

STATE OF NEW YORK

6265

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Introduced by M. of A. GALLAGHER, SHRESTHA, ANDERSON, SIMONE, MITAYNES, FORREST, MAMDANI, ROSENTHAL, EPSTEIN, R. CARROLL, GONZALEZ-ROJAS, DE LOS SANTOS, SIMON, LEE, ALVAREZ, REYES, WEPRIN, OTIS, GIBBS, RAGA, BICHOTTE HERMELYN, MEEKS -- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT in relation to creating a public benefit corporation for the construction, acquisition, and rehabilitation of permanently affordable housing; and making an appropriation therefor

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

1 Section 1. Short title. This act shall be known and may be cited as
2 the "permanently affordable social housing for New Yorkers act".

3 § 2. Legislative findings and declaration; statement of policy. The
4 legislature hereby finds and declares that safe, sanitary, plentiful and
5 affordable housing accommodations are necessary for the public health,
6 general welfare, and economy of the state. The legislature further finds
7 and declares that a shortage of available affordable housing in communi-
8 ties across New York undermines the economy of the state as a whole and
9 that a state program to leverage private, local, state, and federal
10 funds to build new, high-quality housing for working families is desper-
11 ately needed in order to cure the shortfall in supply created by the
12 private market.

13 Whereas the legislature has previously authorized the creation of
14 transportation authorities, port authorities, and water and sewer
15 authorities, among others, to manage the construction, operation,
16 financing, and improvement of various forms of state infrastructure and
17 public services, and to insulate the provision of such services to New
18 Yorkers from both the vicissitudes of political administrations and the
19 greed of private ownership; and whereas social housing, being permanent-
20 ly affordable and democratically controlled, represents a superior and
21 more economical form of housing provision when compared to alternative

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

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1 methods of housing subsidy; and whereas prior forms of social housing
2 sponsored by the legislature, including the creation of limited equity
3 cooperatives and the Mitchell-Lama program, have been successful in
4 creating and preserving high-quality, affordable housing for New York's
5 residents; and whereas many areas of the state suffer from housing in
6 dire need of rehabilitation and retrofitting; and whereas the state
7 continues to present the possibility of freedom and economic livelihood
8 to individuals displaced from distant lands by climate change, geopolitics,
9 and forces of history; the legislature further finds and declares
10 the necessity of creating a durable and scalable program for the ongoing
11 construction, rehabilitation and maintenance of permanently affordable
12 housing statewide through the creation of a new state authority tasked
13 with such purpose.

14 It shall be the policy of the state to encourage the construction and
15 maintenance of permanently affordable, democratically controlled, high-
16 quality housing statewide through the creation of a new state authority
17 charged with such responsibility. The policy of the state, in creating
18 such an authority and program, shall be to combine all available sources
19 of funding whenever possible and direct subsidies towards both
20 construction and acquisition, in which the authority through its
21 stewardship may hold such subsidy permanently in trust. The policy of
22 the state shall further be to create such authority with a vision for
23 governance that empowers its residents to participate in decision-mak-
24 ing, creates a sense of shared responsibility and public stewardship,
25 and generates a positive feedback cycle for the authority in the imple-
26 mentation and modification of policies. Besides the promotion of new
27 construction, the policy of the state shall further be to promote the
28 preservation of existing affordable housing through the conversion of
29 private housing to social housing models, under the stewardship of the
30 authority, through acquisitions made by the authority in partnership
31 with tenants, wherever tenants of a building shall seek to purchase
32 their building at a fair market value from its owner. In creating this
33 authority, the policy of the state shall further be to minimize the
34 number of New Yorkers who suffer to sleep outside or in shelters without
35 a permanent residence through the allocation of units to homeless New
36 Yorkers; to provide high-quality housing at affordable rates to New
37 Yorkers at extremely low, very low, and low income levels who otherwise
38 are unable to find high-quality or affordable housing in the private
39 market; to deepen the role of government in the stabilization of the
40 housing market and the role of government in sponsoring new
41 construction; and to deepen the proactive involvement of the state in
42 urban planning, collaboration with local governments, agencies, and
43 residents, and innovation in housing design and construction.

44 § 3. Definitions. For the purposes of this act, unless otherwise
45 expressly stated or the context or subject matter otherwise requires,
46 the following terms shall have the following meanings:

47 1. "Alternative project delivery contract" means any project delivery
48 method authorized by this act, including construction manager build,
49 construction manager at risk, and design-build, pursuant to which one or
50 more contracts for the provision of design or construction management
51 and construction services are awarded pursuant to an open and compet-
52 itive method of procurement, as specified in section fifteen of this
53 act.

54 2. "Area median income" and "fair market rent" shall have the same
55 meaning as such terms are defined by the secretary of the federal
56 department of housing and urban development.

1 3. "Best value" means the basis for awarding contracts for services to
2 a proposer that optimizes quality, cost and efficiency, price and
3 performance criteria, and which may include, but is not limited to:
4 a. the quality of the proposer's performance on previous projects;
5 b. the timeliness of the proposer's performance on previous projects;
6 c. the level of customer satisfaction with the proposer's performance
7 on previous projects;
8 d. the proposer's record of performing previous projects on budget and
9 ability to minimize cost overruns;
10 e. the proposer's ability to limit change orders;
11 f. the proposer's ability to prepare appropriate project plans;
12 g. the proposer's technical capacities;
13 h. the individual qualifications of the proposer's key personnel;
14 i. the proposer's ability to assess and manage risk and minimize risk
15 impact;
16 j. the proposer's financial capability;
17 k. the proposer's ability to comply with applicable requirements,
18 including the provisions of articles one hundred forty-five, one hundred
19 forty-seven and one hundred forty-eight of the education law;
20 l. the proposer's past record of compliance with federal laws, state
21 and local laws, rules and regulations, licensing requirements, where
22 applicable, and executive orders, including, but not limited to, section
23 three of the federal housing and urban development act of nineteen
24 hundred sixty-eight, as amended, or any successor provision, chapter
25 seventy-nine of the New York city charter, as applicable, article
26 fifteen-A of the executive law and any other applicable laws concerning
27 minority- and women-owned business enterprise participation, the labor
28 law, and any other applicable labor and prevailing wage laws;
29 m. the proposer's record of complying with existing labor standards,
30 maintaining harmonious labor relations, protecting the health and safety
31 of workers, and payment of prevailing wages in accordance with article
32 eight of the labor law;
33 n. a quantitative factor to be used in evaluation of bids or offers
34 for awarding of contracts for bidders or offerors that are certified as
35 minority- or women-owned business enterprises pursuant to article
36 fifteen-A of the executive law or certified pursuant to section thirteen
37 hundred four of the New York city charter as minority- or women-owned
38 business enterprises, or where the bidder is a joint venture including
39 at least one such certified firm. Where the corporation identifies a
40 quantitative factor pursuant to this paragraph, the corporation shall
41 specify that businesses certified as minority- or women-owned business
42 enterprises pursuant to article fifteen-A of the executive law as well
43 as those certified as minority- or women-owned business enterprises
44 pursuant to section thirteen hundred four of the New York city charter,
45 or joint ventures including at least one such certified firm, are eligi-
46 ble to qualify for such factor. Nothing in this paragraph shall be
47 construed to require that such businesses be concurrently certified as
48 minority- or women-owned business enterprises under such article and
49 such section to qualify for such quantitative factor; and
50 o. a quantitative factor to be used in evaluation of bids or offers
51 for awarding of contracts for bidders or offerors that provide economic
52 opportunities for low and very low-income persons in accordance with
53 section three of the federal housing and urban development act of nine-
54 teen hundred sixty-eight, as amended, or chapter seventy-nine of the New
55 York city charter, as applicable, or any successor provision. Such

1 basis shall reflect, wherever possible, objective and quantifiable anal-
2 ysis.

3 4. "Board" means the board of the corporation.

4 5. "Bonds" and "notes" mean the bonds and notes respectively issued by
5 the corporation.

6 6. "Clearinghouse" means the website and processes created pursuant to
7 section eight of this act.

8 7. "Civic project" means a project or that portion of a project desig-
9 nated and intended for the purpose of providing facilities for educa-
10 tional, cultural, recreational, community, or other civic purposes.

11 8. "Comptroller" means the comptroller of the state.

12 9. "Construction manager build" means a project delivery method where-
13 by a construction manager, following a declaration of a disaster by the
14 governor or state of emergency by the mayor pursuant to article two-B of
15 the executive law or chapter one of title three of the administrative
16 code of the city of New York, or following an independent cost estimate
17 and a concurrence by the corporation that construction work is required
18 at a residential project to remedy defects to bring the residential
19 project into decent, safe, and sanitary condition:

20 a. serves as part of a team in conjunction with the owner in the
21 design phase of the project;

22 b. under the oversight of the owner, acts as the single source of
23 responsibility to bid, select and hold construction contracts on behalf
24 of the owner during the construction phase; and

25 c. manages the construction project on behalf of the owner.

26 10. "Construction manager at risk" means a project delivery method
27 whereby a construction manager:

28 a. serves as part of a team in conjunction with the owner in the
29 design phase of the project;

30 b. during the construction phase, acts as general contractor for
31 agreed upon compensation as set forth in the construction manager at
32 risk agreement; and

33 c. assumes the risk of construction costs exceeding an amount speci-
34 fied in the construction manager at risk agreement.

35 11. "Corporation" means the New York state social housing development
36 authority created by section four of this act.

37 12. "Cost plus" means compensating a contractor for the cost to
38 complete a contract by reimbursing actual costs for labor, equipment and
39 materials plus an additional amount for overhead and profit.

40 13. "Design-build" means a project delivery method for the design and
41 construction of a project with a single entity, which may be a team
42 composed of separate entities.

43 14. "Distressed" means, with respect to an asset that: (i) the obligor
44 thereof is subject to a bankruptcy, insolvency, liquidation, or other
45 similar action or proceeding; (ii) the obligor thereof has failed to
46 make any payment of principal or interest with respect to such asset
47 when due (whether at scheduled maturity or any accelerated date of matu-
48 rity or any other date fixed for payment or prepayment thereof or other-
49 wise) beyond any period of grace provided with respect thereto; (iii)
50 such asset is classified by the lender as "non-performing" pursuant to
51 generally accepted accounting principles; (iv) such asset is in a phys-
52 ically distressed condition, as shall be defined by the corporation; or
53 (v) such asset is under lien for unpaid municipal arrears.

54 15. "Energy efficiency and housing quality standards" means standards
55 promulgated by the corporation, which shall specify minimum energy and
56 water efficiency requirements for residential real property under the

1 control of the corporation, in addition to other health and safety stan-
2 dards identified in this act or by the corporation through subsequent
3 regulation.

4 16. "Environmental hazard and housing quality retrofit" means the
5 process by which the corporation shall bring a building or property into
6 compliance with the corporation's energy efficiency and housing quality
7 standards. Environmental hazard and housing quality retrofits shall
8 proceed as expeditiously as necessary to ensure the safety and well-be-
9 ing of occupants, provided that they may occur in stages and upon time-
10 lines that the corporation deems convenient. Such retrofit may include,
11 without limitation:

12 a. Replacing or upgrading, as the case may be, appliances, equipment,
13 and appurtenances thereto, which have reached the end of their useful
14 lives or where such replacement or upgrade would help such property meet
15 the corporation's energy efficiency and housing quality standards;

16 b. Weatherization;

17 c. Remediation of any and all environmental hazards present in such
18 building or upon such property, including pests, mold, asbestos, lead,
19 or any other harmful contaminants, as well as brownfield remediation
20 when necessary;

21 d. Upgrading of a building's accessibility for individuals with disa-
22 bilities; and

23 e. Curing of any and all other existing violations of building codes
24 or other applicable health and safety standards.

25 17. "Excess cash flow" means surplus funds derived from the rents or
26 other income of a project after all annual operating costs of the
27 project have been paid, including its maintenance and operations,
28 management fees, debt service, and reserve contributions.

29 18. "Ground lease" means the written instrument pursuant to which the
30 corporation transfers to another party its leasehold interest in a
31 project and ancillary personal property.

32 19. "Housing company" means a company organized pursuant to the
33 provisions of article two, four, or eleven of the private housing
34 finance law.

35 20. "Land use improvement project" means a plan or undertaking for the
36 clearance, replanning, reconstruction, or rehabilitation or any combina-
37 tion of these and other methods, of an underdeveloped or unsanitary area
38 or property, including sites designated as brownfields or which other-
39 wise may pose environmental risks to public health in need of remedi-
40 ation, for the purpose of creating a permanently affordable residential
41 project.

42 21. "Local governing body" means the board of supervisors, county
43 legislature, board of aldermen, common council, commission, city coun-
44 cil, or other elective governing board or body now or hereafter vested
45 by state statute, charter, or other law with jurisdiction to initiate
46 and adopt other local laws whether or not such local laws or ordinances
47 require the approval of the elective chief executive officer or other
48 official or body to become effective.

49 22. "Mixed-use" means a designation for a project and real property
50 within or upon which a residential project exists in addition to a
51 project designated for commercial purpose or use, which for the purposes
52 of this act shall mean the buying, selling, or other provision of goods
53 and services, or other lawful business or commercial activities.

54 23. "Municipality" means any county, city, town, or village.

55 24. "Permanently affordable" means a designation for a residential
56 project, the affordability of which is preserved through the inclusion

1 of an affordability covenant in the deed to such land and, where appli-
2 cable, any ground lease to the improvements on such land. Such affor-
3 dability covenant shall limit the profit that may be taken on the sale or
4 resale of leasehold interests to such residential project or any part
5 thereof or dwelling unit therein and the shares, stock, or equity of any
6 corporations holding a leasehold interest in such project, where such
7 shares include or represent a possessory interest to a dwelling unit in
8 such project, to a rate of two percent per annum compounded annually.

9 25. "Project" means a specific work or improvement including lands,
10 buildings, improvements, real and personal properties or any interest
11 therein, acquired, owned, constructed, reconstructed, rehabilitated or
12 improved by the corporation or any subsidiary thereof, including a resi-
13 dential project, a land use improvement project, or a civil project, or
14 any combination thereof. The term "project" or any variation thereof as
15 used herein shall include entire projects, or any portion of a project.

16 26. "Project cost" means the sum total of all costs incurred by the
17 corporation in carrying out all works and undertakings, which the corpo-
18 ration deems reasonable and necessary for the development of a project.
19 Project costs shall include, but are not necessarily limited to, the
20 costs of all necessary studies, surveys, plans and specifications,
21 architectural, engineering or other special services, acquisition of
22 land and any buildings thereon, site preparation and development,
23 construction, reconstruction, rehabilitation, improvement and the acqui-
24 sition of such machinery and equipment as may be deemed necessary in
25 connection therewith (other than raw materials, work in process or stock
26 in trade); the necessary expenses incurred in connection with the
27 initial occupancy of the project, an allocable portion of the adminis-
28 trative and operating expenses of the corporation, the cost of financing
29 the project, including interest on bonds and notes issued by the corpo-
30 ration to finance the project from the date thereof to the date when the
31 corporation shall determine that the project be deemed substantially
32 occupied, and the cost of such other items, including any indemnity and
33 surety bonds and payments on insurance, legal fees, fees and expenses of
34 trustees, depositories and paying agents for the bonds and notes issued
35 by the corporation, and relocation costs, all as the corporation shall
36 deem necessary.

37 27. "Project labor agreement" shall have the same meaning as described
38 in section two hundred twenty-two of the labor law.

39 28. "Real property" means lands, structures, franchises and interests
40 in land, including lands under water and riparian rights, space rights
41 and air rights and any and all other things and rights usually included
42 within such term. Real property shall also mean and include any and all
43 interests in such property less than full title, such as easements,
44 incorporeal hereditaments and every estate, interest or right, legal or
45 equitable, including terms for years and liens thereon by way of judg-
46 ments, mortgages or otherwise, and also all claims for damages for such
47 real estate.

48 29. "Resident" means a person whose lawful primary residence is a
49 dwelling unit in any residential project or real property owned, leased,
50 or managed by the corporation.

51 30. "Residential project" means a project or that portion thereof
52 designed and intended for the purpose of providing housing accommo-
53 dations and such facilities as may be incidental or appurtenant thereto.

54 31. "Senior household" means a household in which at least one member
55 is a person sixty-two years of age or older and whose household income
56 is sixty percent or less of the area median income.

1 32. "Short-sale" means a sale of a residential real property that is
2 subject to a mortgage, deed, trust, or other security interest that
3 secures a residential mortgage loan that: (i) will result in proceeds in
4 an amount that is less than the remaining amount due under the mortgage
5 loan; and (ii) requires authorization by any securitization vehicle or
6 other investment vehicle or holder of the mortgage loan, or the servicer
7 acting on behalf of such a vehicle or holder.

8 33. "Special purpose housing" means a residential project constructed
9 for the purpose of providing affordable or subsidized housing accommo-
10 dations on an expedited schedule at the request of a state agency, local
11 government, or the governor. The delivery of special purpose housing
12 may be exempted at the discretion of the board from certain community
13 feedback processes established by the corporation for the construction
14 or approval of other residential projects. The delivery of a special
15 purpose housing project shall be contingent upon the negotiation of
16 partial or total funding and financing agreements with local, state, or
17 federal authorities.

18 34. "State" means the state of New York.

19 35. "State agency" means any office, department, board, commission,
20 bureau, division, public corporation, agency, or instrumentality of the
21 state.

22 36. "Subsidiary" means a corporation created in accordance with
23 section eighteen of this act.

24 37. "Underdeveloped" means a real property or part thereof whose high-
25 est and best use, as determined at the sole discretion of the corpo-
26 ration, is as a permanently affordable residential project or civic
27 project which, after a comprehensive review of any relevant factors
28 undertaken by the corporation, the corporation finds is not currently
29 employed in its highest and best use and can feasibly be converted to
30 such use by the corporation.

31 38. "Voting process" means the democratic process whereby residents of
32 a residential project shall make decisions affecting the governance or
33 management of such residential project through a popular election facil-
34 itated and certified by the corporation, which process shall be deter-
35 mined as a matter of regulation by the corporation.

36 39. "Weatherization" means without limitation all improvements neces-
37 sary to protect a home from the elements and improve the energy effi-
38 ciency of heating and cooling systems, such as: sealing bypasses and air
39 ducts; installing or replacing dampers in exhaust ducts; protecting
40 pipes from corrosion and freezing; installing footing drains, foundation
41 waterproofing membranes, interior perimeter drains, sump pumps, gutters,
42 downspout extensions, downward-sloping grading, French drains, swales,
43 and other appurtenances to protect a building from both surface water
44 and groundwater; providing proper ventilation to unconditioned spaces to
45 protect a building from the effects of condensation; installing, replac-
46 ing, or upgrading roofing, building wrap, siding, flashing, skylights or
47 solar tubes; installing, upgrading, or replacing insulation; installing
48 storm doors and storm windows; replacing drafty doors with tightly seal-
49 ing, foam-core doors; retrofitting older windows with a stop or parting
50 bead across the sill; or replacing older windows with low-energy,
51 double-glazed windows.

52 § 4. New York State social housing development authority. 1. There is
53 hereby created the New York state social housing development authority.
54 The authority shall be a corporate governmental agency of the state,
55 constituting a political subdivision and public benefit corporation.

1 2. The corporation shall have a duty to increase the supply of afford-
2 able housing in the state through the acquisition of land and renovation
3 or rehabilitation of existing real property, and through the
4 construction of new, permanently affordable housing. The residential
5 projects under the management or control of the corporation or its
6 subsidiaries shall be and forever remain permanently affordable. The
7 corporation shall take all actions necessary or convenient to ensure the
8 high quality of residential real property under its management or
9 control as well as the maintenance and improvement of conditions or
10 abatement of nuisances therein.

11 3. The membership of the corporation shall consist of a board with a
12 size of nine members. The corporation shall be governed and its powers
13 shall be exercised by such board. The board shall establish rules and
14 requirements relative to the attendance and participation of members in
15 its meetings, regular or special, and shall meet in regular session
16 according to a schedule adopted by the board, at a frequency no less
17 often than once per month, and also may meet in special session as
18 convened by the chair or upon written notice signed by a majority of the
19 sitting members. The board shall elect annually from among its members a
20 chair, vice-chair, treasurer, and other officers as the board may deter-
21 mine and shall establish their duties as may be regulated by the rules
22 of the board.

23 a. The first five members shall be appointed in the following manner.
24 Three members shall be appointed by the governor by and with the advice
25 and consent of the senate. The commissioner of the department of hous-
26 ing and community renewal and the commissioner of the office of tempo-
27 rary and disability assistance shall have ex officio seats on the board.
28 Of the members appointed by the governor:

29 (i) One shall represent the interests of employee organizations in the
30 state;

31 (ii) One shall represent the interests of affordable housing advo-
32 cates, community land trusts, or homeless New Yorkers in the state; and

33 (iii) One shall have professional or technical expertise in architec-
34 ture, affordable housing construction and financing, urban planning, or
35 engineering.

36 b. The remaining four members shall be residents of residential
37 projects owned or managed by the corporation, who shall be elected by
38 the residents of such residential projects owned or managed by the
39 corporation.

40 c. The members of the board shall receive no compensation for their
41 services but shall be entitled to receive their actual and necessary
42 expenses incurred in the performance of their duties. Except for ex
43 officio board members, any member of the board may be removed by the
44 governor for cause, after an opportunity to be heard in their defense. A
45 majority of the members of the board, not including vacancies, shall
46 constitute a quorum for the transaction of any business or the exercise
47 of any power or function of the corporation. The corporation may dele-
48 gate to one or more of its members, or its officers, agents and employ-
49 ees, such powers and duties as it may deem proper.

50 d. Except for the ex officio board members, no member of the board,
51 besides possession of a primary residence or a share representing
52 possession in part or whole thereof, may own, nor profit from, any real
53 property or share thereof, directly or indirectly; provided, however,
54 that beneficial ownership in any real property besides a primary resi-
55 dence may be placed in a blind trust for the duration of a member's
56 tenure on the board. A member's term on the board may not begin until

1 such member's economic or legal interests, if any, in real property
2 located in New York state besides a primary residence shall have been
3 placed in a blind trust. Legal expenses incurred by the creation or
4 administration of a blind trust for a member of the board necessary to
5 comply with the requirements of this subdivision may be reimbursed by
6 the corporation upon the submission of receipts associated with such
7 expenses to the board and the board's approval of such reimbursement
8 request, which shall be made in writing and subject to disclosure pursu-
9 ant to article six of the public officers law.

10 e. The chair of the board, or the president of the corporation, may
11 request and receive from any department, division, board, bureau,
12 commission or other agency of the state or any political subdivision
13 thereof or any public authority such assistance, information and data as
14 shall enable the corporation or the board properly to carry out its
15 functions, powers and duties.

16 f. The board shall appoint the president of the corporation, who shall
17 be its executive officer, upon advice and consent of the senate, and may
18 also appoint a secretary, counsel and legal staff, technical experts,
19 and such other agents and employees, permanent or temporary, as it may
20 determine necessary, prescribe their powers and duties, fix their
21 compensation and provide for reimbursement of their expenses within
22 amounts appropriated therefor. The board may, from time to time, create,
23 abolish, transfer and consolidate bureaus and other units within the
24 corporation or the board not expressly established by law as it may
25 determine necessary for the efficient operation of the corporation or
26 the board.

27 g. The corporation and its corporate existence shall continue until
28 terminated by law, consistent with the requirements of section twenty-
29 two of this act; provided, however, that no such law shall take effect
30 so long as the corporation shall have bonds, notes and other obligations
31 outstanding, unless adequate provision has been made for the payment
32 thereof in the documents securing the same.

33 h. Upon termination of the existence of the corporation, its rights
34 and properties shall pass to and be vested in the state.

35 i. Except for the ex officio board members, members of the board shall
36 hold office for terms of five years; provided that of the nine members
37 first appointed, three shall serve for a term of two years, three shall
38 serve for a term of three years and three shall serve for a term of five
39 years commencing January first next succeeding their appointment. No
40 member shall serve for more than ten years. Any member chosen to fill a
41 vacancy created other than by expiration of term shall be appointed for
42 the unexpired term of the member whom they are to succeed. Vacancies
43 caused by expiration of term or otherwise shall be filled in the same
44 manner as original appointments. With the exception of any seat belong-
45 ing to residents, if a seat on the board is vacant for a period exceed-
46 ing ninety days, the members of the board may temporarily fill such seat
47 with a person chosen by a majority of the board.

48 j. Any public officer shall be eligible to serve as a board member and
49 the acceptance of the appointment shall neither terminate nor impair
50 such public office.

51 k. Meetings of the board shall be subject to the requirements of arti-
52 cle seven of the public officers law. Each member of the board shall be
53 considered a public officer for the purposes of sections seventy-three
54 and seventy-four of the public officers law and shall file financial
55 disclosures and oaths of office pursuant to such law.

1 1. Members of the board shall not be personally liable on the bonds or
2 other obligations of the corporation and the rights of creditors shall
3 be solely against the corporation.

4 m. The corporation shall hold elections at its residential projects to
5 fill the four seats on the board belonging to residents commencing four
6 years after the establishment of voting processes applicable to residen-
7 tial projects owned by the corporation.

8 § 5. Powers of the corporation. 1. To sue and be sued.

9 2. To have a seal and alter the same at its pleasure.

10 3. To make and execute contracts and all other instruments necessary
11 or convenient for the exercise of its powers and functions under this
12 act.

13 4. To make and alter by-laws for its organization and internal manage-
14 ment and, subject to agreements with noteholders or bondholders, to make
15 rules and regulations with respect to its projects, operations, proper-
16 ties and facilities, which rules and regulations shall be filed with the
17 department of state in the manner provided by section one hundred two of
18 the executive law.

19 5. To acquire, hold and dispose of personal property for its corporate
20 purposes.

21 6. To appoint officers, agents and employees, prescribe their duties
22 and qualifications and fix their compensation.

23 7. To acquire or contract to acquire from any person, firm, corpo-
24 ration, municipality, federal or state agency, by grant, purchase,
25 condemnation or otherwise, leaseholds, real, personal or mixed property
26 or any interest therein; to own, hold, clear, improve and rehabilitate,
27 and to sell, assign, exchange, transfer, convey, lease, mortgage, or
28 otherwise dispose of or encumber the same.

29 8. To exercise the power of eminent domain for the acquisition of any
30 vacant property whose acquisition shall be reasonably related to the
31 completion of a project approved by the corporation.

32 9. To acquire, construct, reconstruct, rehabilitate, improve, alter or
33 repair or provide for the construction, reconstruction, improvement,
34 alteration or repair of any project.

35 10. To arrange or contract with a municipality for the planning,
36 replanning, opening, grading or closing of streets, roads, roadways,
37 alleys or other places, or for the furnishing of facilities or for the
38 acquisition by a municipality of property or property rights or for the
39 furnishing of property or services in connection with a project.

40 11. To sell, lease, assign, transfer, convey, exchange, mortgage, or
41 otherwise dispose of or encumber any project, and in the case of the
42 sale of any project, to accept a purchase money mortgage in connection
43 therewith; and to lease, repurchase or otherwise acquire and hold any
44 project which the corporation has theretofore sold, leased or otherwise
45 conveyed, transferred or disposed of.

46 12. To grant options to purchase any project or to renew any leases
47 entered into by it in connection with any of its projects, on such terms
48 and conditions as it may deem advisable.

49 13. To prepare or cause to be prepared plans, specifications, designs
50 and estimates of cost for the construction, reconstruction, rehabili-
51 tation, improvement, alteration or repair of any project, and from time
52 to time to modify such plans, specifications, designs or estimates.

53 14. To manage any project, whether then owned or leased by the corpo-
54 ration, and to enter into agreements with the state or any municipality
55 or any agency or instrumentality thereof, or with any person, firm,

1 partnership or corporation, either public or private, for the purpose of
2 causing any project to be managed.

3 15. To provide advisory, consultative, training and educational
4 services, technical assistance and advice to any person, firm, partner-
5 ship or corporation, either public or private, in order to carry out the
6 purposes of this act.

7 16. To lend or donate monies, whether secured or unsecured, to any
8 subsidiary corporation, and to purchase, sell or pledge the shares,
9 bonds or other obligations or securities thereof, on such terms and
10 conditions as the corporation may deem advisable.

11 17. To make mortgage loans, secured by a first mortgage lien, includ-
12 ing temporary loans or advances, to any subsidiary corporation which is
13 a housing company, and to undertake commitments therefor. Any such
14 commitment, mortgage or bonds or notes secured thereby may contain such
15 terms and conditions not inconsistent with the provisions of this act as
16 the corporation may deem necessary or desirable to secure repayment of
17 its loan, the interest, if any, thereon and other charges in connection
18 therewith.

19 18. Subject to the provisions of any contract with noteholders or
20 bondholders to consent to the modification, with respect to rate of
21 interest, time of payments of any installment of principal or interest,
22 security, or any other term, of any mortgage, mortgage loan, mortgage
23 loan commitment, contract or agreement of any kind to which the corpo-
24 ration is a party.

25 19. In connection with any property on which it has made a mortgage
26 loan, to foreclose on any such property or commence any action to
27 protect or enforce any right conferred upon it by any law, mortgage,
28 contract or other agreement, and to bid for and purchase such property
29 at any foreclosure or at any other sale, or acquire or take possession
30 of any such property; and in such event the corporation may complete,
31 administer, pay the principal of and interest on any obligations
32 incurred in connection with such property, dispose of, and otherwise
33 deal with such property, in such manner as may be necessary or desirable
34 to protect the interests of the corporation therein.

35 20. To borrow money and to issue its negotiable bonds and notes and to
36 provide for the rights of the holders thereof.

37 21. As security for the payment of the principal of and interest on
38 any bonds so issued and any agreements made in connection therewith, to
39 mortgage and pledge any or all of its projects, whether then owned or
40 thereafter acquired, and to pledge the revenues and receipts therefrom
41 or from any thereof, and to assign or pledge the lease or leases on any
42 portion or all of said projects and to assign or pledge the income
43 received by virtue of said lease or leases.

44 22. To invest any funds of the corporation including funds held in
45 reserve or sinking funds, or any monies (including proceeds from the
46 sale of any bonds or notes of the corporation) not required for immedi-
47 ate use or disbursement, at the discretion of the corporation, in: (i)
48 obligations of the state or of the United States government; (ii) obli-
49 gations the principal and interest of which are guaranteed by the state
50 or the United States government; (iii) obligations of agencies and
51 instrumentalities of the state or of the United States; or (iv) certif-
52 icates of deposit of banks or trust companies in this state, secured by
53 any obligations described in this subdivision.

54 23. To procure insurance against any loss in connection with its prop-
55 erty and other assets and operations in such amounts and from such
56 insurers as it deems desirable.

1 24. To engage the services of consultants on a contract basis for
2 rendering professional and technical assistance and advice.

3 25. To contract for and to accept any gifts or grants or loans of
4 funds or property or financial or other aid in any form from the federal
5 government or any agency or instrumentality thereof, or from the state
6 or any agency or instrumentality thereof, or from any other source and
7 to comply, subject to the provisions of this act, with the terms and
8 conditions thereof.

9 26. To make loans, whether secured or unsecured, in connection with
10 the corporation's participation in a project, to any person or entity,
11 whether public or private, and to issue commitments for such loans,
12 provided that such loans and commitments are made or issued in compli-
13 ance with guidelines established by the board of directors of the corpo-
14 ration; to provide for the repayment of such loans on terms and condi-
15 tions that the directors of the corporation deem advisable and to
16 receive and hold real property or personal property as security for the
17 repayment of such loans.

18 27. Subject to any agreement with noteholders or bondholders, to enter
19 into agreements to pay annual sums in lieu of taxes to any municipality
20 or political subdivision of the state, in respect of any real property
21 which is owned by the corporation or any subsidiary thereof and is
22 located in such municipality or political subdivision.

23 28. To issue and enforce a subpoena and a subpoena duces tecum, admin-
24 ister oaths and examine persons under oath, in accordance with and
25 pursuant to the civil practice law and rules, in relation to matters
26 relevant to projects or activities of the corporation, including the
27 acquisition of property.

28 29. To form subsidiary legal or corporate entities pursuant to section
29 eighteen of this act.

30 30. To provide for the administration and oversight of elections by
31 residents concerning matters internal to the corporation or affecting
32 residents.

33 31. To authorize, create, supervise, augment, consolidate, or, upon
34 the resolution of the corporation, dissolve internal governance bodies
35 composed of residents; and to certify and effectuate, to the best of the
36 corporation's ability, the decisions or elections of such bodies.

37 32. To do all things necessary or helpful for the promotion of democ-
38 racy and democratic participation in internal governance structures
39 among residents.

40 33. To do any and all things necessary or convenient to carry out its
41 corporate purposes and for exercise of the powers given and granted to
42 it in this act.

43 § 6. Rules and regulations. 1. The corporation shall promulgate rules
44 and regulations in accordance with the state administrative procedure
45 act in order to implement the provisions of this act.

46 2. Such rules and regulations shall be first promulgated no later than
47 one year after the effective date of this act, and thereafter may from
48 time to time be amended, modified, or repealed.

49 3. The announcement of any amendment, modification, or repeal of rules
50 and regulations shall be conspicuously posted in any residential
51 projects owned, leased or managed by the corporation. Residents of such
52 residential projects shall be notified of the time, places and modes by
53 which residents may submit comments or testimony in relation to such
54 proposed changes to the rules and regulations of the corporation.

55 § 7. Acquisition of real property. 1. The corporation shall acquire
56 real property for rehabilitation and conversion to, or construction of,

1 residential projects through whatever lawful means are necessary or
2 convenient for such purposes upon a determination by the corporation
3 that such real property is necessary for its present or future corporate
4 purposes. The corporation may acquire the same in the name of the state
5 by dedication, by agreement, or by eminent domain, and payment therefor
6 shall be made by the corporation from the proceeds of sale of its bonds,
7 notes or other obligations, or from other available moneys therefor. The
8 authority shall hold such property in the name of the state and shall
9 have the right to possess and use such property for its corporate
10 purposes so long as its corporate existence shall continue. Any property
11 held by the corporation shall not be converted or seized for other
12 public use without the prior consent of the corporation.

13 2. Upon a request by the corporation, signed by the president of the
14 corporation, a municipality in the state shall identify each vacant,
15 tax-foreclosed property, or distressed property held by such municipi-
16 pality and submit to the corporation a list of such properties. Such a
17 list shall be certified by counsel for the municipality. State agencies
18 shall comply in an identical manner.

19 3. The corporation may acquire property from the state, a municipi-
20 pality, or a state agency, notwithstanding if such property may already
21 be devoted to public use. Such governmental entity may offer such real
22 property to the corporation, or the corporation may request the transfer
23 of property after having identified such property as useful, necessary,
24 or convenient to its purposes, which shall be certified in the form of a
25 written request by the president of the corporation. Notwithstanding
26 any law to the contrary, a governmental entity may sell, convey, or
27 otherwise dispose of such property and appurtenances thereto or any
28 interest therein to the corporation without public auction, sealed bids,
29 or public notice. Notwithstanding any local law or charter, any govern-
30 mental entity, by resolution of its governing body, is hereby empowered,
31 without referendum, public auction, or sealed bids to sell, convey, or
32 otherwise dispose of any property and appurtenances thereto or any
33 interest therein to the corporation. Any such sale, grant or conveyance
34 shall be made with or without consideration and upon terms and condi-
35 tions as may be agreed upon between the governmental entity and corpo-
36 ration.

37 4. a. Upon identifying a vacant or underdeveloped property on the
38 private market or at public auction, which property is necessary for the
39 corporation's purposes, the corporation may make an offer for the
40 purchase of such property at a fair market value.

41 b. If such property is not for sale or auction but is necessary for
42 the corporation's purposes, the president shall certify the same to the
43 board in writing and the board may authorize the acquisition of such
44 property by means of eminent domain. Prior to the commencement of
45 condemnation proceedings, the corporation shall cause a survey and map
46 to be made of the property to be condemned and file the same in its
47 office. There shall be annexed thereto a certificate, executed by such
48 officer or employee as the corporation may designate, stating that the
49 property described in such survey and map is necessary for corporate
50 purposes.

51 5. The corporation shall prioritize the acquisition of real property
52 for construction or conversion into a residential project based on a
53 rubric, to be promulgated by the corporation, containing criteria that
54 include the regional housing needs of such community, as determined by
55 the corporation in coordination with the department of housing and
56 community renewal. In prioritizing the acquisition of any individual

1 site or property, the corporation may further consider: the potential
2 number of housing units that could be created by such acquisition or
3 through any project on such site; the feasibility of any potential
4 project on such site, which for the purposes of this act shall mean an
5 assessment of the comparative and holistic project costs, challenges,
6 objectives, and timeline associated with the development of a project or
7 part thereof; associated greenhouse gas emissions; and proximity to
8 forms of public or multi-modal transit.

9 6. The corporation shall develop policies and procedures for engaging
10 with local community members, elected officials, and other local leaders
11 in the determination of project sites and the evaluation of development
12 proposals and shall incorporate community feedback into the development
13 of project proposals.

14 7. The corporation shall inspect the site of any proposed acquisition,
15 prior to the closing of any sale or conveyance of title to the corpo-
16 ration, to assess the property's conditions, rehabilitation needs,
17 compliance with the corporation's environmental hazard and housing qual-
18 ity standards, level of occupancy, suitability for redevelopment,
19 history of code violations, and decarbonization potential, as applica-
20 ble. Such inspections may be performed by any agent or employee of the
21 corporation or one of its subsidiaries.

22 8. Notwithstanding any law to the contrary, the corporation shall
23 qualify as, and may act in the capacity of, a qualified purchaser or
24 fiscal sponsor on behalf of tenants of any building, or any tenant
25 organization representing such tenants, who seek to purchase such build-
26 ing from its current owner, through exercising a right of first refusal
27 or by any other lawful means, and shall create a process therefor;
28 provided, however, that such a purchase on behalf of tenants or a tenant
29 organization representing such tenants shall occur on the condition that
30 such building enters into the corporation's portfolio of permanently
31 affordable residential projects, with all conditions applicable thereto.

32 9. Notwithstanding any state or local law to the contrary, the corpo-
33 ration shall have priority in the acquisition of properties from a land
34 bank created pursuant to article sixteen of the not-for-profit corpo-
35 ration law for the purposes of any project.

36 10. The corporation shall have the authority to purchase or receive
37 tax liens on any real property sold by any governmental entity or poli-
38 tical subdivision of the state, with or without consideration. Upon
39 receipt of tax liens from such entity, the corporation shall take all
40 steps necessary to prevent the involuntary displacement of any existing
41 residents of the property under lien.

42 11. The corporation may acquire distressed properties in accordance
43 with the terms and provisions of section nine of this act.

44 § 8. Clearinghouse. The corporation shall establish a clearinghouse to
45 facilitate the execution of its mandate pursuant to this act. The clear-
46 inghouse shall aggregate and make publicly available information related
47 to real estate assets held by the corporation, including without limita-
48 tion residential projects available to the public for occupancy and
49 opportunities for contractors, investors, housing companies, and other
50 interested parties to submit bids for projects or pre-qualify for future
51 projects, and for the submission of offers of sale pursuant to section
52 nine of this act. Prospective tenants shall be able to submit relevant
53 documentation on the clearinghouse in order to apply for occupancy of an
54 available or soon-to-be-available dwelling unit in any residential
55 project owned by the corporation. The clearinghouse shall be accessible
56 by means of a public website and on such website the corporation shall

1 maintain a portal for use by residents and publish other information as
2 may be useful, convenient or in the public interest.

3 § 9. Authority opportunity to purchase. 1. Definitions. For the
4 purposes of this section, the following terms shall have the following
5 meanings, unless otherwise expressly stated or the context or subject
6 matter otherwise requires:

7 a. "Sale" shall mean, but not be limited to:

8 (i) the execution of any agreement pursuant to which the owner of the
9 property agrees to some, but not all, of the following:

10 (1) Relinquishing possession of the property;

11 (2) Extending an option to purchase the property for a sum certain at
12 the end of the assignment, lease, or encumbrance and providing that a
13 portion of the payments received pursuant to the agreement is to be
14 applied to the purchase price;

15 (3) Assigning all rights and interests in all contracts that relate to
16 the property;

17 (4) Requiring that the costs of all taxes and other government charges
18 assessed and levied against the property during the term of the agree-
19 ment are to be paid by the lessee either directly or through a surcharge
20 paid to the owner;

21 (5) Extending an option to purchase an ownership interest in the prop-
22 erty, which may be exercised at any time after execution of the agree-
23 ment but which shall be exercised before the expiration of the agree-
24 ment; or

25 (6) Requiring the assignee or lessee to maintain personal injury and
26 property damage liability insurance on the property that names the owner
27 as the additional insured.

28 (ii) (1) A master lease which meets some, but not all, of the criteria
29 described in subparagraph (i) of this paragraph or which is similar in
30 effect; and

31 (2) The transfer of an ownership interest in a corporation, partner-
32 ship, limited liability company, association, trust, or other entity
33 which owns a property as its sole or principal asset, which, in effect,
34 results in the transfer of the property pursuant to subparagraph (i) of
35 this paragraph. For the purposes of this clause, the term "principal
36 asset" means the value of the accommodation relative to the entity's
37 other holdings.

38 b. Notwithstanding anything herein to the contrary, "sell" or "sale"
39 shall not include:

40 (i) A transfer, even though for consideration, by a decedent's estate
41 to members of the decedent's family if the consideration arising from
42 the transfer will pass from the decedent's estate to, or solely for the
43 benefit of, charity. For purposes of this subparagraph, "members of the
44 decedent's family" means:

45 (1) A surviving spouse or domestic partner of the decedent, lineal
46 descendants of the decedent, or spouses of lineal descendants of the
47 decedent;

48 (2) A trust for the primary benefit of the persons listed in clause
49 (1) of this subparagraph; and

50 (3) A partnership, corporation, or other entity controlled by the
51 individuals listed in clause (1) of this subparagraph or the trust
52 described in clause (2) of this subparagraph;

53 (ii) An inter-vivos transfer, even though for consideration, between
54 spouses, parent and child, siblings, grandparent and grandchild, or
55 domestic partners;

1 (iii) A transfer of legal title or an interest in an entity holding
2 legal title to a property pursuant to a bona fide deed of trust or mort-
3 gage, and thereafter any transfer by foreclosure sale or deed in lieu of
4 foreclosure pursuant to a bona fide deed of trust or mortgage;

5 (iv) Any transfer of a property directly caused by a change in the
6 form of the entity owning the property, provided that the transfer is
7 without consideration;

8 (v) The transfer of interests in a partnership or limited liability
9 company that owns the property as its sole or principal asset; provided,
10 that the sole purpose of the transfer is to admit one or more limited
11 partners or investor members who will make capital contributions and
12 receive tax benefits pursuant to 26 U.S.C. § 42, or a comparable
13 program.

14 c. "Bona fide offer of sale" means an offer of sale for a property or
15 interest therein that is either for a price and other material terms
16 that are at least as favorable as those accepted by a purchaser in an
17 arm's length third-party contract, or in the absence of an arm's length
18 third-party contract, an offer of sale with a price and other material
19 terms comparable to that at which a willing seller and a willing buyer
20 would sell and purchase the property, or the appraised value.

21 d. "Matter-of-right" means a land use, development density, or struc-
22 tural dimension to which a property owner is entitled by current zoning
23 regulations or law.

24 e. "Highest and best use" means the reasonably probable legal use of a
25 property that is physically possible, appropriately supported, and
26 financially feasible and that results in the highest value of the prop-
27 erty.

28 2. Notwithstanding any law to the contrary, with respect to a
29 distressed property containing three or more dwelling units that is not
30 owned or managed by a federal, state, or local government or tribal
31 authority, before the owner may sell the property, or issue a notice to
32 vacate for purposes of demolition or discontinuance of use as a housing
33 accommodation, and before a mortgagee or obligee may foreclose on such
34 property or the mortgage, lien, or encumbrance on such property, and
35 before a tax district may commence an in rem proceeding against such
36 property, the owner, mortgagee, obligee, tax district, or other fore-
37 closing party shall provide the corporation an opportunity to purchase
38 the property or the debt securing such property, along with rights and
39 title related thereto, at a price and upon terms that represent a bona
40 fide offer of sale. The corporation shall have a right of first refusal
41 on such sale or conveyance. An offer of sale submitted pursuant to this
42 section shall be submitted on a form to be promulgated by the corpo-
43 ration and shall contain all information as therein may be required. The
44 corporation shall issue written acknowledgement of receipt of an offer
45 of sale.

46 a. In order to exercise its right of first refusal, upon a determi-
47 nation by the corporation that a property may be useful for the corpo-
48 ration's purposes, the corporation shall notify the owner with a written
49 statement of interest certified by the president of the corporation
50 within thirty days of receipt of the offer of sale.

51 b. The corporation shall have not less than one hundred twenty days
52 from receipt of the offer of sale to negotiate a contract for sale.
53 Both parties shall bargain in good faith. For every day of delay in
54 receiving relevant information as required by this section, the negoti-
55 ation period shall be extended by one day. The following constitute
56 prima facie evidence of bargaining without good faith:

1 (i) The failure to offer a price or term to the corporation that is at
2 least as favorable as that offered to a third-party within the periods
3 of time specified by this section without a reasonable justification for
4 such failure;

5 (ii) The failure to make a contract with the corporation which
6 substantially conforms with the price and terms of a third-party
7 contract within the periods of time specified by this section without a
8 reasonable justification for such failure; or

9 (iii) The intentional failure of either party to comply with the
10 provisions of this act.

11 (iv) In the event of a transfer of interest in a partnership or corpo-
12 ration or in the event of a master lease or agreement that is considered
13 a sale within the meaning of this section, but which does not involve a
14 transfer of record title to the real property, the owner shall be
15 bargaining in good faith if the owner offers the corporation the oppor-
16 tunity to acquire record title to the real property or offers the corpo-
17 ration the opportunity to match the type of transfer or agreement
18 entered into with the third-party. With respect to either type of offer,
19 all provisions of this section apply;

20 (v) The owner shall not require the corporation to pay a deposit of
21 more than five percent of the contract sales price in order to make a
22 contract.

23 c. If the owner sells or contracts to sell the property to a third-
24 party for a price equal to or greater than ten percent less than the
25 price offered to the corporation or for other terms which would consti-
26 tute bargaining without good faith, the owner shall comply anew with all
27 requirements of this section.

28 d. Upon the execution of a contract for sale, the corporation shall
29 have sixty days to complete settlement.

30 3. Whenever an offer of sale is made pursuant to this section, the
31 following terms shall apply:

32 a. The sales price contained in the offer of sale shall be less than
33 or equal to a price and other material terms comparable to that at which
34 a willing seller and a willing buyer would sell and purchase the proper-
35 ty, or the appraised value of the property as determined pursuant to
36 this subdivision.

37 b. An appraised value shall only be based on rights an owner has as a
38 matter-of-right as of the date of the offer, including any existing
39 right an owner may have to convert the property to another use;
40 provided, however, that an appraised value may take into consideration
41 the highest and best use of the property.

42 c. The owner of the property shall have the burden of proof to estab-
43 lish that an offer of sale is a bona fide offer of sale.

44 d. The corporation may challenge the offer presented by an owner as
45 not being a bona fide offer of sale and request a determination of the
46 appraised value of the property. The owner and the corporation shall
47 thereafter have fourteen days to jointly select an appraiser for such
48 property. If the owner and corporation are unable to jointly agree on an
49 appraiser, the corporation may appoint an independent third-party
50 appraiser from a list of pre-qualified entities within seven days, which
51 appraiser shall be a state certified real estate appraiser or state
52 licensed real estate appraiser with a certificate or license sufficient
53 to appraise the property in question. The owner and the corporation
54 shall pay one-third and two-thirds of the cost of the appraisal, respec-
55 tively. The owner shall give such appraiser unfettered access to the
56 property for the purposes of such appraisal and shall provide all infor-

1 mation requested by the appraiser for the valuation and appraisal of the
2 property within seven days, upon a request for information by the
3 appraiser. The appraisal shall be conducted expeditiously in accordance
4 with standard industry practices. Beginning with the day upon which an
5 appraisal is requested pursuant to this paragraph, for each day until
6 such appraisal is complete, the period of negotiation established by
7 paragraph b of subdivision one of this section shall be extended by one
8 day.

9 e. The determination of the appraised value of the property made by
10 any appraiser pursuant to paragraph d of this subdivision shall become
11 the sale price of the bona fide offer of sale for the property unless:

12 (i) the owner or foreclosing party and the corporation agree upon a
13 different sale price of the property;

14 (ii) the owner or foreclosing party withdraws the offer of sale or
15 discontinues the action or proceeding to foreclose on such property,
16 vacate or demolish such property, or any other action triggering the
17 corporation's right of first refusal pursuant to subdivision one of this
18 section; provided, however, that the owner or foreclosing property shall
19 reimburse the corporation for the corporation's share of the cost of an
20 appraisal conducted pursuant to paragraph d of this subdivision.

21 § 10. Tenants rights and protections. 1. In any municipality or county
22 with a rent guidelines board created pursuant to the emergency tenant
23 protection act of nineteen seventy-four, residential projects owned by
24 the corporation and operated as rentals shall be placed under the juris-
25 diction of the rent stabilization law and all local laws and codes
26 applicable thereto. Such residential projects shall be registered with
27 relevant agencies as rent stabilized and residents of such residential
28 projects shall be proffered rent stabilized leases and entitled to all
29 the rights and protections thereof. Notwithstanding any other provision
30 of this act, increases in rents charged for a dwelling unit in a resi-
31 dential project owned by the corporation and subject to rent stabiliza-
32 tion shall not exceed increases permitted by the applicable rent guide-
33 lines board for that year.

34 2. In any municipality or county that does not have a rent guidelines
35 board created pursuant to the emergency tenant protection act of nine-
36 teen seventy-four, the board of the corporation shall promulgate,
37 through regulation, a list of rights and protections applicable to
38 tenants of residential projects owned by the corporation and operated as
39 rentals, which list shall be substantially similar to rights and
40 protections afforded to residents of housing units subject to rent
41 stabilization pursuant to the emergency tenant protection act of nine-
42 teen seventy-four, namely including the right to lease renewal on terms
43 of one or two years at the tenant's discretion, protection from eviction
44 without just cause, and the right to receive timely repairs and
45 services. Such rights and protections shall be enumerated in plain
46 language in residential leases to any units entitled to such rights and
47 protections.

48 3. In any dwelling unit or residential project that is not subject to
49 rent stabilization, any increase in annual rents or fees greater than
50 two percent per year shall be reviewed and approved by the corporation,
51 which shall reject any application for an annual increase greater than
52 two percent if such increase is not necessary to meet present or antic-
53 ipated maintenance and operating expenses for such project and such
54 expenses are deemed superfluous.

1 4. The initial annual rent and sum of fees charged to a household
2 shall be set at a rate no higher than twenty-five percent of such house-
3 hold's annual income.

4 5. The corporation shall recertify the income of each resident occupy-
5 ing an income-restricted unit every three years after such resident has
6 occupied a unit for the purpose of assessing or reassessing the mix of
7 incomes served across its portfolio. The recertification of a resident's
8 income shall have no effect on rents charged and paid by such resident.

9 6. Residents shall be afforded the opportunity to correct, clarify,
10 supplement, or defend any documents or information submitted in relation
11 to income certification, residency applications, or other requirements,
12 if the accuracy or validity of such documents or information comes into
13 question.

14 7. The corporation shall create an internal bureau for the administra-
15 tive filing and resolution of resident complaints and petitions. Such
16 complaints or petitions shall be shared with and reviewed by any elected
17 resident body representing residents in the residential project whence
18 such complaint or petition originated, and such body shall issue a
19 recommendation and opinion thereupon. Such complaint or petition shall
20 then be transmitted to an examiner employed by the corporation who shall
21 consider the recommendation received by the elected resident body and
22 render an initial decision upon such recommendation, the facts, and the
23 rules and regulations of the corporation. A tenant may appeal an unsat-
24 isfactory decision received in response to such complaint or petition to
25 a supervisor of the bureau who may adjudicate such appeal on advice of
26 counsel. A final appeal may be taken to an administrative law judge
27 employed by the corporation, whereupon any further challenge to a deci-
28 sion rendered by the corporation shall be made in a court of competent
29 jurisdiction pursuant to article seventy-eight of the civil practice law
30 and rules. Copies of any decisions rendered by the corporation shall be
31 transmitted to the complainant or petitioner as well as to the elected
32 resident body of the residential project whence such complaint or peti-
33 tion originated.

34 a. The corporation shall promulgate, through regulation, a process for
35 the receipt and timely resolution of such complaints or petitions, and
36 the corporation shall utilize information gained through complaints and
37 petitions to improve its own rules and regulations as well as relevant
38 operations within its residential projects, both through a holistic
39 review of complaints and petitions received and in direct response to
40 specific complaints or petitions where such improvements are feasible.

41 b. The corporation may proscribe certain matters from adjudication
42 through the bureau where such matters are not a subject governed by the
43 corporation's rules and regulations, are deemed irrelevant to the corpo-
44 ration's operations, or where such matters are governed or controlled by
45 statutes outside the scope of this act or inapplicable to the corpo-
46 ration.

47 c. The subjects of complaints shall be limited to allegations against
48 the corporation, its subsidiaries, or any of its employees, agents, or
49 contractors for any violation of the corporation's own rules and regu-
50 lations, agreements, or codes of conduct.

51 d. The subjects of petitions shall be limited to requests for improve-
52 ments or interventions in any residential project by the corporation,
53 requests to change contractors and the basis thereupon for such change,
54 and suggestions for the improvement of any service or operation by the
55 corporation. The denial of any petition in whole or part shall not be

1 with prejudice against any suggestion or request included in such peti-
2 tion.

3 8. The corporation shall biannually survey residents of projects owned
4 by the corporation regarding its performance, residents' quality of
5 life, and other subjects relevant to the corporation's operations;
6 provided, however, that responses to such surveys shall be voluntary and
7 anonymous. The aggregated data and findings of such surveys shall be
8 made publicly accessible on the corporation's website.

9 9. Available units in projects belonging to the corporation's portfo-
10 lio shall be leased according to a lottery system. Preference shall be
11 granted to applicants utilizing a form of public rental assistance,
12 including those forms authorized by paragraph (o) of 42 U.S.C. section
13 1437f or any state or local rental assistance program for low-income or
14 qualifying households, including without limitation chapter ten of title
15 sixty-eight of the rules of the city of New York.

16 10. Within any residential project constructed by the corporation,
17 the quality of individual units shall be substantially equal between
18 units affordable at different income levels excepting incidental
19 differences. Access to services and facilities shall not differ
20 between units by income level within such project nor shall units
21 affordable at various income levels be segmented apart from one
22 another or outwardly identifiable according to affordability level.

23 11. The corporation shall make temporary relocation assistance avail-
24 able to any households of a building slated to be demolished by the
25 corporation in favor of new construction or scheduled for rehabili-
26 tation in any manner that will necessarily displace such households.
27 Such assistance shall be in an amount to be determined by the corpo-
28 ration and corresponding to the necessary and actual expenses incurred
29 by such households as a result of such temporary relocation. Such
30 households shall have priority in the selection of tenants for the lease
31 of units available in any residential project newly constructed or reha-
32 bilitated on the site of such households' former home or in any other
33 residential project owned by the corporation, which shall be similar in
34 size to the unit from which such household was initially displaced.

35 § 11. New and converted residential housing. 1. The corporation shall
36 create programs for the construction of new high-quality, permanently
37 affordable residential projects, the acquisition, rehabilitation, and
38 conversion of existing real property into high-quality permanently
39 affordable residential projects, and the construction of special purpose
40 housing projects. The corporation shall affix permanently binding
41 affordability covenants into deeds to all properties it acquires and
42 shall retain title to such real properties for the duration of its
43 corporate existence. All new and converted residential projects shall
44 be permanently affordable, as reflected in such affordability covenant.

45 2. Across the portfolio of the corporation, no less than one quarter
46 of the units shall be designated for households earning thirty percent
47 or less of the area median income. No more than one third of the units
48 in the corporation's portfolio may have no income restriction. The
49 remainder shall be affordable to households earning up to eighty percent
50 of the area median income or one hundred ten percent of the fair market
51 rent for such area, whichever is lower. Between ten and fifteen percent
52 of the units in the corporation's portfolio shall be reserved for senior
53 households.

54 3. The corporation shall, at its discretion, designate some projects
55 to be leased by qualified housing companies and others to be leased by
56 the corporation or one of its subsidiaries. The corporation shall sell

1 renewable ninety-nine year leasehold interests to qualified housing
2 companies and shall contract property management services for residen-
3 tial projects operated and leased directly by the corporation or its
4 subsidiaries.

5 4. For residential projects acquired by the corporation that are occu-
6 pied at the point of sale or transfer, the corporation shall proffer new
7 leases and reset rents charged and paid by residents occupying units in
8 such project after such residents have certified incomes to the corpo-
9 ration.

10 5. For real properties acquired by the corporation that do not meet
11 the corporation's energy efficiency and housing quality standards, the
12 corporation shall create a plan to bring such property into compliance
13 by means of an environmental hazard and housing quality retrofit. If
14 such property is occupied at the point of sale or conveyance, the corpo-
15 ration shall create such plan in consultation with tenants currently
16 occupying such building or any elected resident body representing such
17 tenants.

18 6. In soliciting bids for construction contracts, and in awarding such
19 contracts, the corporation shall consider, without limitation: communi-
20 ty needs and demands; the endorsement of local member-based community
21 groups; architectural and historical congruity and sensitivity of design
22 with the neighborhood in which such structure will be situated; inno-
23 vation in design; the inclusion of civic projects in such design; the
24 number of affordable units created and the depth of affordability in
25 relation to the needs of the surrounding community; greenhouse gas emis-
26 sions; and any other factors warranted by the type of project or
27 contract delivery utilized.

28 7. Projects undertaken by the corporation may be financed with:

29 a. The proceeds of bonds or notes issued by the corporation, provided
30 to each project in the form of a repayable loan at an interest rate
31 sufficient to repay creditors.

32 b. A subordinate grant from the corporation sized to fill the gap
33 between the project's cost and the bond-financed loan authorized pursu-
34 ant to paragraph a of this subdivision. Such grant shall be considered a
35 permanent contribution by the corporation to such project.

36 c. Additional financing from outside of the corporation's budget,
37 provided that:

38 (i) Such financing does not place financial obligations on the proper-
39 ty that would unduly burden the corporation; and

40 (ii) Such financing does not place a regulatory burden on the property
41 inconsistent with the corporation's rules, regulations, by-laws, or
42 related provisions of this act.

43 d. Any other financing from the corporation's budget necessary to
44 ensure the successful completion of the project.

45 8. It shall be unlawful to knowingly submit false documents or infor-
46 mation to the corporation for any purpose, and the corporation may refer
47 fraud to appropriate authorities at its discretion. It shall also be
48 unlawful to use any dwelling unit or project belonging to the corpo-
49 ration for the purposes of short-term rentals.

50 § 12. Compliance with building codes and local ordinances. 1. The
51 corporation's projects shall conform to building codes and standards of
52 the state and to the corporation's energy efficiency and housing quality
53 standards. A list of applicable standards shall be issued by the corpo-
54 ration and updated regularly.

55 2. Any local law, resolution, or ordinance regulating height, bulk,
56 floor to area ratio, setback, lot size, parking regulations, building

1 codes, permitting, land use, or other related matters shall not apply to
2 any project of the corporation.

3 3. Any local law, resolution, or ordinance prohibiting or regulating
4 mixed-use development or construction shall not apply to any project of
5 the corporation.

6 § 13. Resident democracy. 1. Residents of every residential project
7 owned by the corporation shall elect a body of representatives from
8 among the residents of the residential project pursuant to the corpo-
9 ration's voting process, by-laws, and rules and regulations promulgated
10 and maintained by the corporation for the creation of elected resident
11 bodies. Each adult member of each household in such residential project
12 shall be guaranteed exactly one vote. The corporation, through regu-
13 lation, shall determine what proportion of eligible adults in residen-
14 tial projects must cast a vote in order for the results of such election
15 to be valid.

16 2. An elected resident body representing tenants in any residential
17 project may recommend to the corporation the termination for cause of
18 the contract for any property management service at such residential
19 project through approval of a written resolution by a majority of a
20 quorum of such elected resident body. The corporation shall hire ano-
21 ther property management service from a list of qualified contractors
22 maintained by the corporation.

23 3. The corporation shall create a process whereby residents of any
24 residential project owned by the corporation may apply to be elected to
25 an open resident position on the corporation's board. Candidates shall
26 be elected at-large by all eligible residents within residential
27 projects belonging to the corporation's portfolio.

28 § 14. Contracts with the corporation. 1. No member, officer, employee
29 or agent of the corporation shall profit from contracts entered into by
30 the corporation, and potential conflicts of interest between any member,
31 officer, employee or agent of the corporation shall be reported, in a
32 form to be promulgated by the corporation, to its board and counsel.

33 2. Construction performed under a contract entered into by the corpo-
34 ration, a subsidiary of the corporation, or any third-party acting on
35 behalf of the corporation or a subsidiary of the corporation pursuant to
36 this act shall be deemed a public work to be performed in accordance
37 with the provisions of article eight of the labor law, including without
38 limitation the prevailing wage requirements set forth in section two
39 hundred twenty of the labor law and the reporting, monitoring, and
40 enforcement provisions of article eight of the labor law, except for any
41 projects receiving federal aid which are already required to pay
42 prevailing wages pursuant to federal requirements.

43 3. Any contract entered into through a competitive sealed bidding
44 process or pursuant to any form of contract delivery enumerated in this
45 section, and undertaken pursuant to a project labor agreement, shall
46 include a clause requiring the selected alternative project delivery
47 contractor or the contractor selected on the basis of its sealed bid to
48 obligate every tier of contractor working on the public work to comply
49 with the project labor agreement required pursuant to this subdivision
50 and shall include project labor agreement compliance monitoring and
51 enforcement provisions consistent with any such project labor agreement.

52 4. Construction or building services performed under a contract
53 entered into by the corporation, a subsidiary of the corporation, or a
54 third-party acting on behalf of the corporation or a subsidiary of the
55 corporation pursuant to this act may be exempted by the corporation from
56 the prevailing wage requirements of article eight of the labor law

1 through the use of a project labor agreement. Any project with a project
2 cost of ten million dollars or more shall require compliance by the
3 corporation with section two hundred twenty-two of the labor law.

4 5. a. In each contract for construction, reconstruction, alteration,
5 repair, improvement or maintenance of a project undertaken pursuant to
6 this act, the corporation shall ensure that such contract contains a
7 provision that the structural iron and structural steel used or supplied
8 in the performance of the contract or any subcontract thereto and that
9 is permanently incorporated into the public work, shall be produced or
10 made in whole or substantial part in the United States, its territories
11 or possessions. In the case of a structural iron or structural steel
12 product, all manufacturing shall take place in the United States, from
13 the initial melting stage through the application of coatings, except
14 metallurgical processes involving the refinement of steel additives. For
15 the purposes of this subdivision, "permanently incorporated" shall mean
16 an iron or steel product that is required to remain in place at the end
17 of the project contract, in a fixed location, affixed to the public work
18 to which it was incorporated. Iron and steel products that are capable
19 of being moved from one location to another are not permanently incorpo-
20 rated into a public work.

21 b. The provisions of paragraph a of this subdivision shall not apply
22 if the corporation determines, in its sole discretion, that the
23 provisions would not be in the public interest, would result in unrea-
24 sonable costs, or that obtaining such steel or iron in the United States
25 would increase the cost of the contract by an unreasonable amount, or
26 such iron or steel, including without limitation structural iron and
27 structural steel, cannot be produced or made in the United States in
28 sufficient and reasonably available quantities and of satisfactory qual-
29 ity.

30 6. The corporation shall establish and maintain procurement policies
31 that shall set forth the methods and procedures by which the corporation
32 shall procure contracts for goods and services, including but not limit-
33 ed to services for design, development, construction, reconstruction,
34 improvement, modernization, rehabilitation, repair, maintenance, build-
35 ing services, and operations related to property owned or leased by the
36 corporation, in a manner consistent with the provisions of this act.
37 Such policies shall specifically include:

38 a. A competitive sealed bidding process for the award of contracts in
39 which sealed bids are publicly solicited or solicited from a list of
40 prequalified bidders and opened and a contract is awarded to the lowest
41 responsive, responsible bidder;

42 b. Processes for awarding contracts for goods and services using
43 alternatives to competitive sealed bidding where competitive sealed
44 bidding is not practicable or not advantageous, in which case the corpo-
45 ration shall use the most competitive method of procurement that is
46 appropriate under the circumstances to select the proposer offering the
47 best value to the corporation and the residents of the project;

48 c. A process for prequalifying bidders and proposers based on crite-
49 ria, which may include an entity's experience, past performance, ability
50 to undertake work, financial capability, responsibility, reliability and
51 status as a certified minority- or women-owned business enterprise
52 pursuant to article fifteen-A of the executive law or section thirteen
53 hundred four of the New York city charter;

54 d. Reasonable procedures to secure the meaningful participation of
55 minority- and women-owned business enterprises in the corporation's
56 procurement process. The corporation may use the same measures to

1 enhance minority- and women-owned business enterprise participation as
2 are available pursuant to applicable local law, including section 6-129
3 of the administrative code of the city of New York;

4 e. Processes for awarding alternative project delivery contracts, in a
5 manner consistent with the terms of section fifteen of this act;

6 f. Procedures for the fair and equitable resolution of contract
7 disputes, for appeals of responsiveness and responsibility determi-
8 nations by the corporation, and for appeals of prequalification determi-
9 nations;

10 g. A process for making purchases off contracts procured by public
11 agencies and public entities, provided that such contract exists between
12 a vendor and (i) the United States General Services Administration, (ii)
13 the state of New York or any of its political subdivisions, (iii) anoth-
14 er public authority or public corporation of the state, (iv) another
15 public housing agency or public housing authority, or (v) any purchasing
16 cooperative where the lead purchasing entity is any of the foregoing,
17 provided that in any case when the corporation under this paragraph
18 determines that obtaining such item thereby would be in the public
19 interest and provide for greater economy and efficiency and sets forth
20 the reasons for such determination. Such rationale shall include, but
21 not be limited to, a determination of need, a consideration of the
22 procurement method by which the contract was awarded, an explanation why
23 a competitive procurement or the use of a centralized contract let by
24 the commissioner of the office of general services is not in the best
25 interest of the corporation, and the reasonableness of cost; and

26 h. A mechanism for procurements without a formal competitive process
27 where:

28 (i) The existence of an emergency involving danger to life, safety or
29 property requires immediate action and cannot await a competitive proc-
30 ess for goods or services to be purchased, including, but not limited
31 to, services for construction, reconstruction, rehabilitation, alter-
32 ation, renovation, maintenance or repairs, which are essential to effi-
33 cient operation or the adequate provision of service by the corporation
34 and as a consequence of unforeseen circumstance such purchase cannot
35 await a competitive process;

36 (ii) A procurement's value does not exceed fifty thousand dollars;

37 (iii) The corporation receives no responsive bids or only a single
38 responsive bid in response to a solicitation for competitive bids or
39 proposals;

40 (iv) A procurement's value does not exceed five hundred thousand
41 dollars and is made from a business certified as a minority- or women-
42 owned business enterprise pursuant to article fifteen-A of the executive
43 law and section thirteen hundred four of the New York city charter.
44 Nothing in this paragraph shall be construed to require that such busi-
45 ness be concurrently certified as minority- or women-owned business
46 enterprises under article fifteen-A of the executive law and section
47 thirteen hundred four of the New York city charter to be awarded such a
48 contract;

49 (v) A duly appointed representative of the corporation determines in
50 writing that, based on a market analysis, only one source for the
51 required goods or services, including but not limited to, services for
52 construction, reconstruction, rehabilitation, alteration, renovation,
53 maintenance and repairs, are available; or

54 (vi) The contract is a contract between the corporation and another
55 governmental entity.

1 i. The provisions of sections one hundred six-b of the general municipi-
2 pal law and one hundred fifty-one-a of the public housing law shall
3 apply to the corporation.

4 j. The corporation shall be required to comply with any procurement
5 procedure set forth in this act unless a federal requirement conflicts
6 with such procedure.

7 § 15. Alternative project delivery contracts. 1. Notwithstanding any
8 provision of law to the contrary, including but not limited to section
9 seventy-two hundred ten of the education law, for any project undertaken
10 pursuant to a project labor agreement the corporation, a subsidiary of
11 the corporation, or a third-party acting on behalf of the corporation or
12 a subsidiary of the corporation may use alternative project delivery
13 contracts.

14 a. A contractor selected by the corporation to enter into an alterna-
15 tive project delivery contract may be selected through a two-step meth-
16 od, as follows:

17 (i) Step one. The first step shall be the generation of a list of
18 responding entities that have demonstrated the general capability to
19 perform the alternative project delivery contract. Such list shall
20 consist of a specified number of responding entities, as determined by
21 the corporation, and shall be generated based upon the corporation's
22 review of responses to a publicly advertised request for qualifications.
23 The corporation's request for qualifications shall include a general
24 description of the public work, the maximum number of responding enti-
25 ties to be included on such list, the selection criteria to be used and
26 the relative weight of each criteria in generating such list. Such
27 selection criteria shall include the qualifications and experience of
28 the entity or team of entities, organization, demonstrated responsibil-
29 ity, ability of the entity or team of entities or of a member or members
30 of the entity or team of entities to comply with applicable require-
31 ments, including the provisions of articles one hundred forty-five, one
32 hundred forty-seven and one hundred forty-eight of the education law,
33 past record of compliance with the labor law, and such other qualifica-
34 tions the corporation deems appropriate, which may include but are not
35 limited to project understanding, financial capability and record of
36 past performance. The corporation shall evaluate and rate all responding
37 entities to the request for qualifications. Based upon such ratings, the
38 corporation shall list the responding entities that shall receive a
39 request for proposals in accordance with subparagraph (ii) of this para-
40 graph. To the extent consistent with applicable federal law, the corpo-
41 ration shall consider, when awarding any contract pursuant to this
42 section, the participation of: (1) responding entities that are certi-
43 fied as minority- or women-owned business enterprises pursuant to arti-
44 cle fifteen-A of the executive law, or certified pursuant to local law
45 as minority- or women-owned business enterprises; (2) small business
46 concerns identified pursuant to subdivision (b) of section one hundred
47 thirty-nine-g of the state finance law; and (3) business concerns that
48 provide economic opportunities for low and very low-income persons in
49 accordance with section three of the federal housing and urban develop-
50 ment act of nineteen hundred sixty-eight, as amended, or chapter seven-
51 ty-nine of the New York city charter, as applicable, or any successor
52 provision. In addition, nothing in this section shall be deemed to
53 supersede any prequalification policies adopted by the corporation
54 pursuant to this section.

55 (ii) Step two. The second step shall be the selection of the proposal
56 which is the best value to the corporation. The corporation shall issue

1 a request for proposals to the responding entities listed pursuant to
2 subparagraph (i) of this paragraph. If such a responding entity consists
3 of a team of separate entities, the entities that comprise such a team
4 shall remain unchanged from the responding entity as listed pursuant to
5 subparagraph (i) of this paragraph unless otherwise approved by the
6 corporation. The request for proposals shall set forth the public work's
7 scope of work, and other requirements, as determined by the corporation,
8 which may include separate goals for work under the contract to be
9 performed by businesses certified as minority- or women-owned business
10 enterprises pursuant to article fifteen-A of the executive law, or
11 certified pursuant to local law as minority- or women-owned business
12 enterprises, or goals established pursuant to section three of the
13 federal housing and urban development act of nineteen hundred sixty-
14 eight, as amended, or any successor provision, if applicable. The
15 request for proposals shall also specify the criteria to be used to
16 evaluate the responses and the relative weight of each of such criteria.
17 Such criteria shall include: the quality of the proposal's solution; the
18 qualifications and experience of the proposer; the proposal's cost,
19 which may include factors that may be considered individually or in the
20 aggregate, such as the proposed cost of design phase work, the proposed
21 cost of construction phase work, or cost factors relating to
22 construction phase work, as applicable; and other factors deemed perti-
23 nent by the corporation, which may include, but shall not be limited to,
24 the proposal's manner and schedule of project implementation, the
25 proposer's ability to complete the work in a timely and satisfactory
26 manner, maintenance costs of the completed public work, maintenance of
27 traffic approach, and community impact. The corporation may engage in
28 negotiations or other discussions with all qualified vendors that have
29 expressed interest, provided that the corporation maintains a written
30 record of the conduct of negotiations or discussions and the basis for
31 every determination to continue or suspend negotiations, and further
32 provided that if the corporation determines for a particular contract or
33 for a particular type of contract that it is in the corporation's best
34 interest to negotiate or enter into discussions with fewer proposers, it
35 may make such a determination in writing. If the corporation enters into
36 such negotiations, the corporation shall allow all proposers to revise
37 their proposals upon conclusion of negotiations, and the corporation
38 shall evaluate the proposers' revised proposals using the criteria
39 included in the request for proposals. Any contract awarded pursuant to
40 this section shall be awarded to a responsive and responsible proposer,
41 which, in consideration of these and other specified criteria deemed
42 pertinent, offers the best value as determined by the corporation. The
43 request for proposals shall include a statement that proposers shall
44 designate in writing those portions of the proposal that contain trade
45 secrets or other proprietary information that are to remain confiden-
46 tial, so that the material designated as confidential shall be readily
47 separable from the proposal. Nothing in this subdivision shall be
48 construed to prohibit the corporation from negotiating final contract
49 terms and conditions including cost. All proposals submitted shall be
50 scored according to the criteria listed in the request for proposals and
51 such final scores shall be published on the corporation's website after
52 the date upon which such contract may be implemented.

53 b. The corporation, in awarding an alternative project delivery
54 contract to a contractor offering the best value may use the following
55 types of contracts:

1 (i) A cost-plus not to exceed guaranteed maximum price form of
2 contract in which the corporation shall be entitled to monitor and audit
3 all costs. In establishing the schedule and process for determining a
4 guaranteed maximum price, the contract between the corporation and the
5 contractor shall include terms specifying the price for the design phase
6 of the work, the scope of the work, and any applicable cost factors
7 relating to construction phase work that were included in the contrac-
8 tor's proposal. A fair and reasonable guaranteed maximum price for the
9 construction phase of the work, or portions of the construction phase of
10 the work, may be agreed to as one or more amendments to such contract
11 based on developments in the design of the project that occur after such
12 contract is executed. Each guaranteed maximum price amendment shall: (1)
13 describe the scope of the portion of the construction phase work subject
14 to the amendment, the cost of performing such work, and the maximum
15 costs of any contingencies related to such work; (2) include a detailed
16 line item cost breakdown; (3) include a list of all drawings, specifica-
17 tions and other information on which the guaranteed maximum price is
18 based; (4) include the dates of substantial and final completion on
19 which the guaranteed maximum price is based, as applicable; and (5)
20 include a schedule of unit prices. The corporation shall maintain a
21 written record of each guaranteed maximum price amendment, which shall
22 include a summary of the negotiation process and a description of the
23 relevant developments in the design of the project, independent cost
24 estimates prepared by or on behalf of the corporation, as required
25 pursuant to a policy established by the corporation, the contractor's
26 actual cost schedules and unit prices, and any other factors that the
27 corporation considered. If the corporation and the contractor cannot
28 agree upon a guaranteed maximum price for one or more portions of
29 construction phase work, the corporation may direct the contractor to
30 assign all or a portion of the duties and rights under such alternative
31 project delivery contract to another responsive and responsible proposer
32 pursuant to subparagraph (ii) of paragraph a of this subdivision that
33 offered the best value of the remaining proposers and that will agree to
34 accept such assignment. This subparagraph shall not be deemed to
35 prohibit the use of any contract terms or procedures pursuant to any
36 other provision of law, including but not limited to provisions included
37 in this article;

38 (ii) A lump sum contract in which the contractor agrees to accept a
39 set dollar amount for a contract which comprises a single bid without
40 providing a cost breakdown for all costs such as for equipment, labor,
41 materials, as well as such contractor's profit for completing all items
42 of work comprising the public work;

43 (iii) Incentive payments identified in the text of the contract for
44 performance objectives; or

45 (iv) A combination of elements of the contract types authorized pursu-
46 ant to this paragraph.

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

53 3. The submission of a proposal or responses or the execution of an
54 alternative project delivery contract pursuant to this section shall not
55 be construed to be a violation of section sixty-five hundred twelve of
56 the education law.

1 4. Each alternative project delivery contract entered into by the
2 corporation pursuant to this section shall comply with the objectives
3 and goals relating to the performance of design and construction
4 services by minority- and women-owned business enterprises pursuant to
5 section 6-129 of the administrative code of the city of New York, or,
6 for projects or public works receiving federal aid, applicable federal
7 requirements for disadvantaged business enterprises or minority- and
8 women-owned business enterprises and section three of the federal hous-
9 ing and urban development act of nineteen hundred sixty-eight, as
10 amended, or chapter seventy-nine of the New York city charter, as appli-
11 cable or any successor provision.

12 5. a. Notwithstanding any provision of law to the contrary, all rights
13 or benefits, including terms and conditions of employment, and
14 protection of civil service and collective bargaining status of all
15 employees of the corporation solely in connection with the use of an
16 alternative project delivery contract pursuant to this section shall be
17 preserved and protected.

18 b. The use of alternative project delivery contracts pursuant to this
19 section shall not result in the: (i) displacement of any currently
20 employed worker of the corporation or loss of position, including
21 partial displacement such as a reduction in the hours of non-overtime
22 work, wages or employment benefits, or result in the impairment of
23 existing collective bargaining agreements to which the corporation is a
24 party; or (ii) transfer of existing duties and functions related to
25 maintenance and operations currently performed by existing employees of
26 the corporation to a contractor.

27 c. Employees of the corporation serving in positions in newly created
28 titles shall be assigned to the appropriate bargaining unit. Nothing
29 contained in this section shall be construed to affect: (i) the existing
30 rights of employees of the corporation pursuant to an existing collec-
31 tive bargaining agreement; (ii) the existing representational relation-
32 ships among employee organizations representing employees of the corpo-
33 ration; or (iii) the bargaining relationships between the corporation
34 and such employee organizations.

35 d. Without limiting contractors' obligations under alternative project
36 delivery contracts to issue their own initial certifications of substan-
37 tial completion and final completion, public employees of the corpo-
38 ration shall review and determine whether the work performed by contrac-
39 tors is acceptable and has been performed in accordance with the
40 applicable alternative project delivery contracts, and if such public
41 employees so determine, such public employees shall accept contractors'
42 substantial or final completion of the public works as applicable.
43 Performance by public employees of the corporation of any review
44 described in this subdivision shall not be construed to modify or limit
45 contractors' obligations to perform the work in strict accordance with
46 the applicable alternative project delivery contract or the contractors'
47 or any subcontractors' obligations or liabilities under any law.

48 § 16. Technical assistance. The corporation shall create an internal
49 office dedicated to creating educational materials and providing techni-
50 cal assistance to residents of its residential projects, housing compa-
51 nies, tenants, tenant organizations, not-for-profit corporations operat-
52 ing in the state of New York, and the general public concerning resident
53 elections, the organization, management, and operation of housing coop-
54 eratives, community land trusts, and tenant organizations, and the meth-
55 od by which tenants, tenant organizations, or owners of distressed or
56 non-distressed properties may engage with the corporation concerning the

1 acquisition of real property, among other subjects deemed relevant by
2 the corporation. Such assistance shall include standard forms and
3 templates that comply with state law and the corporation's rules and
4 regulations.

5 § 17. Reports and evaluations. The corporation shall submit to the
6 governor, the temporary president of the senate and the speaker of the
7 assembly, no later than thirty days following the submission of the
8 annual independent audit report pursuant to section twenty-eight hundred
9 two of the public authorities law, a complete detailed report or reports
10 setting forth, to the extent such matters are not fully addressed in the
11 annual independent audit report, the following:

12 1. Its financial reports, including:

13 a. Audited financials in accordance with all applicable regulations
14 and following generally accepted accounting principles as defined in
15 subdivision ten of section two of the state finance law;

16 b. Grant and subsidy programs;

17 c. Operating and financial risks;

18 d. Current ratings of its bonds issued by recognized municipal bond
19 rating agencies and notice changes in such ratings;

20 e. Long-term liabilities, including leases and employee benefit plans;
21 and

22 2. An assessment of the effectiveness of its internal control struc-
23 ture and procedures, including:

24 a. Descriptions of the corporation and its major units and subsid-
25 iaries;

26 b. The number of employees, and minority and women employees, for
27 each;

28 c. An organizational chart;

29 d. Its charter, if any, and by-laws;

30 e. The extent of participation by minority- and women-owned enter-
31 prises in corporation contracts and services in accordance with article
32 fifteen-A of the executive law; and

33 f. A listing of material changes in internal operations and programs
34 during the reporting year.

35 § 18. Subsidiaries. 1. The corporation shall have the right to manage
36 properties or projects within its portfolio, and to exercise and perform
37 its powers and functions related thereto, through one or more subsidiary
38 corporations or legal entities. The corporation by resolution may direct
39 any of its members, officers or employees to organize a subsidiary
40 corporation or legal entity whenever, in the sole discretion of the
41 corporation, it is necessary or convenient to carry out such functions,
42 powers, and duties.

43 2. Each such subsidiary corporation shall be wholly owned by the
44 corporation and shall be organized pursuant to the business corporation
45 law, the not-for-profit corporation law or the private housing finance
46 law.

47 3. The corporation may transfer to any subsidiary corporation any
48 money, real or personal or mixed property or may convey to it any
49 project in order to carry out the purposes and functions related to
50 property management. Each such subsidiary corporation shall have all the
51 privileges, immunities, tax exemptions and other exemptions of the
52 corporation to the extent the same are not inconsistent with the statute
53 or statutes pursuant to which such subsidiary was incorporated. Except
54 as may be inconsistent with the provisions of this act, such subsidiary
55 shall have all the rights and powers granted by any other statute pursu-
56 ant to which such subsidiary corporation was organized.

1 4. No member or officer of the corporation shall receive any addi-
2 tional compensation, either direct or indirect, other than reimbursement
3 for actual and necessary expenses incurred in the performance of such
4 person's duties, by reason of such person's serving as a member, direc-
5 tor, trustee or officer of any subsidiary corporation.

6 5. The board of a subsidiary shall be composed wholly of the corpo-
7 ration's members, officers, or employees, insofar as such employees'
8 official duties are pertinent or useful to projects managed by such
9 subsidiary.

10 § 19. Monies of the corporation. 1. All monies of the corporation,
11 except as otherwise authorized or provided in this act, shall be paid to
12 the commissioner of taxation and finance as agent of the corporation,
13 who shall not commingle such monies with any other monies. Such monies
14 shall be deposited in a separate bank account or accounts. The monies in
15 such accounts shall be paid out on checks signed by the commissioner of
16 taxation and finance on requisition of the chair or treasurer of the
17 board or president of the corporation or of such other officer or
18 employee or officers or employees as the corporation shall authorize to
19 make such requisition. All deposits of such monies shall, if required
20 by the commissioner of taxation and finance or the corporation, be
21 secured by obligations of the United States or of the state of a market
22 value equal at all times to the amount of the deposit, and all banks and
23 trust companies are authorized to give such security for such deposits.

24 Notwithstanding the provisions of this section, the corporation shall
25 have power to contract with the holders of any of its notes or bonds, as
26 to the custody, collection, securing, investment, and payment of any
27 monies of the corporation, of any monies held in trust or otherwise for
28 the payment of notes or bonds, and to carry out such contract. Monies
29 held in trust or otherwise for the payment of notes or bonds or in any
30 way to secure notes or bonds and deposits of such monies may be secured
31 in the same manner as monies of the corporation, and all banks and trust
32 companies are authorized to give such security for such deposits.

33 2. Subject to agreements with noteholders and bondholders and the
34 approval of the comptroller, the corporation shall prescribe a system of
35 accounts.

36 3. The comptroller, or their legally authorized representative, is
37 hereby authorized and empowered from time to time to examine the books
38 and accounts of the corporation including its receipts, disbursements,
39 contracts, reserve funds, sinking funds, investments, and any other
40 matters relating to its financial standing. Such an examination shall be
41 conducted by the comptroller at least once in every five years; the
42 comptroller is authorized, however, to accept from the corporation, in
43 lieu of such an examination, an external examination of its books and
44 accounts made at the request of the corporation.

45 4. The corporation shall submit to the governor, chair of the senate
46 finance committee, chair of the assembly ways and means committee and
47 the comptroller, within thirty days of the receipt thereof by the corpo-
48 ration, a copy of the report of every external examination of the books
49 and accounts of the corporation other than copies of the reports of such
50 examinations made by the comptroller.

51 5. The corporation shall manage the expenses and income of its
52 projects across its portfolio, and the excess cash flow of any project
53 shall be utilized to augment the cash flow of all other projects in any
54 manner or system the corporation deems convenient for its purposes.

55 § 20. Bonds and notes of the corporation. 1. Subject to the provisions
56 of section seventeen of this act, the corporation shall have the power

1 and is hereby authorized from time to time to issue its negotiable bonds
2 and notes in conformity with applicable provisions of the uniform
3 commercial code in such principal amounts, as, in the opinion of the
4 corporation, shall be necessary to provide sufficient funds for achiev-
5 ing any of its corporate purposes, including the payment of interest on
6 bonds and notes of the corporation, establishment of reserves to secure
7 such bonds and notes, and all other expenditures of the corporation
8 incident to and necessary or convenient to carry out its corporate
9 purposes and powers.

10 2. All such bonds shall be designated on their face, "New York State
11 Social Housing Development Authority". The state shall not be liable on
12 notes or bonds of the corporation. Such notes and bonds shall not be a
13 debt of the state and such notes and bonds shall contain on the face
14 thereof a statement to such effect.

15 3. All bonds and notes issued by the corporation may be secured by the
16 full faith and credit of the corporation or may be payable solely out of
17 the revenues and receipts derived from the lease, mortgage or sale by
18 the corporation of its projects or of any thereof, all as may be desig-
19 nated in the proceedings of the corporation under which the bonds or
20 notes shall be authorized to be issued. Such bonds and notes may be
21 executed and delivered by the corporation at any time and from time to
22 time, may be in such form and denominations and of such tenor and matu-
23 rities, may be in bearer form or in registered form, as to principal and
24 interest or as to principal alone, all as the corporation may determine.

25 4. Bonds may be payable in such installments and at such time or times
26 not exceeding fifty years from the date thereof, as shall be determined
27 by the corporation.

28 5. Notes, or any renewals thereof, may be payable in such installments
29 and at such time or times as shall be determined by the corporation, not
30 exceeding ten years from the date of the original issue of such notes.

31 6. Bonds and notes may be payable at such place or places whether
32 within or without the state, may bear interest at such rate or rates
33 payable at such time or times and at such place or places and evidenced
34 in such manner, and may contain such provisions not inconsistent here-
35 with, all as shall be provided in the proceedings of the corporation
36 under which the bonds or notes shall be authorized to be issued.

37 7. If deemed advisable by the corporation, there may be retained in
38 the proceedings under which any bonds or notes of the corporation are
39 authorized to be issued an option to redeem all or any part thereof as
40 may be specified in such proceedings, at such price or prices and after
41 such notice or notices and on such terms and conditions as may be set
42 forth in such proceedings and as may be recited in the face of the bonds
43 or notes, but nothing herein contained shall be construed to confer on
44 the corporation any right or option to redeem any bonds or notes except
45 as may be provided in the proceedings under which they shall be issued.

46 8. Any bonds or notes of the corporation may be sold at such price or
47 prices, at public or private sale, in such manner and from time to time
48 as may be determined by the corporation, and the corporation may pay all
49 expenses, premiums and commissions which it may deem necessary or advan-
50 tageous in connection with the issuance and sale thereof. No bonds or
51 notes of the corporation may be sold at private sale, however, unless
52 such sale and the terms thereof have been approved in writing by: (i)
53 the comptroller where such sale is not to the comptroller, or (ii) the
54 state director of the budget, where such sale is to the comptroller.

55 9. Any moneys of the corporation, including proceeds from the sale of
56 any bonds or notes, and revenues, receipts and income from any of its

1 projects or mortgages, may be invested and reinvested in such obli-
2 gations, securities and other investments as shall be provided in the
3 resolution or resolutions under which such bonds or notes are author-
4 ized.

5 10. Issuance by the corporation of one or more series of bonds or
6 notes for one or more purposes shall not preclude it from issuing other
7 bonds or notes in connection with the same project or any other project,
8 but the proceedings whereunder any subsequent bonds or notes may be
9 issued shall recognize and protect any prior pledge or mortgage made for
10 any prior issue of bonds or notes unless in the proceedings authorizing
11 such prior issue the right is reserved to issue subsequent bonds or
12 notes on a parity with such prior issue.

13 11. The corporation is authorized to provide for the issuance of its
14 bonds or notes for the purpose of refunding any bonds or notes of the
15 corporation then outstanding, including the payment of any redemption
16 premium thereon and any interest accrued or to accrue to the earliest or
17 subsequent date of redemption, purchase or maturity of such bonds or
18 notes, and, if deemed advisable by the corporation, for the additional
19 purpose of paying all or any part of the cost of acquiring, construct-
20 ing, reconstructing, rehabilitating, or improving any project, or the
21 making of any mortgage loan on any project. The proceeds of any such
22 bonds or notes issued for the purpose of refunding outstanding bonds or
23 notes, may, in the discretion of the corporation, be applied to the
24 purchase or retirement at maturity or redemption of such outstanding
25 bonds or notes either on their earliest or any subsequent redemption
26 date, and may, pending such application, be placed in escrow to be
27 applied to such purchase or retirement at maturity or redemption on such
28 date as may be determined by the corporation. Any such escrowed
29 proceeds, pending such use, may be invested and reinvested in obli-
30 gations of or guaranteed by the United States of America, or in certifi-
31 cates of deposit or time deposits secured in such manner as the corpo-
32 ration shall determine, maturing at such time or times as shall be
33 appropriate to assure the prompt payment, as to principal, interest and
34 redemption premium, if any, on the outstanding bonds or notes to be so
35 refunded. The interest, income and profits, if any, earned or realized
36 on any such investment may also be applied to the payment of the
37 outstanding bonds or notes to be so refunded. After the terms of the
38 escrow have been fully satisfied and carried out, any balance of such
39 proceeds and interest, income and profits, if any, earned or realized on
40 the investments thereof may be returned to the corporation for use by it
41 in any lawful manner. The portion of the proceeds of any such bonds or
42 notes issued for the additional purpose of paying all or any part of the
43 cost of acquiring, constructing, reconstructing, rehabilitating, or
44 improving any project, or the making of any mortgage loan on any
45 project, may be invested and reinvested in obligations of or guaranteed
46 by the United States of America, maturing not later than the time or
47 times when such proceeds will be needed for the purpose of paying all or
48 any part of such cost, or the making of any such mortgage loan. The
49 interest, income and profits, if any, earned or realized on such invest-
50 ments may be applied to the payment of all or any part of such cost, or
51 the making of any such mortgage loan, or may be used by the corporation
52 in any lawful manner. All such bonds or notes shall be issued and
53 secured and shall be subject to the provisions of this act in the same
54 manner and to the same extent as any other bonds or notes issued pursu-
55 ant to this act.

1 § 21. Debt service reserve funds. 1. The corporation may create and
2 establish one or more reserve funds to be known as debt service reserve
3 funds and may pay into such reserve funds: (i) any moneys appropriated
4 and made available by the state for the purposes of such funds; (ii) any
5 proceeds of sale of bonds and notes to the extent provided in the resolu-
6 tion of the corporation authorizing the issuance thereof; and (iii) any
7 other moneys which may be made available to the corporation for the
8 purposes of such funds from any other source or sources. The moneys held
9 in or credited to any debt service reserve fund established under this
10 subdivision, except as hereinafter provided, shall be used solely for
11 the payment of the principal of bonds of the corporation secured by such
12 reserve fund, as the same mature, the purchase of such bonds of the
13 corporation, the payment of interest on such bonds of the corporation or
14 the payment of any redemption premium required to be paid when such
15 bonds are redeemed prior to maturity; provided, however, that moneys in
16 any such fund shall not be withdrawn therefrom at any time in such
17 amount as would reduce the amount of such fund to less than the maximum
18 amount of principal and interest maturing and becoming due in any
19 succeeding calendar year on the bonds of the corporation then outstand-
20 ing and secured by such reserve fund, except for the purpose of paying
21 principal and interest on the bonds of the corporation secured by such
22 reserve fund maturing and becoming due and for the payment of which
23 other moneys of the corporation are not available. Any income or inter-
24 est earned by, or increment to, any such debt service reserve fund due
25 to the investment thereof may be transferred to any other fund or
26 account of the corporation to the extent it does not reduce the amount
27 of such debt service reserve fund below the maximum amount of principal
28 and interest maturing and becoming due in any succeeding calendar year
29 on all bonds of the corporation then outstanding and secured by such
30 reserve fund.

31 2. The corporation shall not issue bonds at any time if the maximum
32 amount of principal and interest maturing and becoming due in a succeed-
33 ing calendar year on the bonds outstanding and then to be issued and
34 secured by a debt service reserve fund will exceed the amount of such
35 reserve fund at the time of issuance, unless the corporation, at the
36 time of issuance of such bonds, shall deposit in such reserve fund from
37 the proceeds of the bonds so to be issued, or otherwise, an amount which
38 together with the amount then in such reserve fund, will be not less
39 than the maximum amount of principal and interest maturing and becoming
40 due in any succeeding calendar year on the bonds then to be issued and
41 on all other bonds of the corporation then outstanding and secured by
42 such reserve fund.

43 3. To assure the continued operation and solvency of the corporation
44 for the carrying out of the public purposes of this act, provision is
45 made in subdivision one of this section for the accumulation in each
46 debt service reserve fund of an amount equal to the maximum amount of
47 principal and interest maturing and becoming due in any succeeding
48 calendar year on all bonds of the corporation then outstanding and
49 secured by such reserve fund. In order further to assure the mainte-
50 nance of such debt service reserve funds, there shall be annually appor-
51 tioned and paid to the corporation for deposit in each debt service
52 reserve fund such sum, if any, as shall be certified by the chair of the
53 corporation to the governor and state director of the budget as neces-
54 sary to restore such reserve fund to an amount equal to the maximum
55 amount of principal and interest maturing and becoming due in any
56 succeeding calendar year on the bonds of the corporation then outstand-

1 ing and secured by such reserve fund. The chairman of the corporation
2 shall annually, on or before December first, make and deliver to the
3 governor and state director of the budget a certificate stating the sum,
4 if any, required to restore each such debt service reserve fund to the
5 amount aforesaid, and the sum or sums so certified, if any, shall be
6 apportioned and paid to the corporation during the then current state
7 fiscal year.

8 4. In computing any debt service reserve fund for the purposes of this
9 section, securities in which all or a portion of such reserve fund shall
10 be invested shall be valued at par, or if purchased at less than par, at
11 their cost to the corporation.

12 § 22. Dissolution of the corporation. 1. Upon the passage of any law
13 dissolving or substantially modifying the corporation, and prior to such
14 law's effective date if such law is not effective immediately, the board
15 shall immediately give notice of such law and its details which the
16 corporation shall publish in a newspaper of general circulation in every
17 city with a population greater than five hundred thousand people, post
18 prominently and continuously on the homepage of any website maintained
19 by the corporation, send by certified mail to the trustee of any
20 outstanding bonds of the corporation, and post conspicuously in the
21 common spaces of any residential projects owned by the corporation or
22 its subsidiaries.

23 2. Upon dissolution of the corporation, any residential projects or
24 real property formerly owned by the corporation shall be held in trust
25 by the department of housing and community renewal, which shall assume
26 the former corporation's responsibilities in relation to such residen-
27 tial projects or real properties until such time as the legislature
28 shall create a process by which such properties are fairly and responsi-
29 bly disposed of to residents or third-parties.

30 § 23. Court proceedings. Any action or proceeding to which the corpo-
31 ration or the people of the state of New York may be parties, in which
32 any question arises as to the validity of this act, shall be preferred
33 over all other civil causes except election causes in all courts of the
34 state of New York and shall be heard and determined in preference to all
35 other civil business pending therein except election causes, irrespec-
36 tive of position on the calendar. The same preference shall be granted
37 upon application of counsel to the corporation in any action or proceed-
38 ing questioning the validity of this act in which they may be allowed to
39 intervene. The venue of any such action or proceeding shall be laid in
40 the county in which the principal office of the corporation is located.

41 § 24. Actions against the corporation. 1. Except in an action for
42 wrongful death, no action or proceeding shall be prosecuted or main-
43 tained against the corporation for personal injury or damage to real or
44 personal property alleged to have been sustained by reason of the negli-
45 gence or wrongful act of the corporation or of any member of the board,
46 officer, agent or employee thereof, unless: (i) it shall appear by and
47 as an allegation in the complaint or moving papers that a notice of
48 claim shall have been made and served upon the corporation, within the
49 time limit prescribed by and in compliance with section fifty-e of the
50 general municipal law; (ii) it shall appear by and as an allegation in
51 the complaint or moving papers that at least thirty days have elapsed
52 since the service of such notice and that adjustment or payment thereof
53 has been neglected or refused; and (iii) the action or proceeding shall
54 be commenced within the period provided under section fifty-i of the
55 general municipal law. An action against the corporation for wrongful
56 death shall be commenced in accordance with the notice of claim and time

1 limitation provisions of title eleven of article nine of the public
2 authorities law.

3 2. Wherever a notice of claim is served upon the corporation, it shall
4 have the right to demand an examination of the claimant relative to the
5 occurrence and extent of the injuries or damages for which claim is
6 made, in accordance with the provisions of section fifty-h of the gener-
7 al municipal law.

8 3. The corporation may require any person presenting for settlement an
9 account or claim for any cause whatsoever against the corporation to be
10 sworn before a member of the board, counsel or an attorney, officer or
11 employee thereof designated for such purpose, concerning such account or
12 claim and when so sworn, to answer orally as to any facts relative to
13 such account or claim. The corporation shall have power to settle or
14 adjust any claims in favor of or against the corporation.

15 4. The rate of interest to be paid by the corporation upon any judg-
16 ment for which it is liable, other than a judgment on bonds, notes or
17 other obligations, shall not exceed the rate of interest on judgments
18 and accrued claims against municipal authorities as provided in the
19 general municipal law. Interest on payments of principal or interest on
20 any bonds, notes or other obligations in default shall accrue at the
21 rate specified in the general municipal law until paid or otherwise
22 satisfied.

23 § 25. Limited liability. 1. As used in this section, the term "employ-
24 ee" shall mean the members of the board, president, officers, employees,
25 or a former employee, their estate or judicially appointed personal
26 representative.

27 2. Neither the members of the board nor any officers or employee of
28 the corporation acting on behalf thereof, while acting within the scope
29 of such person's authority, shall be subject to any liability resulting
30 from carrying out any of the powers expressly given in this act.

31 3. At the request of the employee, and upon compliance by the employee
32 with the provisions of this section, the corporation shall provide for
33 the defense of an employee in any civil action or proceeding in any
34 state or federal court, arising out of any alleged act or omission which
35 the corporation finds occurred while the employee was acting within the
36 scope of their public employment and in the discharge of their public
37 duties and was not in violation of any rule or regulation of the corpo-
38 ration at the time the alleged act or omission occurred. This duty to
39 provide for a defense and indemnification shall not arise where such
40 civil action or proceeding is brought by or on behalf of the corporation
41 against the employee.

42 4. The corporation shall indemnify and hold harmless its employees in
43 the amount of any civil judgment obtained against such employees in any
44 state or federal court, or in the amount of any settlement of a claim
45 approved by the corporation provided that the act or omission from which
46 such judgment or settlement arose occurred while the employee was acting
47 within the scope of their public employment and in the discharge of
48 their public duties and was not in violation of any rule or regulation
49 of the corporation at the time the alleged damages were sustained. The
50 duty to indemnify and hold harmless prescribed by this section shall not
51 arise where the injury or damage resulted from an intentional wrongdo-
52 ing, or recklessness on the part of the employee. Nothing in this
53 section shall authorize the corporation to indemnify or hold harmless an
54 employee with respect to punitive or exemplary damages, fines or penal-
55 ties.

1 5. The duty to defend and indemnify and hold harmless prescribed by
2 this section shall be conditioned upon: (i) delivery by the employee to
3 the president or general counsel of the corporation at the office of the
4 corporation of the original or a copy of any summons, complaint, claim,
5 process, notice, demand or pleading within ten days after the employee
6 is served with such document; and (ii) the full cooperation of the
7 employee in the defense of such action or proceeding and in defense of
8 any action or proceeding against the corporation based upon the same act
9 or omission, and in the prosecution of any appeal. Such delivery shall
10 be deemed a request by the employee that the corporation provide for
11 their defense pursuant to this section. In the event that the corpo-
12 ration shall assume an employee's defense and thereafter the employee
13 fails or refuses to cooperate in the formation or presentation of their
14 defense, the court shall permit the corporation to withdraw its repre-
15 sentation ten days after giving written notice to the employee of its
16 intention to discontinue such representation.

17 6. In the event that the act or omission upon which the court proceed-
18 ing against the employee is based was or is also the basis of a disci-
19 plinary proceeding by the corporation against the employee, represen-
20 tation and indemnification by the corporation, as set forth in this
21 section, may be withheld: (i) until such disciplinary proceeding has
22 been resolved; and (ii) unless the resolution of the disciplinary
23 proceeding exonerated the employee as to such act or omission.

24 7. Subject to the conditions set forth in this section, such employee
25 shall be entitled to representation by the general counsel of the corpo-
26 ration or by any attorney or attorneys designated by the general coun-
27 sel; provided, however, that the employee shall be entitled to be
28 represented by private counsel of their choice in any civil action or
29 proceeding whenever the corporation determines that representation would
30 be inappropriate, or whenever a court, upon appropriate motion or other-
31 wise by a special proceeding, determines that a conflict of interest
32 exists and that the employee is entitled to be represented by private
33 counsel of the employee's choice. The general counsel of the corporation
34 shall notify the employee in writing of such determination that the
35 employee is entitled to be represented by private counsel. Provided,
36 however, that the corporation may require, as a condition to payment of
37 the fees and expenses of such representation, that appropriate groups of
38 such employees be represented by the same counsel. Reasonable attorneys'
39 fees and litigation expenses shall be paid by the corporation to such
40 private counsel from time to time during the pendency of a civil action
41 or proceeding.

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

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

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

53 11. Except as otherwise specifically provided in this section, the
54 provisions of this section shall not be construed in any way to impair,
55 alter, limit, modify, abrogate or restrict any immunity available to or
56 conferred upon any unit, entity, member, officer or employee of the

1 corporation, or any right to defense or indemnification provided for any
2 member, officer or employee by, in accordance with, or by reason of, any
3 other provision of state, federal or local law or common law.

4 12. Every action or proceeding instituted pursuant to the provisions
5 of this section shall be commenced pursuant to section twenty-four of
6 this act and subject to any condition or limitation set forth in such
7 section.

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

11 § 26. Public employer. For the purposes of article fourteen of the
12 civil service law, the corporation shall be deemed to be a public
13 employer and as such shall negotiate with and enter into written agree-
14 ments with employee organizations representing the staff of the corpo-
15 ration that have been certified or recognized under such article. The
16 state public employment relations board shall have exclusive jurisdic-
17 tion for the purpose of administering the provisions of such article and
18 the provisions of section two hundred twelve of such article shall not
19 be applicable to any such negotiations.

20 § 27. Made in New York. To the greatest degree possible, the corpo-
21 ration shall strive to procure materials for the construction of
22 projects which are manufactured in whole or part in the state. If such
23 materials cannot be procured that are manufactured in whole or part in
24 the state, the corporation shall, to the greatest degree possible,
25 strive to procure materials for the construction of projects which are
26 produced in the United States.

27 § 28. Public records and public meetings. 1. The board shall promul-
28 gate policies for compliance with articles six and seven of the public
29 officers law and may update such policies at its discretion.

30 2. Meetings of the board and notes and minutes recorded thereof shall
31 be public record. The board shall publish a schedule for its meetings
32 at least ninety days in advance of such meetings, and shall publish an
33 agenda for any meeting at least two weeks in advance of such meeting.
34 Meetings shall be recorded and broadcast online in a manner accessible
35 by the general public and such recordings shall remain online, together
36 with the associated agendas and minutes for review by the general public
37 after such meetings have occurred.

38 § 29. Tax exemption. 1. It is hereby determined that the creation of
39 the corporation and the carrying out of its corporate purposes is in all
40 respects for the benefit of the people of the state of New York and is a
41 public purpose. Accordingly, the corporation shall be regarded as
42 performing an essential governmental function in the exercise of the
43 powers conferred upon it by this act, and the corporation shall not be
44 required to pay any fees, taxes, special ad valorem levies or assess-
45 ments of any kind, including, but not limited to, franchise taxes, sales
46 taxes or other taxes, upon or with respect to any property owned by it
47 or under its jurisdiction, control or supervision, or upon the uses
48 thereof, or upon or with respect to its activities or operations in
49 furtherance of the powers conferred upon it by this act, or upon or with
50 respect to any fares, tolls, rentals, rates, charges, fees, revenues or
51 other income received by the corporation.

52 2. Any bonds, notes or other obligations issued pursuant to this act
53 together with the income therefrom shall at all times be exempt from
54 taxation.

55 3. The state hereby covenants with the purchasers and with all subse-
56 quent holders and transferees of bonds, notes or other obligations

1 issued by the corporation pursuant to this act, in consideration of the
2 acceptance of and payment for the bonds, notes or other obligations,
3 that the bonds, notes or other obligations of the corporation issued
4 pursuant to this act and the income therefrom and all revenues, monies,
5 and other property pledged to pay or to secure the payment of such
6 bonds, notes or other obligations shall at all times be free from taxa-
7 tion.

8 4. Notwithstanding any provision in this section to the contrary, the
9 corporation may pay, or may enter into agreements with any municipality
10 to pay, a sum or sums, annually or otherwise, or to provide other
11 considerations to such municipality, with respect to real property of
12 the corporation located within such municipality and provided that any
13 such payment or agreement to pay shall be subject to approval by the
14 corporation.

15 § 30. Construction. This act, being necessary for the welfare of the
16 state and its inhabitants, shall be liberally construed so as to effec-
17 tuate its purposes.

18 § 31. Inconsistent provisions of other laws superseded. Insofar as the
19 provisions of this act are inconsistent with the provisions of any other
20 act, general or special, the provisions of this act shall be control-
21 ling.

22 § 32. Severability. If any provision of this act or its application to
23 any person or circumstance is held unconstitutional or invalid, in whole
24 or in part, by any court, such holding of unconstitutionality or inva-
25 lidity shall in no way affect or impair any other provision of this act
26 or the application of any such provision to any other person or circum-
27 stance, and to this end the provisions of this act are severable.

28 § 33. Appropriation. The sum of sixty million dollars (\$60,000,000),
29 or so much thereof as may be necessary, is hereby appropriated to the
30 corporation out of any moneys in the state treasury in the general fund
31 and made immediately available for the purpose of carrying out the
32 provisions of this act, namely in the creation, administration, and
33 staffing of the corporation. Such moneys shall be payable on the audit
34 and warrant of the state comptroller on vouchers certified or approved
35 in the manner prescribed by law.

36 § 34. This act shall take effect immediately.