

STATE OF NEW YORK

7805

2021-2022 Regular Sessions

IN ASSEMBLY

May 21, 2021

Introduced by M. of A. CYMBROWITZ -- read once and referred to the
Committee on Housing

AN ACT to amend the public housing law and the administrative code of
the city of New York, in relation to establishing the New York city
public housing preservation trust for properties owned or operated by
the New York city housing authority and providing for the issuance of
certain bonds, notes or other obligations of the New York city housing
development corporation

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

Section 1. The public housing law is amended by adding a new article
14 to read as follows:

ARTICLE XIV

NEW YORK CITY PUBLIC HOUSING PRESERVATION TRUST

Section 600. Short title.

601. Legislative findings.

602. Definitions.

603. New York city public housing preservation trust.

604. Powers and duties of the trust.

605. Transfer of property.

606. Exemption from land use review procedures and other
requirements.

607. Resident protections and opportunities.

608. Compliance with codes.

609. Contracts of the trust.

610. Alternative project delivery contracts.

611. Additional authority.

612. Additional requirements for alternative project delivery
contracts.

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

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613. Borrowing by the trust and for its benefit; effects of certain defaults.

614. Resources of the trust.

615. Legal investment and deposit.

616. Tax exemption and tax contract by the state.

617. Actions against the trust.

618. Civil service and pension system membership.

619. Collective negotiation.

620. Application of state and local human rights laws.

621. Limited liability.

622. Audit and annual reports.

623. Jurisdiction over trust.

624. Effect of inconsistent provisions.

625. Severability.

§ 600. Short title. This article shall be known and may be cited as the "New York city public housing preservation trust act".

§ 601. Legislative findings. The legislature hereby finds and declares that significant capital investment is required to design, develop, construct, reconstruct, improve, modernize, rehabilitate, and repair the aging buildings owned or operated by the New York city housing authority which are deteriorating due to decades of diminishing capital investment. Restrictions relating to the New York city housing authority's construction process, and its inability to utilize innovative project delivery methods, have exacerbated its capital needs. A new public entity with greater flexibility to leverage capital investment and to manage the rehabilitation of these properties must be established. Repairing, modernizing, and improving New York city housing authority buildings must begin immediately so that hundreds of thousands of New Yorkers can reside in affordable housing that is decent, safe, sanitary, and in good repair. Establishing a new public entity, and transferring a leasehold interest in the buildings owned and operated by the New York city housing authority to this new entity so that they can undergo the necessary rehabilitation, repair and modernization, will ensure that these buildings continue to provide affordable housing to residents of New York city for many decades into the future. It is the understanding and intention of the legislature that any building transferred to this new public entity and operated by the New York city housing authority shall continue to be subject to the obligations imposed by Maribel Baez et al. v. New York City Housing Authority, No. 13-Civ-8916.

§ 602. Definitions. As used or referred to in this article:

1. "Alternative project delivery contract" means any project delivery method authorized by this article, including construction manager build, construction manager at risk, and design-build, pursuant to which one or more contracts for the provision of design or construction management and construction services are awarded pursuant to an open and competitive method of procurement, as specified in section six hundred ten of this article.

2. "Best value" means the basis for awarding contracts for services to a proposer that optimizes quality, cost and efficiency, price and performance criteria, which may include, but is not limited to:

(a) the quality of the proposer's performance on previous projects;

(b) the timeliness of the proposer's performance on previous projects;

(c) the level of customer satisfaction with the proposer's performance on previous projects;

1 (d) the proposer's record of performing previous projects on budget
2 and ability to minimize cost overruns;

3 (e) the proposer's ability to limit change orders;

4 (f) the proposer's ability to prepare appropriate project plans;

5 (g) the proposer's technical capacities;

6 (h) the individual qualifications of the proposer's key personnel;

7 (i) the proposer's ability to assess and manage risk and minimize risk
8 impact;

9 (j) the proposer's financial capability;

10 (k) the proposer's ability to comply with applicable requirements,
11 including the provisions of articles one hundred forty-five, one hundred
12 forty-seven and one hundred forty-eight of the education law;

13 (l) the proposer's past record of compliance with federal laws, state
14 and local laws, rules, licensing requirements, where applicable, and
15 executive orders, including, but not limited to, section three of the
16 housing and urban development act of nineteen hundred sixty-eight, as
17 amended, or any successor provision, article fifteen-A of the executive
18 law, any other applicable laws concerning minority- and women-owned
19 business enterprise participation, the labor law, and any other applica-
20 ble labor and prevailing wage laws;

21 (m) the proposer's record of complying with existing labor standards,
22 maintaining harmonious labor relations, and protecting the health and
23 safety of workers and payment of wages above any locally-defined living
24 wage;

25 (n) a quantitative factor to be used in evaluation of bids or offers
26 for awarding of contracts for bidders or offerors that are certified as
27 minority or women owned business enterprises pursuant to article
28 fifteen-A of the executive law and certified pursuant to section thir-
29 teen hundred four of the New York city charter as minority or women
30 owned business enterprises. Where the trust identifies a quantitative
31 factor pursuant to this paragraph, the trust shall specify that busi-
32 nesses certified as minority or women owned business enterprises pursu-
33 ant to article fifteen-A of the executive law as well as those certified
34 as minority or women owned business enterprises pursuant to section
35 thirteen hundred four of the New York city charter are eligible to qual-
36 ify for such factor. Nothing in this paragraph shall be construed to
37 require that such businesses be concurrently certified as minority or
38 women owned business enterprises under such article and such section to
39 qualify for such quantitative factor; and

40 (o) a quantitative factor to be used in evaluation of bids or offers
41 for awarding of contracts for bidders or offerors that constitute busi-
42 ness concerns that provide economic opportunities for low and very low-
43 income persons. Such basis shall reflect, wherever possible, objective
44 and quantifiable analysis.

45 3. "Board" means the board of trustees of the trust.

46 4. "City" means the city of New York.

47 5. "Construction manager at risk" means a project delivery method
48 whereby a construction manager:

49 (a) serves as part of a team in conjunction with the owner in the
50 design phase of the project;

51 (b) during the construction phase, acts as general contractor for
52 agreed upon compensation as set forth in the construction manager at
53 risk agreement; and

54 (c) assumes the risk of construction costs exceeding an amount speci-
55 fied in the construction manager at risk agreement.

1 6. "Construction manager build" means a project delivery method where-
2 by a construction manager:

3 (a) serves as part of a team in conjunction with the owner in the
4 design phase of the project;

5 (b) under the oversight of the owner acts as the single source of
6 responsibility to bid, select and hold construction contracts on behalf
7 of the owner during the construction phase; and

8 (c) manages the construction project on behalf of the owner.

9 7. "Cost plus" means compensating a contractor for the cost to
10 complete a contract by reimbursing actual costs for labor, equipment and
11 materials plus an additional amount for overhead and profit.

12 8. "Design-build" means a project delivery method for the design and
13 construction of a project with a single entity, which may be a team
14 comprised of separate entities.

15 9. "Ground lease" means the written instrument pursuant to which NYCHA
16 transfers to the trust its leasehold interest in its housing facilities
17 and ancillary personal property.

18 10. "Housing facilities" means the land and buildings thereon owned or
19 operated by NYCHA and the improvements made to such land and buildings
20 for use in connection with development or operation of dwelling accommo-
21 dations for low-income families.

22 11. "Low-income families" means low-, very low-, and extremely low-in-
23 come families as defined in paragraph two of subsection (b) of section
24 1437a of title forty-two of the United States code or any successor
25 provision.

26 12. "Mayor" means the mayor of the city of New York.

27 13. "NYCHA" means the New York city housing authority.

28 14. "NYCHA board" means the members of NYCHA appointed pursuant to
29 subdivision three of section four hundred two of this chapter.

30 15. "NYCHA CEO" means the chief executive officer of NYCHA who serves
31 pursuant to NYCHA's by-laws.

32 16. "NYCHA CFO" means the chief financial officer of NYCHA who serves
33 pursuant to NYCHA's by-laws.

34 17. "Other residents" means residents who are:

35 (a) residents of a housing facility on the date NYCHA transfers such
36 facility to the trust but are not low-income families, as defined in
37 this section, on the date of such transfer;

38 (b) low-income families, as defined in this section, and residents of
39 a housing facility on the date NYCHA transfers such facility to the
40 trust but who, subsequent to such transfer and during the course of the
41 tenancies of such residents, no longer satisfy the definition of low-in-
42 come families; or

43 (c) low-income families, as defined in this section, upon commencement
44 of their tenancies in a housing facility operated by the trust but who,
45 during the course of the tenancies of such residents, do not satisfy the
46 definition of low-income families.

47 18. "Project labor agreement" shall have the same meaning as described
48 in subdivision one of section two hundred twenty-two of the labor law. A
49 project labor agreement shall require participation in apprentice train-
50 ing programs in accordance with paragraph (e) of subdivision two of
51 section two hundred twenty-two of the labor law.

52 19. "Resident" means a natural person whose lawful primary residence
53 is a dwelling unit in a housing facility.

54 20. "Trust" means the New York city public housing preservation trust.

55 § 603. New York city public housing preservation trust. 1. There is
56 hereby established a public benefit corporation to be known as the "New

1 York city public housing preservation trust". The purpose of such trust
2 shall be the design, development, construction, reconstruction, improve-
3 ment, modernization, rehabilitation, repairing and operation of housing
4 facilities.

5 2. The trust shall be governed by and its powers shall be exercised by
6 a board of trustees consisting of nine members. The members shall be the
7 NYCHA CEO, the NYCHA CFO, the deputy mayor for housing and economic
8 development of the city of New York, or another deputy mayor designated
9 by the mayor if there is no deputy mayor with that designation, three
10 members appointed by the NYCHA CEO, including two housing facility resi-
11 dent members and one member at large, provided that one such housing
12 facility resident member shall be selected from two candidates nominated
13 by the recognized citywide council of presidents, or an equivalent
14 successor body, and one such housing facility resident member shall be
15 selected from two candidates nominated by the resident advisory board,
16 or an equivalent successor body, and three members appointed by the
17 mayor, including two housing facility resident members and one member
18 who shall represent employees of NYCHA, as applicable, and be selected
19 from two candidates nominated by organizations representing employees of
20 NYCHA or the trust, as applicable. The NYCHA CEO shall be the chair of
21 the trust. The board of trustees of the trust shall appoint the presi-
22 dent of the trust. The term of each member, other than members serving
23 by virtue of their positions, shall be three years, except at initial
24 appointment when the terms shall be staggered so that no more than two
25 members shall have terms that end in any given year, provided that the
26 term of only one member appointed by the mayor shall end in any given
27 year.

28 3. Each appointed member shall continue in office until a successor
29 has been appointed and qualified unless otherwise removed as follows. A
30 member may be removed by the NYCHA CEO or mayor, whichever appointed
31 such member, upon the filing in the office of the trust and serving upon
32 the member the reasons therefor. Such document setting forth the
33 reasons shall be made available to the general public which shall
34 include, but not be limited to, publishing such reasons on the websites
35 of the trust and NYCHA. In the event a vacancy occurs in the office of
36 an appointed member, the vacancy shall be filled in the same manner as
37 was the original appointment of the member whose office became vacant.

38 4. Appointed members may engage in private employment, or in a profes-
39 sion or business, unless otherwise prohibited by law, rule or regu-
40 lation, provided, however, that notwithstanding any applicable provision
41 of law, the members shall be subject to the limitations contained in
42 sections two thousand six hundred three, two thousand six hundred four,
43 two thousand six hundred five, and two thousand six hundred six of the
44 New York city charter. The trust shall be an agency and such members
45 shall be public servants for the purposes of such sections. In addition,
46 such members shall be subject to the provisions of section one thousand
47 one hundred sixteen of the New York city charter and shall for the
48 purposes of such section be considered officers of the city. Further,
49 such members, the president and certain critical employees of the trust
50 as designated by the board or the president, shall be subject to the
51 provisions of section 12-110 of the administrative code of the city of
52 New York pertaining to the filing of annual disclosure reports with the
53 city conflicts of interest board, and for such purpose, the members of
54 the board of trustees shall be deemed to be compensated members of the
55 trust.

1 5. The board shall provide for the holding of regular meetings, and
2 such special meetings, at the call of the chair of the trust, as may be
3 necessary. A majority of the whole number of members shall constitute a
4 quorum for the transaction of business. The powers of the board shall be
5 vested in and exercised by a majority of the whole number of the members
6 thereof.

7 6. Members of the board, other than members serving by virtue of their
8 positions, shall receive a stipend in the amount of two hundred fifty
9 dollars for every four hours of work performed for the trust, not to
10 exceed one thousand five hundred dollars per month. In addition,
11 members shall be reimbursed for the actual and necessary expenses
12 incurred by them in the performance of their official duties as members
13 of the board of trustees.

14 7. The board shall appoint a president of the trust and determine the
15 compensation of the president. The president, who shall not be a member
16 of the board, shall be the chief executive officer of the trust and
17 shall be responsible for the discharge of the executive and administra-
18 tive functions and powers of the trust, including the power to appoint
19 and remove all other officers and employees of the trust, to fix the
20 compensation for employees subject to applicable civil service and
21 collective bargaining requirements, and to exercise powers of the board
22 that may be delegated by the board to the president. The president may
23 further delegate powers conferred by this article, including powers
24 delegated to the president by the board, to officers and employees of
25 the trust. The president shall serve at the pleasure of the board. The
26 president may designate one or more deputies and determine their rela-
27 tive ranks and duties. When the position of president is vacant, or
28 whenever by reason of illness or for any other reason the president
29 shall be prevented from attending to the duties of such position, the
30 highest-ranking deputy not absent or under disability shall act as pres-
31 ident.

32 8. The trust shall continue until terminated by law, provided, howev-
33 er, that no such law shall take effect so long as the trust shall have
34 bonds, notes or other obligations outstanding. Upon termination of the
35 existence of the trust, all of such trust's rights, property, assets and
36 funds shall thereupon vest in and be possessed by NYCHA.

37 9. Notwithstanding any provision of law to the contrary, no officer or
38 employee of the state, or of any civil division thereof, or of any
39 public corporation, as defined in the general construction law, includ-
40 ing NYCHA, shall be deemed to have forfeited or shall forfeit such
41 person's office or employment or any benefits provided under the retire-
42 ment and social security law or under any public retirement system main-
43 tained by the state or by the civil divisions thereof, or by any such
44 public corporation, by reason of such person's acceptance of membership
45 on the board of the trust or by virtue of such person being an officer
46 or employee of the trust.

47 § 604. Powers and duties of the trust. The trust shall have the
48 following powers and duties:

- 49 1. to sue and be sued;
- 50 2. to have a seal and alter the same at pleasure;
- 51 3. to make and, as necessary, to amend and repeal by-laws for the
52 trust and the management and regulation of its affairs not inconsistent
53 with the provisions of this article;
- 54 4. to appoint the president of the trust and fix the president's
55 compensation, pursuant to section six hundred three of this article, and
56 to delegate powers of the board to the president;

1 5. to engage or assist in the development, design, construction,
2 reconstruction, improvement, modernization, rehabilitation, repairing,
3 and operation of housing facilities;

4 6. to acquire or transfer real and personal property and improvements
5 thereon, or any interest therein, by any method, necessary or convenient
6 for the exercise of its functions, powers and duties;

7 7. to encumber residential property and buildings held by the trust
8 and limit use to residents who are low-income families as defined in
9 subdivision eleven of section six hundred two of this article and other
10 residents as defined in subdivision seventeen of section six hundred two
11 of this article;

12 8. to make and execute contracts and all other instruments necessary
13 or convenient for the exercise of its functions, powers and duties,
14 including procurement contracts consistent with applicable provisions of
15 this article. Notwithstanding any provision of law to the contrary,
16 including but not limited to article eight of this chapter, the trust
17 may enter into contracts, consistent with applicable provisions of this
18 article, with NYCHA or on behalf of and for the benefit of NYCHA;

19 9. to enter into agreements with the NYCHA or other entities for the
20 provision of management, maintenance and other services;

21 10. notwithstanding the provisions of section twenty-five hundred four
22 of the insurance law or any other provision of law to the contrary, to
23 procure or cause to be placed or procured insurance on behalf of itself
24 and others against any loss in connection with its activities, proper-
25 ties and other assets, in such amounts and from such insurers as it
26 deems desirable;

27 11. to enter into agreements with public agencies and public entities
28 for the receipt of services;

29 12. to borrow and loan funds and issue bonds, notes or other obli-
30 gations consistent with this article;

31 13. to form or participate as members or partners of private entities,
32 which may include but are not limited to, not-for-profit corporations,
33 housing development fund corporations, limited liability corporations,
34 and limited partnerships, to further the purposes and powers given and
35 granted by this section;

36 14. to earn fees and other proceeds from the activities and powers
37 given and granted by this section;

38 15. to apply for or accept from any source any gifts, grants,
39 donations, or conveyances of land, money, other real or personal proper-
40 ty, or other items of value, or loans of funds or property or financial
41 or other aid or credit assistance in any form, including any guaranty,
42 line of credit, or grant, from the federal government or any agency or
43 instrumentality thereof, from the state or any agency or instrumentality
44 thereof, from the city or any agency or instrumentality thereof, or from
45 any other source, for any or all of the purposes specified in this arti-
46 cle, and it may comply, subject to the provisions of this article, with
47 the terms and conditions thereof;

48 16. prior to the approval of any rule or regulation affecting rights
49 and protections afforded to residents of housing facilities, including,
50 but not limited to, resident protections and opportunities pursuant to
51 section six hundred seven of this article, lease revisions, schedules of
52 special charges for services, repairs and utilities, and rules and regu-
53 lations to be incorporated into the lease by reference, the trust shall
54 post a notice containing the proposed rule or regulation on the website
55 of the trust and in a prominent location in the affected housing facili-
56 ty. Such notice shall include (a) a statement of the basis and purpose

1 of the proposed rule, (b) the time and place of the meeting at which the
2 board will provide residents an opportunity to provide oral comment on
3 such proposed rule, provided that a meeting to provide residents an
4 opportunity to provide oral comment shall not be required if such rule
5 is required by law with only minor, if any, exercise of discretion by
6 the trust, or does not adversely affect the protections afforded to the
7 residents of the housing facilities, and (c) an opportunity to submit
8 written comments and the final date for receipt of written comments. The
9 trust may adopt a rule or regulation after receiving written comments on
10 the proposed rule or regulation for a period of at least thirty days.
11 The trust shall consider all comments received in such period prior to
12 adopting such rule or regulation. In the event the trust determines that
13 immediate adoption of any rule or regulation is necessary for the pres-
14 ervation of health, safety or general welfare and that compliance with
15 the foregoing requirements of this subdivision would be contrary to the
16 public interest, such proposed item may be adopted on an emergency
17 basis. The trust shall provide written justification for such determi-
18 nation and make such justification publicly available including via its
19 website and in a prominent location in the affected housing facility.
20 Any such immediate adoption shall only remain in effect for sixty days,
21 and during such time the trust shall comply with the requirements of
22 this subdivision in order for the adoption of the rule or regulation to
23 become permanent; and

24 17. to do any and all things necessary or convenient to carry out and
25 exercise the powers given and granted by this article.

26 § 605. Transfer of property. 1. NYCHA, acting by NYCHA board resol-
27 ution and in accordance with a disposition or similar plan approved by
28 the United States department of housing and urban development, which
29 shall include a letter of approval from the mayor or a designee of the
30 mayor, may transfer to the trust, with or without consideration and
31 without any further authorization, a leasehold interest in its housing
32 facilities and any ancillary personal property of such facilities. The
33 aggregate number of residential units transferred to the trust pursuant
34 to this section shall not exceed twenty-five thousand. On an annual
35 basis, the trust shall review such limit and, if it determines that such
36 limit should be increased, make recommendations to the legislature
37 regarding any such increase.

38 2. The trust shall not transfer, convey, assign, mortgage, pledge or
39 otherwise encumber any interest in, or permit or suffer any transfer,
40 conveyance, assignment, mortgage, pledge or other encumbrance of any
41 interest in any housing facilities, or any part thereof without prior
42 written consent of NYCHA.

43 3. The trust shall ensure that any housing facilities transferred to
44 the trust pursuant to this section and any portions thereof are leased
45 in accordance with United States department of housing and urban devel-
46 opment eligibility and income-targeting requirements, to the extent
47 applicable to the units therein. Rents for such units shall not exceed
48 applicable program requirements for the provision of housing for low-in-
49 come families as established pursuant to federal law and regulations.

50 4. Prior to the transfer of any housing facility, or any part thereof,
51 NYCHA and the trust shall each post a notice of such proposed transfer
52 on the respective website of NYCHA and the trust and in a prominent
53 location of the affected housing facility. Such notice shall include:

54 (a) a summary description of the proposed transfer;

1 (b) the time and place of two public meetings at which NYCHA shall
2 provide residents of such facility an opportunity to provide oral
3 comment on the proposed transfer; and

4 (c) an opportunity for residents to submit written comments and the
5 final date for submission of such comments. NYCHA and the trust shall
6 consider all comments received in such period prior to completing a
7 transfer pursuant to this subdivision.

8 § 606. Exemption from land use review procedures and other require-
9 ments. 1. Except for the provisions of article eight of the environ-
10 mental conservation law and article fourteen of the parks, recreation
11 and historic preservation law, neither (a) the establishment or amend-
12 ment of a housing facility's disposition or similar plan pursuant to
13 agreement with the United States department of housing and urban devel-
14 opment and actions relating to the financing thereof, (b) the selection
15 of sites for projects, (c) any conveyance or other grant of property or
16 of any interest therein by NYCHA or any other person, firm or organiza-
17 tion to the trust, (d) the development of housing facilities by or
18 through the trust, including any contracts, approvals, consents, agree-
19 ments, permits or authorizations necessary to accomplish the same, and
20 (e) the reconveyance or transfer of property to NYCHA by the trust,
21 shall be subject to the provisions of any general, special or local law,
22 city charter, administrative code, ordinance or resolution governing
23 uniform land use review procedures, any other land use planning review
24 and approvals, historic preservation procedures, architectural reviews,
25 franchise approvals and other state or local review and approval proce-
26 dures governing the use of land and the improvements thereon within the
27 city. Capital projects for housing facilities to be undertaken by or
28 through the trust shall not be subject to the provisions of the New York
29 city charter relating to site selection, land use review procedures, art
30 commission review procedures, general standards and cost limits, project
31 scope and design procedures, or contract registration and vouchering
32 procedures.

33 2. The trust shall be subject to zoning regulations to the same extent
34 that NYCHA is subject to such regulations.

35 § 607. Resident protections and opportunities. 1. The protections
36 afforded to a resident of a housing facility shall be consistent with
37 those afforded to a public housing resident, to the extent permitted in
38 accordance with federal law, and subject to and with the approval of the
39 United States department of housing and urban development. These
40 protections shall include, but are not limited to:

41 (a) preserving the affordable character of such housing facility in
42 accordance with section eight of the United States housing act of nine-
43 teen hundred thirty-seven, as amended, or any successor provision;

44 (b) ensuring that any resident required to relocate temporarily for
45 purposes of rehabilitation or redevelopment of such housing facility is
46 able to return to such housing facility following the completion of such
47 rehabilitation or redevelopment, and that the relocation expenses of
48 such temporary relocation be paid for by the trust or NYCHA as required
49 by applicable federal law;

50 (c) providing a resident of such housing facility the opportunity to
51 establish and operate a council to represent residents in such housing
52 facility to address concerns relating to such facility and to be eligi-
53 ble for resident participation funding from the trust consistent with
54 funding available to residents of public housing pursuant to section
55 964.150 of title twenty-four of the code of federal regulations or any
56 successor regulation, provided that any resident council that, at the

1 time of the transfer of a housing facility to the trust, is certified by
2 NYCHA as the resident council shall be recognized by the trust as the
3 resident council of such housing facility;

4 (d) providing a resident of a housing facility an opportunity for an
5 informal hearing to grieve any dispute that such resident may have with
6 respect to an action of the trust with regard to such resident's lease,
7 consistent with the obligation of a public housing agency pursuant to
8 paragraph eight of subdivision (e) of section 966.4 of title twenty-four
9 of the code of federal regulations or any successor regulation;

10 (e) providing a resident of a housing facility automatic renewal of
11 such resident's leases, except for good cause as specified in the lease
12 between such resident and the trust, consistent with the requirements
13 relating to a lease between a public housing agency and a tenant of a
14 dwelling unit pursuant to subparagraph (i) of paragraph two of subdivi-
15 sion (a) and subdivision (l) of section 966.4 of title twenty-four of
16 the code of federal regulations or any successor regulation;

17 (f) determining succession to a lease between a resident and the trust
18 in accordance with the succession policy described in the management
19 manual, and any amendments to such manual, of NYCHA;

20 (g) permitting a resident whose total tenant payment, as defined in
21 section 983.3 of title twenty-four of the code of federal regulations,
22 or any successor regulations, would equal or exceed the rent to owner,
23 as defined in section 983.3 of title twenty-four of the code of federal
24 regulations or any successor regulations, to remain in a housing facili-
25 ty and pay rent in an amount to be determined by the trust and NYCHA and
26 as set forth in the lease of such resident; and

27 (h) determining succession to a voucher pursuant to section eight of
28 the United States housing act of nineteen hundred thirty-seven, as
29 amended, or any successor provision, in accordance with the housing
30 voucher program administrative plan, and any amendments to such plan, of
31 NYCHA.

32 2. The resident protections described in subdivision one of this
33 section shall be enumerated in the ground lease or other appropriate
34 agreement between NYCHA and the trust and shall be further enumerated in
35 writing between the trust and each resident of a housing facility.
36 Nothing in this section shall preclude the trust or NYCHA from providing
37 additional resident protections, which may be enumerated in any such
38 ground lease or agreement.

39 3. The trust, to the greatest extent feasible, and consistent with
40 federal, state and local laws and regulations, shall ensure that employ-
41 ment and other economic opportunities be directed to residents of the
42 housing facilities, consistent with section three of the housing and
43 urban development act of nineteen hundred sixty-eight, as amended, and
44 part seventy-five of title twenty-four of the code of federal regu-
45 lations or any successor law or regulation.

46 4. The trust shall act in accordance with the full requirements of
47 part nine hundred sixty-four of title twenty-four of the code of federal
48 regulations or any successor regulation. The trust shall, among other
49 requirements, support resident participation in the operations of the
50 housing facilities and negotiate, with any resident management corpo-
51 rations, or equivalent that satisfies the requirements of such part, for
52 operation of a housing facility.

53 § 608. Compliance with codes. 1. The trust shall, in the design,
54 development, construction, reconstruction, improvement, modernization,
55 rehabilitation, repair, and operation of or otherwise providing for

1 housing facilities, comply and cause all contractors of the trust to
2 comply with applicable sanitary and building laws and regulations.

3 2. The trust shall adopt rules or regulations establishing sustainable
4 design guidelines for the development, construction, reconstruction,
5 improvement, modernization, rehabilitation, repair, and operation of, or
6 otherwise providing for, housing facilities, which shall include crite-
7 ria for beneficial electrification and renewable energy production in
8 furtherance of the goals of decarbonized buildings, use of sustainable
9 materials, and energy and water efficiency.

10 § 609. Contracts of the trust. 1. Notwithstanding any provision of law
11 to the contrary, the trust shall establish and maintain procurement
12 policies that shall set forth the methods and procedures by which the
13 trust shall procure contracts for goods and services, including but not
14 limited to services for design, development, construction, recon-
15 struction, improvement, modernization, rehabilitation, repair and opera-
16 tion, related to property owned or leased by the trust, in a manner
17 consistent with the provisions of this article. Such policies shall
18 specifically include:

19 (a) a competitive sealed bidding process for the award of contracts in
20 which sealed bids are publicly solicited or solicited from a list of
21 prequalified bidders and opened and a contract is awarded to the lowest
22 responsive, responsible bidder;

23 (b) processes for awarding contracts for goods and services using
24 alternatives to competitive sealed bidding where competitive sealed
25 bidding is not practicable or not advantageous, in which case the trust
26 shall use the most competitive method of procurement that is appropriate
27 under the circumstances to select the proposer offering the best value
28 to the trust;

29 (c) a process for prequalifying bidders and proposers based on crite-
30 ria, which may include an entity's experience, past performance, ability
31 to undertake work, financial capability, responsibility, reliability and
32 status as a certified minority or women owned business enterprise pursu-
33 ant to article fifteen-A of the executive law or section thirteen
34 hundred four of the New York city charter;

35 (d) reasonable procedures to secure the meaningful participation of
36 minority and women owned business enterprises in the trust's procurement
37 process. The trust may use the same measures to enhance minority and
38 women owned business enterprise participation as are available to the
39 city pursuant to applicable law, including section 6-129 of the adminis-
40 trative code of the city of New York;

41 (e) processes for awarding alternative project delivery contracts, in
42 a manner consistent with the terms of section six hundred ten of this
43 article;

44 (f) procedures for the fair and equitable resolution of contract
45 disputes, for appeals of responsiveness and responsibility determi-
46 nations by the trust, and for appeals of prequalification determi-
47 nations;

48 (g) a process for making purchases of contracts procured by public
49 agencies and public entities; and

50 (h) a mechanism for procurements without a formal competitive process
51 where:

52 (1) the existence of an emergency involving danger to life, safety or
53 property requires immediate action and cannot await a competitive proc-
54 ess for goods or services to be purchased, including, but not limited
55 to, services for construction, reconstruction, rehabilitation, alter-
56 ation, renovation, maintenance or repairs, which are essential to effi-

1 cient operation or the adequate provision of service by the trust and as
2 a consequence of unforeseen circumstance such purchase cannot await a
3 competitive process;

4 (2) a procurement's value does not exceed two hundred fifty thousand
5 dollars;

6 (3) the trust receives no responsive bids or only a single responsive
7 bid in response to a solicitation for competitive bids or proposals;

8 (4) a procurement's value does not exceed five hundred thousand
9 dollars and is made from a business certified as a minority or women
10 owned business enterprise pursuant to article fifteen-A of the executive
11 law and section thirteen hundred four of the New York city charter.
12 Nothing in this paragraph shall be construed to require that such busi-
13 ness be concurrently certified as minority or women owned business
14 enterprises under article fifteen-A of the executive law and section
15 thirteen hundred four of the New York city charter to be awarded such a
16 contract;

17 (5) a duly appointed representative of the trust determines in writing
18 that, based on a market analysis, only one source for the required goods
19 or services, including but not limited to, services for construction,
20 reconstruction, rehabilitation, alteration, renovation, maintenance and
21 repairs, are available; or

22 (6) the contract is a contract between the trust and another govern-
23 mental entity, including, but not limited to NYCHA.

24 2. Contracts of the trust shall be subject to sections 6-108 and 6-123
25 of the administrative code of the city of New York, and the trust shall
26 constitute a "contracting agency" for the purposes of section 6-123 of
27 the administrative code of the city of New York.

28 3. The provisions of section one hundred six-b of the general munici-
29 pal law shall apply to the trust.

30 4. Unless a federal requirement conflicts with any procurement proce-
31 dure set forth in this article, the trust shall be required to comply
32 with such procedure.

33 § 610. Alternative project delivery contracts. 1. Notwithstanding any
34 provision of law to the contrary, including but not limited to section
35 seventy-two hundred ten of the education law, and in conformity with the
36 requirements of this article, for any public work undertaken pursuant to
37 a project labor agreement the trust may use alternative project delivery
38 contracts.

39 (a) A contractor selected by the trust to enter into an alternative
40 project delivery contract may be selected through a two-step method, as
41 follows:

42 (1) The first step shall be the generation of a list of responding
43 entities that have demonstrated the general capability to perform the
44 alternative project delivery contract. Such list shall consist of a
45 specified number of responding entities, as determined by the trust, and
46 shall be generated based upon the trust's review of responses to a
47 publicly advertised request for qualifications. The trust's request for
48 qualifications shall include a general description of the public work,
49 the maximum number of responding entities to be included on such list,
50 the selection criteria to be used and the relative weight of each crite-
51 ria in generating such list. Such selection criteria shall include the
52 qualifications and experience of the entity or team of entities, organ-
53 ization, demonstrated responsibility, ability of the entity or team of
54 entities or of a member or members of the entity or team of entities to
55 comply with applicable requirements, including the provisions of arti-
56 cles one hundred forty-five, one hundred forty-seven and one hundred

1 forty-eight of the education law, past record of compliance with the
2 labor law, and such other qualifications the trust deems appropriate,
3 which may include but are not limited to project understanding, finan-
4 cial capability and record of past performance. The trust shall evaluate
5 and rate all responding entities to the request for qualifications.
6 Based upon such ratings, the trust shall list the responding entities
7 that shall receive a request for proposals in accordance with subpara-
8 graph two of this paragraph. To the extent consistent with applicable
9 federal law, the trust shall consider, when awarding any contract pursu-
10 ant to this section, the participation of (i) responding entities that
11 are certified as minority or women owned business enterprises pursuant
12 to article fifteen-A of the executive law, or certified pursuant to
13 local law as minority or women owned business enterprises, (ii) small
14 business concerns identified pursuant to subdivision (b) of section one
15 hundred thirty-nine-g of the state finance law, and (iii) business
16 concerns that provide economic opportunities for low and very low-income
17 persons. In addition, nothing in this section shall be deemed to super-
18 seede any prequalification policies adopted by the trust pursuant to
19 section six hundred nine of this article.

20 (2) The second step shall be the selection of the proposal which is
21 the best value to the trust. The trust shall issue a request for
22 proposals to the responding entities listed pursuant to subparagraph one
23 of this paragraph. If such a responding entity consists of a team of
24 separate entities, the entities that comprise such a team shall remain
25 unchanged from the responding entity as listed pursuant to subparagraph
26 one of this paragraph unless otherwise approved by the trust. The
27 request for proposals shall set forth the public work's scope of work,
28 and other requirements, as determined by the trust, which may include
29 separate goals for work under the contract to be performed by businesses
30 certified as minority or women owned business enterprises pursuant to
31 article fifteen-A of the executive law, or certified pursuant to local
32 law as minority or women owned business enterprises, or goals estab-
33 lished pursuant to section three of the housing and urban development
34 act of nineteen hundred sixty-eight, as amended, or any successor
35 provision, if applicable. The request for proposals shall also specify
36 the criteria to be used to evaluate the responses and the relative
37 weight of each of such criteria. Such criteria shall include: the qual-
38 ity of the proposal's solution; the qualifications and experience of the
39 proposer; the proposal's cost, which may include factors that may be
40 considered individually or in the aggregate, such as the proposed cost
41 of design phase work, the proposed cost of construction phase work, or
42 cost factors relating to construction phase work, as applicable; and
43 other factors deemed pertinent by the trust, which may include, but
44 shall not be limited to, the proposal's manner and schedule of project
45 implementation, the proposer's ability to complete the work in a timely
46 and satisfactory manner, maintenance costs of the completed public work,
47 maintenance of traffic approach, and community impact. The trust may
48 engage in negotiations or other discussions with all qualified vendors
49 that have expressed interest, provided that the trust maintains a writ-
50 ten record of the conduct of negotiations or discussions and the basis
51 for every determination to continue or suspend negotiations, and further
52 provided that if the trust determines for a particular contract or for a
53 particular type of contract that it is in the trust's best interest to
54 negotiate or enter into discussions with fewer proposers, it may make
55 such a determination in writing. If the trust enters into such negoti-
56 ations, the trust shall allow all proposers to revise their proposals

1 upon conclusion of negotiations, and the trust shall evaluate the propo-
2 sers' revised proposals using the criteria included in the request for
3 proposals. Any contract awarded pursuant to this section shall be
4 awarded to a responsive and responsible proposer, which, in consider-
5 ation of these and other specified criteria deemed pertinent, offers the
6 best value as determined by the trust. The request for proposals shall
7 include a statement that proposers shall designate in writing those
8 portions of the proposal that contain trade secrets or other proprietary
9 information that are to remain confidential, so that the material desig-
10 nated as confidential shall be readily separable from the proposal.
11 Nothing in this subdivision shall be construed to prohibit the trust
12 from negotiating final contract terms and conditions including cost. All
13 proposals submitted shall be scored according to the criteria listed in
14 the request for proposals and such final scores shall be published on
15 the trust's website after the date upon which such contract may be
16 implemented.

17 (b) The trust, in awarding an alternative project delivery contract to
18 a contractor offering the best value may use the following types of
19 contracts:

20 (1) a cost-plus not to exceed guaranteed maximum price form of
21 contract in which the trust shall be entitled to monitor and audit all
22 costs. In establishing the schedule and process for determining a guar-
23 anteed maximum price, the contract between the trust and the contractor
24 shall include terms specifying the price for the design phase of the
25 work, the scope of the work, and any applicable cost factors relating to
26 construction phase work that were included in the contractor's proposal.
27 A fair and reasonable guaranteed maximum price for the construction
28 phase of the work, or portions of the construction phase of the work,
29 may be agreed to as one or more amendments to such contract based on
30 developments in the design of the project that occur after such contract
31 is executed. Each guaranteed maximum price amendment shall: (i)
32 describe the scope of the portion of the construction phase work subject
33 to the amendment, the cost of performing such work, and the maximum
34 costs of any contingencies related to such work, (ii) include a detailed
35 line item cost breakdown, (iii) include a list of all drawings, specifi-
36 cations and other information on which the guaranteed maximum price is
37 based, (iv) include the dates of substantial and final completion on
38 which the guaranteed maximum price is based, as applicable, and (v)
39 include a schedule of unit prices. The trust shall maintain a written
40 record of each guaranteed maximum price amendment, which shall include a
41 summary of the negotiation process and a description of the relevant
42 developments in the design of the project, independent cost estimates
43 prepared by or on behalf of the trust, as required pursuant to a policy
44 established by the trust, the contractor's actual cost schedules and
45 unit prices, and any other factors that the trust considered. If the
46 trust and the contractor cannot agree upon a guaranteed maximum price
47 for one or more portions of construction phase work, the trust may
48 direct the contractor to assign all duties and rights under such alter-
49 native project delivery contract to another responsive and responsible
50 proposer pursuant to subparagraph two of paragraph (a) of this subdivi-
51 sion that offered the best value of the remaining proposers and that
52 will agree to accept such assignment. This subparagraph shall not be
53 deemed to prohibit the use of any contract terms or procedures pursuant
54 to any other provision of law, including but not limited to provisions
55 included in this article;

1 (2) a lump sum contract in which the contractor agrees to accept a set
2 dollar amount for a contract which comprises a single bid without
3 providing a cost breakdown for all costs such as for equipment, labor,
4 materials, as well as such contractor's profit for completing all items
5 of work comprising the public work;

6 (3) incentive payments identified in the text of the contract for
7 performance objectives; or

8 (4) a combination of elements of the contract types listed herein.

9 2. All alternative project delivery contracts entered into pursuant to
10 this section shall include a clause requiring that any professional
11 services regulated by articles one hundred forty-five, one hundred
12 forty-seven and one hundred forty-eight of the education law shall be
13 performed and stamped and sealed, where appropriate, by a professional
14 licensed in accordance with the appropriate article.

15 3. The submission of a proposal or responses or the execution of an
16 alternative project delivery contract pursuant to this article shall not
17 be construed to be a violation of section six thousand five hundred
18 twelve of the education law.

19 4. Each alternative project delivery contract entered into by the
20 trust pursuant to this article shall comply with the objectives and
21 goals relating to the performance of design and construction services by
22 minority and women owned business enterprises pursuant to section 6-129
23 of the administrative code of the city of New York, or, for projects or
24 public works receiving federal aid, applicable federal requirements for
25 disadvantaged business enterprises or minority and women owned business
26 enterprises and section three of the housing and urban development act
27 of nineteen hundred sixty-eight, as amended, or any successor provision,
28 if applicable.

29 5. (a) Notwithstanding any provision of law to the contrary, all
30 rights or benefits, including terms and conditions of employment, and
31 protection of civil service and collective bargaining status of all
32 employees of NYCHA and the trust solely in connection with the use of an
33 alternative project delivery contract pursuant to this section shall be
34 preserved and protected.

35 (b) The use of alternative project delivery contracts pursuant to this
36 section shall not result in the (1) displacement of any currently
37 employed worker of NYCHA or loss of position, including partial
38 displacement such as a reduction in the hours of non-overtime work,
39 wages or employment benefits, or result in the impairment of existing
40 collective bargaining agreements to which NYCHA is a party, or (2)
41 transfer of existing duties and functions related to maintenance and
42 operations currently performed by existing employees of NYCHA to a
43 contractor.

44 (c) Employees of the trust and NYCHA serving in positions in newly
45 created titles shall be assigned to the appropriate bargaining unit.
46 Nothing contained in this section shall be construed to affect (1) the
47 existing rights of employees of NYCHA pursuant to an existing collective
48 bargaining agreement, (2) the existing representational relationships
49 among employee organizations representing employees of NYCHA, or (3) the
50 bargaining relationships between NYCHA and such employee organizations.

51 (d) Without limiting contractors' obligations under alternative
52 project delivery contracts to issue their own initial certifications of
53 substantial completion and final completion, public employees of the
54 trust shall review and determine whether the work performed by contrac-
55 tors is acceptable and has been performed in accordance with the appli-
56 cable alternative project delivery contracts, and if such public employ-

ees so determine, such public employees shall accept contractors' substantial or final completion of the public works as applicable. Performance by public employees of the trust of any review described in this subdivision shall not be construed to modify or limit contractors' obligations to perform the work in strict accordance with the applicable alternative project delivery contract or the contractors' or any subcontractors' obligations or liabilities under any law.

§ 611. Additional authority. The procurement authority conferred by this article shall not impact or impair, and shall be in addition to, the authority conferred by the NYCHA modernization investment act and the New York city public works investment act.

§ 612. Additional requirements for alternative project delivery contracts. Construction performed under a contract entered into by the trust pursuant to this article shall be deemed a "public work" to be performed in accordance with the provisions of article eight of the labor law, as well as subject to sections two hundred, two hundred forty, two hundred forty-one and two hundred forty-two of the labor law and enforcement of prevailing wage requirements pursuant to applicable law or, for projects or public works receiving federal aid, applicable federal requirements for prevailing wage. Any contract entered into pursuant to section six hundred ten of this article shall include a clause requiring the selected alternative project delivery contractor to obligate every tier of contractor working on the public work to comply with the project labor agreement required by section six hundred ten of this article, and shall include project labor agreement compliance monitoring and enforcement provisions consistent with any such project labor agreement.

§ 613. Borrowing by the trust and for its benefit; effects of certain defaults. 1. For the purposes of this section, the term "project" means the development, design, construction, reconstruction, improvement, rehabilitation, repairing and operation of housing facilities.

2. The trust shall have the power and is hereby authorized from time to time to issue bonds, notes or other obligations in conformity with applicable provisions of the uniform commercial code, in such principal amounts as it may determine to be necessary to pay the cost of any project and to fund reserves to secure such bonds, notes or other obligations, including incidental expenses in connection therewith. The trust shall have the power from time to time to refund any bonds, notes or other obligations of the trust by the issuance of new bonds, notes or other obligations, and may issue bonds, notes or other obligations partly to refund bonds, notes or other obligations of the trust then outstanding and partly to pay the cost of any project. Bonds, notes or other obligations issued by the trust shall be payable as may be designated in the resolution of the trust under which the bonds, notes or other obligations shall be authorized to be issued, subject to any agreements with the holders of outstanding bonds, notes or other obligations pledging any particular revenues or moneys. No bonds, notes or other obligations of the trust or any entity referred to in subdivision thirteen of section six hundred four of this article shall be issued or incurred without the prior written approval of the director of management and budget of the city of New York.

3. The trust shall be authorized to obtain insurance, letters of credit and other credit or liquidity facilities related to its bonds, notes or other obligations.

4. The board may delegate to the chair or the president of the trust the power to set the final terms of bonds, notes or other obligations.

1 5. Whenever the trust shall determine that the issuance of its bonds,
2 notes or other obligations is appropriate, the trust shall make a deter-
3 mination as to the arrangements necessary for the issuance and sale of
4 such bonds, notes or other obligations, including the underwriting of
5 such bonds, notes or other obligations through the public or private
6 sale of such bonds, notes or other obligations, and such determination
7 shall include compensation for services rendered as the trust deems
8 appropriate. Such determination shall be set forth in a resolution of
9 the trust, which shall authorize issuance of such bonds, notes or other
10 obligations. The bonds, notes or other obligations shall bear interest
11 at such fixed or variable rates and shall be in such denominations, be
12 in such form, either coupon or registered, be sold at such public or
13 private sale, be executed in such manner, be denominated in United
14 States currency, be payable in such medium of payment, at such place and
15 be subject to such terms of redemption as the trust may provide in such
16 resolution.

17 6. Any resolution or resolutions authorizing bonds, notes or other
18 obligations or any issue of bonds, notes or other obligations may
19 contain provisions which may be a part of the contract with the holders
20 of the bonds, notes or other obligations thereby authorized as to:

21 (a) pledging all or part of its revenues, including, but not limited
22 to, project-based or tenant-based assistance pursuant to section eight
23 of the United States housing act of nineteen hundred thirty-seven, as
24 amended, or any successor provision, and assistance provided to NYCHA
25 pursuant to section nine of the United States housing act of nineteen
26 hundred thirty-seven, as amended, or any successor provision, together
27 with any other moneys, securities or contracts, to secure the payment of
28 the bonds, notes or other obligations, subject to such agreements as may
29 then exist;

30 (b) the setting aside of reserves and the creation of sinking funds
31 and the regulation and disposition thereof;

32 (c) limitations on the purpose to which the proceeds from the sale of
33 bonds, notes or other obligations may be applied;

34 (d) limitations on the issuance of additional bonds, notes or other
35 obligations, the terms upon which additional bonds, notes or other obli-
36 gations may be issued and secured and the refunding of bonds, notes or
37 other obligations;

38 (e) the procedure, if any, by which the terms of any contract with
39 holders of bonds, notes or other obligations may be amended or abrogat-
40 ed, including the proportion of holders of bonds, notes or other obli-
41 gations which are needed to consent thereto and the manner in which such
42 consent may be given;

43 (f) vesting in a bond trustee or trustees such properties, rights,
44 powers and duties in trust as the trust may determine; and

45 (g) defining the acts or omissions to act that may constitute a
46 default in the obligations and duties of the trust to the holders of
47 bonds, notes or other obligations and providing for the rights and reme-
48 dies of the holders of bonds, notes or other obligations in the event of
49 such default, including as a matter of right the appointment of a
50 receiver, provided, however, that such rights and remedies shall not be
51 inconsistent with the general laws of the state and other provisions of
52 this article.

53 7. In addition to the powers herein conferred upon the trust to secure
54 its bonds, notes or other obligations, the trust shall have power in
55 connection with the issuance of bonds, notes or other obligations to
56 enter into such agreements for the benefit of the holders of bonds,

1 notes or other obligations as the trust may deem necessary, convenient
2 or desirable concerning the use or disposition of its revenues or other
3 moneys, including the entrusting, pledging or creation of any other
4 security interest in any such revenues, moneys and the doing of any act,
5 including refraining from doing any act, which the trust would have the
6 right to do in the absence of such agreements. The trust shall have
7 power to enter into amendments of any such agreements within the powers
8 granted to the trust by this article and to perform such agreements. The
9 provisions of any such agreements may be made a part of the contract
10 with the holders of bonds, notes or other obligations of the trust.

11 8. Notwithstanding any provision of the uniform commercial code to the
12 contrary, any pledge of or other security interest in revenues, moneys,
13 accounts, contract rights, general intangible or other personal property
14 made or created by the trust shall be valid, binding and perfected from
15 the time when such pledge is made or other security interest attaches
16 without any physical delivery of the collateral or further act, and the
17 lien of any such pledge or other security interest shall be valid, bind-
18 ing and perfected against all parties having claims of any kind in tort,
19 contract or otherwise against the trust irrespective of whether or not
20 such parties have notice thereof. No instrument by which such a pledge
21 or security interest is created nor any financing statement need be
22 recorded or filed.

23 9. Whether or not the bonds, notes or other obligations of the trust
24 are of such form and character as to be negotiable instruments under the
25 terms of the uniform commercial code, the bonds, notes or other obli-
26 gations are hereby made negotiable instruments within the meaning of and
27 for all the purposes of the uniform commercial code, subject only to the
28 provisions of the bonds, notes or other obligations for registration.

29 10. Neither the members of the board nor any person executing bonds
30 shall be liable personally thereon or be subject to any personal liabil-
31 ity or accountability solely by reason of the issuance thereof. The
32 bonds, notes or other obligations of the trust shall not be a debt of
33 NYCHA, the city, or the state, and neither NYCHA, the city nor the state
34 shall be liable thereon, nor shall they be payable out of any funds
35 other than those of the trust, and such bonds, notes or other obli-
36 gations shall contain on the face thereof a statement to such effect.

37 11. The trust, subject to such agreements with bondholders as then may
38 exist, shall have power to purchase bonds, notes or other obligations of
39 the trust out of any moneys available therefor, which shall thereupon be
40 cancelled.

41 12. Notwithstanding any provision of article twelve of the private
42 housing finance law, section twenty-nine hundred seventy-six of the
43 public authorities law or any other general, special or local law to the
44 contrary, (a) the purposes of the New York city housing development
45 corporation and its powers granted in article twelve of the private
46 housing finance law also shall include, subject to the provisions of any
47 contract with holders of its bonds, notes or other obligations, the
48 making of loans to the trust and entities referred to in subdivision
49 thirteen of section six hundred four of this article, and (b) bonds,
50 notes or other obligations of the New York city housing development
51 corporation issued for, or to refund bonds, notes or other obligations
52 issued for, such purpose or the purposes of paying costs of issuance
53 thereof or funding reserves to secure such bonds, notes or other obli-
54 gations (i) may be sold without any consultation or approval otherwise
55 required by subdivision two of section six hundred fifty-five of the
56 private housing finance law, (ii) shall not be included in any calcu-

1 lation of outstanding bonds, notes or other obligations for purposes of
2 section six hundred fifty-six of the private housing finance law and
3 shall not be secured by any capital reserve fund established pursuant
4 thereto, and (iii) shall not be included in any calculation of bonds,
5 notes or other obligations issued by the New York city housing develop-
6 ment corporation for purposes of section twenty-nine hundred seventy-six
7 of the public authorities law.

8 13. In the event that any default on any bond, note or other obli-
9 gation that is secured by an assignment of, mortgage on, pledge of or
10 other encumbrance on any interest of the trust, or any entity referred
11 to in subdivision thirteen of section six hundred four of this article,
12 in any housing facilities, has occurred and is continuing beyond the
13 applicable cure period, if any, provided to the trust or such entity in
14 the instrument granting such assignment, mortgage, pledge or other
15 encumbrance, notwithstanding any provision in such instrument, any right
16 of the beneficiary of such instrument to obtain such interest in such
17 housing facilities as a remedy to any such default shall, for a period
18 ending thirty days after the end of such cure period, be subject to:

19 (a) the right of the city of New York to remedy, or cause to be reme-
20 died, such default; and

21 (b) the right of the state of New York to remedy, or cause to be reme-
22 died, such default; provided, however, that nothing in this subdivision
23 shall be construed to impose any obligation on the city of New York or
24 on the state of New York to remedy, or cause to be remedied, such
25 default.

26 14. Notwithstanding any default on any obligation referred to in
27 subdivision thirteen of this section, and any remedies exercised as a
28 result of such default, provisions relating to the restricted use of the
29 housing facilities for the provision and operation of housing for low-
30 income families and current residents shall at all times continue to be
31 in effect, and the housing facilities shall remain subject to the
32 provisions of subdivision three of section six hundred five of this
33 article.

34 15. At least quarterly, the trust shall provide financial reports to
35 the director of management and budget of the city of New York containing
36 such information as the director of management and budget of the city
37 of New York may request.

38 § 614. Resources of the trust. 1. Subject to the provisions of this
39 article, the members of the board shall receive, accept, invest, admin-
40 ister, expend and disburse for its corporate purposes all money of the
41 trust from whatever sources derived including (a) the proceeds of bonds,
42 notes and other obligations, and (b) any other payments, gifts, or
43 appropriations to the trust from any other source.

44 2. Subject to the provisions of any contract with holders of bonds,
45 notes or other obligations, the money of the trust shall be paid to the
46 trust and shall not be commingled with any other money. The money of the
47 trust shall be deposited in accounts held in the trust's name in the
48 bank or banks in the state designated by the trust.

49 3. The moneys in such accounts shall be paid out on checks of the
50 trust upon requisition by the chair or such officer or officers as the
51 trust may authorize to make such requisitions, or pursuant to a bond
52 resolution or trust indenture.

53 4. Any moneys on deposit in the accounts of the trust not required for
54 immediate expenditure shall be invested in obligations in which a muni-
55 cipality may be authorized to invest in accordance with section eleven
56 of the general municipal law, provided, however, that such funds shall

1 not be invested in instruments commonly known as repurchase agreements.
2 The trust shall have the power, notwithstanding the provisions of this
3 section, to contract with the holders of any of its bonds, notes and
4 other obligations as to the custody, collection, securing, investment
5 and payment of any money of the trust or any money held in trust or
6 otherwise for the payment of bonds, notes and other obligations or in
7 any way to secure bonds, notes and other obligations, and to carry out
8 any such contract notwithstanding that such contract may be inconsistent
9 with the other provisions of this article.

10 § 615. Legal investment and deposit. The bonds, notes or other obli-
11 gations of the trust are hereby made securities in which all public
12 officers and bodies of the state and all public corporations, munici-
13 palties and municipal subdivisions, all insurance companies and associ-
14 ations and other persons carrying on an insurance business, all banks,
15 bankers, trust companies, savings banks and savings associations includ-
16 ing savings and loan associations, building and loan associations,
17 investment companies and other persons carrying on a banking business,
18 all administrators, conservators, guardians, executors, trustees and
19 other fiduciaries, and all other persons whatsoever who are now or may
20 hereafter be authorized to invest in bonds or in other obligations of
21 the state, may properly and legally invest funds, including capital, in
22 their control or belonging to them. The bonds, notes or other obli-
23 gations are also hereby made securities which may be deposited with and
24 may be received by all public officers and bodies of the state and all
25 municipalities and public corporations for any purpose for which the
26 deposit of bonds, notes or other obligations of the state is now or may
27 hereafter be authorized.

28 § 616. Tax exemption and tax contract by the state. 1. It is hereby
29 determined that the creation of the trust and the carrying out of its
30 corporate purposes is in all respects for the benefit of the people of
31 the state of New York and is a public purpose. Accordingly, the trust
32 shall be regarded as performing an essential governmental function in
33 the exercise of the powers conferred upon it by this article, and the
34 trust shall not be required to pay any fees, taxes, special ad valorem
35 levies or assessments of any kind, including, but not limited to, fran-
36 chise taxes, sales taxes or other taxes, upon or with respect to any
37 property owned by it or under its jurisdiction, control or supervision,
38 or upon the uses thereof, or upon or with respect to its activities or
39 operations in furtherance of the powers conferred upon it by this arti-
40 cle, or upon or with respect to any fares, tolls, rentals, rates, charg-
41 es, fees, revenues or other income received by the trust.

42 2. Any bonds, notes or other obligations issued pursuant to this arti-
43 cle together with the income therefrom shall at all times be exempt from
44 taxation.

45 3. The state hereby covenants with the purchasers and with all subse-
46 quent holders and transferees of bonds, notes or other obligations
47 issued by the trust pursuant to this article, in consideration of the
48 acceptance of and payment for the bonds, notes or other obligations,
49 that the bonds, notes or other obligations of the trust issued pursuant
50 to this article and the income therefrom and all revenues, monies, and
51 other property pledged to pay or to secure the payment of such bonds,
52 notes or other obligations shall at all times be free from taxation.

53 § 617. Actions against the trust. 1. Except in an action for wrongful
54 death, no action or proceeding shall be prosecuted or maintained against
55 the trust for personal injury or damage to real or personal property
56 alleged to have been sustained by reason of the negligence or wrongful

1 act of the trust or of any member of the board, officer, agent or
2 employee thereof, unless (a) it shall appear by and as an allegation in
3 the complaint or moving papers that a notice of claim shall have been
4 made and served upon the trust, within the time limit prescribed by and
5 in compliance with section fifty-e of the general municipal law, (b) it
6 shall appear by and as an allegation in the complaint or moving papers
7 that at least thirty days have elapsed since the service of such notice
8 and that adjustment or payment thereof has been neglected or refused,
9 and (c) the action or proceeding shall be commenced within one year
10 after the happening of the event upon which the claim is based. An
11 action against the trust for wrongful death shall be commenced in
12 accordance with the notice of claim and time limitation provisions of
13 title eleven of article nine of the public authorities law.

14 2. Wherever a notice of claim is served upon the trust, it shall have
15 the right to demand an examination of the claimant relative to the
16 occurrence and extent of the injuries or damages for which claim is
17 made, in accordance with the provisions of section fifty-h of the gener-
18 al municipal law.

19 3. The trust may require any person presenting for settlement an
20 account or claim for any cause whatsoever against the trust to be sworn
21 before a member of the board, counsel or an attorney, officer or employ-
22 ee thereof designated for such purpose, concerning such account or claim
23 and when so sworn, to answer orally as to any facts relative to such
24 account or claim. The trust shall have power to settle or adjust any
25 claims in favor of or against the trust.

26 4. The rate of interest to be paid by the trust upon any judgment for
27 which it is liable, other than a judgment on bonds, notes or other obli-
28 gations, shall not exceed the rate of interest on judgments and accrued
29 claims against municipal authorities as provided in the general municip-
30 al law. Interest on payments of principal or interest on any bonds,
31 notes or other obligations in default shall accrue at the rate specified
32 in the general municipal law until paid or otherwise satisfied.

33 5. The venue of every action, suit or special proceeding brought
34 against the trust shall be laid in the county of New York.

35 § 618. Civil service and pension system membership. 1. The trust, for
36 the purpose of administering the civil service law, shall be subject to
37 the provisions of the civil service law and the rules of the city
38 department of citywide administrative services or any successor acting
39 as the municipal commission of the city. The president of the trust
40 shall be empowered to act for the trust in all matters relating to
41 compliance with this subdivision.

42 2. With respect to persons employed by NYCHA on the effective date of
43 this section, the trust and NYCHA shall be deemed to be the same public
44 employer only for purposes of transfer of employment under the civil
45 service law, which may be made only with the approval of the NYCHA CEO
46 and the president of the trust. No civil service right of an employee of
47 NYCHA employed on the effective date of this article shall be lost,
48 impaired or affected by reason of the enactment of this section into
49 law.

50 3. Any person on an eligible list for a position with NYCHA shall
51 continue to hold such position on such list and shall be entitled to the
52 same civil service rights. The trust shall continue to use any new or
53 existing civil service lists promulgated by the department of citywide
54 administrative services until such time as successor titles are estab-
55 lished. Employees of the trust shall have the same rights and benefits
56 as employees of NYCHA.

1 4. Any officer or employee of NYCHA who is transferred to the trust
2 pursuant to this section and who at the time of such transfer was a
3 member of the New York city employees' retirement system shall continue
4 to be a member of such system as long as he or she or they continues in
5 such service, and shall continue to have all the rights, privileges and
6 obligations of membership in such system. Employment by the trust shall
7 constitute city-service for the purposes of chapter one of title thir-
8 teen of the administrative code of the city of New York.

9 § 619. Collective negotiation. 1. Except as otherwise provided by this
10 article, the trust, by means of a written determination of the president
11 of the trust transmitted to the mayor within one hundred twenty days of
12 the effective date of this section, may elect to have the New York city
13 collective bargaining law apply to the trust, subject to approval of the
14 mayor. Such law shall apply to the trust pending such determination and
15 approval. In the event that the trust does not so elect or the mayor
16 does not approve the election, the state public employment relations
17 board shall have exclusive jurisdiction for the purpose of administering
18 the provisions of article fourteen of the civil service law, and the
19 provisions of section two hundred twelve of the civil service law shall
20 not be applicable to the trust.

21 2. In the event that the trust elects to have the New York city
22 collective bargaining law apply to the trust, for the purpose of article
23 fourteen of the civil service law and the New York city collective
24 bargaining law, as applicable, the trust, acting by and through its
25 president, shall be deemed to be the public employer and as such shall
26 negotiate with and enter into written agreements with employee organiza-
27 tions representing the staff of the trust that have been certified or
28 recognized under such article. In carrying on such negotiations, the
29 president of the trust may consult with and seek assistance from the
30 city office of labor relations and NYCHA. The president of the trust
31 shall consult with the appropriate public employee organization on the
32 establishment of, and bargain all terms and conditions of, any new
33 titles established for the trust which have a community of interest with
34 titles already represented by the public employee organization which
35 presently has representation rights for those titles for NYCHA or for
36 the city. Any such titles for which terms and conditions are bargained
37 pursuant to this subdivision shall be deemed to be successor titles
38 within the meaning of applicable law and, so long as the responsibil-
39 ities of employees in these titles are reasonably related to the respon-
40 sibilities of employees currently represented by a public employee
41 organization, shall be accreted to the appropriate bargaining certif-
42 icates for which such public employee organization shall be voluntarily
43 recognized as the bargaining agent under procedures acceptable to the
44 office of collective bargaining or the state public employment relations
45 board, as applicable.

46 § 620. Application of state and local human rights laws. Notwith-
47 standing any provision of law to the contrary, article fifteen of the
48 executive law and title eight of the administrative code of the city of
49 New York shall apply to the trust.

50 § 621. Limited liability. 1. As used in this section, the term
51 "employee" shall mean the members of the board, president, officers,
52 employees, or a former employee, his or her estate or judicially
53 appointed personal representative.

54 2. Neither the members of the board nor any officers or employee of
55 the trust acting on behalf thereof, while acting within the scope of

1 such person's authority, shall be subject to any liability resulting
2 from carrying out any of the powers expressly given in this article.

3 3. At the request of the employee, and upon compliance by the employee
4 with the provisions of this section, the trust shall provide for the
5 defense of an employee in any civil action or proceeding in any state or
6 federal court, arising out of any alleged act or omission which the
7 trust finds occurred while the employee was acting within the scope of
8 his or her public employment and in the discharge of his or her public
9 duties and was not in violation of any rule or regulation of the trust
10 at the time the alleged act or omission occurred. This duty to provide
11 for a defense and indemnification shall not arise where such civil
12 action or proceeding is brought by or on behalf of the trust against the
13 employee.

14 4. The trust shall indemnify and hold harmless its employees in the
15 amount of any civil judgment obtained against such employees in any
16 state or federal court, or in the amount of any settlement of a claim
17 approved by the trust provided that the act or omission from which such
18 judgment or settlement arose occurred while the employee was acting
19 within the scope of his or her public employment and in the discharge of
20 his or her public duties and was not in violation of any rule or regu-
21 lation of the trust at the time the alleged damages were sustained. The
22 duty to indemnify and hold harmless prescribed by this section shall not
23 arise where the injury or damage resulted from an intentional wrongdo-
24 ing, or recklessness on the part of the employee. Nothing in this
25 section shall authorize the trust to indemnify or hold harmless an
26 employee with respect to punitive or exemplary damages, fines or penal-
27 ties.

28 5. The duty to defend and indemnify and hold harmless prescribed by
29 this section shall be conditioned upon (a) delivery by the employee to
30 the president or general counsel of the trust at the office of the trust
31 of the original or a copy of any summons, complaint, claim, process,
32 notice, demand or pleading within ten days after the employee is served
33 with such document, and (b) the full cooperation of the employee in the
34 defense of such action or proceeding and in defense of any action or
35 proceeding against the trust based upon the same act or omission, and in
36 the prosecution of any appeal. Such delivery shall be deemed a request
37 by the employee that the trust provide for his or her defense pursuant
38 to this section. In the event that the trust shall assume an employee's
39 defense and thereafter the employee fails or refuses to cooperate in the
40 formation or presentation of his or her defense, the court shall permit
41 the trust to withdraw its representation ten days after giving written
42 notice to the employee of its intention to discontinue such represen-
43 tation.

44 6. In the event that the act or omission upon which the court proceed-
45 ing against the employee is based was or is also the basis of a disci-
46 plinary proceeding by the trust against the employee, representation and
47 indemnification by the trust, as set forth in this section, may be with-
48 held (a) until such disciplinary proceeding has been resolved, and (b)
49 unless the resolution of the disciplinary proceeding exonerated the
50 employee as to such act or omission.

51 7. Subject to the conditions set forth in this section, such employee
52 shall be entitled to representation by the general counsel of the trust
53 or by any attorney or attorneys designated by the general counsel,
54 provided, however, that the employee shall be entitled to be represented
55 by private counsel of his or her choice in any civil action or proceed-
56 ing whenever the trust determines that representation would be inappro-

1 priate, or whenever a court, upon appropriate motion or otherwise by a
2 special proceeding, determines that a conflict of interest exists and
3 that the employee is entitled to be represented by private counsel of
4 the employee's choice. The general counsel of the trust shall notify the
5 employee in writing of such determination that the employee is entitled
6 to be represented by private counsel. Provided, however, that the trust
7 may require, as a condition to payment of the fees and expenses of such
8 representation, that appropriate groups of such employees be represented
9 by the same counsel. Reasonable attorneys' fees and litigation expenses
10 shall be paid by the trust to such private counsel from time to time
11 during the pendency of a civil action or proceeding.

12 8. Any dispute with respect to representation of multiple employees by
13 a single counsel or the reasonableness of attorneys' fees or the amount
14 of litigation expenses shall be resolved by the court upon motion or by
15 way of a special proceeding.

16 9. The benefits of this section shall inure only to employees as
17 defined in this section and shall not enlarge or diminish the rights of
18 any other party nor shall any provision of this section be construed to
19 affect, alter or repeal any provision of the workers' compensation law.

20 10. The provisions of this section shall not be construed in any way
21 to impair, alter, limit or modify the rights and obligations of any
22 insurer under any policy of insurance.

23 11. Except as otherwise specifically provided in this section, the
24 provisions of this section shall not be construed in any way to impair,
25 alter, limit, modify, abrogate or restrict any immunity available to or
26 conferred upon any unit, entity, member, officer or employee of the
27 trust, or any right to defense or indemnification provided for any
28 member, officer or employee by, in accordance with, or by reason of, any
29 other provision of state, federal or local law or common law.

30 12. Every action or proceeding instituted pursuant to the provisions
31 of this section shall be commenced pursuant to section six hundred
32 seventeen of this article, and subject to any condition or limitation
33 set forth in such section.

34 13. The provisions of this section shall apply to the actions and
35 proceedings set forth herein notwithstanding any inconsistent provisions
36 of state or local law.

37 § 622. Audit and annual reports. The trust shall annually prepare and
38 submit reports as required by this section, provided that no report
39 shall be required during the first year after the effective date of this
40 section.

41 1. Within one one hundred twenty days of the end of the city's fiscal
42 year, the trust shall submit to the mayor of the city, the recognized
43 citywide council of presidents, or an equivalent successor body, and the
44 NYCHA board a report on its operations during such fiscal year. An annu-
45 al audit of the trust shall be conducted by an independent certified
46 public accountant, and the trust's independently audited financial
47 statements shall be included in this report. The report shall also
48 detail the extent of completion of all projects for development, design,
49 construction, reconstruction, improvement, rehabilitation, repairing and
50 operation of housing facilities, including, by project, identified
51 shortfalls in schedule performance and providing explanation for such
52 shortfalls. Such report shall detail the extent of completion as existed
53 on the last day of the city's fiscal year. Such report shall also
54 include a description of each alternative project delivery contract,
55 information regarding the procurement process for each such alternative
56 project delivery contract including the list of responding entities that

1 demonstrated the general capability to perform such alternative project
2 delivery contract pursuant to paragraph (a) of subdivision one of
3 section six hundred ten of this article, the total cost of each alterna-
4 tive project delivery contract, an explanation of the estimated savings
5 attributable from the alternative project delivery contract structure
6 used, and the participation rate of and total dollar value of monies
7 paid to minority and women owned business enterprises under such
8 contract. Such report shall also include a description of the employment
9 and other economic opportunities directed to residents of the housing
10 facilities pursuant to subdivision three of section six hundred seven of
11 this article. The trust shall transmit the portion of such report relat-
12 ing to alternative project delivery contracts to the governor, the
13 temporary president of the senate and the speaker of the assembly.

14 2. On the last business day in November of each calendar year, the
15 trust shall submit a report describing its strategic planning framework
16 for the upcoming calendar year to the mayor of the city and to the NYCHA
17 board. Such report shall describe any capital improvements to be under-
18 taken and the approximate costs of such improvements and shall provide
19 information regarding operations, programs, and services of the trust.
20 The trust shall present a draft of this report at a meeting of the board
21 scheduled to occur no less than forty-five calendar days prior to the
22 last business day in November. The trust shall make such draft available
23 for public review no less than fifteen calendar days before such meet-
24 ing. The trust shall offer the public an opportunity to provide oral
25 comment on the report at such meeting and to submit written comments to
26 the trust until a specified date prior to the date on which the report
27 is finalized. The trust shall consider all comments received during such
28 period prior to finalizing the report required by this subdivision.

29 § 623. Jurisdiction over trust. 1. The trust shall not be deemed a
30 "covered organization" as defined in the New York state financial emer-
31 gency act for the city of New York.

32 2. The department of investigation of the city shall be authorized to
33 conduct investigations relating to the trust pursuant to chapter thir-
34 ty-four of the New York city charter.

35 3. The comptroller of the city, or his or her legally authorized
36 representative, is hereby authorized and empowered from time to time to
37 examine the books and accounts of the trust including its receipts,
38 disbursements, contracts, reserve funds, sinking funds, investments, and
39 any other matters relating to its financial standing.

40 4. The trust shall not be deemed a "local authority" or a "state
41 authority" for purposes of the public authorities law, and shall not
42 otherwise be subject to provisions of such law with respect to public
43 authorities, except as may be specifically provided for by this article.

44 § 624. Effect of inconsistent provisions. Insofar as the provisions of
45 this article are inconsistent with the provisions of any other law,
46 general, special or local or of the New York city charter or any local
47 law, ordinance or resolution of the city, the provision of this article
48 shall be controlling, provided that nothing contained in this section
49 shall be held to supplement or otherwise expand the powers or duties of
50 the trust otherwise set forth in this article.

51 § 625. Severability. If any provision of this article or its applica-
52 tion to any person or circumstance is held unconstitutional or invalid,
53 in whole or in part, by any court, such holding of unconstitutionality
54 or invalidity shall in no way affect or impair any other provision of
55 this article or the application of any such provision to any other

1 person or circumstance, and to this end the provisions of this article
2 are severable.

3 § 2. Paragraph b of subdivision 3 of section 13-101 of the administra-
4 tive code of the city of New York, as amended by chapter 16 of the laws
5 of 1997, is amended to read as follows:

6 b. Service as a paid employee of the triborough bridge authority, the
7 Henry Hudson parkway authority, the Marine parkway authority, the New
8 York city tunnel authority, the New York city parkway authority, the New
9 York city housing authority, the New York city public housing preserva-
10 tion trust, the triborough bridge and tunnel authority, the New York
11 city transit authority, the New York city housing development corpo-
12 ration, the New York city health and hospitals corporation, the New York
13 city off-track betting corporation, the New York city school
14 construction authority, the New York city municipal water finance
15 authority, the New York city water board, the transit construction fund,
16 the New York city transitional finance authority, the New York city
17 sports authority and the New York city rehabilitation mortgage insurance
18 corporation shall constitute city-service as herein defined.

19 § 3. Paragraph 1 of subdivision c of section 13-133 of the administra-
20 tive code of the city of New York, subparagraph (C) as added by chapter
21 738 of the laws of 1988, subparagraphs (D) and (E) as added by chapter
22 609 of the laws of 1995, subparagraph (F) as added by chapter 16 of the
23 laws of 1997, and subparagraph (G) as added by chapter 3 of the laws of
24 2013, is amended to read as follows:

25 (1) (A) The comptroller shall make monthly payments, in twelve equal
26 installments, with respect to obligations which the city incurs to pay
27 sums to the retirement system.

28 (B) The New York city health and hospitals corporation shall make
29 monthly payments, in twelve equal installments, with respect to obli-
30 gations which it incurs to pay sums to the retirement system.

31 (C) The New York city school construction authority shall make monthly
32 payments, in twelve equal installments, with respect to obligations
33 which it incurs to pay sums to the retirement system.

34 (D) The New York city municipal water finance authority shall make
35 monthly payments, in twelve equal installments, with respect to obli-
36 gations, if any, which it incurs to pay sums to the retirement system.

37 (E) The New York city water board shall make monthly payments, in
38 twelve equal installments, with respect to obligations, if any, which it
39 incurs to pay sums to the retirement system.

40 (F) The New York city transitional finance authority shall make month-
41 ly payments, in twelve equal installments, with respect to obligations
42 which it incurs to pay sums to the retirement system.

43 (G) The New York city public housing preservation trust shall make
44 monthly payments, in twelve equal installments, with respect to obli-
45 gations which it incurs to pay sums to the retirement system.

46 (H) Where a responsible obligor (as defined in paragraph ten of subdivi-
47 sion a of section 13-638.2 of this title) is required to make payments
48 to the retirement system pursuant to applicable provisions of law in
49 fiscal year two thousand twelve--two thousand thirteen, and in any
50 fiscal year thereafter, and the provisions of this subdivision or the
51 provisions of any other applicable law do not otherwise specifically
52 require such responsible obligor to make such payments by a particular
53 date or dates during such fiscal year, such responsible obligor shall
54 make such payments either (i) in total on or before January first of
55 such fiscal year, or (ii) in twelve equal monthly installments, as

1 determined by the actuary, with each monthly installment to be paid on
2 or before the last day of each month.
3 § 4. This act shall take effect on the sixtieth day after it shall
4 have become a law. Provided that any public officer or employee, includ-
5 ing but not limited to the mayor of the city of New York and the chief
6 executive officer of the New York city housing authority, is authorized
7 to take any action that is necessary for the timely implementation of
8 this act prior to its effective date.