank" means any banking organization defined by section two of the
10 banking law that has a market capitalization (determined by multiplying
11 the number of shares times the current market price), of less than two
12 billion dollars.

13 c. "Senior" means a person who is sixty years of age or older who is
14 the head of a household. Any other provision of any other law to the
15 contrary notwithstanding, including any provision of article fifteen of
16 the executive law, it shall not be unlawful to restrict rental, sale or
17 lease of a senior housing project financed in whole or in part by the
18 authority exclusively to persons sixty years of age or older and the
19 spouse of any such person.

20 d. "Senior housing opportunities development corporation" means any
21 person, individual, firm, partnership, association, or other entity or
22 collaboration of entities organized or existing under the laws of the
23 state or any other state, domestic or foreign, exclusive of a state
24 agency, undertaking the construction of a senior housing facility.

25 e. "Senior housing opportunities partnership financing instrument"
26 means any financing instrument, including a bank loan, bonds and notes,
27 or credit enhancement issued or purchased by or on behalf of a senior

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

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1 housing opportunities development corporation for a senior housing
2 opportunities facility.

3 f. "Senior housing opportunities facility" means any structure,
4 improvement, furnishing, equipment or other real or personal property
5 that is or is to be used, owned or occupied in whole or in excess of
6 fifty percent by housing for seniors, whether as rental or owner-occu-
7 pied housing. Senior housing facility means and includes, but is not
8 limited to naturally occurring retirement communities (as defined in
9 section two hundred nine of this title, or any successor thereto), mark-
10 et-rate independent living, adult home (as defined in section two of the
11 social services law), as well as any and all recreational, educational,
12 cultural, office, living, rehearsal, parking, restaurant, retail, stor-
13 age and other facilities necessary or desirable in connection with the
14 activities of the senior facility. For purposes of this section, owner-
15 occupied means and includes any provision or instrument that allows a
16 senior to own or to eventually own their living unit such that it
17 becomes an owner-occupied living unit, including through such means as
18 direct purchase, reverse-mortgage, lease-to-own, subsidized mortgage, or
19 any similar provision allowing for transfer of title of the living unit
20 to a senior; owner-occupied living unit means and includes any unit
21 which is or will upon completion or shortly thereafter be occupied by
22 the purchasing senior, including condominium or cooperative units.
23 Notwithstanding any implication of the foregoing, senior housing facili-
24 ty shall be deemed to mean and include scattered site housing, or hous-
25 ing units scattered throughout a neighborhood or an area which is broad-
26 ly defined by traditional neighborhood or community boundaries, and
27 where appropriate, bounded by major natural or man-made physical bounda-
28 ries, such as bodies of water, railroad lines, or limited access high-
29 ways.

30 g. "Senior housing opportunities facility project" means a project to
31 construct a senior housing opportunities facility, including all build-
32 ings, systems, facilities, appurtenances, machinery and equipment which
33 the authority deems necessary for the operation of the project.

34 h. "Project" means and includes the site or sites for a senior housing
35 opportunities facility project, which may be composed of non-contiguous
36 parcels, together with all property, rights, easements and interests, on
37 or off such site or sites, which may be required for the operation of
38 the project.

39 i. "Activities in a project which may be financed by the authority"
40 means all activities necessary to the successful development and placing
41 in operation of the project, including but not limited to the costs of:

42 (1) construction of the project;
43 (2) acquisition of property, both real and personal and improved and
44 unimproved;

45 (3) demolishing, removing or relocating buildings or structures on
46 lands acquired, including acquisition of any lands to which such build-
47 ings or structures may be moved or relocated;

48 (4) systems, facilities, machinery and equipment;

49 (5) financing charges, interest prior to and during construction;

50 (6) professional services, including engineering and architectural
51 services, plans and specifications, consultants' and legal services,
52 lease guarantee or bond insurance, fiscal and economic investigations,
53 studies, surveys, designs, plans, drawings, specifications, procedures,
54 and other such similar activities related thereto, regardless of when
55 completed, as well as the costs of a project manager or clerk-of-the-
56 works or other such similar personnel;

1 (7) all or part of the initial operational expenses, provided these do
2 not exceed two years duration;

3 (8) development, contingency, and other financial plan costs; and

4 (9) any other expenses necessary or incidental to the construction of
5 such project and the financing of its construction.

6 j. "Real property" means and includes lands, structures, franchises
7 and interests in land, waters, lands under water, riparian rights and
8 air-rights and any and all things and rights included within said term
9 and includes not only fees simple absolute but also any and all lesser
10 interests including but not limited to easements, rights of way, uses,
11 leases, licenses and all other incorporeal hereditaments and every
12 estate, interest or right, legal or equitable, including terms for years
13 and liens thereon by way of judgments, mortgages or otherwise.

14 k. "State agency" means any officer, authority, corporation, depart-
15 ment, board, commission, bureau, division, public benefit corporation,
16 council, agency or instrumentality of the state.

17 3. New York state senior housing opportunities partnership authority.

18 a. The New York state senior housing opportunities partnership authori-
19 ty is hereby created as a body corporate and politic constituting a
20 public benefit authority. Its purpose shall be to finance or collaborate
21 in the financing of senior housing opportunities facility projects for
22 or on behalf of senior housing opportunities development corporations,
23 as provided in this section. The authority may make loans or provide
24 credit for loans which may be secured by mortgage, contracts, or provide
25 other financing instruments to senior housing opportunities development
26 corporations in accordance with the provisions of this article. It is
27 hereby found and declared that such purposes are in all respects for the
28 benefit of the people of the state of New York and the authority shall
29 be regarded as performing an essential governmental function in carrying
30 out its purposes and in exercising the powers granted by this section.

31 b. Membership of the authority shall consist of seven directors, of
32 whom six shall be appointed by the governor by and with the advice and
33 consent of the senate, two of whom shall be so appointed on recommenda-
34 tion of the temporary president of the senate, and two on recommendation
35 of the speaker of the assembly. Each director shall at the time of
36 appointment have had at least five years experience in finance, as an
37 officer in an entity in which he or she served as a banker or investment
38 banker, and/or as a developer of senior housing or other projects for
39 seniors with a development cost in excess of five million dollars.
40 Directors shall serve for terms of six years each, provided, however,
41 that of the directors first appointed, two shall serve for terms of two
42 years, two for terms of four years and two for terms of six years,
43 respectively, from January first next succeeding their appointment. Any
44 vacancy occurring otherwise than by expiration of term shall be filled
45 in the same manner as the original appointment for the balance of the
46 unexpired term. The director of the office for the aging shall serve as
47 ex officio member with the same rights and duties as other members, and
48 shall also be the chair of the authority and chief executive officer of
49 the authority, and shall appoint such vice-chairman as he or she deems
50 appropriate. Directors of the authority shall continue in office until
51 their successors are appointed and shall have qualified. A director, on
52 his or her initiative, may acquire by loaned employee from the office
53 for the aging, through the powers provided him or her, no more than two
54 officers and employees, plus administrative-secretarial support staff as
55 required, the duties and work of whom are hereby declared to be an
56 essential state purpose, and who shall suffer no diminution of their

1 compensation or benefits as result of such assignment, provided that no
2 such transfer be made except with the approval of the director of the
3 budget, and in compliance with the rules and regulations of the civil
4 service commission of the state; and may retain or employ counsel, audi-
5 tors, engineers and private consultants on a contract basis or otherwise
6 for rendering professional or technical services and advice.

7 c. Directors shall receive no salary or other compensation, but shall
8 be entitled to reimbursement for their actual and necessary expenses
9 incurred in the performance of official duties. Any other provision of
10 law to the contrary notwithstanding, no officer or employee of the
11 state, or of any civil division thereof, shall be deemed to have
12 forfeited or shall forfeit his or her office or employment or any bene-
13 fits provided under the retirement and social security law by reason of
14 acceptance of membership on the authority, provided, however, that a
15 director who holds such other public office or employment shall receive
16 no additional compensation for services rendered pursuant to this arti-
17 cle, but shall be entitled to reimbursement for actual and necessary
18 expenses incurred in the performance of such services. Directors may
19 engage in private employment, or in a profession or business, subject to
20 the limitations contained in sections seventy-three and seventy-four of
21 the public officers law. The authority shall, for the purposes of
22 sections seventy-three and seventy-four of the public officers law, be a
23 state agency, and its directors shall be officers of the authority for
24 the purposes of said sections.

25 d. Four directors of the authority shall constitute a quorum for tran-
26 saction of business or the exercise of any power of the authority. For
27 the transaction of business or the exercise of any power of the authori-
28 ty, the authority shall have power to act by majority of the directors
29 present at any meeting at which a quorum is in attendance. The authority
30 may delegate to one or more of its directors, or its officers, agents
31 and employees, such powers and duties as it may deem proper. Nothing
32 contained in this paragraph shall prevent the directors from conducting
33 their meetings by televideo or teleconference, or by telephone confer-
34 ence, provided that at least three directors of the authority shall be
35 physically present.

36 e. The governor may remove any director for inefficiency, neglect of
37 duty or misconduct in office after giving him or her a copy of the
38 charges against him or her and an opportunity to be heard, in person or
39 by counsel in his or her defense, upon not less than ten days' notice.
40 If any director shall be so removed, the governor shall file in the
41 office of the department of state a complete statement of charges made
42 against such director, and his or her findings thereon, together with a
43 complete record of the proceedings.

44 f. The authority shall continue so long as it shall have bonds or
45 other obligations outstanding and until its existence shall be termi-
46 nated by law. Upon the termination of the existence of the authority,
47 all its rights and properties shall pass to and be vested in the state.

48 4. Powers of the authority. Except as otherwise limited by this
49 section, the authority shall have power:

50 a. To sue and be sued;

51 b. To have a seal and alter the same at pleasure;

52 c. To borrow money and issue negotiable or non-negotiable notes, bonds
53 or other obligations, to the limits and for the purposes described in
54 this section, and to provide for the rights of the holders thereof;

55 d. To invest any funds held in reserve or sinking funds, or any monies
56 not required for immediate use or disbursement, at the discretion of the

1 authority, in obligations of the state or the United States of America,
2 in obligations the principal and interest of which are guaranteed by the
3 state or the United States of America, or in deposits with such banks or
4 trust companies as may be designated by the authority. Each such bank or
5 trust company deposit shall be continuously and fully secured by direct
6 obligations of the state or the United States of America, or by obli-
7 gations the principal and interest of which are guaranteed by the state
8 or the United States of America, and additionally, any funds managed by
9 the authority for any senior housing opportunities corporation may be
10 continuously and fully secured by obligations of any senior housing
11 opportunities corporation of a market value equal at all times to the
12 amount of the deposit, and all banks and trust companies are hereby
13 authorized to give such security;

14 e. To make and alter by-laws for its organization and internal manage-
15 ment, and rules and regulations governing the exercise of its powers and
16 the fulfillment of its purposes under this section;

17 f. To enter into contracts and leases and to execute all instruments
18 necessary to the purposes of the authority or to carry out any powers
19 expressly given it;

20 g. To acquire, purchase, hold, lease as lessee, dispose of and use any
21 real or personal property or any interest therein, or to sell, lease as
22 lessor, grant easements or rights on, transfer and dispose of any prop-
23 erty or interest therein at any time as it may deem necessary, conven-
24 ient or desirable to effectuate the purposes of this section;

25 h. To make plans, surveys and studies necessary, convenient or desira-
26 ble to effectuate its purposes and powers;

27 i. To enter upon such lands, waters or premises as in the judgment of
28 the authority may be necessary, convenient or desirable for the purpose
29 of making surveys, soundings, borings and examinations to accomplish any
30 purpose authorized by this article, the authority being liable for actu-
31 al damage done;

32 j. To conduct investigations and hearings in the furtherance of its
33 general purposes, and in aid thereof to have access to any books,
34 records or papers relevant thereto; and if any person whose testimony
35 shall be required for the proper performance of the duties of the
36 authority shall fail or refuse to aid or assist the authority in the
37 conduct of any investigation or hearing, or to produce any relevant
38 books, records or other papers, the authority is authorized to apply for
39 process of subpoena, to issue out of any court of general original
40 jurisdiction whose process can reach such person, upon due cause shown;

41 k. To acquire senior housing opportunity corporation bonds and notes,
42 and to make loan commitments and loans to senior housing opportunity
43 corporations, and to enter into option arrangements with senior housing
44 opportunity corporations for the purchase of senior housing opportunity
45 corporations bonds and notes;

46 l. To sell any senior housing opportunity corporations bonds or notes,
47 other securities, or other personal property acquired by the authority
48 whenever it is determined by the authority that the sale of such proper-
49 ty is desirable, such bonds and notes to be sold by the authority only
50 at public sale at such price or prices as the authority shall determine,
51 provided that a notice of such sale shall be published at least once not
52 less than five days prior to the date of such sale in a financial news-
53 paper or journal published in the city of New York. The proceeds of such
54 sale shall be subject to such agreements with bondholders or noteholders
55 as may then exist;

1 m. To apply for and receive, in its own name or in the name of the
2 state, gifts or grants or loans of funds or property from the federal
3 government or from the state or from any other federal or state public
4 body or political subdivision or any other person or entity, which it
5 may use to meet capital or operating expenses and for any other use
6 within the scope of its powers, and to negotiate for the same upon such
7 terms and conditions as the authority may determine to be necessary,
8 convenient or desirable, and to comply, subject to the provisions of
9 this section, with the terms and conditions thereof; and

10 n. To appoint such advisory committees as may be necessary, convenient
11 or desirable to effectuate the purposes and powers of the authority.

12 5. Special powers of the authority. In order to carry out the purposes
13 of this section, the authority shall have and exercise the following
14 special powers:

15 a. Commitments for senior housing opportunities partnership financing
16 instruments:

17 (1) The authority shall enter into a contract or contracts with a bank
18 or consortium of banks to make senior housing opportunities partnership
19 financing instruments available to senior housing opportunity corpo-
20 rations for the development of projects in an amount or amounts not to
21 exceed the cost of such project. In connection with making available
22 such senior housing opportunities partnership financing instruments, the
23 authority may fix and collect such fees and charges, including but not
24 limited to reimbursement of all costs of financing by the authority, as
25 the authority shall determine to be reasonable.

26 (2) In no event shall the authority approve such financing prior to
27 the formal approval of financing or of a financial pro forma by such
28 bank or banks in whatever means are traditionally and customarily used
29 to approve such commitments, through the credit committees of such
30 banks, or through their boards of directors, as appropriate, provided
31 that such formal approval may be contingent on participation by the
32 authority in the financing.

33 (3) The authority may sell a credit enhancement, letter of credit or
34 other similar credit device for purposes of the development of a senior
35 housing opportunities facility project to a bank, consortium of banks or
36 a senior housing opportunities development corporation, upon application
37 by such bank or consortium, or by the senior housing opportunities
38 development corporation at an appropriate and competitive market rate,
39 or in the absence of such appropriate and competitive market rate, upon
40 such security as the authority shall deem appropriate. In the case of a
41 mixed-use project, or a project that encompasses more than a senior
42 housing opportunities facility, such credit device shall be limited to
43 the senior housing opportunities facility portion of the project. Such
44 credit device shall not exceed one hundred percent of the appraised
45 value of the project as built and fully occupied, after discounting for
46 other security pledges.

47 (4) The authority may deny an application for a financing instrument
48 for any reason it deems appropriate in the public interest. The exten-
49 sion of any such credit or loan is subject to the ability of the author-
50 ity to secure the necessary financing.

51 b. Construction, operation and maintenance of senior housing opportu-
52 nities facility projects.

53 (1) The authority and a senior housing opportunity corporation may
54 enter into a contract for the operation and maintenance of a senior
55 housing opportunities facility owned by the authority by such senior
56 housing opportunity corporation or by a person approved by the authority

1 and such senior housing opportunity corporation. Such contract may
2 include provision for all or part of the amounts necessary to provide
3 for (A) the expense of operation and maintenance of such senior housing
4 opportunities facility including, without limitation, insurance, exten-
5 sions, betterments and replacements and the principal of and interest on
6 any bonds or notes of the authority, (B) deficits resulting from failure
7 to secure sums payable to the authority by such senior housing opportu-
8 nity corporation, (C) reserves or sinking funds for any of the forego-
9 ing, and (D) the payment to the authority of expenses incurred by the
10 authority related to placing the project in operation. Subject to any
11 contracts with the holders of its bonds or notes, the authority is here-
12 by authorized to do and perform any and all acts or things necessary,
13 convenient or desirable to carry out and perform its obligations under
14 every such contract and, in accordance with any such contract to waive,
15 modify, suspend or reduce charges which would otherwise be charged and
16 collected by the authority from the senior housing opportunity corpo-
17 ration. A senior housing opportunity corporation shall not be liable for
18 any act or omission of the authority, its officers, agents, servants or
19 contractors in the performance of any such contract by the authority.

20 (2) A contract entered into by the authority and a senior housing
21 opportunity corporation pursuant to this subdivision may provide that at
22 its termination the title to the senior housing opportunities facility
23 shall vest in the senior housing opportunity corporation or its succes-
24 sor in interest, if any, free and clear of any indebtedness contracted
25 by the authority. Any such contract entered into by the authority and
26 any senior housing opportunity corporation which provides that title
27 shall so vest in the senior housing opportunity corporation or its
28 successor in interest shall be subject at a minimum to the following
29 provisions: (A) the senior housing opportunity corporation shall pledge
30 security for the payment of annual payments including interest on debt;
31 (B) the total unpaid payments in relation to the principal of the
32 indebtedness shall be deemed to be indebtedness of the senior housing
33 opportunity corporation; and (C) the senior housing opportunity corpo-
34 ration shall not be liable for a default on the obligations of the
35 authority with respect to the facility if it is not in default on its
36 payment pursuant to the contract.

37 6. Miscellaneous provisions. a. The authority may acquire, hold, own,
38 lease, establish, construct, effectuate, operate, maintain, renovate,
39 improve, extend or repair any of its facilities through, and cause any
40 one or more of its powers, duties, functions or activities to be exer-
41 cised or performed by, one or more wholly owned subsidiary corporations
42 of the authority and may transfer to or from any such corporation any
43 moneys, real property or other property for any of the purposes of this
44 section. The directors or members of each subsidiary corporation shall
45 be the same persons holding the offices of members of the authority.
46 Each subsidiary corporation and any of its property, functions and
47 activities shall have all of the privileges, immunities, tax exemptions
48 and other exemptions of the authority and of the authority's property,
49 functions and activities, and shall be subject to the restrictions and
50 limitations to which the authority may be subject. The employees of any
51 such subsidiary corporation, except those who are also employees of the
52 authority, shall not be deemed employees of the authority. If the
53 authority shall determine that one or more of its subsidiary corpo-
54 rations should be in the form of a public benefit corporation, it shall
55 create each such public benefit corporation by executing and filing with
56 the secretary of state a certificate of incorporation, which may be

1 amended from time to time by filing, which shall set forth the name of
2 such public benefit subsidiary corporation, its duration, the location
3 of its principal office, and any or all of the purposes of acquiring,
4 owning, leasing, establishing, constructing, effectuating, operating,
5 maintaining, renovating, improving, extending or repairing one or more
6 facilities of the authority. Each such public benefit subsidiary corpo-
7 ration shall be a body politic and corporate and shall have all those
8 powers vested in the authority by the provisions of this section which
9 the authority shall determine to include in its certificate of incorpo-
10 ration except the power to contract indebtedness. Whenever any state,
11 political subdivision, senior housing opportunity corporation, commis-
12 sion, agency, officer, department, board, division or person shall enter
13 into agreements with the authority it shall have the same authorization
14 and power for any of such purposes to cooperate and enter into agree-
15 ments with a subsidiary corporation of the authority.

16 b. For purposes of the federal internal revenue service revenue
17 rulings or revenue procedure, including revenue ruling 63-20 and revenue
18 procedure 82-26 and successors and amendments thereto, the authority
19 shall be and is hereby declared to be a political subdivision, or in the
20 alternative an agent for the state for purposes of acquiring a benefi-
21 cial interest in a senior housing project and approving the obligations
22 issued by the senior housing development corporation.

23 7. Revolving fund. a. There is hereby established in the custody of
24 the authority a special fund to be known as the senior housing opportu-
25 nities facilities revolving fund. Moneys in the fund shall be segregated
26 from all other funds of or in the custody of the authority subject to
27 any rights of holders of authority bonds or notes issued for the
28 purposes of this section. Moneys in the revolving fund shall be applied
29 to or paid out for authorized purposes of the fund on the direction of
30 the chair of the authority in accordance with this section, or such
31 other person as the authority shall authorize to make such direction. In
32 consultation with the director of the division of the budget, the
33 authority may establish within the revolving fund additional accounts or
34 subaccounts and specify any conditions applicable to the transfer of
35 moneys between such accounts or subaccounts. With respect to each senior
36 housing opportunities facilities project, the authority shall establish
37 and maintain a record of the corpus allocation for such project and any
38 applicable investment earnings attributable to such corpus allocation
39 for the benefit of such project in accordance with the terms of the
40 applicable project financing or loan agreement.

41 b. Such fund shall consist of federal grants and awards or other
42 federal assistance; moneys appropriated for the purpose of such fund or
43 otherwise transferred by the state for deposit therein by the comp-
44 troller as required by law; payments of principal and interest made by
45 senior housing opportunity corporations pursuant to loan or other
46 agreements entered into pursuant to this section, provided, however, if
47 such loans were financed by the issuance of bonds or notes of the
48 authority, deposit of such payments into the fund shall be subject to
49 the rights of the holders of such bonds or notes to receive such moneys;
50 investment earnings on amounts in such fund; any other payments received
51 from senior housing opportunity corporations pursuant to a loan or other
52 agreement made pursuant to this section for costs of managing and admin-
53 istering the program; and the proceeds of bonds or notes issued by the
54 authority for purposes of providing financial assistance to senior hous-
55 ing opportunity corporations.

1 c. Moneys in the revolving fund shall be applied by the authority to
2 provide financial assistance to senior housing opportunity corporations
3 for projects, including any one or more of the following:

4 (1) making loans to senior housing opportunity corporations for
5 projects, provided such loans are made at market or below market rates
6 and do not have a final maturity of more than forty years following
7 scheduled completion of the eligible project;

8 (2) buying or refinancing debt obligations of senior housing opportu-
9 nity corporations at market or below market rates;

10 (3) guarantying or purchasing insurance or other credit enhancement
11 for senior housing opportunity corporation bonds and notes or senior
12 housing opportunities partnership financing instrument where such action
13 would improve credit market access for or reduce interest rates on such
14 senior housing opportunity corporation financing;

15 (4) providing a source of revenue or security for payment of principal
16 and interest on bonds or notes issued by the authority if the proceeds
17 of the sale of such bonds or notes will be deposited in the fund;

18 (5) providing interest rate subsidies from investment earnings on
19 corpus allocations to subsidize loans to senior housing opportunity
20 corporations made from the proceeds of the authority's bonds or notes;

21 (6) using investment earnings on moneys in the fund to pay the costs
22 of the authority of administering and managing the program.

23 d. Notwithstanding the foregoing provisions of this subdivision if the
24 sources of revenues described in this subdivision are at any time insuf-
25 ficient to make a reimbursement when due, the authority shall make such
26 reimbursement from any other available amounts in the revolving fund,
27 excluding all amounts that are the subject of a corpus allocation,
28 provided that the amounts paid from fund sources shall be reimbursed
29 upon a determination by the director of the budget that future revenues
30 obtained from such sources are in excess of the amounts reasonably need-
31 ed to make future reimbursements pursuant to this subdivision.

32 e. Moneys in the revolving fund may be invested as provided in (1)
33 investment agreements continuously secured by obligations with any
34 insurance or reinsurance company or corporate affiliate thereof rated by
35 a nationally recognized rating agency in one of its two highest catego-
36 ries, any bank, trust company or broker or dealer, as defined by the
37 securities exchange act of nineteen hundred thirty-four, which is a
38 dealer in government bonds, which reports to, trades with and is recog-
39 nized as a primary dealer by a federal reserve bank and is a member of
40 the securities investors protection authority, provided that no invest-
41 ment agreement shall be entered into with an insurance or reinsurance
42 company or corporate affiliate thereof, if, (A) such obligations secur-
43 ing such investment agreements are obligations of the state or the
44 United States of America, or obligations the principal and interest of
45 which are guaranteed by the state or the United States of America, (B)
46 such obligations are delivered to a trustee for the benefit of the
47 authority or, with respect to moneys pledged under an indenture of trust
48 relating to bonds or notes of the authority, to the trustee under such
49 indenture, or are supported by a safe keeping receipt issued by a depos-
50 itory satisfactory to the authority as applicable, provided that such
51 investment agreements must provide that the value of the underlying
52 obligations shall be maintained at a current market value, calculated no
53 less frequently than monthly, of not less than the amount deposited
54 thereunder, (C) a prior perfected security interest in the obligations
55 which are securing such agreement has been granted to the authority, as
56 applicable, and (D) such obligations are free and clear of adverse third

1 party claims, or (2) obligations the interest on which is excludable
2 from gross income under section one hundred three of the internal reven-
3 ue code, provided that such obligations are rated by a nationally recog-
4 nized rating agency in one of its two highest rating categories.

5 f. In addition to the powers granted to the authority elsewhere in
6 this section, the authority may make loans to senior housing opportunity
7 corporations for purposes of financing projects for which the revolving
8 fund may be used, may accept the obligations of any senior housing
9 opportunity corporation as security for the repayment of a loan to such
10 senior housing opportunity corporation, and may assign and pledge such
11 senior housing opportunity corporation obligations and loan agreements
12 for the benefit of the holder of obligations of the authority from the
13 proceeds of which such loans are made. Loan proceeds may be disbursed to
14 a senior housing opportunity corporation with any restrictions imposed
15 by the authority in connection with such loan or obligations of the
16 authority from the proceeds of which such loan is made.

17 8. Audits. The authority shall arrange for any audits required by law
18 for the purpose of issuing its bonds or notes or otherwise to provide
19 financial assistance to senior housing opportunity corporations, and
20 provide for the implementation of any independently conducted reviews or
21 audits.

22 9. Default. In the event a senior housing opportunity corporation
23 shall fail to make any payment due the authority pursuant to a loan
24 agreement or other obligation of the senior housing opportunity corpo-
25 ration issued as security for the undertaking of the senior housing
26 opportunity corporation thereunder, the authority shall certify to the
27 comptroller, and notify the chair of the senate finance committee, the
28 chair of the assembly ways and means committee, the director of the
29 division of the budget, and the governing body of the senior housing
30 opportunity corporation that such senior housing opportunity corporation
31 has failed to make such payment. Such certificate shall be in such form
32 as may be determined by the authority provided it shall specify the
33 exact amount of debt service and surcharge, if applicable, required to
34 satisfy such senior housing opportunity corporation's unpaid obligation.
35 The comptroller, upon receipt of such certificate from the authority, is
36 authorized to and shall, to the extent not otherwise prohibited by law
37 and subject to any other provision of law providing for withholding of
38 payments to the senior housing opportunity corporation which take
39 precedence over this subdivision, withhold from such senior housing
40 opportunity corporation the next succeeding payments of state aid or
41 local assistance otherwise payable to it to the extent necessary to meet
42 the certified amount of debt service and surcharge, if applicable, due
43 the authority and shall immediately pay over to the authority as a debt
44 service payment on behalf of such senior housing opportunity corporation
45 the amount so withheld. The authority shall further take any action
46 permitted by law to recover such amount.

47 10. Issuance and sale of loan recipients bonds and notes. Notwith-
48 standing any by-law, rule or regulation requiring the recipient to issue
49 bonds or notes at a public or competitive sale, any recipient of a loan
50 from the authority pursuant to this article may validly issue its notes
51 or bonds to the authority, as evidence of its obligation to repay such
52 loan.

53 11. Co-operation and assistance of other agencies. The authority may
54 make use of existing studies, surveys, plans, data and other materials
55 in the possession of any state agency or municipality or political
56 subdivision of the state. Each such agency, municipality and subdivision

1 is hereby authorized to make the same available to the authority and
2 otherwise to assist it in the performance of its functions. The officers
3 and personnel of such agencies, municipalities and subdivisions, and of
4 any other government or agency whatever, may serve at the request of the
5 authority upon such advisory committees as the authority shall determine
6 to create and such officers and personnel may serve upon such committees
7 without forfeiture of office or employment and with no loss or diminu-
8 tion in the compensation, status, rights and privileges which they
9 otherwise enjoy.

10 12. Notes and bonds of the authority. a. The authority shall have
11 power and is hereby authorized from time to time to issue its negotiable
12 or non-negotiable bonds and notes in conformity with applicable
13 provisions of the uniform commercial code in such principal amount, as,
14 in the opinion of the authority, shall be necessary to provide suffi-
15 cient funds for achieving its purposes or to any senior housing opportu-
16 nity corporation or recipient for such purposes. The authority shall
17 have power, from time to time, to issue renewal notes, to issue bonds to
18 pay notes and whenever it deems refunding expedient, to refund any bonds
19 by the issuance of new bonds, whether the bonds to be refunded have or
20 have not matured, and to issue bonds partly to refund bonds then
21 outstanding, and partly for any other purpose. The refunding bonds shall
22 be sold and the proceeds applied to the purchase, redemption or payment
23 of the bonds to be refunded.

24 b. Except as may otherwise be expressly provided by the authority,
25 every issue of its notes or bonds shall be (1) general obligations of
26 the authority payable out of any revenues or monies of the authority,
27 subject only to any agreements with the holders of particular notes or
28 bonds pledging any particular recipients or revenues, (2) special obli-
29 gations of the authority payable solely from the revenues, service
30 charges, rentals, proceeds or other payments to be received on account
31 of the mortgage, loan or other agreements and payments, reserve and
32 insurance funds or accounts issuance of special obligations, and fees,
33 charges or other monies to be received by the authority in respect to
34 loans made pursuant to this section, or from amounts received by the
35 authority pursuant to any contract, lease, easement, license or other
36 instrument entered into by the authority pursuant to this section, and
37 may, but need not, be secured by mortgages, assignments or pledges of
38 such revenues, service charges, rentals, proceeds, other payments, funds
39 and accounts, fees, charges and other monies, and by mortgages or
40 assignments thereof in respect to projects, and may include pooled
41 financings subject only to any agreements with the holders of particular
42 special obligation notes or bonds issued to finance the cost of, or
43 loans for, a project or projects.

44 c. Any bonds or notes issued for the purpose of financing amounts
45 deposited or to be deposited in the revolving fund may be issued in an
46 aggregate principal amount sufficient to finance the amount to be depos-
47 ited plus an amount sufficient to fund any debt service reserve fund
48 established by the authority and to provide for the payment of fees and
49 other charges and expenses of the authority in connection with such
50 bonds and notes.

51 d. The notes and bonds shall be authorized by resolution of the direc-
52 tors of the authority, shall bear such date or dates, and shall mature
53 at such time or times, as such resolution or resolutions may provide;
54 provided, however, that the final maturity of any bond issued for the
55 purpose of financing any amounts deposited or to be deposited in the
56 revolving fund shall not exceed forty years from the date of issue of

1 such bond. The notes and bonds shall bear interest at such rate or rates
2 which may vary from time to time, be in such denominations, be in such
3 form, either coupon or registered, carry such registration privileges,
4 be executed in such manner, be payable in such medium of payment, at
5 such place or places and be subject to such terms of redemption as such
6 resolution or resolutions may provide. The notes and bonds of the
7 authority may be sold by the authority, at public or private sale, at
8 such price or prices as the authority shall determine. No notes or bonds
9 of the authority may be sold by the authority at private sale, however,
10 unless such sale and the terms thereof have been approved in writing by
11 (1) the comptroller, where such sale is not to the comptroller, or (2)
12 the director of the budget, where such sale is to the comptroller.

13 e. Any resolution or resolutions authorizing any notes or bonds or any
14 issue thereof may contain provisions, which shall be a part of the
15 contract with the holders thereof, as to:

16 (1) pledging all or any part of the rentals, rates, charges and other
17 fees made or received by the authority and other monies received or to
18 be received from the ownership or operation or otherwise in connection
19 with any project or projects and all or any part of the monies received
20 in payment of principal or interest on bonds or notes of any state agen-
21 cy and senior housing opportunity corporation bonds or notes acquired by
22 the authority, to secure the payment of the notes or bonds or of any
23 issue thereof, subject to such agreements with bondholders or notehold-
24 ers as may then exist;

25 (2) pledging all or any part of the assets of the authority including
26 senior housing opportunity corporation bonds and notes acquired by the
27 authority in the issuance of general obligations, and in the issuance of
28 special obligations, notes or other evidences of indebtedness of any
29 person acquired by the authority, and assigning and pledging any mort-
30 gages or other security interests acquired by the authority or any
31 interests of the authority in properties or revenues or other sums paya-
32 ble to the authority and any reserve and issuance funds or accounts or
33 other funds and accounts established in connection with the issuance of
34 special obligations to secure the payment of the notes or bonds or of
35 any issue of notes or bonds of general obligations or special obli-
36 gations, as the case may be, subject to such agreements with noteholders
37 or bondholders as may then exist;

38 (3) the use and disposition of rentals, rates, charges and other fees
39 made or received by the authority;

40 (4) the setting aside of reserves or sinking funds and the regulation
41 and disposition thereof from the ownership or operation or otherwise in
42 connection with any project or projects and of the gross income from
43 senior housing opportunity corporation bonds and notes, and bonds and
44 notes of any state agency owned by the authority;

45 (5) limitations on the purpose to which the proceeds of sale of notes
46 or bonds may be applied and pledging such proceeds to secure the payment
47 of the notes or bonds or of any issue thereof;

48 (6) limitations on the issuance of additional notes or bonds; the
49 terms upon which additional notes or bonds may be issued and secured;
50 and the refunding of outstanding or other notes or bonds;

51 (7) the procedure, if any, by which the terms of any contract with
52 noteholders or bondholders may be amended or abrogated, the amount of
53 notes or bonds the holders of which must consent thereto, and the manner
54 in which such consent may be given;

55 (8) limitations on the amount of monies to be expended by the authori-
56 ty for operating, administrative or other expenses of the authority;

1 (9) vesting in a trustee or trustees such property, rights, powers and
2 duties in trust as the authority may determine, which may include any or
3 all of the rights, powers and duties of the trustee appointed by the
4 bondholders pursuant to this section, and limiting or abrogating the
5 right of the bondholders to appoint a trustee under this section or
6 limiting the rights, powers and duties of such trustee; and

7 (10) any other matters, of like or different character, which in any
8 way affect the security or protection of the notes or bonds.

9 f. In addition to the powers conferred upon the authority to secure
10 its notes and bonds, the authority shall have power in connection with
11 the issuance of notes and bonds to enter into such agreements as the
12 authority may deem necessary, convenient or desirable concerning the use
13 or disposition of its monies or property including the mortgaging of any
14 such property and the entrusting, pledging or creation of any other
15 security interest in any such monies or property and the doing of any
16 act (including refraining from doing any act) which the authority would
17 have the right to do in the absence of such agreements. The authority
18 shall have power to enter into amendments of any such agreements within
19 the powers granted to the authority by this section and to perform such
20 agreements. The provisions of any such agreements may be made a part of
21 the contract with the holders of the notes and bonds of the authority.

22 g. It is the intention of this subdivision that any pledge, mortgage
23 or security instrument made by the authority shall be valid and binding
24 from the time when the pledge, mortgage or security instrument is made;
25 that the monies or property so pledged, mortgaged and entrusted and
26 thereafter received by the authority shall immediately be subject to the
27 lien of such pledge, mortgage or security instrument without any phys-
28 ical delivery thereof or further act; and that the lien of any such
29 pledge, mortgage or security instrument shall be valid and binding as
30 against all parties having claims of any kind in tort, contract or
31 otherwise against the authority, irrespective of whether such parties
32 have notice thereof. Neither the resolution nor any mortgage, security
33 instrument or other instrument by which a pledge, mortgage lien or other
34 security is created need be recorded or filed and the authority shall
35 not be required to comply with any of the provisions of the uniform
36 commercial code.

37 h. Neither the directors of the authority nor any person executing the
38 notes or bonds shall be liable personally on the notes or bonds, or be
39 subject to any personal liability or accountability by reason of the
40 issuance thereof.

41 i. The authority, subject to such agreements with noteholders or bond-
42 holders as may then exist, shall have power out of any funds available
43 therefor to purchase notes or bonds of the authority, which shall there-
44 upon be cancelled, at a price not exceeding (1) if the notes or bonds
45 are then redeemable, the redemption price then applicable plus accrued
46 interest to the next interest payment thereon, or (2) if the notes or
47 bonds are not then redeemable, the redemption price applicable on the
48 first date after such purchase upon which the notes or bonds become
49 subject to redemption plus accrued interest to such date.

50 j. Neither the state nor any senior housing opportunity corporation
51 shall be liable on notes or bonds issued as general obligations of the
52 authority and such notes and bonds shall not be a debt of the state or
53 any senior housing opportunity corporation, and such notes and bonds
54 shall contain on the face thereof a statement to such effect. The state
55 shall not be liable on notes or bonds issued as special obligations of
56 the authority, and such notes and bonds shall not be a debt of the state

1 and shall be payable solely from the revenues, service charges, rentals,
2 proceeds or other payments to be derived from the extension of credit or
3 the loan for the project for which such notes and bonds were issued, and
4 such notes and bonds shall contain on the face thereof a statement to
5 such effect.

6 k. The authority may obtain from any department or agency of the
7 United States of America any available insurance or guaranty for the
8 payment or repayment of interest or principal, or both, or any part
9 thereof, on any bonds or notes issued by the authority, but notwith-
10 standing any other provisions of this section shall not enter into any
11 agreement or contract with respect to any such insurance or guaranty to
12 the extent that it would in any way impair or interfere with the ability
13 of the authority to perform and fulfill the terms of any agreement made
14 with the holders of the bonds or notes of the authority.

15 13. Reserve funds and appropriations. a. The authority may create and
16 establish one or more reserve funds to be known as debt service reserve
17 funds and may pay into such debt service reserve funds any monies appro-
18 riated and made available by the state for the purposes of such funds,
19 any proceeds of sale of notes or bonds, to the extent provided in the
20 resolution of the authority authorizing the issuance thereof, and any
21 other monies which may be made available to the authority for the
22 purpose of such funds from any other source or sources.

23 b. The monies held in or credited to any debt service reserve fund
24 established under this subdivision, except as otherwise provided in this
25 subdivision, shall be used solely for the payment of the principal of
26 bonds of the authority secured by such debt service reserve fund as the
27 same mature or as payments required by the terms of any contracts there-
28 for as sinking fund payments become due, the purchase of such bonds of
29 the authority, the payment of interest on such bonds of the authority or
30 the payment of any redemption premium required to be paid when such
31 bonds are redeemed prior to maturity; provided however, that the author-
32 ity shall have power to provide that monies in any such fund shall not
33 be withdrawn therefrom at any time in such amount of any sinking fund
34 payments becoming due and principal and interest maturing and becoming
35 due in any succeeding calendar year on the bonds of the authority then
36 outstanding and secured by such debt service reserve fund, except for
37 the purpose of paying any sinking fund payments becoming due and princi-
38 pal of and interest on such bonds of the authority secured by such debt
39 service reserve fund maturing and becoming due and for the payment of
40 which other monies of the authority are not available. Any income or
41 interest earned by, or increment to, any such debt service reserve fund
42 due to the investment thereof may be transferred by the authority to any
43 other fund or account of the authority and the authority shall have
44 power to provide that any such transfer shall not reduce the amount of
45 such debt service reserve fund below the maximum amount of any sinking
46 fund payments becoming due and principal and interest maturing and
47 becoming due in any succeeding calendar year on all bonds of the author-
48 ity then outstanding and secured by such debt service reserve fund.

49 c. The authority shall not issue bonds at any time if the maximum
50 amount of any sinking fund payments becoming due and principal and
51 interest maturing and becoming due in any succeeding calendar year on
52 the bonds outstanding and then to be issued and secured by a debt
53 service reserve fund will exceed the amount of such debt service reserve
54 fund at the time of issuance, unless the authority, at the time of the
55 issuance of such bonds, shall deposit in such debt service reserve fund
56 from the proceeds of the bonds so to be issued, or otherwise, an amount

1 which, together with the amount then in such debt service reserve fund,
2 will be not less than the maximum amount of any sinking fund payments
3 becoming due and principal and interest maturing and becoming due in any
4 succeeding calendar year on the bonds then to be issued and on all other
5 bonds of the authority then outstanding and secured by such debt service
6 reserve fund.

7 d. To assure the continued operation and solvency of the authority for
8 the carrying out of the public purposes of this section, provision is
9 made in this section for the accumulation in each debt service reserve
10 fund of an amount equal to the maximum amount of any sinking fund
11 payments becoming due and principal, and interest maturing and becoming
12 due in any succeeding calendar year as determined by the authority on
13 all bonds of the authority then outstanding and secured by such debt
14 service reserve fund. In order further to assure the maintenance of such
15 debt service reserve funds in the respective amounts provided therefor
16 by the authority in the issuance of its bonds secured thereby, there
17 shall be annually apportioned and paid to the authority for deposit in
18 each such debt service reserve fund such amount, if any, as shall be
19 certified by the chief executive officer of the authority to the gover-
20 nor and director of the budget as necessary to restore such debt service
21 reserve fund to an amount equal to the maximum amount provided therefor
22 by the authority as aforesaid. The chief executive officer of the
23 authority shall annually, on or before December first, make and deliver
24 to the governor and director of the budget his or her certificate stat-
25 ing the amount, if any, required to restore each debt service reserve
26 fund to the amount aforesaid and the amount or amounts so certified, if
27 any, shall be apportioned and paid to the authority during the then
28 current state fiscal year. The principal amount of bonds secured by a
29 debt service reserve fund or funds to which state funds are apportiona-
30 ble pursuant to this subdivision shall be limited to the total amount of
31 bonds and notes outstanding on the effective date of this section, plus
32 the total amount of bonds and notes contracted after the effective date
33 of this section to finance projects in progress on the effective date of
34 this section as determined by the New York state public authorities
35 control board created pursuant to the state finance law whose affirma-
36 tive determination shall be conclusive as to all matters of law and fact
37 solely for the purposes of the limitations contained in this subdivi-
38 sion, but in no event shall the total amount of bonds so secured by such
39 a debt service reserve fund or funds exceed forty million five hundred
40 thirteen thousand dollars, excluding bonds issued to refund such
41 outstanding bonds until the date of redemption of such outstanding
42 bonds. As outstanding bonds so secured are paid, the amount so secured
43 shall be reduced accordingly but the redemption of such outstanding
44 bonds from the proceeds of refunding bonds shall not reduce the amount
45 so secured.

46 e. For the purposes of this section, maximum amount of any sinking
47 fund payments becoming due and principal and interest maturing and
48 becoming due in any succeeding year means, as of the date of computa-
49 tion, the largest amount of money required in any succeeding year for
50 the payment of interest on and maturing principal of outstanding bonds
51 and payments required by the terms of any contracts to be made to any
52 sinking fund established for the payment or redemption of such bonds,
53 provided that the principal amount of any bonds required to be made to
54 any such sinking fund during any year shall, for the purposes of this
55 definition, be considered as maturing in the year during which such
56 payment is required and not in the year in which the stated maturity of

1 such bonds occurs. In computing the amount of any debt service reserve
2 fund for the purposes of this section, securities in which all or a
3 portion of such fund shall be invested shall be valued at par, or if
4 purchased at less than par, at their cost to the authority.

5 14. Agreement of the state. The state does hereby pledge to and agree
6 with the holders of any notes or bonds issued under this section, that
7 the state will not limit or alter the rights hereby vested in the
8 authority to fulfill the terms of any agreements made with the holders
9 thereof, or in any way impair the rights and remedies of such holders
10 until such notes or bonds, together with the interest thereon, with
11 interest of any unpaid installments of interest, and all costs and
12 expenses for which the authority is liable in connection with any action
13 or proceeding by or on behalf of such holders, are fully met and
14 discharged. The authority is authorized to include this pledge and
15 agreement of the state in any agreement with the holders of such notes
16 or bonds.

17 15. Right of state to require redemption of bonds. Notwithstanding and
18 in addition to any provisions for the redemption of bonds which may be
19 contained in any contract with the holders of the bonds, the state may,
20 upon furnishing sufficient funds therefor, require the authority to
21 redeem, prior to maturing, as a whole, any issue of bonds on any inter-
22 est payment date not less than twenty years after the date of the bonds
23 of such issue at one hundred five per centum of their face value and
24 accrued interest or at such lower redemption price as may be provided in
25 the bonds in case of the redemption thereof as a whole on the redemption
26 date. Notice of such redemption shall be published in at least two news-
27 papers publishing and circulating respectively in the cities of Albany
28 and New York at least twice, the first publication to be at least thirty
29 days before the date of redemption.

30 16. Remedies of noteholders and bondholders. a. In the event that the
31 authority shall default in the payment of principal of or interest on
32 any issue of notes or bonds after the same shall become due, whether on
33 any sinking fund payment date, at maturity or upon call for redemption,
34 and such default shall continue for a period of thirty days, or in the
35 event that the authority shall fail or refuse to comply with the
36 provisions of this section or shall default in any agreement made with
37 the holders of any issue of notes or bonds, the holders of twenty-five
38 per centum in aggregate principal amount of the notes or bonds of such
39 issue then outstanding, by instrument or instruments filed in the office
40 of the clerk of the county of Albany and proved or acknowledged in the
41 same manner as a deed to be recorded, may appoint a trustee to represent
42 the holders of such notes or bonds for the purposes provided in this
43 subdivision.

44 b. Such trustee may, and upon written request of the holders of twen-
45 ty-five per centum in principal amount of such notes or bonds then
46 outstanding shall, in his or its own name,

47 (1) by suit, action or proceeding in accordance with the civil prac-
48 tice law and rules, enforce all rights of the noteholders or bondhold-
49 ers, including the right to require the authority to collect rentals,
50 rates, charges and other fees and to collect interest and amortization
51 payments on senior housing opportunity corporation bonds and notes and
52 bonds and notes of any state agency held by it adequate to carry out any
53 agreement as to, or pledge of, such rentals, rates, charges and other
54 fees and of such interest and amortization payments, and to require the
55 authority to carry out any other agreements with the holders of such
56 notes or bonds and to perform its duties under this section;

1 (2) bring suit upon such notes or bonds;

2 (3) by action or suit, require the authority to account as if it were
3 the trustee of an express trust for the holders of such notes or bonds;

4 (4) by action or suit, enjoin any acts or things which may be unlawful
5 or in violation of the rights of the holders of such notes or bonds; and

6 (5) declare all such notes or bonds due and payable, and if all
7 defaults shall be made good, then with the consent of the holders of
8 twenty-five per centum of the principal amount of such notes or bonds
9 then outstanding, to annul such declaration and its consequences.

10 c. Such trustee shall in addition to the foregoing have and possess
11 all of the powers necessary or appropriate for the exercise of any func-
12 tions specifically set forth herein or incident to the general represen-
13 tation of bondholders or noteholders in the enforcement and protection
14 of their rights.

15 d. The supreme court shall have jurisdiction of any suit, action or
16 proceeding by the trustee on behalf of such noteholders or bondholders.
17 The venue of any such suit, action or proceeding shall be laid in the
18 county of Albany.

19 e. Before declaring the principal of notes or bonds due and payable,
20 the trustee shall first give thirty days' notice in writing to the
21 governor, to the authority, to the comptroller and to the attorney
22 general of the state.

23 17. Notes and bonds as legal investment. The notes and bonds of the
24 authority are hereby made securities in which all public officers and
25 bodies of the state and all senior housing opportunity corporations and
26 political subdivisions, all insurance companies and associations and
27 other persons carrying on an insurance business, all banks, bankers,
28 trust companies, savings banks and savings associations, including
29 savings and loan associations, building and loan associations, invest-
30 ment companies, and other persons carrying on a banking business, all
31 administrators, guardians, executors, trustees and other fiduciaries,
32 and all other persons whatsoever who are now or who may hereafter be
33 authorized to invest in bonds or other obligations of the state, may
34 properly and legally invest funds including capital in their control or
35 belonging to them. Notwithstanding any other provisions of law, the
36 bonds of the authority are also hereby made securities which may be
37 deposited with and shall be received by all public officers and bodies
38 of this state and all senior housing opportunity corporations and poli-
39 tical subdivisions for any purpose for which the deposit of bonds or
40 other obligations of the state is now or may hereafter be authorized.

41 18. Exemption from taxation; payments in lieu of taxes. a. Real prop-
42 erty owned by the authority shall be exempt from any taxation, special
43 ad valorem levy and special assessment, but shall be subject to a
44 payment in lieu of taxes.

45 b. The authority shall be required to pay no fees or taxes, whether
46 state or local, including but not limited to fees or taxes on real
47 estate, franchise taxes, sales taxes or other excise taxes, upon any of
48 its property, real or personal, or upon the use thereof, or upon its
49 activities in the operation and maintenance of its facilities or on any
50 rentals, rates, charges or other fees, revenues or other income received
51 by the authority and that the bonds and notes of the authority and the
52 income therefrom shall at all times be exempt from taxation, except for
53 gift and estate taxes and taxes on transfers. Nothing contained in this
54 subdivision shall affect the obligation imposed by this section on the
55 authority to make in lieu payments.

1 c. This section shall constitute a covenant and agreement with the
2 holders of all bonds and notes issued by the authority.

3 19. Actions against the authority. a. As a condition to the consent of
4 the state to such suits against the authority, in every action against
5 the authority for damages, for injuries to real or personal property or
6 for the destruction thereof, or for personal injuries or death, the
7 complaint shall contain an allegation that at least thirty days have
8 elapsed since the demand, claim or claims upon which such action is
9 founded were presented to a member of the authority or other officer
10 designated for such purpose and that the authority has neglected or
11 refused to make an adjustment or payment thereof.

12 b. An action against the authority founded on tort, except an action
13 for wrongful death, shall not be commenced more than one year after the
14 cause of action therefor shall have accrued, nor unless a notice of
15 claim shall have been served on the authority within the time limited by
16 and in compliance with all the requirements of section fifty-e of the
17 general municipal law. An action against the authority for wrongful
18 death shall be commenced in accordance with the notice of claim and time
19 limitation provisions of title eleven of article nine of the public
20 authorities law.

21 c. The authority may require any person, presenting for settlement on
22 account or claim for any cause whatever against the authority, to be
23 sworn before a director, counsel or an attorney, officer or employee of
24 the authority designated for such purpose, concerning such account or
25 claim and when so sworn to answer orally as to any facts relative to
26 such account or claim. The authority shall have power to settle or
27 adjust all claims in favor of or against the authority.

28 d. The rate of interest to be paid by the authority upon any judgment
29 for which it is liable shall not exceed four per centum per annum.

30 20. Severability. If any provision of this section or the application
31 thereof to any person or circumstance shall be adjudged invalid by a
32 court of competent jurisdiction, such order or judgment shall be
33 confined in its operation to the controversy in which it was rendered,
34 and shall not affect or invalidate the remainder of any provision of
35 this section or the application of any part thereof to any other person
36 or circumstance and to this end the provisions of each subdivision of
37 this section are hereby declared to be severable. Insofar as the
38 provisions of this section are inconsistent with the provisions of any
39 other law, general, special or local, the provisions of this section
40 shall be controlling.

41 § 2. This act shall take effect immediately.