§ 2873. Regulation of eligible borrowers. 1. Every eligible borrower, as a condition precedent to borrowing funds from the agency, shall enter into a regulatory agreement with the commissioner which shall provide:

(a) that the real property or other assets mortgaged or otherwise pledged to the agency shall not be sold, leased, transferred, encumbered or assigned without the prior consent of the commissioner until the eligible borrower shall have repaid in full all obligations due to the agency and has paid such other obligations as may be required by the commissioner provided, however, the provisions of this paragraph shall not apply to any actions taken pursuant to section twenty-eight hundred seventy-nine of this article;

(b) that the eligible borrower will maintain books and records and a system of accounts satisfactory to the commissioner and the agency including but not limited to separate books, records and accounts for (i) all monies advanced to the eligible borrower by the agency or from any other source or sources, public or private, for the construction, reconstruction, rehabilitation, improvement or equipment of the project and (ii) all monies repaid in satisfaction of any indebtedness to the agency or other indebtedness as required by the commissioner; and the eligible borrower agrees that all of its books, records and accounts shall be open to examination by the commissioner and the agency at any time;

(c) that the eligible borrower shall file with the commissioner and the agency such financial statements including an annual report setting forth such information as the commissioner may require;

(d) that the eligible borrower shall not acquire any real property or interest therein for the purpose of constructing, reconstructing, rehabilitating or improving a hospital project without first having obtained from the commissioner a certificate that such acquisition is consistent with the purposes of this article;

(e) that the eligible borrower shall not issue notes, bonds, debentures or other obligations other than for money or property actually received for the use and lawful purposes of the eligible borrower and no such note, bond, debenture or other obligation shall constitute a lien or encumbrance against the project, or any real property or other asset mortgaged or otherwise pledged to the agency, provided, however, that a hospital constituting an eligible borrower may

incur, assume or guarantee indebtedness from a lender other than the New York state medical care facilities finance agency or incur or assume indebtedness from the New York state medical care facilities finance agency under a separate bond resolution pursuant to the provisions of section five-c of the New York state medical care facilities finance agency act;

(f) that the eligible borrower shall not without first having obtained the written consent of the commissioner:

(i) construct, reconstruct, rehabilitate, improve, alter or repair the project or enter into a contract therefor;

(ii) enter into contracts relating to the management or operation of the project;

(iii) make a guaranty of payment out of monies pledged to the agency or pledge any or all of its assets, income or revenue pledged to the agency to secure payment of its obligations;

(iv) voluntarily dissolve;

(g) that no member, officer or employee of the corporation which is an eligible borrower shall acquire any interest, direct or indirect, in any property then or thereafter included or planned to be included in a project, nor retain any interest direct or indirect in any property acquired subsequent to his appointment or employment which is later included or planned to be included in a project. If any member, officer or employee of a corporation which is an eligible borrower owns or controls an interest, direct or indirect, in any property included in a project which was acquired prior to his appointment or employment, he shall disclose such interest and the date of acquisition to the corporation and such disclosure shall be entered upon the minutes of such corporation and a copy of such minutes shall be forwarded to the commissioner;

(h) that all income and earnings of the eligible borrower shall be used exclusively for its corporate purposes;

(i) that no part of the net income or earnings of the corporation shall inure to the benefit or profit of any private individual, firm or corporation;

(j) such other matters as the commissioner or the agency may require.

2. This regulatory agreement shall terminate at any time after the

expiration of twenty years after the occupancy date, or such earlier date as the bonds issued by the agency with respect to the hospital project are subject to redemption, upon the consent of the commissioner and upon the repayment in full of all obligations due to the agency and of such other obligations as the commissioner may require.