§ 2858. Loans. 1. Any nursing home company formed under this article may, subject to the approval of the commissioner, borrow funds from the New York state housing finance agency or the New York state medical care facilities finance agency, as the case may be, and the repayment thereof may be secured by bond or note and mortgage or other agreement which shall contain such terms and conditions as may be deemed necessary or desirable by the New York state housing finance agency or the New York state medical care facilities finance agency, as the case may be, or required by any agreement between the New York state housing finance agency or the New York state medical care facilities finance agency, as the case may be, and the holders of its notes and bonds with respect to nursing home companies, including the right to assignment of rates and charges and entry into possession in case of default, but the operation of such project, in the event of such entry, shall be subject to regulations promulgated by the commissioner.

2. The New York state housing finance agency or the New York state medical care facilities finance agency, as the case may be, may make a contract to make loans to non-profit nursing home companies not to exceed the total project cost and to limited-profit nursing home companies not to exceed ninety-five per centum of the total project cost. Any loan which constitutes a mortgage loan as defined in the New York state medical care facilities finance agency act shall be secured by a first mortgage lien upon all the real property and improvements of which the project consists and upon all fixtures and articles of personal property attached to or used in connection with the operation of the project. Notwithstanding the foregoing provisions of this subdivision or any other provision of this article to the contrary, any personal property may be excluded from the lien of the mortgage securing such a mortgage loan provided (a) the commissioner finds that such property is not essential for the nursing home project as such term is defined in this article, and (b) the New York State housing finance agency or the New York state medical care facilities finance agency, as the case may be, consents to such exclusion.

3. Any inconsistent provision of law to the contrary notwithstanding, mortgages of a nursing home company shall be exempt from the mortgage

recording taxes imposed by article eleven of the tax law.