§ 2404. Powers of the agency. Except as otherwise limited by this title, the agency shall have power:

(1) To sue and be sued;

(2) To have a seal and alter the same at pleasure;

(3) To make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this title;

(4) To make and alter by-laws for its organization and internal management;

(5) To acquire, hold and dispose of real and personal property for its corporate purposes;

(6) To appoint officers, agents and employees, prescribe their duties and qualifications and fix their compensation;

* (7) To (a) acquire, and contract to acquire, existing mortgages owned by banks and to enter into advance commitments to banks for the purchase of said mortgages, all subject to the provisions of section twenty-four hundred five of this part, (b) acquire, and contract to acquire, forward commitment mortgages made by banks and to enter into advance commitments to banks for the purchase of said mortgages, all subject to the provisions of section twenty-four hundred five-b of this part, (c) acquire, and contract to acquire, new housing loans made by banks and to enter into advance commitments to banks for the purchase of said housing loans, all subject to the provisions of section twenty-four hundred five-c of this part, (d) to acquire and contract to acquire mortgages pursuant to section twenty-four hundred five-d of this title, and (e) acquire, and contract to acquire, new construction mortgage loans for single-family modular or manufactured housing purchased and sited on land owned by banks and to enter into advance commitments to banks for the purchase of such mortgages, all subject to the provisions of section twenty-four hundred five-b of this part;

* NB Effective until July 23, 2027

* (7) To acquire, and contract to acquire, mortgages owned by banks and to enter into advance commitments to banks for the purchase of said mortgages, all subject to the provisions of section two thousand four hundred five of this title;

* NB Effective July 23, 2027

(8) Subject to any agreement with bondholders or noteholders, to

invest moneys of the agency not required for immediate use, including proceeds from the sale of any bonds or notes, in obligations of the state or the United States of America or obligations the principal and interest of which are guaranteed by the state or the United States of America or in certificates of deposit or time deposits secured in such manner as the agency shall determine, or in obligations of any agency of the state or the United States of America which may from time to time be legally purchased by savings banks within the state as an investment of funds belonging to them or in their control, or in obligations of the Federal National Mortgage Association.

(9) Subject to any agreement with bondholders or noteholders, to sell any mortgages or other personal property acquired by the agency at public or private sale and at such price or prices as it shall determine, provided, however, that a private sale shall be limited to an agency of the federal government, the federal national mortgage association, or a sale of a mortgage to a bank from which it was originally purchased. If the agency determines to sell mortgages at public sale, a notice of such sale shall be published at least once at least five days prior to the date of such sale in a financial newspaper or journal published in the city of New York;

(10) Subject to any agreement with bondholders or noteholders, to purchase bonds or notes of the agency, which shall thereupon be cancelled, at a price not exceeding (a) if the bonds or notes are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date thereon, or (b) if the bonds or notes are not then redeemable, the redemption price applicable on the first date after such purchase upon which the notes or bonds become subject to redemption at the option of the agency plus accrued interest to said date;

(11) To borrow money and to issue negotiable bonds and notes and to provide for the rights of the holders thereof;

(12) To engage the services of private consultants on a contract basis for rendering professional and technical assistance and advice;

(13) To make and execute contracts for the servicing of mortgages acquired by the agency pursuant to this title, and to pay the reasonable value of services rendered to the agency pursuant to those contracts;

(14) To renegotiate, refinance or foreclose, or contract for the

foreclosure of, any mortgage in default; to waive any default or consent to the modification of the terms of any mortgage; to commence any action to protect or enforce any right conferred upon it by any law, mortgage, contract or other agreement, and to bid for and purchase such property at any foreclosure or at any other sale, or acquire or take possession of any such property; to operate, manage, lease, dispose of, and otherwise deal with such property, in such manner as would further the purposes of the agency, subject to any agreement with its bondholders or noteholders;

(15) To contract for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the federal government or any agency or instrumentality thereof, or from the state or any agency or instrumentality thereof, or from any other source and to comply, subject to the provisions of this title, with the terms and conditions thereof;

(16) To enter into agreements, in its discretion, to pay annual sums in lieu of taxes to any municipality or taxing district of the state in respect of any real property which is owned by the agency and located in such municipality or taxing district, provided, however, that the amount so paid for any year upon such property shall not exceed the sum last paid as taxes on such property to such municipality or taxing district prior to the time of its acquisition by the agency;

(17) Make and contract to make loans and purchase and contract to purchase loans made by banks, pension funds, credit unions, colleges or vocational institutions, all subject to the provisions of section twenty-four hundred five-a of this title;

(18) Procure or require the procurement of a policy or policies of group life insurance to insure repayment of loans made or acquired by the agency in event of the death of the borrower;

(19) Subject to provisions of section two thousand four hundred five-a and any agreement with bondholders or noteholders, renegotiate or refinance any loan in default; waive any default or consent to the modification of the terms of any loan; forgive all or part of any indebtedness; and commence any action or proceeding to protect or enforce any right conferred upon it by law, loan agreement, contract or other agreement;

(20) Prescribe standards and criteria for the granting of applications

for loans and loan purchases, insofar as such standards and criteria are not inconsistent with this title;

(21) Make and execute contracts for the administration or servicing of any loan made or acquired by the agency and pay the reasonable value of services rendered to the agency pursuant to such contracts;

(22) Subject to any agreement with bondholders or noteholders, sell any loans made or acquired by the agency at public or private sale and at such price or prices and on such terms as the agency shall determine;

(23) Establish, revise from time to time, charge and collect such premiums or fees in connection with loans and purchases, as the agency shall determine.

(23-a) To and shall develop, promote and ensure that, where possible, minority groups which traditionally have been disadvantaged, and women are afforded equal opportunity for contracts in connection with development and construction contracts for developments, facilities and projects financed by the issuance of bonds, notes and other obligations of the agency.

(24) To establish and administer a mortgage credit certificate program, as defined in the internal revenue code of the United States, in conformity with that and other applicable provisions of such code and any regulations issued thereunder by the United States department of the treasury, to issue mortgage credit certificates pursuant to such program, and to make all elections and determinations relating to such program, including without limitation, an election not to issue all or any portion of the private activity bond volume allocated to the agency.

(25) In connection with the issuance of bonds for the purpose of furthering forward commitment mortgage programs described in section twenty-four hundred five-b of this title, where the mortgagor is to receive mortgage credit certificates issued by the agency, to covenant and consent that the interest on any of its bonds shall be includible, under the United States Internal Revenue Code of nineteen hundred eighty-six, as amended or any subsequent corresponding internal revenue law of the United States, in the gross income of the holders of the bonds to the same extent and in the same manner that the interest on bills, bonds, notes or other obligations of the United States is includible in the gross income of the holders thereof under said Internal Revenue Code or any such subsequent law.

(26) Participation in housing programs. Subject to any agreement with bondholders and noteholders, the agency is hereby authorized, at the direction of the director of the budget, to transfer to the state comptroller for deposit in the New York state infrastructure trust fund to the credit of the housing reserve account established by section eighty-eight of the state finance law, as an expense of the agency, any payment, less applicable expenses, received on account of interest and principal on any mortgages owned by the agency pursuant to the agency additional mortgage loan fund established pursuant to the homeowner mortgage revenue bonds general resolution and not pledged (i) to pay principal of and interest on bonds and notes pursuant to any resolution or trust indenture under which bonds or notes of the agency are authorized to be issued, (ii) to the payment of losses upon the foreclosure, default or delinquency of mortgage loans pledged under any resolution or trust indenture under which bonds or notes of the agency are authorized to be issued and (iii) to pay the reimbursement obligation of the agency to any providers of credit enhancement with respect to (i) or (ii) above in connection with any resolution. Such transfer shall be made in such amounts and at such times as specified in an agreement executed between the agency and the director of the budget, provided, however, that no further transfers for deposit shall be made to such housing reserve account from the agency after the sum of (i) the cumulative total of such deposits and (ii) the payments of the aggregate reserve amount of the agency made pursuant to section seven of the chapter of the laws of nineteen hundred eighty-eight adding this subdivision, equals eighty million dollars.

(27) Additional participation in housing or other state programs. (a) Subject to any agreement with bondholders and noteholders, the agency is hereby authorized, at the direction of the director of the budget, to transfer to the state comptroller for deposit in such fund or account as provided in such direction as an expense of the agency, an amount not to exceed twenty-two million dollars, provided that such amount is made available to the agency directly or indirectly pursuant to (i) the agency's defeasance of its home mortgage revenue bonds, series one through four and/or (ii) the issuance of bonds or notes, proceeds of which will be transferred to the state and used for the purpose of state programs, which bonds or notes shall be payable in whole or in part from

assets made available to the agency pursuant to such defeasance. Such transfer shall be made in such amounts and at such times as specified in an agreement or agreements executed between the agency and the director of the budget, with copies to be provided to the chairman of the assembly ways and means committee and the chairman of the senate finance committee.

(b) The provisions of section seventeen of the public officers law shall apply to members of the board of directors, officers, employees and agents of the agency in connection with any and all claims, demands, suits, actions or proceedings which may be made or brought against any of them arising out of any determinations made or actions taken or omitted to be taken in compliance with any undertakings under or pursuant to the terms of this subdivision. The provisions of this paragraph shall be in addition to and shall not supplant any indemnification or other benefits heretofore or hereafter conferred upon members of the board of directors, officers, employees and agents of the agency, by action of such agency or otherwise.

(c) The state shall and hereby agrees to and does indemnify and save harmless the agency from and against any and all liability, loss, damage, interest, judgments and liens growing out of, and any and all costs and expenses (including, but not limited to, counsel fees and disbursements) arising out of or incurred in connection with any and all claims, demands, suits, actions or proceedings which may be made or brought against it arising out of any determinations made or actions taken or omitted to be taken or compliance with any obligations under or pursuant to the terms of this subdivision; except for fraudulent acts, actions taken in bad faith, gross negligence or willful misconduct.

(28) To establish and administer a lease-purchase program or programs in accordance with section twenty-four hundred five-d of this title.

(29) To pay or reimburse any federal recapture income tax payable by a borrower in connection with a mortgage loan;

(30) To make loans secured by mortgages secured by a second lien on a fee simple or leasehold estate in real property located in the state and improved by a residential structure, whether or not insured or guaranteed by the United States of America or any agency thereof, provided however, that the loan made by the agency and secured by such second lien is made at the same time as a first lien securing a mortgage

loan purchased by the agency pursuant to its programs or by a government sponsored enterprise.

(31) To administer the fund and operate the program set forth in section twenty-four hundred five-f of this part.

(32) To form a subsidiary to be known as "the state of New York mortgage agency community restoration fund" for the purpose of using funds available to the agency under the program set forth in section twenty-four hundred five-f of this part and of owning and holding any residences, mortgages and mortgage notes acquired by the agency, and to otherwise carry out the purposes of section twenty-four hundred five-f of this part. Such subsidiary created pursuant to this subdivision may exercise and perform one or more of the purposes, powers, duties, functions, rights and responsibilities of the agency, other than the issuance of indebtedness, in connection with real and personal property with respect to which the agency holds or held a mortgage, security interest or other collateral. Such subsidiary shall have the power to own, acquire and dispose of real property, and to acquire, own and hold, service and dispose of mortgages and mortgage notes. It shall have the right to foreclose or contract to foreclose on any mortgage acquired by such subsidiary, under the laws of the state, to commence any action to protect or to enforce the rights conveyed to it by law, contract or any agreement and to dispose of any such property and to otherwise proceed with any action as may be necessary to protect the interests of said subsidiary. Notwithstanding any other provision of law to the contrary, the transfer of title to such subsidiary or any other actions taken by the agency or such subsidiary to enforce the agency's rights under the mortgage, security interest or other collateral interest or to protect, acquire, own, manage or dispose of the property shall be deemed to be a corporate purpose of the agency granted to it to carry out the purposes of section twenty-four hundred five-f of this part. Such subsidiary shall be established in the form of a public benefit corporation by executing and filing with the secretary of state a certificate of incorporation which shall identify the agency as the entity organizing such subsidiary and set forth the name of such subsidiary public benefit corporation, its duration, the location of its principal office and its corporate purposes as provided in this subdivision and which certificate may be amended from time to time by the filing of amendments thereto

with the secretary of state, provided that the subsidiary created hereunder shall cease to exist at such time as the program authorized under section twenty-four hundred five-f of this part is no longer in existence. Such subsidiary shall be organized as a public benefit corporation, shall be a body politic and corporate, and shall have all the privileges, immunities, tax exemptions and other exemptions of the agency. The members of such subsidiary shall be the same as the members of the agency.

(33) To do any and all things necessary or convenient to carry out its purposes and exercise the powers given and granted in this title.