

CHAPTER 803

AN ACT in relation to financial aids to private enterprise housing,
constituting chapter forty-four-b of the consolidated laws
Became a law April 22, 1961, with the approval of the Governor.

Passed, by a majority vote, three-fifths being present

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

CHAPTER FORTY-FOUR-B OF THE CONSOLIDATED LAWS

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ARTICLE 1

SHORT TITLE; DEFINITIONS

- Section 1. Short title.
2. Definitions.

§ 1. Short title. This chapter shall be known and may be cited and referred to as the "private housing finance law."

§ 2. Definitions. The following terms, whenever used or referred to in this chapter, shall have the following meaning, unless a different meaning clearly appears from the context, or unless specifically defined in any of the articles of this chapter:

1. "Area". A section of a municipality which is substandard or insanitary. The term "substandard or insanitary area" shall mean and be interchangeable with a slum, blighted, deteriorated or deteriorating area, whether residential, non-residential, commercial, industrial, or vacant, or any combination thereof and may include land and buildings or improvements not in themselves insanitary or substandard, the inclusion of which is necessary to effectuate a plan.

2. "Assessed valuation." The value of any parcel of real property with respect to any local tax thereon, including therein buildings and improvements as well as land, as assessed by the respective official, bureau, board, commission or agency charged with assessing the same for such local tax.

3. "Authority." A public corporation as defined in subdivision two of section three of the public housing law.

4. "Banking institution." Any corporation, association or organization organized under the banking laws of New York state or the United States which is authorized to transact business in this state.

5. "City." A city in the state.

6. "Commissioner." The commissioner of housing of the state of New York.

7. "Comptroller." The comptroller of the state of New York.

8. "Condemnation." The acquisition of real property in the manner provided by any general, special or local law or city charter for the acquisition of real property by the municipality in which such property is to be taken.

8-a. "Federal government." The government of the United States of America or any agency or instrumentality thereof.

9. "Foundation." Any organization, association or corporation organized for charitable purposes which shall have received exemption from federal taxation by virtue of its eleemosynary, religious or educational functions.

9-a. "Home owners purchase note." A promissory note accepted by a mutual company, mutual housing company, mutual redevelopment company, or housing development fund company which is organized pursuant to the business corporation law and article eleven of this chapter, as consideration for the issuance of shares entitling a person or family to occupancy of an apartment in a project of such mutual company, mutual housing company, mutual redevelopment company, or housing development fund company, as the case may be, payable over or within a period of ten years.

10. "Insurance company." Any insurance company authorized to transact business in this state.

11. "Labor union." Any organization organized under the laws of the state of New York and which exists and is constituted for the purpose, in whole or in part, of collective bargaining, or of dealing with employers concerning grievances, terms or conditions of employment or of other mutual aid or protection for its members.

12. "Local legislative body". In a city, the board of aldermen, common council, commission, or other board or body now or hereafter vested with jurisdiction to enact ordinances or local laws, except that if there be in a city of one million population or more, a board of estimate, the term shall mean only such board of estimate; in a town, the town board;

in a village, the board of trustees; in a county, the board of supervisors.

13. "Mortgage." A mortgage, trust indenture, deed of trust, building and loan contract or other instrument creating a lien on real property, and the indebtedness secured by each of them.

14. "Multiple dwelling." An existing building, accommodating three or more families living independently of each other.

14-a. "Mutual company," "mutual housing company" or "mutual redevelopment company". A limited profit or limited dividend housing company incorporated pursuant to the provisions of this chapter or a redevelopment company incorporated pursuant to the provisions of this chapter, and operated exclusively for the benefit of the persons or families who are entitled to occupancy in a project of such company, housing company or redevelopment company, as the case may be, by reason of ownership of shares therein.

15. "Supervising agency." The comptroller in a municipality having a comptroller; in a municipality having no comptroller, the chief fiscal officer of such municipality; except that in the city of New York it shall be the department of housing preservation and development.

16. "Municipal corporation," and "municipality". A city, town or village, or a county having a county department of assessment with the power to assess real property; the term "municipal" shall be deemed to relate to a city, town or village, or to a county having a county department of assessment with the power to assess real property.

17. "Municipally-aided project." A limited profit housing company project, other than a state urban development corporation project, which is aided by a municipal mortgage loan, a loan by the New York city housing development corporation or tax exemption or both and is not aided by any state mortgage loan or any mortgage loan made by the New York state housing finance agency or any mortgage loan made by the Battery Park city authority or any mortgage loan insured by the federal

government made for the purpose of refinancing a mortgage loan other than a municipal mortgage loan or a mortgage loan made by the New York city housing development corporation.

18. "Neighborhood unit." A primarily residential district having the facilities necessary for well-rounded family living, such as schools, parks, playgrounds, parking areas and local shopping districts.

19. "Persons of low income" and "families of low income." Persons or families who are in the low income groups and who cannot afford to pay enough to cause private enterprise in their municipality to build a sufficient supply of adequate, safe and sanitary dwellings.

20. "Plan." A plan or undertaking for the clearance, replanning and reconstruction or rehabilitation of a substandard and insanitary area or areas and for recreational and other facilities incidental or appurtenant thereto to effectuate the purposes of article eighteen of the constitution.

21. "Planning commission." Any agency of a municipality authorized to prepare, adopt or amend the map of the municipality or empowered to prepare, adopt and from time to time modify a comprehensive or master plan of the municipality, if there be one, or if there be none, the local legislative body of the municipality.

22. "Project." A specific work or improvement to effectuate all or any part of a plan. The term shall include the lands, buildings and improvements acquired, owned, constructed, managed or operated hereunder, to provide dwelling accommodations for persons of low income, and such stores, offices and other non-housing facilities as well as social, recreational or communal facilities, as may be deemed by the authority or municipality to be incidental or appurtenant to a project. Subject to the provisions of article eighteen of the constitution with respect to state projects, such dwelling accommodations may be provided in any section of the municipality, whether or not such section has insanitary or substandard housing conditions.

22-a. "State urban development corporation project". A project acquired, owned, constructed, managed or operated by a company organized pursuant to articles two, four or eleven of this chapter which is a subsidiary of the New York state urban development corporation, as the term "subsidiary" is defined in the New York state urban development corporation act.

22-b. "Battery Park city project." A project acquired, owned, constructed, managed or operated by a company organized pursuant to article two, article four or article eleven of this chapter and located within the Battery Park project area, as defined in the battery park city authority act.

23. "Project cost." The cost of any or all undertakings necessary for planning, financing (including payment of carrying charges), land acquisition, demolition, construction, equipment, and site development of new buildings, reconstruction, repair or remodeling of existing buildings, but not beyond the point of physical completion; and the cost of tenant placement service in connection with a project.

24. "Real property" or "property." Lands and improvements and any fixtures, equipment and article of personal property affixed to or used in connection therewith, lands under water, waterfront property, the water of any lake, pond or stream, and any and all easements, franchises and hereditaments, corporeal or incorporeal, and every estate, interest and right therein, legal and equitable, in lands or water, and right, interest, privilege, easement and franchise relating to the same, including terms for years and liens by way of judgment, mortgage or otherwise.

25. "State." The state of New York.

26. "State-aided project". Any project other than a municipally-aided limited profit housing company project, a redevelopment company project or a redevelopment corporation project.

27. "Total carrying charges". All charges paid to the housing company

by a person or family living in a project under a lease for ninety-nine years renewal, or in perpetuity, or by reason of ownership of stock in such company. The word "rental" shall mean and be interchangeable with "total carrying charges" when used in connection with a mutual company.

28. "Veterans' organization." Any organization of persons who have served in the armed forces of the United States during time of war which has been duly chartered as a veterans' organization under the laws of the United States or of the state of New York.

29. "Annual income" or "income". The total income as reported in the New York state income tax return, less such personal exemptions and deductions for medical expenses as are actually taken by the taxpayer. Provided, however, that federal old age, survivors, and disability insurance benefits shall not be deemed income in articles two, four and eleven of this chapter. This definition shall be employed in articles two, four, eight and eleven of this chapter in the computation of "probable aggregate annual income" as therein defined.

30. "Climate resiliency improvements." Improvements for the purpose of protecting land or any structures thereon from damage resulting from or which may result from changes in climate, including, but not limited to, extreme weather events, abnormal temperatures, and sea level rise, or of reducing the impact of the operation of such structures on climate change, including, but not limited to, improvements that reduce energy consumption or promote the efficient use of natural resources.

31. "Private lender." One or more banking organizations, foundations, labor unions, credit unions, employers' associations, veterans' organizations, colleges, universities, educational institutions, child care institutions, hospitals, medical research institutes, insurance companies, trustees or fiduciaries, trustees of pensions and retirement funds and systems, corporations, partnerships, individuals or other entities or any combination of the foregoing, and shall include any public benefit corporation and the United States of America and any of its agencies and departments. As used in this definition, the terms "trustees" and "fiduciaries" shall include any fiduciary or fiduciaries

holding funds for investment and the term "banking organizations" shall have the same meaning as in subdivision eleven of section two of the banking law.

ARTICLE II

LIMITED-PROFIT HOUSING COMPANIES

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§ 10. Short title. This article shall be known and may be cited and referred to as the "limited-profit housing companies law."

§ 11. Policy and purposes of article. It is hereby declared that there exists in municipalities in this state a seriously inadequate supply of safe and sanitary dwelling or non-housekeeping accommodations for families and persons of low income, including accommodations for handicapped persons of low income and aged care accommodations for aged persons of low income; that such conditions are due, in large measure, to over-crowding and concentration of the population, improper planning, excessive land coverage, lack of proper light, air and space, improper sanitary facilities and inadequate protection from fire hazards; that

such conditions constitute an emergency and a grave menace to the health, safety, morals, welfare and comfort of citizens of this state, necessitating speedy relief which cannot readily be provided by the ordinary unaided operation of private enterprise and require that provision be made by which private free enterprise may be encouraged to invest in companies regulated by law as to rents, profits, dividends and disposition of their property or franchises and engaged in providing such housing facilities and other facilities incidental or appurtenant thereto for families or persons of low income; that it is necessary that provision be made for participation by the state, its municipalities and the New York state housing finance agency in the financing of such housing, for the acquisition by such companies of real property required for such purposes and for public assistance to such companies by the granting of tax exemptions; that the cooperation of the state, its subdivisions and the New York state housing finance agency is necessary to accomplish such purposes; that the provision of such adequate, safe and sanitary housing accommodations by such companies jointly or severally are public uses and purposes for which public money may be loaned and private property may be acquired by and for such companies and tax exemptions granted; that such conditions require the creation of the companies hereinafter prescribed for the purpose of attaining the ends herein recited; and the necessity in the public interest for the provisions hereinafter enacted is hereby declared as a matter of legislative determination.

§ 11-a. Additional policy and purposes of article. 1. It is hereby declared that the elimination of conditions causing a deterioration of the quality of urban life in municipalities of the State and the revitalization and improvement of the quality of urban life in such municipalities through comprehensive programs and projects constituting a total attack upon such conditions are the most critical problems facing the municipalities, the state and the federal government, and are vital to the health, well-being, safety and prosperity of the inhabitants of the municipalities and the people of the state. Neither the municipalities nor the state have adequate resources to undertake, develop and operate the comprehensive programs and projects necessary

for the accomplishment of such purposes. The ordinary operations of private enterprise cannot rectify such conditions or accomplish such purposes. The elimination of such conditions and accomplishment of such purposes require the participation and cooperation of the municipalities, the State, the Federal government, private enterprise, institutions of higher learning, community and civic groups, fraternal and labor organizations, foundations, and all other responsible components of the community.

2. Among the conditions causing such deterioration are: the residence of large numbers of families, adults and children in slum ghettos; insanitary and inadequate housing or other physical environment; a severe shortage of decent healthful housing accommodations to meet the needs of large numbers of families, adults and children; economic, educational or community imbalance resulting from excessive migration of economic or other groups to or from communities; depletion of job or business opportunities because of migration of business and industry from communities; and the existence of physical, social, and economic blight and crime. Such conditions create and perpetuate slum ghettos, blight and crime, cause a progressive deterioration of the quality of urban life for all persons in the municipalities and the State, render or tend to render the municipalities undesirable places in which to live, work and raise families, impair the sound economic, cultural and social growth of municipalities and communities thereof, break down the ability of municipalities or communities thereof to grow, expand, develop or continue as viable municipalities or communities, and threaten the life, health, well-being, safety and prosperity of all persons in municipalities and the people of the State.

2-a. It is hereby found that improvement of the physical environment and revitalization of the quality of urban life in such municipalities would be promoted by cooperative action by tenants who are persons or families of low income to acquire ownership of their dwellings and to operate them on a nonprofit basis; that such cooperative undertakings, with their consequent pride and responsibility of ownership, would help to stem the abandonment of deteriorating but structurally sound buildings, which contributes to a substantial loss of much needed

housing stock, and would lead to the stabilization and renewal of deteriorating neighborhoods. It is found necessary, in order to assure the feasibility of such cooperative undertakings, to make available to such tenants long-term financing on a favorable basis and tax exemption to enable them to purchase and maintain their dwellings at a reasonable cost.

3. The rehabilitation or redevelopment of slum ghettos and other areas into sound healthy balanced viable communities, the enhancement of the physical environment, health, and social well-being of the inhabitants and the expansion of their social and economic opportunity require among other measures the attraction to the neighborhoods of varying economic classes in addition to persons of low income and the availability therein of a wide choice of housing from the standpoint of design and amenities.

4. It is hereby further found that there are certain parts of municipalities where conditions of blight are so extensive in area that, notwithstanding a continued shortage of safe and sanitary dwelling accommodations in the municipality for low and middle income families, it is not economic for private enterprise to build limited profit housing in such areas since it cannot supply proper housing at prices within the economic reach of low-income families in such blighted areas or attract tenants or buyers from other areas by offering rents and prices which are competitive with rents and prices of housing in areas of the municipality which are not blighted. It is found that there are other locations in such municipalities where housing development is desirable for sound community growth, but, similarly, where private enterprise cannot build limited profit housing which is within the economic reach of persons in the area who require such housing.

5. It is the purpose of this article to enable municipalities to undertake projects directly or in combination with the Federal government, private enterprise and any of the other responsible components of the community, to accomplish the public purposes herein described through the most effective and economical concentration and coordination of Federal, State, local and private resources and efforts.

6. It is hereby further found and determined that the accomplishment of the purposes herein described is a matter of public concern, a governmental purpose, a city, town, and village purpose, and a public purpose and a public use for the accomplishment of which (a) the money and property of a city, town or village, may be given, loaned or expended, (b) indebtedness may be contracted by a city, town or village, and (c) eminent domain exercised by a city, town or village, as hereinafter provided.

§ 12. Definitions. As used in this article, the following terms shall mean and include:

1. "Areas." A section of a municipality in which there is to be located a project approved by the municipality as provided in paragraph (a) of subdivision one and in subdivision five of section twenty-six of article two of this chapter.

2. "Company". A limited-profit housing company duly incorporated pursuant to the provisions of this article, or a company incorporated pursuant to the not-for-profit corporation law and this article for the purpose of providing housing and auxiliary facilities for staff members, employees or students of a college, university, hospital or child care institution and their immediate families or for aged or handicapped persons of low income, pursuant to this article, or a municipally-aided non-profit company as hereinafter defined, or a low income non-profit housing company as hereinafter defined.

2-a. "Home owners purchase note." A promissory note accepted by a mutual company as consideration for the issuance of stock entitling a person or family to occupancy of an apartment in a project, payable over or within a period of ten years.

2-b. "Mutual company." A company whose dwelling facilities, to the extent of at least eighty per centum, are occupied by persons or families who are entitled to such occupancy by reason of ownership of

shares in such company; provided however that a company that was not a mutual company prior to July first, nineteen hundred ninety-five may become a mutual company if its dwelling facilities, to the extent of at least fifty per centum, are occupied by persons or families who are entitled to such occupancy by reason of ownership of shares in such company. The commissioner or supervising agency shall provide procedures for such conversion of a company to a mutual company on or after July first, nineteen hundred ninety-five; such procedures shall require the submission of a plan for attaining eighty per centum owner occupancy.

2-c. "Urban Rental Company." A company whose project is located in or adjacent to a municipality and whose housing accommodations are occupied by persons or families who do not own the shares in such company.

3. "Occupancy date." The date defined in the contract between a company and a municipality or the state, as the case may be, as the date upon which the project is to be deemed ready for occupancy, or if such term is not defined in such contract, the date of issuance of the temporary certificate of occupancy.

4. "Plan." A plan or undertaking of an area or areas for providing low rent housing for persons of low income, and for other facilities incidental and appurtenant thereto.

5. "Project." A specific work or improvement, including lands, buildings and improvements acquired, owned, constructed, rehabilitated, improved, managed or operated by a company providing dwelling accommodations, non-housekeeping accommodations, aged care accommodations or accommodations for handicapped persons pursuant to this article, or undertaken, planned, developed, constructed or owned pursuant to section thirty-six-a of this article, and such business, commercial, cultural, recreational, communal, dining, medical and nursing treatment, day care or residential child care facilities or any combination thereof, or other facilities as may be deemed by the commissioner with respect to a project aided by a state loan or New York state housing finance agency loan or by the supervising agency with respect to a municipally-aided project or a project undertaken, planned,

developed, constructed or owned pursuant to section thirty-six-a of this article, to be incidental and appurtenant thereto. In the case of a state loan or New York state housing finance agency loan, a project shall effectuate all or part of a plan, provided, however, that such dwelling accommodations, non-housekeeping accommodations, aged care accommodations or accommodations for handicapped persons may be provided in any section of the municipality, whether or not such section has insanitary or substandard housing conditions.

5-a. "State urban development corporation project". A project acquired, owned, constructed, managed or operated by a limited-profit housing company which is a subsidiary of the New York state urban development corporation, as the term "subsidiary" is defined in the New York state urban development corporation act.

5-b. "Battery Park city project." A project acquired, owned, constructed, managed or operated by a company organized pursuant to this article and located within the Battery Park project area, as defined in the Battery Park city authority act.

6. "Project cost". The sum total of all costs incurred by a company and, as approved by the commissioner in the case of a state-aided project or a project aided by the New York state housing finance agency or by the supervising agency in the case of a municipally-aided project as reasonable and necessary for carrying out all works and undertakings for the development of a project. These shall include but are not necessarily limited to the carrying charges during construction and before physical completion or rehabilitation, working capital not exceeding three per cent of the estimated total cost or three per cent of the actual total final cost, whichever is larger, the cost of all necessary studies, surveys, plans and specifications, architectural, engineering, or other special services, the cost of acquisition of land and any buildings thereon, site preparation and development, construction, reconstruction and equipment; the reasonable cost of financing incurred by the investor in the course of development of the project, up to and including the occupancy date; the fees imposed by the commissioner or by the supervising agency or by both; other fees charged

in the course of the development of the project up to and including the occupancy date, pursuant to the provisions of this article; the necessary expenses in connection with the initial occupancy of the project and where applicable, the cost of such training services as will assist the residents of the project to acquire ownership and to operate the project in an efficient and harmonious manner; and the cost of such other items, including tenant relocation, as the commissioner, in the case of a state-aided project or a project aided by the New York state housing finance agency or the supervising agency, in the case of a municipally-aided project shall determine to be reasonable and necessary for the development of the project, less any and all net rents and other net revenues received from the operation of the real or personal property on the project site, or any part thereof, by the company on or after the date on which the contract between the company and the state or the New York state housing finance agency or municipality was entered into and prior to the occupancy date. In the case of any project purchased or leased by a company from a municipality pursuant to the provisions of section thirty-six-a of this article, project cost shall include the value of the lease or the purchase price paid or to be paid by such company to such municipality.

7. "Local and municipal taxes". Taxes levied by a county, city, village, town, school and special district but shall not include assessments for local improvements.

8. "Child Care Institution"--A private, non-profit, resident agency, association, corporation, institution or other organization, which is incorporated or organized under the laws of this state for the care and treatment of children, which actually has its place of business or plant in this state and which submits and consents to the approval, visitation, inspection and supervision of the Department of Social Welfare, or a similar administrative department of the State of New York as to any and all acts in relation to the welfare of children performed or to be performed thereby.

9. "Housing". As used in this article the term includes:

(a) "Dwellings". "Dwelling accommodations". A room or rooms, with or

without cooking facilities, arranged for occupancy as a self-contained unit.

(b) "Non-housekeeping accommodations". A room or rooms, without cooking facilities, and with or without board designed for the occupancy of staff members, employees or students of a college, university or hospital.

(c) "Aged care accommodations". Non-housekeeping accommodations for aged persons with board and aged care service as may be provided as an incident to occupancy, provided however, that no such service shall be of such a nature, kind or quality as to require licensing by the state department of health under article twenty-eight of the public health law.

(d) "Accommodations for handicapped persons." Dwelling accommodations designed for the occupancy of handicapped persons or non-housekeeping accommodations designed for the occupancy of handicapped persons with board and such service as may be provided as an incident to occupancy, provided however, that no such service shall be of such a nature, kind or quality as to make the facility subject to the jurisdiction of any other agency of the state.

10. "Persons of low income" and "families of low income". Persons or families who are in the low income groups and who cannot afford to pay enough to cause private enterprise in their municipality to build a sufficient supply of adequate, safe and sanitary dwellings, non-housekeeping accommodations or aged care accommodations.

11. "Preliminary Costs". Project costs approved by the supervising agency as appropriate expenditures which may be incurred prior to commitment and initial advance of the proceeds of a mortgage loan under this article, including but not limited to: (a) payments for options to purchase properties on the proposed housing project site, deposits on contracts of purchase, or with prior approval of the supervising agency, payments for the purchase of such properties; (b) legal and organizational expenses, including payment of attorneys' fees, project manager and clerical staff salaries, office rent and other incidental expenses; (c) payment of fees for preliminary feasibility studies and advances for planning, engineering and architectural work; (d) expenses

for tenant surveys and market analyses; (e) necessary application and other fees; and (f) such other expenses incurred by the limited-profit housing company as the supervising agency may deem appropriate to effectuate the purposes of this article.

12. "Municipally-aided non-profit company." A non-profit housing company duly incorporated pursuant to the not-for-profit corporation law and this article, which is aided by a municipal mortgage loan, a loan by the New York city housing development corporation or tax exemption or both and is not aided by any state mortgage loan or any mortgage loan by the New York state housing finance agency or a mortgage loan insured by the federal government made for the purpose of refinancing a mortgage loan other than a municipal mortgage loan or a mortgage loan made by the New York city housing development corporation.

13. "Municipally-aided mutual company." A mutual company which is aided by a municipal mortgage loan, a loan by the New York city housing development corporation or tax exemption or both and is not aided by any state mortgage loan or any mortgage loan by the New York state housing finance agency or a mortgage loan insured by the federal government made for the purpose of refinancing a mortgage loan other than a municipal mortgage loan or a mortgage loan made by the New York city housing development corporation.

14. "Low income non-profit housing company." A non-profit housing company duly incorporated pursuant to the not-for-profit corporation law and this article, whose principal purpose is to provide housing for persons of low income and families of low income and which is aided by a state mortgage loan or mortgage loan by the New York state housing finance agency or a municipal mortgage loan or municipal tax exemption, or both, or a mortgage loan insured by the federal government.

15. "Residual indebtedness." Where a mortgage loan is refinanced pursuant to section twenty-three-a or subdivision twenty-two-a of section six hundred fifty-four of this chapter, residual indebtedness shall be the indebtedness of a company due on the original mortgage loan, including all unpaid principal and all interest accrued thereon,

less an amount equal to the principal amount, when made, of the mortgage insured by the federal government in connection with the refinancing. Such indebtedness shall be secured by a mortgage which may be subordinate to the lien of any mortgage insured by the federal government and may contain such terms and conditions not inconsistent with this article as may be approved by the supervising agency and as the supervising agency may deem necessary or desirable to secure the repayment of such residual indebtedness. Residual indebtedness shall not be restricted by the provisions of this article relating to project cost.

16. "Residual receipts obligations". Where a mortgage loan is refinanced pursuant to section twenty-three-a or subdivision twenty-two-a of section six hundred fifty-four of this chapter, residual receipts obligations shall mean the amount of any additional loan to a company, and any amounts paid other than by the company, to establish escrow accounts or reserves or to satisfy minimum property standards or to install life safety devices for the issuance of mortgage insurance by the federal government in connection with the refinancing. With the approval of the supervising agency and the consent of the company, residual receipts obligations may be evidenced by non-interest bearing residual receipts notes. Residual receipts obligations shall be payable only after the payment in full of all residual indebtedness. Residual receipts obligations shall not be restricted by the provisions of this article relating to project cost and shall not include any amounts deposited under an agreement with the federal government for the sharing of claims paid by the federal government on account of insurance of mortgages.

§ 13. Limited-profit housing companies; how created. A company may be created by three or more persons, approved by the commissioner, by making, subscribing, acknowledging and filing with the secretary of state a certificate which shall be entitled and endorsed "Certificate of Incorporation of (name of company) pursuant to the Limited-Profit Housing Companies Law"; provided that if the company is to be organized to undertake a municipally-aided project the commissioner shall not

approve such persons unless they shall have been first approved by the supervising agency; provided further that no company shall be created to provide aged care accommodations or accommodations for handicapped persons under this article, except under this article and the not-for-profit corporation law. The certificate shall state:

1. The name of the proposed company.

2. The purposes for which it is to be formed which shall include among other things a provision that the company is to plan, acquire, construct, own, maintain, and operate projects pursuant to the terms and provisions of this article.

3. Except in the case of a not-for-profit corporation, the amount of the capital shares, and if any be preferred shares, the preference thereof.

4. Except in the case of a not-for-profit corporation, the number of shares of which capital shall consist, all of which shall have a par value.

5. The municipality, as well as the county within this state, in which its principal business office is to be located, and the address to which the secretary of state shall mail a copy of process in any action or proceeding against the corporation which may be served upon him.

6. Its duration, which shall be: (a) not less than the period for which the loans contracted for under this article and the interest thereon remain unpaid in whole or in part; and (b) not less than the period for which tax exemption is granted pursuant to section thirty-three of this article; and (c) in any event not less than thirty-five years from the date of occupancy of any project, except as may be provided in sections thirty-five and thirty-six of this article.

7. The number of directors, which shall not be less than three nor more than twenty-one, and who shall be elected by the stockholders or members of the corporation. Unless required by the certificate of

incorporation or the by-laws, directors need not be stockholders. Directors appointed by the commissioner pursuant to subdivision fifteen of this section or by the supervising agency pursuant to paragraph (c) of subdivision sixteen of this section need not be stockholders or meet other qualifications which may be prescribed by the certificate of incorporation or the by-laws. In a corporation undertaking a state-aided project one additional director may be designated by the commissioner, and, in the case of all state-aided mutual companies, such additional director shall be designated by the commissioner at the creation of the company and shall serve from the time of such designation at least until a board of directors has been elected by the tenants entitled to occupancy in the project by reason of ownership of shares in such company. In a corporation undertaking a municipally-aided project one additional director may be designated by the supervising agency, and, in the case of all municipally-aided mutual companies, such additional director shall be designated by the supervising agency at the creation of the company and shall serve from the time of such designation at least until a board of directors has been elected by the tenants entitled to occupancy in the project by reason of ownership of shares in such company. The director appointed by the commissioner or the supervising agency need not be a stockholder or meet other qualifications which may be prescribed by the certificate of incorporation or the by-laws. In the absence of fraud or bad faith the director appointed by the commissioner hereunder or the supervising agency or the directors appointed by the commissioner or by the supervising agency pursuant to subdivision fifteen or paragraph (c) of subdivision sixteen respectively of this section shall not be personally liable for the debts, obligations or liabilities of the corporation. Directors of a mutual housing company are to serve in that capacity without salary but may be reimbursed for expenses incurred directly relating to the duties of the director's office.

8. The names and post-office addresses of the directors until the first annual meeting.

9. The names and post-office addresses of the subscribers to the certificate, and a statement of the number of shares of stock which each

agrees to take in the company.

10. That, except in the case of a company to be aided by a loan from the federal government or any agency or instrumentality thereof, or if the mortgage or mortgage bonds which are to be used in financing the company's project are to be insured by the federal government or any agency or instrumentality thereof, the entire amount to be paid in cash or property by the shareholders and income debenture holders shall be at least five per centum of the project cost in the case of an urban rental company and a mutual company. The provisions of this subdivision shall not apply to a non-profit company incorporated pursuant to the provisions of the not-for-profit corporation law and this article for the purpose of providing housing for staff members, employees or students of a college, university, hospital or child care institution and their immediate families, or for aged or handicapped persons of low income, nor to a municipally-aided non-profit company nor to a municipally-aided mutual company, nor to a low income non-profit housing company.

11. That, so long as this article shall remain applicable to any project of the company, its real property shall not be sold, transferred, encumbered or assigned except as permitted by the terms and provisions of this article.

12. That all of the subscribers to the certificate are of full age, that at least two-thirds of them are citizens of the United States, and that at least one of the persons named as director is a citizen of the United States and a resident of the state of New York.

13. That the company has been organized to serve a public purpose and that it shall be and remain subject to the supervision and control of the commissioner, or, if the company is organized to undertake a municipally aided project, of the supervising agency, except as otherwise provided in this article, so long as this article remains applicable to any project of the company; that all real and personal property acquired by it, and all structures erected or rehabilitated by it, shall be deemed to be acquired, rehabilitated or created for the

proper effectuation of the purposes of this article, and that the directors and subscribers of such company shall be deemed to have agreed that they shall at no time receive or accept from such company in repayment of their investment in its stock any sums in excess of the par value of the stock, together with such dividends or other compensation as are prescribed by or permitted under this article, and that, upon dissolution of the company, any surplus remaining after the payment of all its obligations shall be distributed and disposed of and title to the property may be conveyed in fee, only as prescribed by this article.

14. The certificate may provide that in the event that income debentures are issued by the company the owners thereof may be given the same right to vote as they would have if possessed of certificates of stock of the amount and par value of the income debentures held by them. If provision is made for the issuance of income debentures interest shall be paid by the company on income debentures only out of net earnings of the company that would be applicable to payment of dividends if there were no income debentures.

15. That in the event of a violation by a state-aided company of any provision of the certificate of incorporation or of law or of the loan or mortgage contract or any order of the commissioner or of any rules and regulations duly promulgated pursuant to the provisions of this article the commissioner may remove any or all of the existing directors of the company and appoint such person or persons whom the commissioner deems advisable, including officers and employees of the division of housing and community renewal, as new directors to serve in the places of those removed; that directors so appointed by the commissioner who are officers or employees of the division of housing and community renewal shall serve in such capacity without compensation; and that any directors so appointed by the commissioner shall serve only for a period coexistent with the duration of such violation or until the commissioner is assured in a manner satisfactory to him against violations of a similar nature.

16. If the company is organized to undertake a municipally-aided project, such certificate shall contain:

(a) A declaration that the original directors, officers, subscribers and income debenture holders possessing the right to vote, shall be deemed at the time of accepting such offices, or subscribing to the stock or income debentures to have agreed not to resign from the company and not to sell their stock or income debentures prior to the completion of the project and the certification of the total actual project cost by the supervising agency, except with the consent of the supervising agency.

(b) A declaration that the shares of stock and the income debentures of the company shall be issued only in such amounts and form as may be approved by the supervising agency and that no stock shall be redeemed, purchased or retired and no income debentures shall be redeemed prior to their dates of maturity or purchased or retired by the company during the period in which the loan by the municipality is in force or for which tax exemption is granted pursuant to section thirty-three of this article, except with the consent of the supervising agency.

(c) A provision that in the event of a violation by the company of any provision of the certificate of incorporation or of law or of the loan or mortgage contract or of any rules and regulations duly promulgated pursuant to the provisions of this article, the supervising agency may remove any or all of the existing directors of the company and appoint such person or persons which the supervising agency in its sole discretion deems advisable, including officers or employees of the supervising agency, as new directors to serve in the places of those removed; that directors so appointed by the supervising agency who are officers or employees of the supervising agency shall serve in such capacity without compensation; and that any directors so appointed by the supervising agency shall serve only for a period coexistent with the duration of such violation or until the supervising agency is assured in a manner satisfactory to it against violations of a similar nature.

(d) A provision that the supervising agency or its duly authorized representative shall be notified in writing of and shall have the right to attend all meetings of the board of directors or of the stockholders and income debenture holders of the company.

(e) A provision that the sale of stock by a stockholder or the company or the sale of income debentures, the holders of which possess the right to vote, by any such holder or the company, shall be subject to the

consent of the supervising agency.

(f) Such other provisions, not inconsistent with law, as the supervising agency may deem necessary to protect the investment of the municipality and to carry out the purposes of this article.

17. The certificate of incorporation of a non-profit company incorporated pursuant to the provisions of the not for-profit corporation law and this article shall, in addition to all other matters required by law to be stated therein, state:

a. That its purpose is to provide housing and auxiliary facilities for staff members, employees or students of any college, university, hospital, child care institution and their immediate families, for aged or handicapped persons of low income, or for any one of the above purposes, or to provide housing accommodations pursuant to the terms and provisions of this article in the case of a municipally-aided non-profit company, or to provide housing accommodations pursuant to the provisions of this article in the case of a low income non-profit housing company;

b. That the directors or trustees are and at all times shall be officers, directors or trustees of such college, university, hospital or child care institution, or, in the case of a non-profit company providing housing for aged or handicapped persons of low income or of a municipally-aided non-profit company providing housing accommodations pursuant to the terms and provisions of this article, or of a low income non-profit housing company providing housing accommodations pursuant to the provisions of this article, of a corporation organized pursuant to the provisions of the not-for-profit corporation law;

c. That the property of such company shall upon dissolution vest in such college, university, hospital, child care institution, or not-for-profit corporation, and

d. That no part of the net earnings of such college, university, hospital, child care institution or not-for-profit corporation shall inure to the benefit of any private individual.

18. That the secretary of state is designated as the agent of the company upon whom process in any action or proceeding against it may be served.

§ 13-a. The applicability of not-for-profit corporation law. 1. The not-for-profit corporation law applies to every company heretofore or hereafter formed under this article and the not-for-profit corporation law, provided that:

(a) If any provision of the not-for-profit corporation law conflicts with any provision of this article, the provision of this article shall prevail and the conflicting provision of the not-for-profit corporation law shall not apply in any such case. If any provision of this article relates to a matter embraced in the not-for-profit corporation law but is not in conflict therewith, both provisions shall apply.

(b) The following provisions of the not-for-profit corporation law shall not apply to companies formed pursuant to this article and the not-for-profit corporation law:

Paragraphs (7) and (8) of subdivision (a) of section one hundred twelve, section one hundred thirteen, section one hundred fourteen, section two hundred one, section three hundred four, section three hundred seven, section four hundred four, subdivision (3) of paragraph (a) of section five hundred ten, section six hundred nine, section six hundred seventeen, paragraphs (a) and (b) of section eight hundred four, article nine, section ten hundred eleven, section ten hundred twelve, article thirteen, article fourteen.

2. Every corporation to which the not-for-profit corporation law is made applicable by this section is a charitable corporation as defined in paragraph (a) of section one hundred two (Definitions) of the not-for-profit corporation law for all purposes of that law.

§ 13-b. Verification of papers filed with supervising agency. Any document required to be filed with the supervising agency regarding rental units, either state or municipal, shall be duly verified under

oath of the corporation or individual filing the same. The commissioner or head of such supervising agency may restrict the required verification to such documents as relate to financial statements and all other data submitted in support of an application for an increase of rents.

§ 13-c. Voting, election and referendum procedures. 1. Any shareholder vote involving the election of board members, by-law amendments, or on dissolution or reconstitution or conversion of a mutual housing company including any votes for a special assessment pursuant to subdivisions one, two or three of section thirty-five-a of this article shall be conducted using secret ballots. Such ballots shall be cast in-person by tenants entitled to vote in the project; unless such tenant casts such ballot using an absentee ballot issued pursuant to subdivision two of this section.

2. Any shareholder entitled to vote may request an absentee ballot to cast a ballot in any shareholder vote. Such an absentee ballot may be delivered or mailed only to the primary residence address of the shareholder entitled to vote in the project. An absentee ballot cast pursuant to this subdivision shall be sealed within two envelopes and shall be mailed or delivered to a neutral third party not running for a position on the board of directors. The outer envelope containing the ballot shall instruct the shareholder to affix their signature to the outer envelope only, and further instruct the shareholder not to sign the ballot itself.

3. Proxy voting shall not be permitted in a vote for a position on a board of directors, for dissolution or reconstitution of the mutual housing company, for the authorization of a feasibility study, for the authorization to develop and submit to the attorney general an offering plan for dissolution and reconstitution of the mutual housing company, for the authorization to develop and submit to the attorney general a proxy statement or any other documents permitted by the attorney general instead of such offering plan, or any other vote relating to dissolution or reconstitution required by the regulations of the commissioner or

supervising agency, or for an assessment approved pursuant to section thirty-five-a of this article to fund the development, submission, completion, or distribution of any of the aforementioned documents.

4. All ballots shall produce a paper or electronic record which may be audited in the case of a contested election result.

5. No otherwise-eligible person shall be prevented from being a candidate for, being elected to, or serving on a board of directors based solely on that person owing or having owed any amount of any form of arrears to the mutual housing company, unless, at the time of nomination, that person currently owes an amount of arrears greater than the equivalent of two months of that person's monthly maintenance. Nothing in this subdivision shall be construed to require or mandate any mutual housing company to adopt bylaws, rules, policies, or procedures restricting any person's eligibility to be nominated, elected, or serve on a board of directors. No grounds other than the above arrearages in excess of two months maintenance shall be a basis in itself to deny such eligibility to any person unless specifically incorporated in regulations promulgated by or procedures approved by the commissioner or supervising agency. Neither a mutual housing company nor the commissioner or the supervising agency may modify in any way the above limitation so as to restrict eligibility on the basis of fewer than two months of arrears.

§ 14. Consent of commissioner to incorporation. Whenever any such certificate shall be presented to the secretary of state, he shall not file such certificate unless there shall accompany the same a certificate of the commissioner that he consents to the filing of such certificate; nor shall any amendment to the certificate of incorporation be filed unless it is accompanied by a certificate of the commissioner consenting thereto. If a company has entered into a contract with a municipality for the construction of a municipally aided project, the commissioner shall not issue a certificate consenting to an amendment of the certificate of incorporation of such company, unless the supervising agency has given its written consent to such amendment.

§ 15. Participation by certain corporations and individuals. 1. (a)

One or more banking organizations, foundations, labor unions, employers' associations, veterans' organizations, colleges, universities, educational institutions, child care institutions, hospitals, medical research institutes, insurance companies, trustees, fiduciaries or any combination of the foregoing, shall have the power to organize a company pursuant to the provisions of this article, and to purchase for cash or to receive and hold in exchange for property, and to own the bonds of a company and to invest, singly or jointly, or with the state or a municipality or the New York state housing finance agency or the New York city housing development corporation in a bond or note and single participating mortgage, or in separate bonds or notes and mortgages, in an amount not greater than ninety-five per centum of the total project cost in the case of a mutual company, urban rental company or a non-profit company incorporated pursuant to the provisions of the not-for-profit corporation law and this article for the purpose of providing housing for staff members, employees or students of a college, university, child care institution, or hospital and their immediate families and in the case of a non-profit company incorporated pursuant to the not-for-profit corporation law and this article for the purpose of providing housing for aged persons of low income or in the case of a low income non-profit housing company such investment shall not be greater than the total project cost. Where one or more banking organizations, foundations, labor unions, employers' associations, veterans' organizations, colleges, universities, educational institutions, child care institutions, hospitals, medical research institutes, insurance companies, trustees, fiduciaries, or the state or a municipality or the New York state housing finance agency or the New York city housing development corporation, shall participate in a loan to a company secured by a single participating mortgage or by separate mortgages, the interest of each shall have equal priority as to lien in proportion to the amount of loan so secured, but need not be equal as to interest rate, time or rate of amortization or otherwise. Banking organizations, foundations, labor unions, employers' associations, veterans' organizations, colleges, universities, educational

institutions, child care institutions, hospitals, medical research institutes, insurance companies, trustees, fiduciaries or groups thereof, may exercise any such power on such conditions, however, as to banking organizations and as to insurance companies only to the extent and upon such conditions as may be authorized by the state superintendent of financial services. As used in this subdivision, the terms "trustees" and "fiduciaries" shall include any fiduciary or fiduciaries holding funds for investment, and the term "banking organizations" shall have the same meaning as in subdivision eleven of section two of the banking law.

(b) Notwithstanding the provisions of paragraph (a) of this subdivision or of any general, special or local law, for the purpose of completing the financing of project cost, in the event that a municipality has made or contracted to make a loan to a company or to a public benefit corporation to provide moneys to finance the project cost of a project (1) the construction of which commenced prior to December first, nineteen hundred seventy-five, (2) for which a temporary or permanent certificate of occupancy was not issued prior to January first, nineteen hundred seventy-three, and (3) which is assisted by a contract with the secretary of housing and urban development of the United States pursuant to section two hundred thirty-six of the national housing act, as amended, covering all dwelling units therein, one or more banking organizations as defined in paragraph (a) of this subdivision, foundations, labor unions, credit unions, employers' associations, veterans' organizations, colleges, universities, educational institutions, child care institutions, hospitals, medical research institutes, insurance companies, trustees or fiduciaries as defined in paragraph (a) of this subdivision, trustees of pension and retirement funds and systems, corporations, partnerships, individuals, or other entities or any combination of the foregoing shall have the power to participate in such loan or make or participate in a new loan secured by a bond or note and a single participating mortgage, or by separate bonds or notes and separate mortgages, or to invest, singly or jointly, with the municipality in a bond or note and single participating mortgage or in separate bonds or notes and mortgages, upon such terms and conditions as may be approved by the supervising agency, including but not limited to provisions providing that (i) priority may

be given to the payment of the principal of and interest on that portion of the mortgage indebtedness attributable to participation in a loan or an investment made by one or more of such entities or organizations, (ii) the interest of the municipality created as a result of making a mortgage loan may be subordinated to the interest that one or more of such organizations or entities may have upon such participation or investment, (iii) the interest of each upon such participation or investment need not be of equal priority as to lien, nor be equal as to interest rate, time or rate of amortization of principal or time of payment of interest, or otherwise, provided, however, that the aggregate amount of the loan or loans or investment made by one or more of such organizations or entities shall not exceed thirty per centum of total project cost and, further provided that the aggregate amount of the loan or loans to a company does not exceed such amount as is authorized pursuant to paragraph (a) of this subdivision. All or part of the proceeds of such participation or investment pursuant to this paragraph (b) may be applied to reduce or prepay the loan made by the municipality. The provisions of subdivisions one and five of section twenty-six of this article shall not apply to such participation in a loan or investment pursuant to this paragraph (b) if undertaken in connection with a project theretofore approved pursuant to said section twenty-six.

Notwithstanding the provisions of this article or of any general, special or local law, in the event that a municipality has made a loan pursuant to this article prior to any participation pursuant to this paragraph, the supervising agency shall have the power, upon the mortgagor's consent, to modify the terms and conditions of the original bond or bonds or note or notes and mortgage and any other documents executed in connection with such initial loan, as the supervising agency may deem necessary or desirable, to provide for such participation, including but not limited to modification of the rate and time of payment of the interest on the initial loan or rate of amortization of principal thereof, and provision for the additional borrowing cost, if any, with respect to that portion of the mortgage indebtedness attributable to such participation, provided, that except to the extent of any increase in the maximum principal amount of the original mortgage

loan, with regard to a company that has obtained a temporary or permanent certificate of occupancy for part or all of a project financed by a loan pursuant to this article before such participation in a loan or investment is made, the sum of the payments of interest and principal on the mortgage loan or loans which the company is obligated to make in any year as a result of such modification and participation in a loan or investment made pursuant to this paragraph, shall not exceed the sum of the payments of interest and principal that such company would have been obligated to make in such year under the original mortgage loan agreement if the project had been fully financed under the original mortgage loan agreement by the municipality at an interest rate equal to the maximum rate per annum prescribed by the superintendent of financial services pursuant to section fourteen-a of the banking law as of December nineteenth, nineteen hundred seventy-five, or such higher rate of interest as the secretary of housing and urban development of the United States shall approve pursuant to an agreement to make interest reduction payments pursuant to section two hundred thirty-six of the national housing act, as amended, with respect to such project and that the rental or carrying charges in such projects shall not be increased as a result of such participation in a loan or investment and further provided, that the company shall not seek or accept from the municipality any subsidy, direct or indirect, excluding existing tax exemption, to offset any increased borrowing costs, if any.

(c) Where the state or a municipality shall join with one or more organizations of the kind hereinabove mentioned, in making a loan secured by a single participating mortgage or by separate mortgages, the state or a municipality is authorized, through the commissioner of housing, or the supervising agency, as the case may be, to make provision, either in the mortgage or mortgages or by separate agreement, for the performance of such services as are generally performed by a banking institution or insurance company which itself owns and holds a mortgage or by a trustee under a trust mortgage. The commissioner and the supervising agency are hereby authorized to act as trustee or to consent to the appointment of a banking institution to act in such capacity. Any agreement made by the commissioner under this provision shall be subject to the approval by the state comptroller and the attorney general as to form.

(d) In connection with any participation in a loan or investment pursuant to paragraph (b) of this subdivision the municipality shall have the power to assign or pledge, in whole or in part, to one or more of the organizations or entities participating in such loan its right, title and interest in and to any mortgage held pursuant to this article and any contract or arrangement for the payment of subsidy with respect to such loan and the right to receive and apply to repayment of such loan and the interest thereon any payments made under such mortgage or under such contract or arrangement.

2. Notwithstanding any other provision of law, any banking institution or insurance company or a group thereof operating a company, or owning all of the bonds of a company may exercise all the powers conferred by this section and may enter into contracts contemplated by this article and agree with the commissioner not to sell, assign, or otherwise transfer such project or bonds or bond and mortgage or interest therein of such company provided for pursuant to this article without the consent of the commissioner.

§ 16. Limited-profit housing companies; partnership relations.

Notwithstanding any provisions in this article to the contrary, but subject to such regulations as may be prescribed by the commissioner or the supervising agency, as the case may be:

1. (a) Any company may be a partner (general or limited) in a partnership (general or limited) formed for the purpose of providing such company with capital. Any company incorporated pursuant to the provisions of this article may, with the consent of the commissioner or the supervising agency as the case may be, become a partner (general or limited) in a partnership (general or limited) upon the consent of the company to the refinancing of its original mortgage loan by a mortgage loan insured by the Federal government; such a partnership shall have the same powers and duties as provided by this article as a partnership formed for the purpose of providing a company with capital.

(b) Any partner (general or limited) of any partnership (general or limited) in which a company is a partner (general or limited) may be the

owner or holder of any shares, bonds, income debentures, notes or other securities of such company.

(c) Any company which is a partner (general or limited) in any such partnership (general or limited) may exercise all the rights and powers and shall be subject to all the duties and obligations of a company in accordance with this article.

2. The capital structure of a company which is a partner (general or limited) in a partnership (general or limited) formed pursuant to paragraph (a) of subdivision one of section sixteen may include withdrawals from the capital of such a partnership (general or limited).

The provisions of this article relating to shares and income debentures shall be deemed to include withdrawals from the capital of a partnership (general or limited) of which a company is a partner (general or limited).

3. For the purposes of this section, the term partner shall be deemed to include a member of a limited liability company, and the term partnership shall be deemed to include a limited liability company, provided there is disclosure of the identity of the managing member, including the identity of the natural person who is responsible for the housing development. Notwithstanding any provision of this section to the contrary, any change in general partner of a partnership or managing member of a limited liability company shall be subject to the prior, written approval of the commissioner or supervising agency.

§ 17. Powers. 1. Subject to the limitations of this article, a company heretofore or hereafter organized under this chapter shall have the powers and be subject to the limitations contained in the business corporation law or the not-for-profit corporation law, as the case may be, and shall have the following additional specific powers:

(a) To make and execute contracts and other instruments necessary or convenient in the exercise of its powers;

(b) To acquire or contract to acquire from any person, firm, corporation, municipality, federal or state agency, by grant, purchase,

condemnation or otherwise, leaseholds, real, personal or mixed property or any interest therein, and to sell, assign, exchange, transfer, mortgage or encumber the same;

(c) To own, hold, clear and improve, leasehold, real, personal or mixed property or any interest therein;

(d) To construct, reconstruct, rehabilitate, improve, alter or repair or provide for the construction, reconstruction, improvement, alteration or repair of any project;

(e) To lease or rent any of the housing or other accommodations or any of the lands, buildings, structures or facilities embraced in any project and establish and revise the rents or charges therefor; or to purchase or lease a project or a part thereof from an authority, pursuant to the provisions of section fifty-eight or article twelve-b of this chapter.

(f) To arrange or contract with a municipality for the planning, replanning, opening, grading or closing of streets, roads, roadways, alleys or other places or for the furnishing of facilities or for the acquisition by a municipality of property or property rights or for the furnishing of property or services in connection with a project;

(g) To insure or provide for the insurance of its property or operations as required by law and also against such other risks as it may deem advisable;

(h) To limit by contract the exercise of any of its powers;

(i) To invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement in property or securities in which savings banks may legally invest funds subject to their control;

(j) To sue and be sued;

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

(l) To make and from time to time amend and repeal by-laws, rules and regulations not inconsistent with the provisions of this article;

(m) To sell, lease, or otherwise convey all or any part of a project to an authority upon such terms and conditions as shall have the prior approval of the commissioner or the supervising agency, as the case may be;

(n) A non-profit company incorporated pursuant to the not-for-profit corporation law and this article for the purpose of providing housing

and auxiliary facilities for staff members, employees or students of any college, university, hospital, child care institution and their immediate families; for aged or handicapped persons of low income or for any one of the above purposes, may, with the prior written consent of the commissioner or the supervising agency, as the case may be, lease its project or any part thereof to any colleges, universities, hospitals, child care institutions or not-for-profit corporations. A lessee of a project may sublease all or any part of the project to institutions and not-for-profit corporations which would be an eligible sponsor pursuant to the provisions of this chapter and to staff members, employees, and students of any college, university, hospital, child care institution, and to aged and handicapped persons of low income. Any property so leased or subleased shall remain subject to the provisions of this article and to the rules and regulations of the commissioner, or supervising agency, as the case may be. A lease or sublease of the entire project may provide for the assumption by the lessee or sublessee of the management and control of the project, and all of the obligations thereof, as well as the right to collect all revenues accruing thereto. In any event, the lessee shall pay rental in an amount at least equal to the interest and amortization due upon the mortgage of the property so leased.

(o) To lease to any authority, or to a municipality in connection with any federally-aided program to provide dwelling accommodations for persons of low income, one or more dwelling units in a project upon such terms and conditions as shall have the prior written approval of the commissioner or the supervising agency, as the case may be.

(p) To lease, with or without an option to purchase, all or any part of a project to any person, firm, partnership, trust or corporation, subject to the prior written consent of the commissioner or the supervising agency, as the case may be. Any property so leased shall remain subject to the provisions of this article and to the rules and regulations of the commissioner or the supervising agency, as the case may be. Such lease may provide for the assumption by the lessee of the management and control of the project, as well as the right of the lessee to collect all revenues accruing thereto.

To do all other things necessary or convenient to carry out its

powers.

2. A company shall file with the commissioner or the supervising agency, as the case may be, a copy of any by-laws, rules, regulations and amendments thereto adopted by it from time to time, which shall become effective upon approval by the commissioner or by the supervising agency; provided, however, that if the commissioner or the supervising agency shall fail to approve or disapprove such proposed by-laws within three months after such filing, such by-laws shall become effective upon the expiration of such three month period. These by-laws, rules, regulations and amendments shall contain such provisions relating to the management of its business, the regulation of its affairs, the calling of meetings, the manner of selection of officers and trustees and such other provisions as may be reasonable and necessary.

3. Notwithstanding the provisions of any law, general or special, a mutual company may, with the approval of the commissioner or the supervising agency, as the case may be, require a standard form and procedure for the casting of proxies or absentee ballots in any matter requiring a shareholder vote.

4. Notwithstanding the provisions of any law, general or special, a board of directors of a mutual housing company created pursuant to the provisions of this article shall:

(a) Hold at least four meetings of the board of directors annually. Such meetings shall be open to all shareholders and residents, except that they may include executive sessions open only to directors for the sole purpose of discussing confidential personnel issues, legal advice and counsel from an attorney to whom the mutual housing company is a client, or confidential issues affecting individual shareholders or residents, or contract negotiation. Any such board of directors meetings held in addition to the minimum number of four as required by this section shall be open to shareholders and residents, and subject to the aforementioned exception regarding executive sessions.

(b) Maintain a record of any vote on a resolution of such board, including specification of how each director voted. Such record shall be a matter of public record which will be made available as a paper copy

at the request of a shareholder and will also be posted on a website that is accessible by all shareholders maintained by the board of directors, provided however, that there may be redactions to the extent minutes would reflect the discussions held in executive session.

(c) Promptly post on a website available to all shareholders and maintained by the board of directors to communicate with shareholders, (i) any request by the mutual housing company to the commissioner or the supervising agency, as the case may be, and any final resolution regarding such request, when the request relates to a change in regulations, a change in its real estate taxation, in a refinancing, financing being offered by the commissioner, supervising agency, or any other agency or, a proposed dissolution and reconstitution, (ii) any deficiency letters issued by the office of the attorney general to the mutual housing company regarding an offering plan for dissolution and reconstitution of the mutual housing company, any deficiency letters issued by the office of the attorney general to the mutual housing company regarding a proxy statement or any other documents permitted by the attorney general instead of such offering plan, and any of the mutual housing company's resubmissions of such offering plan or proxy statement or any other documents permitted by the attorney general instead of such offering plan in response to such deficiency letters issued by the office of the attorney general, or (iii) any offer of financing from the commissioner, supervising agency, or any other agency to the mutual housing company.

5. (a) No mutual housing company shall interfere with the right of a shareholder or tenant to form, join or participate in the lawful activities of any group, committee or other organization formed to protect the rights of shareholders and tenants; nor shall any mutual housing company harass, punish, penalize, diminish, or withhold any right, benefit or privilege of a shareholder or tenant under their proprietary lease or tenancy for exercising such right.

(b) Shareholder and/or tenants' groups, committees or other shareholder and/or tenants' organizations shall have the right to meet without being required to pay a fee in any location on the premises including a community or social room where use is normally subject to a fee which is devoted to the common use of all shareholders and/or

tenants in a peaceful manner, at reasonable hours and without obstructing access to the premises or facilities. Nothing in this subdivision shall be construed to limit or impede the authority of the board of directors to act on behalf of the mutual housing company or regulation by the commissioner or supervising agency with respect to the recognition of a tenant group representing all tenants, or to require the continued recognition of a cooperators' advisory council formed pursuant to subdivision one of section thirty-two-a of this article when superseded by the election of a board of directors.

§ 18. Designation of and service of process on secretary of state and registered agent. The provisions of sections three hundred four, three hundred five and three hundred six of the business corporation law shall apply to companies heretofore or hereafter organized pursuant to the provisions of this article.

§ 19. Consideration for issuance of stock, bonds or income debentures. No company shall issue stock, bonds, or income debentures except for money or property actually received for the use and lawful purposes of the company, provided, however, that a mutual company may issue stock for home owners purchase notes if the purchase transaction has received the written endorsement of the commissioner in accordance with supplementary rules and regulations of the commissioner made therefor and if at least two hundred dollars in money or property is received by such company toward the issuance of such stock. No stock, bonds or income debentures shall be issued for property except upon a valuation approved by the supervising agency or by the commissioner, as the case may be, and such valuations shall be used in computing the estimated or actual project cost.

§ 20. Mortgages, mortgage bonds and notes. 1. Any company, subject to the approval of the commissioner or of the supervising agency, as the case may be, may borrow funds and secure the repayment thereof by bond or note and mortgage or by an issue of bonds under a trust indenture.

2. Each loan made to a company shall relate to one or more specified projects and shall be secured by a mortgage upon all of the real property of which the project or projects, to which the loan relates, consists, and upon all fixtures and articles of personal property attached to or used in connection with the operation of such project or projects. Such mortgages may contain such other clauses and provisions as shall be approved by the commissioner, or the supervising agency, as the case may be, including the right to assignment of rents and entry into possession in case of default; but the operation of such project or projects, in the event of such entry by a mortgagee or receiver, except in the case of a mortgage loan insured or held by the federal government, shall be subject to regulations promulgated by the commissioner or the supervising agency. Provisions for the amortization of the mortgage indebtedness and residual indebtedness of companies formed under this article shall be subject to the approval of the commissioner or the supervising agency, as the case may be. In the case of an instrument or instruments evidencing residual indebtedness issued pursuant to section twenty-three-a or section forty-four-b of this chapter, the principal amount of such instrument or instruments and the interest thereon, if any, shall be repaid over a period of time not exceeding the term over which the mortgage loan insured by the federal government is to be repaid, plus ten years, which period of time shall commence at such time as the commissioner or the supervising agency shall approve, provided, however, that such period of time shall not expire more than fifteen years after the mortgage loan insured by the federal government has been satisfied.

§ 21. Capital structure. The capital structure of a company undertaking a project and the proportionate amount of the project cost to be represented by mortgages, bonds, notes, income debentures and shares shall be subject to the approval of the commissioner except as otherwise provided in section twenty-three with respect to a municipally-aided project. The shares and income debentures issued by a mutual company or urban rental company, other than a non-profit company incorporated pursuant to the provisions of the not-for-profit

corporation law and this article for the purpose of providing housing for staff members, employees or students of a college, university, hospital or child care institution and their immediate families or for aged or handicapped persons of low income, and other than a municipally-aided non-profit company or a municipally-aided mutual company, and other than a low income non-profit housing company, shall not be less than the total of five per centum of the project cost. The shares, bonds or notes, income debentures and mortgages covering any project shall not exceed the actual project cost.

The provisions of this section with respect to the proportionate amount of the project cost to be represented by mortgages, bonds, notes, income debentures and shares shall not be applicable to any housing company project, if funds made available by the federal government or any agency or instrumentality thereof are used in financing the project, in whole or in part, or if a mortgage or mortgage bonds issued with respect to such project are insured by the federal government or any agency or instrumentality thereof.

§ 22. State loans. 1. The commissioner may enter into contracts for loans to a company. All such contracts shall be subject to approval by the state comptroller and by the attorney general as to form.

2. Loans by the state under such a contract shall be secured by a first mortgage lien, and no such loan shall be made in an amount greater than ninety-five per centum of the total project cost in the case of a mutual company, urban rental company or a non-profit company incorporated pursuant to the provisions of the not-for-profit corporation law and this article for the purpose of providing housing for staff members, employees or students of a college, university, hospital or child care institution and their immediate families and in the case of a non-profit company incorporated pursuant to the not-for-profit corporation law and this article for the purpose of providing housing for aged or handicapped persons of low income or in the case of a low income non-profit housing company such loans shall not be made in an amount greater than the total project cost. In case of a

loan in an amount greater than ninety-five per centum of the total project cost, the commissioner may in his discretion require satisfactory independent guarantees that the loan will be repaid according to the terms of the company's bond or note and mortgage. Notwithstanding any other provisions of law, if the company proposes to sell or convey any part or parts of the mortgaged premises prior to the sale by the state of the definitive bonds providing the funds for the state loan, the comptroller, upon the application of the company and with the prior written consent of the commissioner, may release from the first mortgage lien any part or parts of the mortgaged premises not acquired through condemnation and not required for the project, provided that any net proceeds from the sale or conveyance of the said property will be held by the company for the sole purpose of reducing, in accordance with the requirements of the commissioner and comptroller, the principal amount of the state loan outstanding, and provided further that the unpaid principal amount of the state loan then outstanding, as it may be reduced by the net proceeds, if any, derived from the sale or conveyance, would not be in an amount greater than ninety-five per centum of the total project cost and in the case of a non-profit company incorporated pursuant to the provisions of the not-for-profit corporation law and this article for the purpose of providing housing for aged or handicapped persons of low income or in the case of a low income non-profit housing company such amount shall not be greater than the total project cost. The comptroller shall execute such release in the usual form, which, when acknowledged, shall be recorded by the county clerk and a minute thereof made upon a margin of the mortgage. A company may, with the prior written consent of the commissioner, and subject to the approval of the state comptroller and to the provisions of any contract with noteholders and bondholders, lease any property not acquired through condemnation and not required for the project, and may apply the income of such lease to any use authorized for any other rental income. Such lease shall contain restrictions to protect and preserve the project.

3. The commissioner may make temporary loans or advances to a company in anticipation of any permanent loans and no such temporary loans or advances shall be deemed to constitute part of such permanent loans

unless such temporary loans or advances have been made out of the proceeds of definitive housing bonds sold by the state pursuant to chapters four hundred seven of the laws of nineteen hundred fifty-five and nine hundred fifty-six of the laws of nineteen hundred fifty-eight.

4. The state shall have the power to invest jointly with the New York state housing finance agency in a bond or note and single participating mortgage, or in separate bonds or notes and mortgages of a company organized pursuant to the provisions of this article. The interest of each shall have equal priority as to lien in proportion to the amount of loan so secured, but need not be equal as to interest rate, time or rate of amortization or otherwise. In such a case the state, through the commissioner of housing, is authorized to make provision, either in the mortgage or mortgages or by separate agreement, for the performance of such services as are generally performed by the New York state housing finance agency itself owning and holding a mortgage. Any agreement made by the commissioner under this subdivision shall be subject to the approval of the state comptroller and the attorney general as to form.

§ 22-a. Redevelopment loans. Notwithstanding any provision of this article to the contrary, where a state-aided project undergoes a comprehensive redevelopment plan, the commissioner may approve a loan and encumbrance of such project in an amount in excess of actual project cost within the meaning of section twenty-one of this article, provided that such amount represents cost of capital improvements, redevelopment or acquisition by a new owner, any consequent rent increase is not unduly burdensome to the tenants, and the company enters into an agreement to remain subject to the provisions of this article for a period of no less than an additional fifteen years from issuance of the loan and encumbrance.

§ 22-b. Loans for state-aided limited-profit housing companies. 1. Notwithstanding any provision of this article to the contrary, the commissioner may for a period of one year from the effective date of this act approve a loan and encumbrance in excess of the actual project

cost of a state-aided project comprising more than five thousand rental units, provided that: (a) the rents paid by the tenants may not be increased to pay for any consequent increase in indebtedness that is not attributable to project cost; (b) the company enters into an agreement to continue to remain subject to the provisions of this article for a period of no less than an additional thirty years from issuance of the loan and encumbrance; and (c) the greater of twenty-five percent of the amount of such loan which exceeds such actual project cost or forty million dollars of the proceeds of such loan must be dedicated to capital improvements to existing structures and facilities.

2. Any company that enters into a loan pursuant to subdivision one of this section shall create a plan within one year of the approval of the loan. The plan shall include details of all capital improvements that will occur as a result of the loan. Such company shall obligate the funds dedicated to the capital improvements within three years of the approval of the loan. Such company shall submit a copy of the plan within one year of the approval of the loan and within three years of the approval of the loan, a report that details the use of the loan funds to the governor, the commissioner of the division of housing and community renewal, the temporary president of the senate, the speaker of the assembly, the minority leader of the senate, the minority leader of the assembly, the chair of the senate finance committee, the chair of the assembly ways and means committee, the chair of the senate housing, construction, and community development committee, and the chair of the assembly housing committee.

3. Such company shall participate in bimonthly meetings with elected officials and the members of the project's residents' association or other tenant organization that represents the majority of tenants in the project in order to hear any advice or comments on the implementation of the plan. The meetings shall occur on a regular basis until all of the money set-aside for capital improvements in subdivision one of this section has been spent.

§ 23. Municipal loans and municipally aided projects. 1. A

municipality may make or contract to make loans to a company or to a public benefit corporation providing housing for staff members, employees or students of a college, university, hospital or child care institutions and their immediate families in an amount not to exceed, except in the case of a non-profit company incorporated pursuant to the provisions of the not-for-profit corporation law and this article for the purpose of providing housing for aged or handicapped persons of low income, and except in the case of a company or public benefit corporations providing housing for staff members, employees or students of a college, university, hospital or child care institution and their immediate families, and except in the case of a municipally-aided non-profit company or of a municipally-aided mutual company, and except in the case of a low income non-profit housing company, ninety-five per centum of the project cost to be secured, except as provided in section fifteen of this article, by a first mortgage lien and may make temporary loans or advances to a company in anticipation of a permanent municipal loan. In the case of a non-profit company incorporated pursuant to the provisions of the not-for-profit corporation law and this article for the purpose of providing housing for aged or handicapped persons of low income and in the case of a company or public benefit corporations providing housing for staff members, employees or students of a college, university, hospital or child care institution and their immediate families, and in the case of a municipally-aided non-profit company or of a municipally-aided mutual company, and in the case of a low income non-profit housing company, such loans may not exceed the total project cost. Notwithstanding the foregoing, such loans to a municipally-aided mutual company to assist in financing the acquisition of a building by residents thereof may not exceed ninety-five per centum of the project cost. Such mortgage, or bonds or notes secured thereby and such contract may contain such terms and conditions not inconsistent with the provisions of this article as the local legislative body may deem necessary or desirable to secure repayment of its loan, the interest thereon and other charges in connection therewith. In the case of a loan in an amount greater than ninety-five per centum of the total project cost the supervising agency may in its discretion require satisfactory independent guarantees that the loan will be repaid according to the terms of the company's bond or note and mortgage.

1-a. Notwithstanding any other provision of this article or any other law, any such loan may be made to a company at such rate of interest, if any, as the local legislative body may deem necessary or desirable to carry out the policy and purposes of this article.

2. The supervising agency shall have exclusive power to promulgate such supplementary rules and regulations with respect to a municipally-aided project and a company formed to undertake or operate any such project, as may be necessary to carry out the provisions of this article. No assignment for collateral or pledge by a municipality of its mortgage interest in a municipally-aided project to the state or to any political subdivision thereof shall either affect the power of the supervising agency granted herein or authorize the commissioner to exercise any powers not otherwise granted in this article.

3. Prior to the date of approval by the local legislative body of the contract between a municipality and a company for a municipally aided project, the total estimated project cost of such project, the estimated capital requirements of the company formed to undertake or operate such project, the initial capital structure of such company and a modification of any of the foregoing items, shall be subject to the approval of the supervising agency and the commissioner. Any modification of any of the foregoing items made after such date of approval of the contract shall be subject solely to the approval of the supervising agency. If after such date of approval of the contract, any change is made in such contract which requires the approval of the local legislative body, such change shall also be subject to the prior approval of the commissioner.

4. The commissioner shall have the power, prior to the date of approval by the local legislative body of a contract between a company and the municipality for a municipally aided project, to approve the proposed maximum average of the rentals to be charged for the dwellings in the project, or any modifications thereof. After such date of approval of the contract, the supervising agency shall have sole power to increase or reduce the rental rate for the dwellings in the project

in the manner prescribed by section thirty-one of this article for the variance of the rental rates. However, if a variance in such rental rate is made necessary because of a change in the project which requires the approval of the local legislative body, the prior approval by the commissioner of such variance of the rental rate shall also be obtained.

5. The commissioner and the supervising agency shall each have full power to investigate into and order a company undertaking or operating a municipally aided project to furnish such reports and information as each may require concerning the planning, construction, acquisition, rehabilitation, management or operation of the project.

6. The commissioner shall have the power to audit the books of a company undertaking or operating a municipally aided project solely as to the legality of the expenditures and to disallow any expenditure which the commissioner shall find has been made in violation of law or any rule or regulation duly issued pursuant to this article. The supervising agency shall have the full power to audit the books of any such company as to the legality, reasonableness or necessity of its expenditures. Any expenditure disallowed by the commissioner or the supervising agency on such audits shall not be included in any construction, management or operating costs in connection with any application to increase or reduce the rents or carrying charges in a project.

7. (a) At the direction of the supervising agency, with the consent and approval of the mayor the municipality shall establish and keep a separate fund known as the limited-profit mortgage reserve fund for the purposes of insuring the municipality against any loss resulting from the making of a mortgage loan, temporary loan or advance to a municipality-aided project and to protect the municipality in the event of delinquency in the repayment of such mortgage loan, temporary loan or advance.

(b) There shall be paid into such fund the portions of fees allocated to and directed to be deposited in such fund by the supervising agency with the consent and approval of the mayor as provided for in subdivision seven of this section. In addition, there shall be credited

to and deposited in such fund any portion of the unexpended balance remaining in the housing fund as the supervising agency with the consent and approval of the mayor may determine to be in excess of the amounts needed to meet expenditures required to be paid from the housing fund.

(c) The monies in the limited-profit mortgage reserve fund shall be deposited in one or more of the banks or trust companies designated, in the manner provided by law, as depositories of the funds of such municipal corporation. The comptroller or the chief fiscal officer may invest the monies in such fund in obligations specified in paragraph d of this subdivision. Any interest earned or capital gain realized on the money so deposited or invested shall accrue to and become part of such fund. The separate identity of such fund shall be maintained whether its assets consist of cash or investments or both.

(d) Monies in such fund may be invested (1) in special time deposit accounts in, or certificates of deposit issued by, a bank or trust company located and authorized to do business in this state, provided, however, that such time deposit account or certificate of deposit shall be payable within such time as the proceeds may be needed to meet expenditures for which such monies were obtained and provided further that such time deposit account or certificate of deposit be secured by a pledge of obligations of the United States of America or obligations of the state of New York or obligations of any municipal corporation, school district or district corporation of the state of New York; or (2) in obligations of the United States of America, obligations of the state of New York or obligations of the municipal corporation which has established such mortgage insurance fund provided: (i) such obligations are not tax exempt; (ii) such obligations shall be payable or redeemable at the option of the owner within such times as the proceeds may be needed to meet expenditures for purposes for which the monies so invested were obtained, and (iii) such obligations, unless registered or inscribed in the name of the municipal corporation for which such investment is made, shall be purchased through, delivered to and held in custody of a bank or trust company in this state and shall be sold or presented for redemption or payment only by such bank or trust company upon written instructions from the comptroller or chief fiscal officer.

(e) An expenditure shall be made from such fund only by an authorization of the supervising agency with the consent and approval of

the mayor and only for one or more of the following purposes:

- (i) Payment of expenses of establishing and administering the fund;
- (ii) Payment of a delinquent installment or installments of interest and principal due to the municipality under a mortgage loan, temporary loan or advance to a municipally-aided project;
- (iii) Payment of any loss sustained by the municipality as a result of the making of a loan, temporary loan or advance to a municipally-aided project, whether such loss consists of a deficiency upon a mortgage, foreclosure sale as authorized by sections thirty-four and ninety-four of this chapter or otherwise; except that in the event the municipality acquires title to the project, payment for any loss or deficiency shall be deferred until such time when the municipality shall dispose of title to the project; any such loss or deficiency shall be diminished by the municipality to the extent of the amount derived by the municipality from such disposition plus any net operating income derived by the municipality during its period of ownership or less any net operating loss sustained by the municipality during such period and less any amount of interest paid by the municipality to retire any bonded indebtedness incurred in connection with the loan made to such project.
- (iv) Payment of all costs entailed in procuring mortgage insurance in such amounts, and from such insurers as the supervising agency deems desirable to insure the municipality against any loss resulting from the making of a mortgage loan to a municipality-aided project.

The payment from such fund of any delinquent installment or installments due the municipality under a mortgage as provided in subsection (ii) of this paragraph e shall not be deemed either a remission or waiver of the right to such installment or installments and such installment or installments shall continue to be due and payable to the municipality and shall be deposited, together with interest accrued, in the mortgage insurance fund when paid.

(f) The comptroller or chief fiscal officer shall keep a separate account for the mortgage insurance fund. Such account shall show:

- (i) The date and amount of each sum paid into the fund;
- (ii) The interest earned by the fund;
- (iii) The capital gains or losses resulting from the sale of investments of the fund;

- (iv) The interest or capital gains which have accrued to the fund;
- (v) The amount and date of each withdrawal from the fund;
- (vi) The assets of the fund indicating the cash balance therein and a schedule of the amounts invested.

The comptroller or chief fiscal officer shall render a detailed report of the operation and condition of such fund to the supervising agency annually each fiscal year and at such other times as the supervising agency or the mayor may require.

8. Whenever reference is made in this article to a municipal loan, a loan by a municipality, a loan from a municipality, a contract for a loan between a municipality and a company, or any similar term, with respect to the territorial limits of the city of New York such term shall be construed to refer to a loan made or to be made either by such municipality or by the New York city housing development corporation, whichever is applicable.

9. The city of New York shall have the power to invest jointly or participate in a loan with the New York city housing development corporation or with one or more organizations or entities mentioned in section fifteen in a bond or note and single participating mortgage, or in separate bonds or notes and separate mortgages of a company organized pursuant to the provisions of this article upon such terms and conditions as are provided in said section fifteen of this article.

10. A municipality with a population of less than one million may, by action of its local legislative body concurred in by the commissioner, provide for the supervision and regulation of any municipally-aided project and the company carrying out such project by the commissioner in lieu of the supervising agency. With respect to any such project and company, the commissioner shall have, from and after the effective date of such action, all of the powers and duties of a supervising agency pursuant to this article. The company shall pay to the commissioner fees, as prescribed by the commissioner, to cover the expenses of examination, audit, and supervision of the company and the project. Notwithstanding any other provision of law, funds collected pursuant to

such fees shall be deposited to the credit of the general fund.

The provisions of subdivisions one and eight of this section shall apply only to projects financed in whole or in part by a mortgage loan, temporary loan or advance by a municipality. The provisions of subdivisions two, three, four, five, six and seven hereof shall apply to all municipally-aided projects including projects financed in whole or in part by a mortgage loan from the federal government or any agency or instrumentality thereof or by a mortgage or mortgage bonds insured by the federal government or any agency or instrumentality thereof.

§ 23-a. Mortgage modifications, evidence of pre-existing indebtedness.

1. Notwithstanding the provision of any law, general or special, the supervising agency shall have the power to:

(i) assign or pledge or contract to assign or pledge any mortgage securing a loan, including any loan to finance the construction of a project, and any note or bond evidencing indebtedness thereon, made by the municipality in accordance with the provisions of this article, and any contract or arrangement, including any subsidy contract or arrangement, relating to such mortgage, and the receipts to be derived from any of the foregoing, and may reacquire or accept and contract to reacquire or accept any such mortgage, note, bond, contract or arrangement, including any mortgage, note, bond, contract or arrangement made in substitution thereof, and the receipts to be derived therefrom, or

(ii) consent to and contract for the modification of any of the terms of a mortgage, and note or bond secured thereby, made pursuant to section twenty-three of this chapter for the purpose of obtaining insurance of such mortgage loan by the federal government in order to refinance all or any part of the indebtedness evidenced by such mortgage and note or bond, or

(iii) satisfy such mortgage in order to enable the company to obtain insurance by the federal government of a mortgage loan made for the purpose of refinancing all or any part of the indebtedness evidenced by such mortgage and note or bond.

2. In the event that the existing mortgage loan is satisfied pursuant to this section, the supervising agency may in consideration of the issuance of such satisfaction accept a new mortgage and note or bond insured by the federal government in an amount equal to the maximum principal amount of a mortgage loan the federal government will insure or accept the proceeds available to the housing company as a result of the refinancing.

3. In the event that there is residual indebtedness, the housing company shall make and the supervising agency shall accept such instruments evidencing such indebtedness as may be required by the supervising agency as are consistent with the provisions of subdivision fifteen of section twelve of this chapter, in such form and upon such terms as the supervising agency may approve. In the event that there are residual receipts obligations, the housing company may make and the supervising agency may accept instruments evidencing such obligations in accordance with the provisions of subdivision sixteen of section twelve of this chapter.

4. Notwithstanding any other provisions of this article or any general, special or local law, where the supervising agency has made the findings required in subdivision one of section twenty-six or section twenty-six-a and where a project has been approved pursuant to subdivision five of section twenty-six of this chapter, the supervising agency may make or contract to make a mortgage loan or exercise other related powers pursuant to this section or section twenty-three-b or subdivision twenty-two-a of section six hundred fifty-four of this chapter without further findings by the supervising agency or further approval by the local legislative body.

4-a. Notwithstanding the provisions of this article or any general, special or local law to the contrary, where an existing mortgage loan is modified or satisfied pursuant to this section and the supervising agency has approved a new or modified mortgage or mortgages, including a mortgage and note or bond insured by the federal government and a mortgage to secure residual indebtedness, the supervising agency may sell, assign, or otherwise dispose of, at public or private sale, on

such terms and conditions as shall be deemed appropriate by the supervising agency subject to the approval of the comptroller or chief fiscal officer of the municipality wherein such agency is located, such new or modified mortgage or mortgages and related instruments.

4-b. Notwithstanding the provisions of this article or any general, special or local law to the contrary, where an existing mortgage loan is modified or satisfied pursuant to this section, the supervising agency may pay or incur fees, costs, expenses and other amounts, whether or not any amounts have been appropriated therefor in order to (1) meet a municipality's obligations under an agreement with the federal government on account of mortgage insurance, provided that a municipality's share of any mortgage insurance claim paid by the federal government shall not exceed fifty percent of the insurance benefits paid by the federal government, and further provided that a municipality's share of such claims under any contract or contracts entered into between a municipality and the federal government shall not exceed five percent of the outstanding principal amount of all mortgages of the municipality at any time insured by the federal government and included within such contract, (2) make loans for, or establish escrow accounts for the issuance of mortgage insurance, (3) absorb discounts associated with any sale, assignment or other disposition of a mortgage note or bond insured by the federal government, (4) pay fees required by the federal government as a condition for the issuance of mortgage insurance, (5) install such life safety devices and satisfy such minimum property standards, as may be required by the federal government which devices or standards are in addition to any requirement imposed by the municipality as mortgagee and to make loans for such purposes, (6) pay closing and other costs related to obtaining mortgage insurance from the federal government, (7) permit the municipality to issue obligations secured by such mortgage or mortgages, (8) meet such other costs as the federal government may from time to time impose, (9) pay any amounts not previously advanced under a mortgage or mortgages modified or satisfied pursuant to this section, and (10) hold an amount not to exceed twenty million dollars at any one time in a revolving account for a period not to exceed eighteen months from the time of the first deposit therein, to pay fees, costs, expenses and other amounts attributable to making and

insuring mortgages pursuant to this section or attributable to issuing obligations secured by such mortgages. If the municipality sells any such mortgages insured by the federal government for an amount in excess of the principal amount thereof at the time of such sale, or if the municipality issues obligations secured by any such mortgages and the yield on such mortgages is greater than the yield on such obligations (the yield on such mortgages and obligations having been calculated in accordance with section one hundred three of the internal revenue code of the United States and regulations thereunder), then any such premium and any such differential may be used by the municipality for any lawful purpose, provided, however, that an amount equal to the annual sum of such premium and such differential, to the extent such differential is not paid to or for the benefit of the holders of such obligations, shall be credited annually by the municipality, at such times as determined by the supervising agency, as a payment by all municipally-aided projects then having residual indebtedness, of the then accrued and unpaid interest on such residual indebtedness. To the extent that any such credit otherwise allocable to a project in any year exceeds unpaid interest on the residual indebtedness of such project in that year, such excess credit shall be allocated among all other eligible projects having accrued and unpaid interest on residual indebtedness in that year. Notwithstanding the provisions of the foregoing sentence of this subdivision, if an eligible project has made cash payments in any year for the sum of (i) interest on and principal of a federally insured mortgage and (ii) interest on and principal of residual indebtedness and (iii) all other payments on account of such insured mortgage, including mortgage insurance premium and reserves, at least equal to the sum of (i) interest and principal which would have been due annually on the original mortgage loan for the project, at the interest rate in effect at the time the project is refinanced, and (ii) all other required annual payments on account of such original mortgage loan, such as reserve requirements, then any excess credit allocable to such eligible project shall be credited in the next succeeding year as a payment of interest on residual indebtedness of such project before any cash payment is required to be made for such interest. Subject to the provisions of the preceding sentence of this subdivision, if the total of such credit in any year available for all eligible projects exceeds

the total of all accrued and unpaid interest in that year on residual indebtedness of all eligible projects then having residual indebtedness, an amount equal to such excess credit shall be carried forward and credited in future years as a payment of accrued and unpaid interest on residual indebtedness of eligible projects in future years until such time as no further interest remains unpaid with respect to any residual indebtedness of eligible projects. The supervising agency shall divide such credit among eligible projects on the basis of the respective original principal amounts of the federally insured mortgages on eligible projects; provided, however, that such credit shall be allocated to projects which receive federal subsidies only to the extent that such subsidies are not thereby reduced. When there is a participation, new loan or investment pursuant to section twenty-three-b of this article for which the consent of a company is required and which will be substantially equivalent to a refinancing pursuant to section twenty-three-a or subdivision twenty-two-a of section six hundred fifty-four of this article, then for purposes of this subdivision the interest of the municipality after such participation, new loan or investment which is secured by a mortgage shall be deemed to be the equivalent of residual indebtedness and the interest of entities or organizations other than the municipality in such participation, new loan or investment shall be deemed to be the equivalent of a federally insured mortgage.

5. No company shall accept a mortgage loan to be insured by the federal government made for the purpose of refinancing the existing mortgage loan of a company which shall exceed the amount which can be supported by the income derived from the operation of the project at the rental rate determined by the supervising agency that would be necessary to meet all necessary payments to be made by the company, of all expenses including fixed charges, sinking funds, reserves and dividends on outstanding stock, as authorized by the supervising agency, if the principal amount of the original mortgage loan of the company were to be fully repaid over the term of such mortgage loan by constant and equal payments of principal and interest and if the interest rate on the company's original mortgage loan was eight and one-half percent per annum or, where the original mortgage loan provides for the payment of

interest at a maximum rate of less than eight and one-half percent per annum, such maximum amount.

6. A company shall not accept a mortgage to be insured by the federal government for the purpose of refinancing an existing mortgage loan of a municipally-aided project unless the sum of interest and principal payable in respect of such mortgage to be insured by the federal government and in respect of any residual indebtedness, over the term of such mortgage and residual indebtedness, shall be no more than the sum of interest and principal that would be payable in respect of the existing mortgage loan, over the term of such existing mortgage loan, at an interest rate of eight and one-half percent per annum or where the existing mortgage loan provides for a maximum interest rate of less than eight and one-half percent, at such maximum interest rate.

7. The terms of any mortgage securing residual indebtedness of a municipally-aided project shall include a provision to the effect that so long as the project is subject to a mortgage insured or held by the federal government (a) interest on and principal of such mortgage securing residual indebtedness shall be payable only if and to the extent to which surplus cash, as defined in a regulatory agreement executed by the housing company and the federal government, is available, and (b) the failure to pay interest and principal on such mortgage securing residual indebtedness shall not constitute an event of default unless surplus cash is available and not applied to such payments of interest and principal.

8. Ten days before an initial application is filed with the federal government to obtain insurance by the federal government of a mortgage for the purpose of refinancing all or any part of a mortgage loan for a municipally-aided project pursuant to section twenty-three-a or subdivision twenty-two-a of section six hundred fifty-four of this chapter, the supervising agency shall (a) mail to the president or other representative of the tenants' association or cooperators' advisory council, recognized by the supervising agency for such municipally-aided project, written notice of the proposed refinancing, including a copy of such initial application, and (b) make a copy of such initial

application available at its offices during business hours, for inspection and copying by the residents of such municipally-aided project. Ten days before the closing of a proposed participation, new loan or investment with respect to a municipally-aided project pursuant to section twenty-three-b of this article, the supervising agency shall (a) mail to the president or other representative of the tenants' association or cooperators' advisory council, recognized by the supervising agency for such municipally-aided project, written notice of such proposed participation, new loan or investment, including a summary of the principal terms and conditions thereof, and (b) make a copy of such summary available at its offices during business hours, for inspection and copying by the residents of such municipally-aided project. The unintentional failure of the supervising agency to comply with the foregoing provisions of this subdivision shall not invalidate or otherwise affect any such refinancing of a mortgage loan or any such participation, new loan or investment.

§ 23-b. Participation in loan or investment. Notwithstanding any other provisions of this article or of any general, special or local law, where a municipality has made or contracted to make a mortgage loan to a company to finance a project: one or more banking organizations as defined in subdivision eleven of section two of the banking law, educational institutions, hospitals, medical research institutes, insurance companies, trustees or fiduciaries, including fiduciaries holding funds for investment, the New York city housing development corporation, other public corporations, or other entities which purchase, invest, or deal in first mortgage loans in the normal course of their business, or any combination of the foregoing, shall have the power to participate in such loan or make or participate in a new loan secured by a bond or note and a single participating mortgage, or by separate bonds or notes and separate mortgages, or to invest, singly or jointly, with the municipality in a bond or note and single participating mortgage or in separate bonds or notes and mortgages or in a new mortgage or mortgages with respect to all or a portion of the loan by a municipality to a company; and the supervising agency shall have the power, upon the mortgagor's consent, to modify the terms and

conditions of the original bond or bonds or note or notes and mortgage or mortgages and any other documents executed in connection with such original loan, as the supervising agency may deem necessary or desirable to provide for such participation, new loan or investment as provided in this section, including but not limited to (i) modification of the rate and time of payment of interest on the original loan or rate and time of amortization of principal thereof, (ii) providing for priority for payment of the principal of and interest on that portion of the mortgage indebtedness attributable to such participation, new loan or investment by one or more of such entities or organizations, (iii) subordination of the interest of the municipality to the interest of one or more of such organizations or entities in such participation, new loan or investment, and (iv) otherwise providing that the interest of each upon such participation, new loan or investment need not be of equal priority as to lien, or be equal as to interest rate, time or rate of amortization of principal or time of payment of interest or otherwise; provided, however, that the aggregate amount of the loan or loans to a company does not exceed the amount authorized pursuant to section twenty-three of this article. When consent of a company is required for any participation, new loan or investment pursuant to this section and such participation, new loan or investment will be substantially equivalent to a refinancing of indebtedness pursuant to section twenty-three-a or subdivision twenty-two-a of section six hundred fifty-four of this chapter, then; (i) the provisions of this article, including without limitation the provisions of section twenty-three-a, limiting total indebtedness of a company after a refinancing shall apply to total indebtedness of the company after such participation, new loan or investment; (ii) the provisions of this article applicable to a mortgage of a company insured by the federal government in connection with such refinancing shall apply to a mortgage securing the interest of entities or organizations other than the municipality in such participation, new loan or investment; (iii) the provisions of this article concerning residual indebtedness, such residual indebtedness having been calculated as if the mortgage referred to in clause (ii) of this sentence were a federally insured mortgage, shall apply to an interest of the municipality after such participation, new loan or investment which is secured by a mortgage; (iv) the provisions of this article concerning

residual receipts obligations shall apply to an interest of the municipality after such participation, new loan or investment which is unsecured, and (v) the provisions of subdivision four-b of section twenty-three-a of this article concerning the credit referred to therein shall apply in a manner consistent with such subdivision. For purposes of the foregoing sentence of this section, the term surplus cash (referred to in subdivision seven of section twenty-three-a of this article) shall be applied by the supervising agency in a manner consistent with the definition of such term in regulatory agreements with the federal government for the refinancing of indebtedness of municipally-aided projects. The provisions of subdivisions one and five of section twenty-six of this article shall not apply to such participation in a loan or investment pursuant to this section if undertaken in connection with a project theretofore approved pursuant to section twenty-six of this article. Where the municipality shall join with one or more organizations of the kind hereinabove mentioned, in making a loan secured by a single participating mortgage or by separate mortgages, the municipality is authorized, through its supervising agency, to make provision, either in the mortgage or mortgages or by separate agreement, for the performance of such services as are generally performed by a banking institution or insurance company which itself owns and holds a mortgage or by a trustee under a trust mortgage. The supervising agency is hereby authorized to act as trustee or to consent to the appointment of a banking institution to act in such capacity. In connection with any participation in a loan or investment pursuant to this section, the municipality through its supervising agency shall have the power to assign or pledge, in whole or in part, to one or more of the organizations or entities participating in such loan or investment its right, title and interest in and to any mortgage held by it pursuant to this article and any contract or arrangement for the payment of subsidy relating to such mortgage, including the right to receive and apply to repayment of such loan and the interest thereon any receipts to be derived by it from such mortgage or from such contract or arrangement.

§ 23-c. Mortgage modifications. 1. For the purposes of this section,

the following terms shall have the meanings set forth below:

(a) "Existing mortgage" shall mean any mortgage held by the municipality securing a loan made by such municipality in accordance with the provisions of this article, and any note or bond evidencing indebtedness thereon, including, but not limited to, any mortgage, note or bond securing residual indebtedness and any mortgage, note or bond securing a loan to finance the construction of a project.

b. "Non-recoverable debt service" shall mean, with respect to any increase in indebtedness executed or approved pursuant to this section that is not attributable to project cost, all payments of interest and principal on such portion of the indebtedness.

(c) "Restrictive agreement" shall mean a binding agreement between a company and the supervising agency, which (i) prohibits the dissolution of the company pursuant to the provisions of section thirty-five of this article for not less than six years from the date of such agreement, and (ii) prohibits the consideration of non-recoverable debt service in any rent increase pursuant to the provisions of section thirty-one of this article at any time subsequent to the date of such agreement.

2. Notwithstanding the provisions of this article or the provisions of any law, general or special, a company that enters into a restrictive agreement on or after the effective date of a chapter of the laws of 2004 which added this subdivision, may, with the approval of such supervising agency:

(a) substitute a new mortgage approved by the supervising agency for any existing mortgage;

(b) extend or modify any existing mortgage in such manner and for such term as shall be determined by the supervising agency;

(c) subordinate any existing mortgage in any manner approved by the supervising agency to the lien of any mortgage held by a lender that is authorized to participate in loans pursuant to section twenty-three-b of this article; and

(d) borrow funds and secure the repayment thereof by note and mortgage or in any other manner approved by the supervising agency.

§ 24. Income debentures. 1. With the approval of the supervising agency or of the commissioner, as the case may be, the certificate of incorporation, or an amended certificate may authorize the issuance of income debentures bearing no greater interest than six per centum per annum except as otherwise provided in this article. After the incorporation of a company, the directors thereof may, with the consent of two-thirds of the holders of the preferred stock issued and outstanding offer to the stockholders of the company, the privilege of exchanging their stock in such quantities and at such times as may be approved by the supervising agency or the commissioner, as the case may be, for such income debentures. In no event, shall the amount of stock of the company be less than a per centum of the total of stock and income debentures, to be fixed by the supervising agency or by the commissioner, as the case may be.

2. Such income debentures and any instrument under which they are issued may contain such other provisions, including provision for amortization by serial maturities, through the operation of a sinking fund or otherwise, as may be approved by the supervising agency or by the commissioner, as the case may be.

§ 25. Working capital. The supervising agency or the commissioner, as the case may be, may permit stock or income debentures to be issued for working capital to be used in connection with such project to an amount not exceeding three per centum of the estimated project cost or the actual project cost, whichever is larger.

§ 26. Conditions and security for loans. 1. No loan shall be made by the state, the New York state housing finance agency, a municipality or the New York city housing development corporation unless the commissioner, with respect to a project aided by a state loan or New York state housing finance agency loan, or the supervisory agency, with respect to a municipally-aided project, finds that:

(a) The municipality has approved the project as provided in subdivision five of this section and has enacted or will enact

regulations or appropriate restrictions adequately protecting the project against future uses likely to depreciate unduly the value of such project;

(b) The estimated revenues of the project will be sufficient to cover all probable costs of operation and maintenance, of fixed charges and operating reserves and depreciation reserves if any;

(c) The plans and specifications conform to the requirements of all laws applicable thereto, and assure adequate light, air, sanitation and fire protection;

(d) If the project is aided by a state loan, or a New York state housing finance agency loan, the commissioner shall also find that the project is in conformity with a plan or undertaking for providing low rent housing facilities for persons of low income and for the clearance, replanning, reconstruction or rehabilitation of a substandard and insanitary area or areas, and for other facilities incidental or appurtenant thereto as may be approved by the commissioner.

1-a. No company may be aided pursuant to this article by a mortgage loan or tax exemption or both to finance the acquisition of a building by residents thereof unless the commissioner or the supervising agency, as the case may be, finds that:

(a) the condition of such building is deteriorating and the building is located in a deteriorating area or in an area threatened with deterioration by reason of economic, social or physical changes occurring therein or in nearby areas;

(b) the building is not yielding sufficient revenues to cover costs of operation and maintenance, of fixed charges and of reserves, if any, and also a reasonable profit to the owner;

(c) the making of such loan will prevent further deterioration and abandonment;

(d) at least two-thirds of the present residents consent to such acquisition;

(e) financing for such acquisition is otherwise unavailable because of the neighborhood, the age of the buildings, or other factors indicating an inability of the private sector unaided to cause such acquisition to be effected;

(f) the proceeds of such loan will not be used to refinance existing

debt in excess of a reasonable relationship to current value; and

(g) the term for repayment of such loan does not exceed the remaining useful life of the building.

2. The principal of a loan made by the state shall be repaid by the company over a period of not to exceed fifty years except in the case of a loan to rehabilitate an existing building, in which case the period shall not exceed thirty-five years, or the estimated life of the project, whichever is shorter, in annual installments equal to the amount payable by the state on the moneys borrowed for the project. Such annual installment of principal need not be uniform in amount, but may be so varied that the total payment of principal and interest shall be approximately equal and constant during the period of the loan. Each payment of principal and interest shall be made to the state comptroller not later than five days before each payment by the state is required. The loan shall bear the same rate of interest paid or to be paid by the state for the definitive housing bonds issued on account of such loan. The company shall pay to the state comptroller a proportionate share of the cost of borrowing not later than thirty days after the state comptroller has certified the amount of such share.

3. Any bonds or notes issued by the company and any mortgages relating thereto may authorize the company, with the consent of the state comptroller in the case of a state-aided project, or the supervising agency in the case of a municipally-aided project, to prepay the principal of the loan. Such bonds or notes and mortgages may contain such other clauses and provisions as the commissioner in the case of a state-aided project or the supervising agency in the case of a municipally-aided project, shall require. Notwithstanding the provisions of any general, special or local law, the principal of any loans made pursuant to subdivision one of section fifteen of this article or the principal of a loan made by a municipality pursuant to this article and secured by a mortgage lien subordinate to the lien of a first mortgage made pursuant to paragraph (b) of subdivision one of section fifteen of this article may be amortized at such time or times or at such rate as the supervising agency shall approve.

4. With respect to a state-aided project the commissioner may charge the company reasonable fees for financing, regulation, supervision and audit. Fees collected for such services shall be paid into and disbursed from such fund or funds as may be provided by law.

5. (a) In a municipality where there is a planning commission, the project shall first be submitted to it for approval. Where changes in the city map and zoning amendments or variances are necessitated by such project, such amendments, variances and changes shall be submitted together with such project and considered as a part thereof. Such planning commission, not later than ten weeks from the date of the referral of the project to it, after a public hearing held on due notice, notice of which shall be published at least ten days prior thereto in the official publication of the municipality, or if none exists, in a newspaper circulating in the municipality, shall submit its report to the local legislative body certifying its unqualified approval, its disapproval, or its qualified approval with recommendations for modifications therein.

After public hearing held on due notice and after the report is received or due from the planning commission, the local legislative body may:

(i) if the planning commission shall have certified its unqualified approval, approve the project by a majority vote;

(ii) if the planning commission shall have certified its disapproval or shall have failed to make its report within ten weeks from the date such project was submitted to it, nevertheless approve the project, but only by a three-fourths vote;

(iii) if the planning commission shall have certified its qualified approval together with recommendations for modifications, approve the project together with the modifications recommended by the planning commission by a majority vote, or approve the project without such modifications but only by a three-fourths vote.

(b) In a municipality where there is no planning commission the project shall be submitted to the local legislative body which, after public hearing held on due notice, may either approve or disapprove the project.

(c) Notwithstanding any other provision of law, changes in the city map, zoning amendments, or variances contained in the plan shall be deemed approved by the local legislative body when it approves the project. Any such changes in the city map, zoning amendments, or variances shall become effective on the date on which the supervising agency shall file a resolution with the local legislative body in implementation thereof.

6. The provisions of subdivisions one and five of this section shall not apply to a state urban development corporation project or to any loan made by the state or the state housing finance agency to such project, notwithstanding anything to the contrary contained herein.

7. Notwithstanding anything to the contrary contained therein, the provisions of subdivisions one and five of this section shall not apply to a Battery Park city project or to any loan made by the state or the New York state housing finance agency to such project.

§ 26-a. Findings for municipally-aided projects.

No municipally-aided project aided solely by tax exemption shall be approved by the supervising agency unless the agency shall have made the findings set forth in subdivision one of section twenty-six.

§ 26-b. Special provisions with respect to state urban development corporation projects. 1. No loan shall be made by the state, the New York state housing finance agency, or the state urban development corporation for the acquisition, construction, reconstruction, rehabilitation or improvement of a state urban development corporation project, nor shall any such project be approved by the commissioner, unless the commissioner finds that:

(a) the estimated revenues of the project will be sufficient to cover all probable costs of all operations and maintenance, of fixed charges and operating reserves and depreciation reserves, if any;

(b) the plans and specifications of the project assure adequate light,

air, sanitation and fire protection;

(c) the project is in conformity with a plan or undertaking for providing low rent housing facilities for persons of low income and for the clearance, replanning, reconstruction or rehabilitation of a substandard and insanitary area or areas and for other facilities incidental or appurtenant thereto as may be approved by the commissioner.

2. Any state urban development corporation project shall comply with the requirements of local laws, ordinances, codes, charters or regulations applicable to the construction, reconstruction, rehabilitation, alteration or improvement of such project, except where the state urban development corporation, in its discretion, finds such compliance not feasible or practicable, in which event such project shall comply with the requirements of the state building construction code, formulated by the state building code council pursuant to article eighteen of the executive law, applicable to such construction, reconstruction, rehabilitation, alteration or improvement. No county, city, town or village shall have power to modify or change the drawings, plans or specifications for the construction, reconstruction, rehabilitation, or improvement of any such project or the construction, plumbing, heating, lighting or other mechanical branch of work necessary to complete the work in question, nor to require that any person, firm or corporation employed on any such work shall perform any such work in any other or different manner than that provided by such plans and specifications, nor to require that any such person, firm or corporation obtain any other or additional authority, approval, permit or certificate from such county, city, town or village as a condition of doing such work, nor shall any condition whatever be imposed by any such county, city, town or village in relation to the work being done, and the doing of any such work by any person, firm or corporation in accordance with the terms of such drawings, plans, specifications or contracts shall not subject said person, firm or corporation to any liability or penalty, civil or criminal, other than as may be stated in such contracts or incidental to the proper enforcement thereof; nor shall any county, city, town or village have power to require that any subsidiary of the New York state urban development corporation, or any

lessee therefrom or successor in interest thereto, obtain any other or additional authority, approval, permit, certificate or certificate of occupancy from such county, city, town or village as a condition of owning, using, maintaining, operating or occupying any project acquired, constructed, reconstructed, rehabilitated or improved by any such subsidiary of the New York state urban development corporation.

3. Notwithstanding any other provision of this article, in the case of a state urban development corporation project financed or to be financed by a loan from the state urban development corporation, the corporation shall exercise, with respect to such project and with respect to the company carrying out such project, all of the powers and duties exercised by the commissioner pursuant to this article with respect to projects financed by the New York state housing finance agency until such project, or any part thereof, is ready for initial occupancy as determined by the commissioner, and thereafter, upon the issuance by the commissioner of a certificate of assumption of supervision, such project shall be subject to the supervision and control of the commissioner and the New York state division of housing and community renewal, which shall have the same powers and responsibilities with respect to such project as they would have if such project were aided by a loan from the state or the New York state housing finance agency under this article and which shall assume the additional powers and responsibilities with respect to such project theretofore conferred on the corporation by law or contract. The corporation and the commissioner of housing and community renewal shall take such actions and execute such documents as may be necessary to implement this subdivision.

§ 26-c. Special provisions with respect to Battery Park city projects.

1. No loan shall be made by the state or the New York state housing finance agency for the acquisition, construction, reconstruction, rehabilitation or improvement of a Battery Park city project, nor shall any such project be approved by the commissioner, unless the commissioner finds that:

(a) the estimated revenues of the project will be sufficient to cover all probable costs of all operations and maintenance, of fixed charges

and operating reserves and depreciation reserves, if any;

(b) the plans and specifications of the project assure adequate light, air, sanitation and fire protection;

(c) the project is in conformity with a plan or undertaking for providing low rent housing facilities for persons of low income.

2. Notwithstanding any other provisions of this article, in the case of a Battery Park city project financed or to be financed by a loan from Battery Park city authority, all approvals, findings and consents which are required to be given or made by the commissioner pursuant to this article shall be given or made instead by Battery Park city authority, and the authority shall exercise, with respect to such project and with respect to the company carrying out such project, all of the powers and duties exercised by the commissioner pursuant to this article with respect to projects financed by the New York state housing finance agency.

§ 27. Limitations. No company shall:

1. Acquire any real property or interest therein unless it shall first have obtained from the commissioner or the supervising agency, as the case may be, a certificate that such acquisition is necessary or convenient for the public purpose defined in this article.

2. Pay interest upon its income debentures at a rate higher than six per centum per annum except as otherwise provided in this article.

3. Issue its stock, income debentures and bonds covering any project in an amount greater in the aggregate than the actual project cost.

4. Without first having obtained the written consent of the commissioner or the supervising agency, as the case may be:

(a) Construct, reconstruct, rehabilitate, improve or alter any project, or enter into any contract therefor.

(b) Sell, transfer or assign any real property, except that no such consent shall be necessary in any sale in foreclosure as herein

provided.

(c) Except as otherwise provided in this article, encumber, lease or rent all or any part of its real property.

(d) Enter into contracts for the operation of the project.

(e) Make a guaranty of payment.

(f) Voluntarily dissolve.

(g) Enter into contracts for the payment of salaries to officers or employees.

5. Pay interest on its mortgage indebtedness at a rate higher than six per centum per annum, or at such higher rates as may be approved by the commissioner, or the supervising agency, as the case may be, but in no event shall any such rate exceed the rate of interest prescribed by the superintendent of financial services pursuant to section fourteen-a of the banking law or, in the case of a mortgage loan insured or held by the federal government, the rate approved by the federal government; provided, however, that in the case of a company carrying out a state urban development corporation project or in the case of an instrument or instruments securing the residual indebtedness of a company, which indebtedness is secured by a mortgage on the real property of a project, such rate shall not exceed the rate of interest prescribed by the superintendent of financial services pursuant to section fourteen-a of the banking law or nine per centum per annum, whichever is the higher; and further provided, however, that, in the case of a company that is a mortgagor under a mortgage assigned to or acquired by the New York city housing development corporation pursuant to subdivision twenty-one of section six hundred fifty-four of this chapter and whose project is aided by a subsidy from the federal government, such rate shall be the rate of interest approved by the supervising agency. Notwithstanding the foregoing provisions of this section, the rate of interest that a company shall have the power to pay on that portion of its mortgage indebtedness attributable to an investment or participation in a loan made pursuant to subdivision one of section fifteen by an organization or entity mentioned in such subdivision, shall be the rate of interest approved by the commissioner or the supervising agency, as the case may be.

6. Notwithstanding the provisions of subdivision five of this section twenty-seven, a company, which has obtained a mortgage loan from the New York city housing development corporation or the New York state housing finance agency and where it is necessary for additional bonds or notes to be issued by the New York city housing development corporation or the New York state housing finance agency (i) in order to obtain funds to fulfill the mortgage loan commitment to such company, as such commitment may be amended or (ii) to refund or renew notes issued in fulfillment thereof, for a project partially or temporarily financed by bonds or notes issued, in the case of the New York city housing development corporation, prior to the first day of August, nineteen hundred seventy-five, and in the case of the New York state housing finance agency, prior to the thirty-first day of December, nineteen hundred seventy-five , may pay interest on that portion of its mortgage indebtedness, the funds for which were obtained by the New York city housing development corporation or the New York state housing finance agency through the issuance of such additional or refunding bonds or notes, at a rate not in excess of the cost of financing incurred by the New York city housing development corporation or the New York state housing finance agency, as the case may be, to issue such additional or refunding bonds or notes, provided that, with respect to the New York city housing development corporation, such corporation determines that such cost of financing is reasonable and the commissioner or the supervising agency, as the case may be, shall approve such cost of financing.

§ 28. Payments from earnings. 1. There shall be paid annually out of the earnings of the company, after providing for all taxes, assessments and expenses, a sum for interest on and amortization of the mortgage indebtedness of all mortgages of the company, depreciation charges and reserves if, when and to the extent deemed necessary by the commissioner or the supervising agency, as the case may be, plus a dividend of six per centum on outstanding stock and interest not exceeding six per centum on the outstanding income debentures of the company; the obligation in respect of such payments shall be cumulative, and any deficiency in interest, amortization, depreciation, reserves, if any,

and dividends in any year shall be paid either from any cash surplus derived from earnings remaining in the treasury of the company in excess of the amount necessary to provide such cumulative annual sums or from the first available earnings in subsequent years. If, at the end of any three year period, the gross receipts should exceed the payments or charges necessary for the purposes of the project or projects and are not needed for a sinking fund, reserves or other purposes, the balance may be paid in further reduction of any indebtedness to the extent and upon terms and conditions approved by the commissioner and the state comptroller or by the supervising agency, as the case may be. A sinking fund may be authorized by the commissioner or the supervising agency, to purchase and retire bonds, income debentures or stock of the company at a price approved by the commissioner or the supervising agency, as the case may be, not exceeding par value thereof with accrued or unpaid dividends or interest or if it be not practical to purchase such stock or income debentures at a price so approved, the money in such sinking fund may be added to the surplus of such company. Any stock or income debentures purchased out of such sinking fund shall be cancelled and shall not be reissued.

2. Anything contained in this article to the contrary notwithstanding, a company which receives a loan from the state, the New York state housing finance agency or a municipality after July first, nineteen hundred sixty-nine, or a mutual company which has been duly authorized to issue income debentures to finance the modernization or replacement of project improvements or the acquisition and installation of energy saving equipment and which is otherwise authorized to pay dividends upon its shares or interest upon its income debentures, may, with the approval of the commissioner or the supervising agency as the case may be, pay such dividends or interest in excess of six per centum per annum, but in no event shall any such rate exceed the interest rate prescribed by the superintendent of financial services pursuant to section fourteen-a of the banking law, provided, however, if the voting stock of a mutual company has not been issued and delivered to the stock subscribers, then the additional authorization of such stock subscribers is required to be obtained by a majority vote.

3. No director or officer of a company shall receive, directly or indirectly, any salary, compensation or emolument from such company, as such director or officer or in any other capacity, unless authorized by the commissioner or the supervising agency, as the case may be.

§ 29. Acquisition of property.

(a) After a project, other than a state urban development corporation project, has been approved by the commissioner or the supervising agency and the local legislative body, the commissioner or the supervising agency as the case may be, shall issue a certificate declaring that the acquisition of the property is necessary for the public purpose defined in this article and the company may acquire the property needed for the project or the municipality may, with respect to a municipally-aided project or a project aided either by a state loan or a loan from the New York state housing finance agency, take property by condemnation for the company, pursuant to the provisions of article nine of this chapter.

(b) after a state urban development corporation project has been approved by the commissioner, the commissioner shall authorize the company undertaking the project to acquire the property needed for such project.

(c) Notwithstanding the provisions of subdivision (a) of this section, in the case of a Battery Park city project financed or to be financed by a loan from Battery Park city authority, the approval of the project and the certificate declaring that the acquisition of the property is necessary for the public purposes defined in this article shall be issued by Battery Park city authority.

§ 30. Transfer of real property. 1. Notwithstanding any requirement of law to the contrary, every executor, administrator, trustee, guardian or other person, holding trust funds or acting in a fiduciary capacity, unless the instrument under which such fiduciary is acting expressly forbids, the state, its subdivisions, municipalities, all other public bodies, all public officers, persons, partnerships and corporations organized under and governed as to investments by or pursuant to the

provisions of the banking law or organized under or subject to the provisions of the insurance law, the superintendent of financial services as conservator, liquidator or rehabilitator of any such person, partnership or corporation, owning or holding any real property may grant, sell, lease or otherwise transfer any such real property to a company and receive and hold any cash, stock, bonds, notes, mortgages, or other securities or obligations, secured or unsecured, exchanged therefor by such company and may execute such instruments and do such acts as may be deemed necessary or desirable by them or it and by the company in connection with a project or projects. Notwithstanding the provisions of any general, special or local law, charter or ordinance, such grant, sale, lease or transfer may be made without public auction or bidding.

2. Any banking institution, foundation, labor union, employers' association, veterans' organization or insurance company, or any group thereof, which has undertaken a project through direct ownership or lease may transfer to the project any real property which it owns or holds within an area. The market value of such property, as approved by the commissioner or the supervising agency, as the case may be, shall be included in the estimated or actual project cost.

3. Notwithstanding the provisions of any general, special or local law, charter or ordinance, the local legislative body of a city having a population of one million or more may, upon the request of or with the approval of the board of education of such city's school district, grant, sell, lease or otherwise transfer any lands or rights or interests therein or thereto, including fee interest, easements, space rights or air rights or other rights or interests owned by such city and occupied or reserved for school purposes and needed therefor, to a company where necessary for the joint development of a project and a school or appurtenant facilities without public auction or bidding, provided that no such sale, lease or transfer of lands or rights therein or thereto is authorized where the development of a project contemplates the erection of housing facilities over an existing school or playground. The term of any such lease shall not be limited by any provision of any general, special or local law or charter applicable to

such city limiting the period of time during which a lease or any renewal thereof may run.

§ 31. Rentals and selection of tenants. 1. (a) A company may, with the approval of the commissioner or the supervising agency, as the case may be, fix maximum rentals per room to be charged tenants of the dwellings, the average of the rentals for the dwellings in any project not to exceed the maximum average rentals determined by the commissioner or the supervising agency, as the case may be, before any commitments are made by the company for the construction of the project. The commissioner or the supervising agency, upon his or its own motion, or upon application by the company or of a stockholder, lienholder, a creditor, or of holders of at least ten per centum of the bonds of the company, or by the federal government where the mortgage loan of the company is insured or held by the federal government, may vary such rental rate from time to time so as to secure, together with all other income of the company, sufficient income for it to meet within reasonable limits all necessary payments to be made or projected to be made during the term of a lease by the said company, of all expenses including fixed charges, sinking funds, reserves and dividends on outstanding stock as authorized by the commissioner or the supervising agency, as the case may be. Letting, subletting or assignment of leases of apartments at greater rentals than those approved by the commissioner or the supervising agency shall be unlawful. Where the mortgage loan of a company is insured or held by the federal government or where a project is owned by the federal government, rental rates shall be varied without regard to the provisions of any general, special or local law which would otherwise limit or control such rental rates or the determination or variation thereof for so long as such mortgage loan remains outstanding or the project financed by such a mortgage loan is owned by the federal government. No variation of a rental rate in a project financed by a mortgage loan insured or held by, or owned by the federal government shall be effective unless approved by the federal government.

(b) Unless any applicable regulation of or regulatory agreement with the federal government shall otherwise provide, (i) the tenants in a project financed by a mortgage loan insured or held by the federal

government shall be entitled and may elect to enter in a lease for a term of up to three years at such rental rates as may be established by the commissioner or the supervising agency, as the case may be, pursuant to paragraph (a) of subdivision one of this section, (ii) the rental rates to be charged under any such lease shall be established after consideration of the term of such lease and may differ from the rental rates to be charged under any other lease of a different term and (iii) the commissioner or the supervising agency, as the case may be, shall in establishing such rental rates consider the obligations of the company under any instruments evidencing or securing any residual indebtedness. Such leases shall contain a provision authorizing the variation of the rental rates during the term of such leases upon an application made by the federal government pursuant to paragraph (a) of subdivision one of this section.

* (c) A company may, with the approval of the commissioner or the supervising agency, as the case may be, fix maximum charges to be paid by each occupant for the non-housekeeping accommodations, aged care accommodations or non-housekeeping accommodations for handicapped persons, which charges may include payment for board and such other services as may be provided as an incident to occupancy, the average of such charges for all the non-housekeeping accommodations, aged care accommodations or non-housekeeping accommodations for handicapped persons in any project not to exceed the maximum average charges for all such non-housekeeping accommodations, aged care accommodations or non-housekeeping accommodations for handicapped persons determined by the commissioner or the supervising agency as the case may be, before any commitments are made by the company for the construction of the project. The commissioner or the supervising agency upon his or its own motion, or upon application by the company or of a stockholder, lien holder, a creditor or of holders of at least ten (10%) per centum of the bonds of the company, may vary such charges from time to time so as to secure, together with all other income of the company, sufficient income for it to meet within reasonable limits all necessary payments to be made by said company, of all expenses including fixed charges, sinking funds, reserves and dividends on outstanding stock as authorized by the commissioner or supervising agency as the case may be. It shall be unlawful to make non-housekeeping accommodations, aged care

accommodations or non-housekeeping accommodations for handicapped persons available at greater charges than those approved by the commissioner or the supervising agency.

* NB There are 2 (c)'s

* (c) Disclosure of bases. The commissioner, administrator or supervising agency, as the case may be, shall make available for inspection and copying by the residents in any affected development, all items and data and recommendations utilized as the various bases for the decision on increases in rental or carrying charges, upon notification of the decision to the applicant of the action taken.

* NB There are 2 (c)'s

2. (a) The dwelling or non-housekeeping accommodations without board in a company project shall be available for persons or families of low income whose probable aggregate annual income at the time of admission and during the period of occupancy does not exceed, the greater of (i) the median income for such persons or families for the metropolitan statistical area in which the project is located, or if a project is located outside a metropolitan statistical area, the median income for such persons or families for the county in which the project is located, as most recently determined by the United States department of housing and urban development, in which case any person or family becoming eligible for admission pursuant to this subparagraph shall pay, from the time of admission, a rental surcharge as provided for in subdivision three of this section, computed on the basis of the income limitations applicable to such persons or families in the absence of this subparagraph, or (ii) eight times the rental, including the value or cost to them of heat, light, water and cooking fuel, of the dwellings that may be furnished to such persons or families, except that in the case of families with three or more dependents, such ratio shall not exceed nine to one. Persons or families with two or less dependents eligible for admission or continued occupancy pursuant to subparagraph (ii) of this paragraph or subparagraph (ii) of this paragraph prior to the effective date of a chapter of the laws of two thousand nineteen that amended subparagraph (ii) of this paragraph, shall pay a rental surcharge computed on the basis of an income limitation of seven times the rental and families with three or more dependents eligible for

admission or continued occupancy pursuant to subparagraph (ii) of this paragraph or subparagraph (ii) of this paragraph prior to the effective date of a chapter of the laws of two thousand nineteen that amended subparagraph (ii) of this paragraph, shall pay a rental surcharge computed on the basis of an income limitation of eight times the cost of the rental, including in each instance the value or cost to the persons or families of heat, light, water and cooking fuel, of the dwellings furnished to such persons or families.

The "probable aggregate annual income" in the case of dwelling accommodations means the annual income of the chief wage earner of the family, plus all other income of other members of the family over the age of twenty-one years, plus a proportion of income of gainfully employed members under the age of twenty-one years, the proportion to be determined by the company as approved by the commissioner or the supervising agency, as the case may be, excluding therefrom a deduction of fifteen thousand dollars from the income of secondary wage earners of the family or a larger deduction if approved by the commissioner or the supervising agency, as the case may be, except that the company, as approved by the commissioner or the supervising agency, as the case may be, may exclude a proportion of the income of other members of the family over the age of twenty-one years for the purpose of determining eligibility for admission or continued occupancy, or for establishing the rental of such family, or for all such purposes; in the case of such non-housekeeping accommodations it means the annual income of the occupant, provided that the commissioner or supervising agency, as the case may be, may make rules and regulations relative to the allocation of the income of a family among the members thereof for the purpose of determining the income attributable to such occupant.

(b) For the purpose of determining maximum income to establish eligibility for admission or continued occupancy of, or the imposition of surcharges upon, tenant-cooperators in a mutual company project, or for all such purposes, there may be added to the total annual carrying charges an amount equal to six per centum of the investment of a person or family in the equity obligations of such housing company and, where not included in the carrying charges payable to such company, the value or cost to them of heat, light, water and cooking fuel and, to the

extent authorized by the commissioner or the supervising agency as the case may be, the value or cost to them of repainting and replacement of fixtures and appliances.

(c) The non-housekeeping accommodations with board in a company project including non-housekeeping accommodations with board designed for the occupancy of handicapped persons shall be available for persons of low income whose probable aggregate annual income at the time of admission and during the period of occupancy does not exceed four times the annual charges to be paid by such persons and in the case of aged care accommodations two times the annual charges to be paid by such persons. The "probable aggregate annual income" means the annual income of the person occupying such non-housekeeping accommodations, aged care accommodations or non-housekeeping accommodations for handicapped persons, provided that the commissioner or supervising agency, as the case may be, may make rules and regulations relating to the allocation of the income of a family among the members thereof for the purpose of determining the income attributable to such occupant.

(d) A company may, with the approval of the commissioner or the supervising agency, as the case may be, lease dwellings in a project to an authority, at rentals fixed for such dwellings pursuant to the provisions of subdivision one of this section less an appropriate adjustment for the increased tax exemption, if any, attributable to such dwellings pursuant to subdivision three of section thirty-three of this chapter, for occupancy by persons and families of low income who are eligible and pay rents therefor pursuant to the provisions of the public housing law.

(e) Notwithstanding the provisions of this subdivision, families whose probable aggregate annual income does not exceed one hundred twenty-five percent of the limitations as to income as determined pursuant to paragraphs (a) and (b) of this subdivision, shall also be eligible for admission to the dwelling or non-housekeeping accommodations without board of a project on the understanding that any family becoming eligible for admission by reason hereof shall pay, from the time of admission, a rental surcharge as provided for in subdivision three of this section, computed on the basis of the income limitations applicable to such family in the absence of this subdivision. In applying the provisions of subdivision three of this section to a family becoming

eligible by reason of this section, the maximum income prescribed by law for admission or occupancy shall for all purposes be computed without reference to this paragraph.

2-a. Notwithstanding any other provision of law, the commissioner or supervising agency shall authorize and make provision in rules and regulations for an immediate downward adjustment in surcharge upon a showing of substantial decrease in income caused by events including, but not limited to death, disability or illness.

3. In the event that the income of a person or family in occupancy should increase and exceed the maximum prescribed by law for admission or for continued occupancy, based on the latest existing rent, by more than twenty-five per centum, such person or family shall be subject to removal from the dwelling, non-housekeeping, aged care accommodations or non-housekeeping accommodations for handicapped persons provided, however, that such person or family may be permitted to remain in occupancy until such income exceeds the maximum prescribed by law by more than fifty per centum, if the company, with the approval of the commissioner or the supervising agency, shall determine that removal would cause hardship to such person or family. Any person or family in occupancy whose income exceeds the maximum prescribed by law shall pay a rental surcharge in accordance with a schedule of surcharges to be promulgated by the company with the approval of the commissioner or the supervising agency, as the case may be, provided, however, such rental surcharge shall in no event exceed fifty per centum of the existing rent.

4. Twenty-five per cent of rental surcharges collected pursuant to this section on account of rentals payable prior to July first, nineteen hundred eighty-one shall be paid by the company to the municipality which has granted tax exemption pursuant to section thirty-three of this article as a credit against the grant of tax exemption, the value of such tax exemption and of such credit to be determined on an individual dwelling, non-housekeeping, aged care accommodation or non-housekeeping accommodations for handicapped persons unit basis. In the event that such tax exemption has not been granted, or in the event that a sum

equal to the total of all accrued taxes as to individual dwelling, non-housekeeping, aged care accommodation or non-housekeeping accommodations for handicapped persons units where such tax exemption was granted have been paid to the municipality, the excess if any, of surcharges and all surcharges imposed after June thirtieth, nineteen hundred eighty-one shall be applied to the expenses of operation and management as approved by the commissioner or the supervising agency.

5. Notwithstanding the provisions of this section or of any other general, special or local law, persons or families living in a project under a lease for ninety-nine years renewable, or in perpetuity, or by reason of ownership of stock in such company may, with the approval of the commissioner or of the supervising agency, as the case may be, be permitted to remain in occupancy for not more than three years after such increase in income exceeds the maximum prescribed by law by more than fifty per centum unless such occupancy is extended with the approval of the commissioner or of the supervising agency, as the case may be. Any such occupant required to remove from the project because of excessive income as herein provided shall be discharged from liability on any note, bond or other evidence of indebtedness relating thereto and shall be reimbursed for all sums paid by such occupant to the company on account of the purchase of stock or income debentures as a condition of such occupancy.

6. Preference in admission to a project shall be given to families displaced by a limited-profit housing project.

7. Preference in admission to a project with an open waiting list, as determined by the commissioner or the supervising agency, shall be given by a mutual company or an urban rental company or by the New York state housing finance agency when subleasing dwellings in projects of such companies pursuant to section forty-four-a of this chapter, to persons or surviving spouses of persons who are veterans as such term is defined pursuant to section eighty-five of the civil service law. The number of persons given preference as a veteran or a surviving spouse of a veteran shall be published adjacent to the application to be on such waiting list. For projects with a closed list, as determined by the commissioner

or the supervising agency, such preference shall be given upon the opening of the waiting list. Notwithstanding the foregoing, persons who are residing in a limited-profit housing project shall be given first priority for an internal transfer in the project in which they are residing in accordance with rules and regulations promulgated by the commissioner or the supervising agency.

7-b. Preference in admission to projects located in a city with a population of one hundred thousand or more shall be given to members of a police force of such city, provided such members otherwise qualify for admission and provided, further, that such city has adopted a local law authorizing such program.

8. Preference in admission to any project or to such portion of any project which has been specifically designed for occupancy by aged or handicapped persons, as the case may be, shall be given to such persons.

8-a. A company may rent one or more dwelling units to a social services official or duly authorized agency, as defined in section three hundred seventy-one of the social services law, for the operation of agency boarding homes or group homes or to any public agency as defined in section four hundred sixty-one of the general municipal law which provides residences and social services to dependent aged persons.

9. (a) For the purpose of enabling lower income elderly persons to continue in occupancy without paying rentals in excess of a fair proportion of their income, any municipality having a population of less than one million is authorized to make and to contract to make periodic payments to a company in an amount not exceeding the difference between the rent or carrying charges for the dwellings occupied by such lower income persons and one-third of their net probable aggregate annual income, where such rent or carrying charges exceed such one-third of income; provided that the aggregate amount of periodic payments to be made in accordance with contracts entered into by the municipality during any fiscal year thereof pursuant to this subdivision, subdivision seven of section eighty-five-a, section one hundred twenty-six and section five hundred seventy-seven-a of this chapter shall not exceed

the aggregate amount of all real property taxes paid or payable during such fiscal year by all companies organized pursuant to this article, article IV, article V, and article XI of this chapter and the aggregate estimated receipts of all such companies in such fiscal year from rental surcharges collected or to be collected pursuant to this chapter.

(b) Such payments shall be made only on account of a person or family in occupancy where the head of the household is sixty-two years of age or older and is not a recipient of public assistance pursuant to the social services law, and where the net probable aggregate annual income of the person or family in occupancy does not exceed six thousand five hundred dollars a year. Notwithstanding the provisions of subdivision twenty-nine of section two of this chapter, net probable aggregate annual income as used in this subdivision shall mean annual income of family members from all sources after deduction of federal, state and city income taxes; provided that any municipality may provide that increases in benefits under the social security act which take effect after such person or family has assumed occupancy shall not be taken into account.

(c) A company having a contract with the municipality pursuant to this subdivision may not collect from persons or families in occupancy on whose account such payments are made any rentals in excess of the amounts specified in such contract.

10. A housing company shall accept federal reimbursement under section eight of the Housing and Community Development Act of 1974 in lieu of such amount in rent payment for a person qualifying under such act and residing in a project of such company. A housing company shall not reject an applicant for an apartment solely on the basis that all or part of the rent shall be paid under section eight of the Housing and Community Development Act of 1974.

11. Every company subject to the provisions of this article shall on a form prescribed by the commissioner or supervising agency annually certify to such commissioner or supervising agency that all necessary steps are being undertaken to ensure that all surcharges due pursuant to this section are being properly billed, collected and remitted.

12. All municipally-aided projects shall post the first and last names of all persons on each waiting list maintained by such project, in chronological order, by such project's management office, or, if there is no management office on the site of such municipally-aided project, in such project's lobby.

13. The commissioner or supervising agency shall develop a written procedure with regard to how applications for admission to a company are processed and numbered, and how tenants are selected. Such procedure shall be implemented and followed by all limited-profit housing companies subject to the provisions of this article; provided, however, that any limited-profit housing company may elect additional procedures so long as such procedures are not inconsistent with the procedures developed by the commissioner or supervising agency and any other requirements set forth in this article.

14. The commissioner or supervising agency shall develop a procedure whereby applicants are notified in the case that their application is rejected by a limited-profit housing company subject to the provisions of this article, and such procedure shall also include the appeal's process available to the rejected applicant. The notification that shall be sent to the applicant shall be in written form, include reasons why the applicant was rejected, the appeal's process, and be sent to the applicant within sixty days after the limited-profit housing company decided to reject such applicant. Any limited-profit housing company may elect additional procedures so long as such procedures are not inconsistent with the procedures developed by the commissioner or supervising agency and any other requirements set forth in this article. For purposes of this subdivision, an applicant shall not be deemed rejected if their application is still active on the limited-profit housing company's waiting list and such waiting list is still open and accepting applications.

15. The commissioner or the supervising agency shall develop and require the use of a publicly available electronic automated system for limited-profit housing companies to store, process, and maintain applications and waiting lists. Waiting lists maintained by each such

company shall use a method that protects any personally identifiable information of applicants from being publicly disclosed or accessible to the public. Such electronic automated system shall also include general information about each company, including, but not limited to: the name and address of the company; the management office and address; the number and size of all units in each building; and information on the status of each waiting list, including whether the limited-profit housing company is currently accepting applications and how long applicants may have to wait.

§ 31-a. Resale price of shares. Notwithstanding any other provision of this article and subject to any regulation not inconsistent with this section which may be promulgated by the commissioner or supervising agency:

(a) The resale price of shares in a mutual company shall be fixed by the mutual company, subject to the approval of the commissioner or supervising agency and shall be equal to (1) the consideration the selling tenant-cooperator paid for such shares and (2) any capital assessments and voluntary capital contributions approved by the commissioner or supervising agency and paid by the selling tenant-cooperator to the mutual company, to the extent not already included in the consideration paid for such shares, and, if established by the mutual company, (3) a proportionate share of the actual aggregate amortization paid on all existing and prior mortgages on the project in reduction of total outstanding principal indebtedness during such period as shall be fixed by the board of directors of the mutual company, to the extent not already included in the consideration paid for such shares, and (4) reasonable administrative charges.

(b) The aggregate amount to be paid to the selling tenant-cooperator with respect to the sale of the selling tenant-cooperator's shares shall be fixed by the board of directors of the mutual company, subject to the approval of the commissioner or supervising agency, and shall be equal to (1) the consideration the selling tenant-cooperator paid for such shares, (2) any capital assessments and voluntary capital contributions approved by the commissioner or supervising agency and paid by the selling tenant-cooperator to the mutual company, to the extent not

already included in the consideration paid for such shares, and (3) a proportionate share of the actual aggregate amortization paid by the selling tenant-cooperator on all existing and prior mortgages on the project in reduction of total outstanding principal indebtedness during such period as shall be fixed by the board of directors pursuant to subdivision (a) of this section, to the extent not already included in the consideration paid for such shares. To the extent that a selling tenant-cooperator may be entitled to an amount less than the resale price of his shares, the difference shall be retained by the mutual company.

(c) The board of directors may, subject to the approval of the commissioner or supervising agency, establish a general policy pursuant to which a selling tenant-cooperator who had occupied more than one dwelling unit is paid an amount measured by his proportionate share of the actual aggregate amortization paid during his period of occupancy on all existing or prior mortgages on the project. To the extent that a selling tenant-cooperator may be entitled to an amount greater than the resale price of shares, the difference may be paid to the selling tenant-cooperator by the mutual company.

(d) The "proportionate share of the actual aggregate amortization paid on all existing and prior mortgages on the project" referred to in subdivision (a) of this section shall be in the same ratio to such actual aggregate amortization as the number of shares held by the selling tenant-cooperator at the time of sale bears to the total number of shares of issued and outstanding capital stock of the mutual company during such period.

(e) Nothing contained in this section shall prohibit the continued use of any method of calculating resale price adopted by a mutual company and approved by the commissioner or supervising agency prior to the effective date of this section.

(f) a mutual company shall provide, upon request of a tenant-cooperator, a written statement providing the current value of such tenant-cooperator's shares and equity in such mutual company;

§ 31-b. Assignment or pledge of tenant cooperator's shares.

Notwithstanding any other provision of law, a tenant cooperator's shares

in a mutual company may be assigned or pledged as collateral for the purpose of securing a loan for the purchase of such shares. The commissioner or supervising agency, as the case may be, shall promulgate regulations which provide that in the event of a default of such loan, such shares may be resold, and the dwelling accommodations represented by such shares may be occupied, only in accordance with the provisions of this article.

§ 31-c. Tenant-cooperators; application of shares. 1. No mutual company shall require a current tenant-cooperator to use cash, loan or mortgage to make an initial payment for shares that would entitle the tenant-cooperator to occupancy upon transfer to another dwelling unit within the mutual company's facilities, but instead, subject to subdivision two of this section, shall first allow the tenant-cooperator the option to apply the value of his or her shares and equity in the mutual company toward any consideration required to be paid for such shares.

2. Within one hundred eighty days of the effective date of this section, the commissioner and the supervising agency, as the case may be, shall each promulgate regulations authorizing a current tenant-cooperator, entitled to occupancy by reason of ownership of shares in such mutual company, to apply all or a portion of the value of his or her shares and equity in the mutual company toward any consideration required to be paid for shares which would entitle the tenant-cooperator to occupancy of another unit owned and operated by the mutual company, regardless of the sale of the tenant-cooperator's current shares in such mutual company, but subject to such other charges due and owing to the mutual company for which such tenant-cooperator may be liable. Any dispute thereof may be determined by a court of appropriate jurisdiction and any requirement to waive such right as a condition of ownership or transfer shall be void as against public policy.

§ 32. Supervision and regulation. The commissioner or the supervising

agency as the case may be, may:

1. Examine a company and keep informed as to its general condition, its capitalization and the manner in which its property is constructed, acquired, rehabilitated, leased, operated or managed, and to its compliance with all provisions of law and orders of the commissioner or the supervising agency.

2. Require every company to file with him or it an annual report setting forth such information as the commissioner or the supervising agency may require, verified by the oath of any officer, general manager or other person in control of the company. Such report shall be in a form, cover a period, and be filed at a time as prescribed by the commissioner or the supervising agency.

3. From time to time make, amend and repeal supplementary rules and regulations for carrying into effect the provisions of this article provided, however, that such supplementary rules and regulations shall be strictly limited in their application to the means and methods of compliance with the provisions of this article to which such power relates.

4. Make such agreements with bondholders, mortgagees or creditors of a company to do or refrain from doing any act, not inconsistent with law, to protect the investment rights of the state of New York, the New York state housing finance agency, the New York city housing development corporation or of the municipality.

5 (a) Administer oaths, take affidavits, hear testimony and take proof under oath at public or private hearings; (b) subpoena and require the attendance of witnesses and the production of books and papers pertaining to any investigations and inquiries authorized by this article and examine them in relation to any matter concerning which the power to investigate is granted; (c) issue commissions for the examination of witnesses who are out of the state or unable to attend or are excused from attendance; (d) investigate into the affairs of a company and into the dealings, transactions or relationships of such

company with third persons and into the affairs of any person, firm, corporation or other entity having a financial interest, whether direct or indirect, in the design, construction, acquisition, reconstruction, rehabilitation, improvement, financing or operation of any project undertaken by a company; (e) intervene, as a matter of right, in any action or proceeding of which notice shall be given affecting the project of a company; (f) take such steps in such action or proceeding as may be necessary to protect the public interest.

With regard to duties and liabilities arising out of this article the state, the commissioner or the supervising agency may be sued in the same manner as a private person. No costs shall be awarded against the commissioner, the state, or the supervising agency, as the case may be, in any such litigation.

6. In the event of a violation by a company of a provision of the certificate of incorporation or of law or of the loan or mortgage contract or of any rules and regulations duly promulgated pursuant to the provisions of this article, the commissioner or the supervising agency, as the case may be, may remove any or all of the existing directors of the company and appoint such person or persons who the commissioner or the supervising agency, as the case may be, in his or its sole discretion deems advisable, including officers or employees of the division of housing and community renewal or the supervising agency, as new directors to serve in the places of those removed. Directors so appointed need not be shareholders or meet other qualifications which may be prescribed by the certificate of incorporation or by-laws. In the absence of fraud or bad faith, directors so appointed shall not be personally liable for debts, obligations or liabilities of the corporation. Directors so appointed shall serve only for a period coexistent with the duration of such violation or until the commissioner or the supervising agency, as the case may be, is assured in a manner satisfactory to him or it against violations of a similar nature. Officers or employees of the division of housing and community renewal or of the supervising agency who are so appointed as directors shall serve in such capacity without compensation. No such removal may take place without written notice and an opportunity for the affected

directors to appear and be heard before the agency or commissioner with respect to any alleged violation and the respective parties may be represented by counsel. Notwithstanding any inconsistent provision of any general, special or local law or any limitation contained in the provisions of any city charter, the state or a municipality acting by and through the commissioner or the supervising agency, as the case may be, shall save harmless and indemnify any officer or employee of the division of housing and community renewal or the supervising agency so appointed as a director, from financial loss arising out of any claim, demand, suit or judgment by reason of alleged negligence or other act by such director, provided that such director was acting in the discharge of his duties and within the scope of his employment and that such loss did not result from the willful and wrongful act or gross negligence of such director and provided further that this save harmless and indemnification provision shall not in any way impair, limit or modify the rights and obligations of any insurer under any policy of insurance and shall inure only to directors so appointed and shall not enlarge or diminish the rights of any other party. No action or special proceeding based on or arising out of alleged negligence or other act by such director may be commenced against such director, municipality or the state unless a notice of claim shall have first been served in a manner consistent with service upon a municipality or the state, as the case may be.

7. Whenever the commissioner, in the case of a company undertaking or otherwise operating a state-aided project, or the supervising agency, in the case of a company undertaking or otherwise operating a municipally-aided project, shall be of the opinion that such company is failing or omitting, or is about to fail or omit to do anything required of it by law or by order of the commissioner or is doing or is about to do anything, or permitting anything, or is about to permit anything to be done, contrary to and in violation of law or of any order, regulation or directive of the commissioner or the supervising agency, as the case may be, or which is improvident or prejudicial to the interest of the public, the lienholders, the stockholders, or the tenants, the commissioner or the supervising agency, as the case may be, may, in addition to such other remedies as may be available, commence an action

or proceeding in the supreme court of the state of New York in the name of the commissioner or the supervising agency, as the case may be, for the purpose of having such violations or threatened violations stopped and prevented, and in such action or proceeding the court may appoint a temporary or permanent receiver or both. Such action or proceeding shall be commenced by a petition to the supreme court, alleging the violation complained of and praying for appropriate relief. It shall thereupon be the duty of the court to specify the time, not exceeding twenty days after service of a copy of the petition, within which the company complained of must answer the petition. In case of any default or after answer the court shall immediately inquire into the facts and circumstances in such manner as the court shall direct without other or formal pleadings, and without respect to any technical requirements. Such other persons or corporations as it shall seem to the court necessary or proper to join as parties in order to make its order or judgment effective, may be joined as parties. The final judgment in any such action or proceeding shall either dismiss the action or proceeding or direct that an order or an injunction, or both, issue, or provide for the appointment of a receiver as prayed for in the petition, and grant such other relief as the court may deem appropriate.

8. The commissioner or supervising agency may modify supervision of a company upon finding that duplicative supervisory functions may impose an undue regulatory burden or unnecessary expenditure of agency resources, by taking such actions as are deemed appropriate, including consolidating supervisory functions associated with different programs, and entering into memoranda of understanding with other agencies for the allocation of supervisory functions.

§ 32-a. Additional supervision and regulation. The commissioner or the supervising agency, as the case may be, shall:

1. Promulgate regulations providing for recognition of duly constituted tenants' associations and cooperators' advisory councils by the commissioner or supervising agency, as the case may be, and providing that a housing company shall meet on a regular basis with

representatives of such an association or council at the specific project involved to discuss matters relating to the project. A duly constituted cooperators' advisory council shall only be such a council in a mutual company project prior to the election of a board of directors by the tenant-cooperators.

2. Require every company to file with him, her or it an annual operating budget for each individual project in the manner prescribed by the commissioner or supervising agency.

3. Require every company to file with him, her or it semi-annual or quarterly financial statements and an annual financial statement. Each annual financial statement shall be accompanied by a certificate of the company's independent certified public accountant. Such financial statements shall be filed at the times and in the manner prescribed by the commissioner or supervising agency.

4. Afford tenants access to and an opportunity to acquire copies of all operating budgets or financial statements respecting the project in which such tenants reside, to the extent that such budgets and statements are required by law to be kept by the commissioner or supervising agency.

5. Permit any tenant, duly constituted tenants' association, duly constituted cooperators' advisory council or his, hers or its duly authorized representative to audit the books of the company and to have access during normal business hours to the financial records upon which the company's financial statements are based.

6. Promulgate regulations relating to managing agents, including criteria for the eligibility for selection and the compensation of managing agents by companies organized pursuant to this article. Such regulations shall provide, among other things, that any contract with a managing agent entered into after September first, nineteen hundred seventy-seven shall be terminable for cause and shall be terminable, with or without cause, at least every twelve months after commencement of the term thereof, and that promptly upon termination the managing

agent shall turn over to the company all project records, rent rolls, bills, cancelled checks, bank statements and other papers owned by such company.

7. Require that every company file with him, her or it, within six months of the effective date of regulations implementing this subdivision and in such format as shall be prescribed by the commissioner or the supervising agency after consultation with the state energy office, an energy audit report which identifies potential energy-saving building improvements, including alterations, modifications and adjustments to the building structure, heating, cooling, lighting and ventilation systems; their relative costs; potential energy and cost savings; and simple payback periods, which for the purpose of this subdivision shall mean that period of time within which the estimated cost of such improvements, exclusive of the cost of capital, would be recovered from the savings generated by reduced energy consumption resulting from the improvements. The energy audit shall be conducted by a public utility, an engineer or architect licensed by the state, or the managing agent or other representative of the company if such individual has attended an energy audit training workshop sponsored by the commissioner or the state energy office. A copy of the energy audit report, required herein, shall be given to any duly constituted tenant's association or cooperator's advisory council and a copy shall be available for inspection and copying by any individual tenant who requests it. The commissioner or supervising agency shall also require that every company certify by March thirty-first, nineteen hundred eighty-four that all compatible conservation measures identified in the energy audit report which have simple payback periods of one year or less have been implemented; provided, however, if the commissioner or supervising agency determines within sixty days of the date the energy audit report is filed that one or more of such identified conservation measures cannot be implemented by March thirty-first, nineteen hundred eighty-four, given the projected rent revenues and other monies available to the company from reserve funds, loans or grants from the state or federal government or any other source, the implementation of such conservation measures shall be provided for according to a schedule prescribed by the commissioner or supervising agency.

8. Every tenant or resident, or a person acting on behalf of a tenant or resident, shall be permitted to copy, by photographic means, any document within the scope of this section pertaining to the project in which such tenant or resident resides. A reasonable fee, subject to a maximum therefor prescribed in regulations, may be charged for such copies.

* 9. Require that within ten days of the filing of any reports or financial statements with the commissioner or supervising agency, the housing company shall transmit a copy of said report or financial statement to a duly constituted resident board of directors, and if there be none, to a cooperator's advisory council or a duly constituted tenants association representing the project concerned. Where no such council or association exists in a project, a notice shall be posted informing the residents of the location on the premises of the project where a copy of said report or financial statement is available for inspection. The notice shall be posted within ten days of filing, in a prominent place on the premises of the project concerned.

* NB There are 2 sb 9's

* 9. Promulgate regulations to require each tenant use their dwelling unit as their primary residence to maintain their right of continued occupancy or be subject to eviction in a court of competent jurisdiction by a mutual housing company.

* NB There are 2 sb 9's

10. Require every voting member of a board of directors of a mutual company subject to the provisions of this article, elected or appointed for a term beginning on or after the effective date of this subdivision, to complete, within the first year of his or her term and at least once every three years thereafter, a minimum of two hours of training, in person or virtually, as the commissioner or supervising agency, as the case may be, may deem appropriate on the financial oversight, accountability and fiduciary responsibilities of a board member; and to require every voting member of a board of directors of a mutual company subject to the provisions of this article, elected or appointed for a term beginning before the effective date of this subdivision, to complete such training within one year of the effective date of this

subdivision and at least once every three years thereafter.

11. Require every voting member of a board of directors of a mutual company subject to the provisions of this article, elected or appointed for a term beginning on or after the effective date of this subdivision, to complete, within the first year of his or her term and at least once every three years thereafter, in addition to the training required by subdivision ten of this section, a training course, in person or virtually, as the commissioner or supervising agency, as the case be, may deem appropriate, to acquaint him or her with the powers, functions and duties of a board of directors of a mutual company subject to the provisions of this article, as well as the powers and duties of other governing and administrative authorities affecting such companies; and to require every voting member of a board of directors of a mutual company subject to the provisions of this article, elected or appointed for a term beginning before the effective date of this subdivision, to complete such training within one year of the effective date of this subdivision and at least once every three years thereafter.

12. Require each member of a board of directors of a mutual company subject to the provisions of this article to demonstrate compliance with the requirements set forth in subdivisions ten and eleven of this section by filing a certificate of completion of such course or courses on a form to be promulgated by the commissioner. Such form shall be filed with the secretary of the mutual company and maintained by the secretary as a corporate record and distributed annually to the shareholders and upon the filing of any director with the mutual company of the intention to seek re-election to the position. Sixty days prior to any scheduled election of members of the board of directors, the secretary of the mutual company shall furnish the commissioner or the supervising authority, as the case may be, with a list of all incumbent directors indicating which individuals have submitted certificates required in this subdivision. Such course or courses shall be provided by the commissioner or supervising agency, as the case may be, at no cost to the trainee or the board to which the trainee has been elected.

13. Develop the curricula used for training required by subdivisions

ten and eleven of this section for which the supervising agency or the commissioner may request and shall receive the cooperation and assistance from any departments, divisions, boards, bureaus, commissions or agencies of the state and political subdivisions thereof in developing such curricula. These curricula may be offered together as a single course or separately. The training required by this section may be offered by providers approved by the commissioner or supervising agency, as the case may be. In approving other providers for these trainings, the commissioner or supervising agency shall consider a potential provider's understanding of cooperative homeownership; laws, rules and regulations affecting mutual companies subject to the provisions of this article; and the fiduciary responsibilities of the board of a residential cooperative, as well as the experience of the provider in delivering such training.

14. Hold such meeting or meetings, in person or virtually as the commissioner or supervisory agency shall deem appropriate, with the board of a mutual company on the financial oversight, accountability and fiduciary responsibilities of such board; the powers, functions and duties of such board; and the powers and duties of other governing and administrative authorities affecting such company.

§ 32-b. Annual reports. The commissioner shall, on or before the first day of July in each year, submit a report to the legislature, the state comptroller, and the attorney general on the implementation of article two of this chapter by the commissioner and the supervising agency and the policy included therein. Such report shall include and not be limited to rent and carrying charge levels, changes therein, operation of the state capital grant program and federal subsidy programs, tax abatement levels, total capital outlay, amortization, mortgage interest rates, income levels served by the housing, surcharge billings and collections and use of surcharge revenues, and vacancy rates. Such report shall also include information regarding any limited-profit housing company that has voluntarily dissolved in the preceding calendar year, and any limited-profit housing company that has filed a notice of intent to dissolve in the current calendar year with the commissioner

and the supervising agency. This information shall include, but not be limited to, the name and address of the development, the number of units in the development, a range of amounts of rent offered in the development, the number of tenants in the development, the current vacancy rate in the development, income levels served by the development, how long the limited-profit housing company has participated in the program, and any sales or transfers that have occurred since the limited-profit housing company was created. For the purpose of preparing such report, the commissioner may request, and shall receive, from any municipality or supervising agency such data as he deems necessary or desirable and such municipality or supervising agency shall furnish the requested data within sixty days of such request.

§ 33. Tax exemptions. 1. (a) Upon the consent of the local legislative body of any municipality in which a project is or is to be located, the real property in a project shall be exempt from local and municipal taxes, other than assessments for local improvements, to the extent of all or part of the value of the property included in such project which represents an increase over the assessed valuation of the real property, both land and improvements, acquired for the project at the time of its acquisition by the limited-profit housing company, provided, however, that the real property in a project acquired for purposes of rehabilitation shall be exempt to the extent of all or part of the value of the property included in such project, and further provided that the amount of such taxes to be paid shall not be less than ten per centum of the annual shelter rent or carrying charges of such project except that for projects located or to be located in a city of a population of one million or more, the amount of such taxes shall be no more than five per centum of the annual shelter rent or carrying charges of the project. Upon the consent of the local legislative body of a municipality, other than a city with a population of one million or more, in which the project is located, the amount of such taxes may be further reduced to five per centum or less of the annual shelter rent or carrying charges of the project. Any such granted consent to reduce the amount of such taxes shall expire every ten years. If such authorization is not

renewed, the rate of taxation shall revert to the level established before the consent was granted. Shelter rent shall mean the total rents received from the occupants of a project less the cost of providing to the occupants electricity, gas, heat and other utilities. Total rents shall include rent supplements and subsidies received from the federal government, the state or a municipality on behalf of such occupants but shall not include interest reduction payments pursuant to subdivision (a) of section two hundred one of the Federal Housing and Urban Development Act of nineteen hundred sixty-eight. The tax exemption shall operate and continue so long as the mortgage loans of the company, including any additional mortgage loan the proceeds of which are used primarily for the residential portion of the project, which additional loan is approved by the commissioner or the supervising agency, are outstanding.

(b) Where a municipality acts on behalf of another taxing jurisdiction in assessing real property for the purpose of taxation, or in levying taxes therefor, the consent of the local legislative body of such municipality shall have the effect of exempting the real property in a project from local and municipal taxes, other than assessments for local improvements, levied by or in behalf of both such taxing jurisdictions.

As used in this paragraph, the term "taxing jurisdiction" means any municipal corporation or district corporation, including any school district or any special district, having the power to levy or collect taxes and benefit assessments upon real property, or in whose behalf such taxes or benefit assessments may be levied or collected.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this subdivision, the real property of a state urban development corporation project acquired, owned, constructed, managed or operated by a company incorporated pursuant to the not-for-profit corporation law and this article shall be entitled to all the benefits provided by section four hundred twenty-two of the real property tax law. The real property of a state urban development corporation project, other than a state urban development corporation project acquired, owned, constructed, managed or operated by a company incorporated pursuant to the not-for-profit corporation law and this article, shall be exempt from all local and municipal taxes, other than assessments for local improvements, to the

extent of the value of the property included in such project as represents an increase over the assessed valuation of the real property, both land and improvements, acquired for the project on the date of its acquisition by the limited-profit housing company, provided that the amount of such taxes to be paid shall not be less than ten per centum of the annual shelter rent or carrying charges of such project, as defined in paragraph (a) hereof, except that in a city with a population of one million or more, the amount of such taxes shall be no more than five per centum of the annual shelter rent or carrying charges of the project. Upon the consent of the local legislative body of the municipality, other than a city with a population of one million or more, in which the project is located, the amount of such taxes may be further reduced to five per centum or less of the annual shelter rent or carrying charges of the project. Any such granted consent to reduce the amount of such taxes shall expire every ten years. If such authorization is not renewed, the rate of taxation shall revert to the level established before the consent was granted. The tax exemption shall operate and continue so long as the mortgage loans of such limited profit housing company, including any additional mortgage loan the proceeds of which are used primarily for the residential portion of the project, which additional loan is approved by the commissioner or the supervising agency, are outstanding and the project is continued to be operated as a limited-profit housing project. If a state urban development corporation project qualifying for tax exemption pursuant to this paragraph is sold, with the approval of the commissioner, to another limited-profit housing company, such successor company shall be entitled to all the benefits of this paragraph. In the event that such sale is to a company incorporated pursuant to the not-for-profit corporation law and this article, such successor company shall be entitled to all the benefits provided by section four hundred twenty-two of the real property tax law.

(d) Notwithstanding the provisions of paragraphs (a) and (b) of this subdivision, when a project is financed with a mortgage loan pursuant to this article or article three of this chapter and (i) there is a participation, new loan or investment pursuant to section twenty-three-b of this article or (ii) such mortgage loan is assigned, modified or satisfied pursuant to section twenty-three-a or forty-four-b or subdivision twenty-two-a of section six hundred fifty-four of this

chapter, the real property of the project shall be exempt from all local and municipal taxes, other than assessments for local improvements, to the extent of the value of the real property included in such project which represents an increase over the assessed valuation of the real property, both land and improvements, acquired for the project on the date of its original acquisition for the project by the original mortgagor under a mortgage loan pursuant to this article or article three of this chapter, provided that the amount of taxes to be paid on the project shall not be less than ten per centum of the annual shelter rent or carrying charges of such project, as defined in paragraph (a) of this subdivision, except that in a city with a population of one million or more, the amount of such taxes shall be no more than five per centum of the annual shelter rent or carrying charges of the project. Upon the consent of the local legislative body of the municipality, other than a city with a population of one million or more, in which the project is located, the amount of such taxes may be further reduced to five per centum or less of the annual shelter rent or carrying charges of the project. Any such granted consent to reduce the amount of such taxes shall expire every ten years. If such authorization is not renewed, the rate of taxation shall revert to the level established before the consent was granted. Such tax exemption shall commence in each instance from the date when the project becomes subject to a mortgage insured by the federal government and shall operate and continue so long as a mortgage on such project is insured or held by the federal government or so long as the project is thereafter owned by the federal government or so long as any residual indebtedness is outstanding, whichever is longer. When there is a participation, new loan or investment pursuant to section twenty-three-b of this article, such participation, new loan or investment shall be deemed to be the equivalent of a federally insured mortgage for purposes of this paragraph. Nothing contained in this paragraph shall be construed to limit or otherwise impair the benefits available to any company eligible for exemption from taxation pursuant to section thirty-one or section thirty-six-a of this article, section four hundred twenty-two or section four hundred sixty-seven-c of the real property tax law, or section fifty-eight of the public housing law. The foregoing shall not be deemed to authorize any company to receive the benefits of any exemption from taxation in contravention of

the provisions of section two of article eighteen of the constitution.

(e) Notwithstanding the provisions of paragraph (a) of this subdivision, a municipality, with the approval of the local legislative body, may contract to exclude all or part of any rent subsidies received from the federal government pursuant to section eight of the United States Housing Act of nineteen hundred thirty-seven as amended in the computation of total rents received.

(f) Notwithstanding the provisions of paragraph (a) of this subdivision, if the number of units occupied by persons receiving the benefit of rental assistance payments from the federal government pursuant to section eight of the United States Housing Act of nineteen hundred thirty-seven, as amended, with respect to any project increases by more than one hundred percent within any twelve consecutive months prior to nineteen hundred eighty-five over the number of units for which such subsidies were available during the preceding twelve consecutive months or as July first, nineteen hundred eighty, whichever is later, taxes payable for such additional subsidized units and subsequent units subsidized in the same manner shall be based solely upon that portion of total rents received on account of such additional subsidized units that is not funded by such rental assistance payments, provided, however, that no project shall receive such additional tax exemption (i) unless a minimum of seventeen percent of the units in the project receive the benefit of such subsidies, or (ii) if any mortgage on such project is insured or held by the federal government or if the project is owned by the federal government. The amount of exemption to which a project is entitled pursuant to this paragraph shall be certified annually by the commissioner or the supervising agency, as the case may be.

2. Notwithstanding the provisions of subdivision one hereof, whenever a dwelling in a project is leased to the New York state housing finance agency pursuant to the provisions of section forty-four-a of this chapter, so much of the assessed value of such project attributable to such dwelling (including a pro rata portion of the value of the land and common spaces) as represents an increase over the proportionate assessed value of the real property, both land and improvements, acquired for such project at the time of original acquisition therefor, shall be exempt during the period of such lease from taxation for county, city,

town, village and school district purposes and special ad valorem levies; provided that if in any year the aggregate amount of such taxes and levies that would have been attributable to such dwelling but for the exemption provided by this subdivision exceeds the amount payable out of the low rent lease account pursuant to subdivision three of section forty-four-a of this chapter with respect to the agency's rent obligation for such dwelling, the agency shall make proportional payments in lieu of such taxes and levies to the appropriate county, city, town, village, school district or special district, or any combination thereof as the case may be, in an aggregate amount equal to one half of the sum of (a) the amount of such excess and (b) the amount, if any, by which the rent paid to the agency under the sublease for such dwelling exceeds the agency's rent obligation for such dwelling. Nothing contained in this subdivision shall preclude the increase of the taxable assessed value attributable to such dwellings as a result of a net increase in the assessed valuation of the taxable property in the assessing unit as a result of assessing such property at a higher ratio of full value.

3. Notwithstanding the provisions of subdivision one hereof, whenever a dwelling in a project is leased to an authority, pursuant to the provisions of sections seventeen and thirty-one of this chapter, so much of the assessed value of such project attributable to such dwelling (including a pro rata portion of the value of the land and common spaces) as represents an increase over the proportionate assessed value of the real property, both land and improvements, acquired for such project at the time of original acquisition therefor, shall be exempt during the period of such lease from taxation for county, city, town, village and school district purposes and special ad valorem levies. Nothing contained in this subdivision shall preclude the increase of the taxable assessed value attributable to such dwelling as a result of a net increase in the assessed valuation of the taxable property in the assessing unit as a result of assessing such property at a higher ratio of full value.

4. Notwithstanding the provisions of subdivision one hereof, when a mutual company is organized under this article to facilitate the

acquisition of a building by residents thereof, the amount of local and municipal taxes, other than assessments for local improvements, to be paid on the real property included in such project, both land and improvements, shall not exceed twenty per centum of the annual shelter rent or carrying charges of such project, as defined in paragraph (a) of subdivision one hereof; provided, however, that where such acquisition of a building by residents thereof involves the financing of rehabilitation or other improvement as well as acquisition, upon the consent of the local legislative body of the municipality in which the project is located the amount of such taxes may be further reduced provided that such amount shall not be less than ten per centum of the annual shelter rent or carrying charges of the project, as defined in paragraph (a) of subdivision one hereof; or the company may in lieu of requesting such consent apply for the benefits of the local law, if any, enacted pursuant to section four hundred eighty-nine of the real property tax law. Notwithstanding any other provision of this subdivision, in a city with a population of one million or more, the amount of such taxes shall be no more than five per centum of the annual shelter rent or carrying charges of the project. Upon the consent of the local legislative body of the municipality, other than a city with a population of one million or more, in which the project is located, the amount of such taxes may be further reduced to five per centum or less of the annual shelter rent or carrying charges of the project. Any such granted consent to reduce the amount of such taxes shall expire every ten years. If such authorization is not renewed, the rate of taxation shall revert to the level established before the consent was granted. Such tax exemption, if any, granted pursuant to this article shall operate and continue so long as a loan made under this article or any subsequent loan approved by the commissioner or the supervising agency to enhance the residential portion of the project and the project is continued to be operated for the purposes set forth in this article is outstanding.

5. Bonds, mortgages, notes, income debentures and obligations of a company are declared to be issued for a public purpose and to be public instrumentalities and together with interest thereon shall be exempt from tax including but not limited to the mortgage recording taxes

imposed by article eleven of the tax law.

6. Any project that received a tax exemption under paragraphs (a), (c) and (d) of subdivision one, and subdivision four of this section may, upon the expiration of the tax exemption period, be granted an additional tax exemption period of up to fifty years, or until such time as the project is no longer operated under the restrictions and for the purposes set forth in this article, whichever is sooner.

§ 34. Foreclosure and judgments. 1. Any action or proceeding to foreclose a mortgage upon a company project, shall be in accordance with the applicable provisions of section ninety-four of this chapter.

2. In the event of an unsatisfied judgment against a company any action not pertaining to the collection of a mortgage indebtedness, shall be in accordance with the applicable provision of section ninety-five of this chapter.

3. For the purpose of this section, wherever reference is made in sections ninety-four and ninety-five of this chapter to a housing company, it shall be deemed to refer to a company as defined in this article.

§ 35. Voluntary dissolution. 1. A company aided by a loan made prior to May first, nineteen hundred fifty-nine, may voluntarily be dissolved, with the consent of the commissioner or of the supervising agency, as the case may be, not less than thirty-five years after the occupancy date upon the payment in full of the remaining balance of principal and interest due and unpaid upon the mortgage held by the state or a municipality pursuant to this article and payment to the municipality of a sum equal to the total of all accrued taxes for which tax exemption was granted and received pursuant to section thirty-three of this article, provided however that such payment of accrued taxes shall be waived if a company is voluntarily dissolved subsequent to the original maturity date of any mortgage held by the state or a municipality

pursuant to this article.

2. A company aided by a loan made after May first, nineteen hundred fifty-nine, may voluntarily be dissolved, without the consent of the commissioner or of the supervising agency, as the case may be, not less than twenty years after the occupancy date upon the payment in full of the remaining balance of principal and interest due and unpaid upon the mortgage or mortgages and of any and all expenses incurred in effecting such voluntary dissolution.

3. Upon such dissolution, title to the project may be conveyed in fee to the owner or owners of its capital stock or to any corporation designated by it or them for the purpose, or the company may be reconstituted pursuant to appropriate laws relating to the formation and conduct of corporations, provided, however, that prior to any such dissolution and conveyance or reconstitution, payment shall be made of all current operating expenses, taxes, indebtedness and all accrued interest thereon and the par value of and accrued dividends on the outstanding stock of such company. If after making such payments, and after conveyance of the project, a surplus remains in the treasury of the company, such surplus, except in the case of a project aided by a state loan made after May first, nineteen hundred fifty-nine, shall upon dissolution, be paid into the general fund of the municipality which granted tax exemption. After such dissolution and conveyance, or such reconstitution, the provisions of this article shall become and be inapplicable to any such project and its owner or owners and any tax exemption granted with respect to such project pursuant to section thirty-three hereof shall cease and terminate.

4. (a) Notwithstanding any contrary provision of subdivision one or three of this section or of any other law or local law, consent to dissolve a company aided by a loan made prior to May first, nineteen hundred fifty-nine shall be given by the commissioner or the supervising agency, as the case may be, thirty-five years or more after the occupancy date, provided that:

(i) such company's project or projects is or are located in a city of less than one million and more than three hundred thousand persons;

(ii) the dissolution of such company is part of a refinancing plan to continue the operation of the existing project or projects under this chapter by a new company organized pursuant to the provisions of this article in corporate, partnership, or individual ownership form as the existing stockholders shall agree;

(iii) if the refinancing is done by a new first mortgage, the new company shall be bound to pay from the proceeds of such refinancing the remaining balance of the principal and interest on the original mortgage and any interest due to debenture holders if such interest cannot first be paid out of the original company's surplus or reserves; or if the refinancing is done by a second mortgage, the new company shall be bound to pay from the proceeds of such refinancing the interest due to debenture holders if such interest cannot first be paid out of the original company's surplus or reserves; and

(iv) the new company shall be bound to use at least fifty percent of the net proceeds, which remain from such refinancing after having paid the legal fees and development costs connected therewith and after having made the payments required by subparagraph (iii) of this paragraph, to finance the costs of refurbishing the existing housing units of the project, or to build and operate under this chapter additional housing units for persons of low or moderate income or for disabled persons, within the same municipality wherein the original project is or projects are located, or to do both such refurbishing of existing units and such building and operating of such additional units; any portion of the net proceeds remaining after utilization of at least fifty percent thereof for the foregoing purposes shall be distributed or used as the stockholders, partners or sole owner (as the case may be) of the new company shall decide.

(b) The New York state housing finance agency and the state of New York mortgage agency are hereby authorized and empowered to finance such first or second mortgages for the foregoing refinancing purposes upon such terms and conditions as each such agency deems appropriate.

(c) A company which is voluntarily dissolved in accordance with this subdivision shall not be required to pay the taxes referred to in subdivision one of this section nor any surplus remaining in its treasury as referred to in subdivision three of this section to the municipality which grants the tax abatement for such project or

projects, but instead, such surplus and all reserve accounts and debenture rights, titles, interests, contracts, accounts receivable, accounts payable, and all other assets and liabilities of the dissolved company shall be transferred to the new company organized for such refinancing purposes pursuant to such refinancing plan, and such new company shall be considered for all the purposes of this chapter as a company aided by a loan made subsequent to May first, nineteen hundred fifty-nine, with the first date of occupancy deemed to be the date of the closing of the new first or the second mortgage entered into as part of the refinancing plan described in subparagraphs (ii), (iii) and (iv) of paragraph (a) of this subdivision; and any tax abatement granted by such municipality for such project or projects shall continue to be applied unless or until such municipality shall act to extend, modify, enlarge or remove such tax abatement.

§ 35-a. Requirements regarding dissolution. Mutual housing companies considering dissolution and/or reconstitution pursuant to section thirty-five of this article shall be subject to the following requirements:

1. Any preliminary vote to authorize a feasibility study, or to approve a special assessment to fund such feasibility study shall require the approval of a minimum of two-thirds of all dwelling units for which shares have been issued by the mutual housing company, regardless of whether such dwelling units are occupied or vacant, provided however, that where the shareholder of record is deceased, any vote attributable to the dwelling unit shall be discounted, both in the number of votes cast and in the total number of dwelling units upon which the vote is calculated, until such time as a new shareholder of record is determined for that dwelling unit.

2. Except as provided for in subdivision seven of this section, any vote to authorize the funding, development, and submission to the attorney general of an offering plan for dissolution and reconstitution of the mutual housing company, or to authorize the funding, development, and submission to the attorney general of a proxy statement, or any

other documents permitted by the attorney general instead of such offering plan, or any other preliminary vote for review by the commissioner or supervising agency relating to the dissolution or reconstitution required by the regulations of the commissioner or supervising agency, shall require the approval of eighty percent of all dwelling units for which shares have been issued, regardless of whether such dwelling units are occupied or vacant, provided however, that where the shareholder of record is deceased, any vote attributable to the dwelling unit shall be discounted, both in the number of votes cast and in the total number of dwelling units upon which the vote is calculated, until such time as a new shareholder of record is determined for that dwelling unit.

3. No funds from the operating budget of the mutual housing company shall be used for the preparation or distribution of a feasibility study, a preliminary or filed offering plan for dissolution and reconstitution of the mutual housing company, a proxy statement or any other documents permitted by the attorney general instead of such offering plan, or a notice of intent to dissolve, or to pay for any services related to evaluation of, preparation for, or execution of dissolution and/or reconstitution pursuant to section thirty-five of this article, including but not limited to legal services, but such funds may only be raised by special assessment voted on and applicable to all shareholders using such procedures as required by regulations of the commissioner or the supervising agency which shall not allow proxies.

4. Except as provided for in subdivision seven of this section, any vote authorized by the regulations promulgated by the commissioner or the supervising agency that constitutes the vote for submission of a certificate of no objection, consent to dissolution or reconstitution, for submission to the attorney general of an offering plan for dissolution and reconstitution of the mutual housing company, or for submission to the attorney general of a proxy statement or any other documents permitted by the attorney general instead of such offering plan shall require the approval of eighty percent of all dwelling units for which shares have been issued by the mutual housing company,

regardless of whether such dwelling units are occupied or vacant, provided however, that where the shareholder of record is deceased, any vote attributable to the dwelling unit shall be discounted, both in the number of votes cast and in the total number of dwelling units upon which the vote is calculated, until such time as a new shareholder of record is determined for that dwelling unit.

5. No vote as set forth pursuant to subdivision one, two, three or four of this section, shall occur within five years following a vote undertaken pursuant to such subdivisions that failed to pass. No vote as set forth pursuant to subdivision seven of this section shall occur within three years following a vote undertaken pursuant to such subdivision that failed to pass.

6. For any vote pursuant to subdivision one, two, three or seven of this section, the proposal to be voted on shall state that the cost of the action to be approved will be paid by a special assessment on shareholders, that approval of the proposal authorizes the mutual housing company to impose the assessment, and shall include the total dollar amount of the proposed assessment and the dollar amount per dwelling unit that will be imposed to fund the action if it is approved. Once an assessment has been so approved by shareholder vote, the mutual housing company shall not increase the amount of the approved assessment except by further vote subject to the same procedures and threshold for approval as were required for the vote initially approving the assessment.

7. Notwithstanding any other provision to the contrary, any final or preliminary vote regarding dissolution and reconstitution that involves a conversion to a housing company organized under article eleven of this chapter including, but not limited to, votes on the authorization to fund, develop, and submit any required filing to the attorney general, which pursuant to the conversion shall remain under the supervision of the commissioner or the supervising agency, shall only require a vote of a minimum of two thirds of the dwelling units for which shares have been issued by the mutual housing company regardless of whether such dwelling units are occupied or vacant, provided however, that where the

shareholder of record is deceased, any vote attributable to the dwelling unit shall be discounted, both in the number of votes cast and in the total number of dwelling units upon which the vote is calculated, until such time as a new shareholder of record is determined for that dwelling unit. Provided further however, that any dissolution and reconstitution to a housing company organized under article eleven of this chapter as provided by this subdivision shall not utilize funds from the operating budget of such housing company to fund the preparation, creation or distribution of any materials required for a vote to authorize any dissolution and reconstitution to a housing company organized under article eleven of this chapter as provided by this subdivision, and the preparation, creation or distribution of such materials shall be financed by special assessment voted on and applicable to all shareholders as provided by subdivision three of this section, unless such housing company took any actions toward dissolution or reconstitution prior to the date this section took effect.

§ 36. Sale of project prior to termination of tax exemption. 1.

Except as otherwise provided in this article and prior to the expiration of thirty-five years from the date of occupancy, a project, other than a project aided by a loan made after May first, nineteen hundred fifty-nine, shall not be sold except to a company organized pursuant to the provisions of this article; prior to the expiration of twenty years from the date of occupancy, a project aided by a loan made after May first, nineteen hundred fifty-nine, shall not be sold except to a company organized pursuant to the provisions of this article. Such successor company shall acquire such project subject to all the provisions of the loan and mortgage contract and the provisions of this article, and shall be entitled to all the benefits provided in such contract or granted under this article, and a company so conveying all its projects may be dissolved with the consent of the commissioner or the supervising agency, as the case may be.

2. In the event of any sale described in this section, the stockholders of the dissolving company shall in no event receive more than the par value of their stock with accrued and unpaid dividends upon

such stock.

§ 36-a. Additional powers of municipalities. In addition to any other powers granted to a municipality by law, and notwithstanding the provisions of any other law, a municipality acting by its local legislative body shall have power:

1. To undertake, plan, develop, construct or enter into contracts for the planning, development or construction of, or to own one or more projects or any part thereof, or to engage in one or more of such activities in respect to one or more projects or any part thereof. For any of the purposes of this subdivision, a municipality may contract either with a housing company incorporated under this article or with a housing development fund company incorporated pursuant to article eleven of this chapter.

2. (a) Acquire by purchase, gift, devise, lease, condemnation or otherwise, in accordance with the provisions of the appropriate general, special or local law applicable to the acquisition of real or personal property by such municipality, real or personal property or any interest therein necessary for or incidental to a project, including but not limited to air rights, and easements or other rights of user necessary for the use and development of such air rights, to be developed as air rights sites for a project; provided, however, that the acquisition of any air rights over railroad tracks, rights of way or facilities and easements or other rights of user necessary for the use and development of such air rights are to be subject to the provision of section fifty-one-a of the railroad law. The acquisition of real property pursuant to a plan shall in every case be deemed to be and constitute a continuous rather than separate takings.

(b) Property so acquired by a municipality shall be exempt from taxation until sold, leased for a term not exceeding ninety-nine years or otherwise disposed of in accordance with the provisions of this section; provided however, that any such municipality shall have the power and authority, with respect to such property, to pay or transfer, out of funds available to it for the effectuating of such program or

project annual sums in lieu of taxes to any taxing jurisdiction providing services to the project area, or to the part or portion thereof within such taxing jurisdiction, in order that no such taxing jurisdiction shall suffer an inequitable loss of revenue by virtue of such project; provided, further, that the amount so paid or transferred for any year with respect to any such property shall not exceed the lesser of (1) the sum last levied for the benefit of such taxing jurisdiction as an annual tax on such property prior to the time of its acquisition for project purposes or (2) such amount as shall be approved by the commissioner pursuant to such rules, regulations, limitations and conditions as he may prescribe, as an eligible and proper charge against such project. Upon the sale, lease or disposition of such property to any person, firm or corporation, not entitled to an exemption from taxation or entitled to only a partial tax exemption such property shall immediately become subject to taxation in whole or in part, as the case may be, and shall be taxed pro rata for the unexpired portion of the taxable year.

As used in this paragraph, the term "taxing jurisdiction" means any municipal corporation or district corporation, including any school district or any special district, having the power to levy or collect taxes and benefit assessments upon real property, or in whose behalf such taxes or benefit assessments may be levied or collected.

3. To sell or lease for a term not exceeding ninety-nine years any such project, or part thereof, at any stage before or at the date of or after the physical completion of such project, to a company which will undertake, plan, construct, own, manage or operate such project in accordance with the plan and the provisions of this article. In the event of a sale or lease of any such project prior to the physical completion thereof, the municipality may agree to complete and may complete construction and development of such project or cause the same to be completed. Any such sale or lease may be made without public bidding, public sale or public offering pursuant to such negotiated contract, agreement or lease, containing such provisions, limitations, requirements, terms and conditions, price or rental as the governing body of the municipality may deem necessary or desirable to effectuate

the plan and the public policy and public purposes described in sections eleven and eleven-a of this article.

4. Notwithstanding the provisions of section thirty-three of this article the real property in a project sold or leased as provided in this section, when the transfer thereunder becomes effective, shall be exempt from local and municipal taxes, other than assessments for local improvements to such extent as may be granted by the local legislative body of the municipality. The tax exemption shall operate and continue so long as capital loans of the company to which such project shall have been sold or leased or any additional loan the proceeds of which are primarily used for the residential portion of the project, which additional loan is approved by the commissioner or the supervising agency are outstanding.

Notes, bonds, mortgages and other obligations of such a company are declared to be issued for a public purpose and to be public instrumentalities and, together with interest thereon, shall be exempt from tax.

5. The provisions of section thirteen of this article requiring the approval by the commissioner of housing of the persons incorporating a limited-profit housing company and the provisions of section fourteen of this article requiring the consent of the commissioner of housing to the filing of the certificate of incorporation of such a company in the office of the secretary of state and the amendment thereof shall not apply to a corporation created pursuant to this article on a cooperative basis for the purchase or lease of a project pursuant to this section; nor shall any of the provisions of this article conferring upon the commissioner of housing any powers in respect of limited-profit housing companies apply to such a corporation. The application of this subdivision shall be limited to corporations undertaking a project with the aid of a municipal loan under this article.

6. A project or part of a project sold or leased to a housing company pursuant to the provisions of this section thirty-six-a shall be owned or operated by such housing company in accordance with the provisions of

this article and in accordance with an agreement of sale or lease to be entered into by the municipality and such housing company. Each such agreement shall contain, in addition to such other terms and conditions as may lawfully be agreed upon by the parties, the following provisions, which shall be subject to any approvals which may be required by this article:

(a) Establishing a schedule of maximum rents which may be charged by the housing company.

(b) Prescribing the method by which tenants are to be selected for the project and criteria of tenant eligibility.

(c) Any such agreement of lease may provide for the transfer of title of the real property so leased to the housing company at the end of the term or lease.

7. A housing company shall have the power, in addition to any other powers under this article to enter into and carry out the provisions of any agreement authorized under this section or under section twenty-three-a or twenty-three-b of this article, and to enter into and carry out agreements in order to obtain insurance by the federal government of a mortgage for the purpose of refinancing all or any part of a mortgage loan pursuant to section twenty-three of this article.

8. Any project that received a tax exemption under this section may, upon the expiration of the tax exemption period, be granted an additional tax exemption period of up to fifty years, or until such time as the project is no longer operated under the restrictions and for the purposes set forth in this article, whichever is sooner.

§ 37. Separability clause. 1. Except as specifically provided in this article, nothing contained therein shall be deemed to limit or restrict any power or authority granted to banking institutions, foundations, labor unions, veterans' organizations, or insurance companies or to any other corporation or to any fiduciary by any other provision of law heretofore or hereafter enacted.

2. If any clause, sentence, paragraph, section or part of this article

shall be adjudged by any court of competent jurisdiction to be invalid such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

ARTICLE III

NEW YORK STATE HOUSING FINANCE AGENCY

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§ 40. Short title. This article may be cited as the "New York state housing finance agency act."

§ 41. Statement of legislative findings and purposes. 1. There continues to exist in the state a seriously inadequate supply of safe and sanitary dwelling accommodations, non-housekeeping accommodations, aged care accommodations or accommodations for handicapped persons within the financial reach of families and persons (including aged and handicapped persons) of low income. This condition is contrary to the public interest and threatens the health, safety, welfare, comfort and security of the people of the state.

2. The ordinary operations of private enterprise cannot provide an adequate supply of safe and sanitary dwelling accommodations, non-housekeeping accommodations, aged care accommodations and

accommodations for handicapped persons at rentals which families and persons of low income can afford. In order to encourage the investment of private capital and provide such dwelling accommodations, non-housekeeping accommodations, aged care accommodations and accommodations for handicapped persons provision should be made for mortgage loans, at low interest rates, to housing companies which, subject to state regulation as to rents, profits, dividends and disposition of their property, supply multiple dwelling accommodations, non-housekeeping accommodations, aged care accommodations and accommodations for handicapped persons, and other facilities incidental or appurtenant thereto, to such families and persons. For that purpose there should be created a corporate governmental agency of the state, to be known as the "New York state housing finance agency," which, through the issuance of its bonds, notes or other obligations to the private investing public, may attract a broad base of investment by the greatest number of the general public and obtain the funds necessary to make or finance the making of such mortgage loans. Thus, private capital will be encouraged to enter this field of investment and will help meet the housing needs of families and persons of low income. Provision should also be made for the New York state housing finance agency to lease such dwelling accommodations and to receive appropriations from the state, in aid of providing housing in limited profit housing company projects for persons and families of low income who would otherwise be eligible for occupancy in low rent public housing.

* 2-a. Programs to attract capital to provide dwelling accommodations which families and persons of low and moderate income can afford may not be economically feasible without adequate subsidy where all of the units in the multiple dwelling accommodations to be financed are regulated as to rents, profits, dividends and disposition of the owner's property. In such cases the New York state housing finance agency should provide residential units for such families and persons by making loans, or financing the making of such loans, to the owners of housing developments which will be required to supply, for a reasonable period of time, a portion of residential units to such families and persons at rentals they can afford. Further it is the policy of the state through the New York state housing finance agency to maximize as fully as possible consistent with the economic feasibility of each housing

development the affordability, period of occupancy, and number of units in those portions of each housing development which are designed to be affordable to persons of low and moderate income.

* NB Repealed July 23, 2027

3. There is also threatened in the state an inadequate supply of academic buildings and other facilities at the state-operated institutions and statutory and contract colleges under the jurisdiction of the state university of New York when needed and when scheduled under the approved master plan of the state university. In order to encourage the investment of private capital in such academic buildings and other facilities and to assure their timely construction, acquisition, reconstruction, rehabilitation and improvement, the New York state housing finance agency should also be empowered, through the issuance of its bonds, notes or other obligations to the private investing public, to obtain a portion of the funds necessary to finance such academic buildings and other facilities at the state-operated institutions and statutory and contract colleges under the jurisdiction of the state university of New York.

4. Further, it is the policy of the state to promote the redevelopment and reconstruction of municipal urban renewal areas in a manner that will serve the civic, cultural and recreational needs of the community as a whole. The ordinary operations of private enterprise cannot provide adequate financing for the construction of civic, cultural and recreational structures and facilities and other non-profit capital development projects invested with a public interest, which are needed in connection with urban renewal programs. In order to encourage the investment of private capital in such projects, and to assure the expeditious undertaking, financing and completion of the redevelopment and reconstruction of urban renewal areas in the municipalities of the state, the New York state housing finance agency should also be empowered, through the issuance of its bonds, notes or other obligations to the private investing public, to obtain the funds necessary to make mortgage loans, at low interest rates, to non-profit community development corporations for the acquisition and construction of such projects, structures and facilities.

5. Prompt provision of well-equipped, modern hospitals, schools and other facilities related to the care, maintenance and treatment of mentally ill persons, mental defectives and epileptics is also needed in the state. In order to encourage the investment of private capital in such hospitals, schools and other mental hygiene facilities and to assure their timely construction, acquisition, reconstruction, rehabilitation and improvement, the New York state housing finance agency should be empowered, through the issuance of its bonds, notes or other obligations to the private investing public, to obtain a portion of the funds necessary to finance the same and to meet the needs of patients and staff at such facilities.

6. A serious shortage of safe and sanitary nursing home accommodations providing therein nursing care, lodging and board by or under the supervision of a duly licensed physician to sick, invalid, infirm, disabled or convalescent persons of low income or providing health-related service as defined in article twenty-eight of the public health law to persons of low income or any combination of the foregoing, and in addition thereto, providing nursing care and health-related service, or either of them, to persons of low income who are not occupants of the project, whose need for such facilities and services cannot readily be provided by the ordinary unaided operation of private enterprise, exists in many communities throughout the state that it is the policy of the state to promote the provision of such nursing home accommodations, including such other facilities as may be incidental and appurtenant thereto; that there is need for non-profit corporations and limited-profit corporations to construct, acquire, reconstruct, rehabilitate and improve such low cost nursing home accommodations. In order to encourage the investment of private capital in such nursing homes, the New York state housing finance agency should also be empowered, through the issuance of its bonds, notes or other obligations to the private investing public, to obtain funds necessary to finance nursing homes.

7. There is a serious shortage throughout the state of facilities suitable for use for the care of children especially those of pre-school

age and primary school age whose parents are unable to provide such care for all or a substantial portion of the day or post-school day. A similar shortage of residential child care facilities also exists. Existing day care and residential child care facilities are overcrowded with long waiting lists. Many such facilities are so located that they are not accessible to families in need of such services. The absence of adequate day care and residential child care facilities is contrary to the interest of the people of the state, is detrimental to the health and welfare of the child and his parents and often prevents the gainful employment of persons, who are otherwise qualified, because of the need to provide such care in their home. In order to encourage the investment of private capital in such facilities and to assure their timely construction, acquisition, reconstruction, rehabilitation and improvement, the New York state housing finance agency should be empowered, through the issuance of its bonds, notes or other obligations to the private investing public, to obtain a portion of the funds necessary to finance such facilities and to meet the needs of the community.

8. Prompt provision of new and improved community mental health and developmental disabilities facilities is required for the care and treatment of the increasing number of persons afflicted with mental illness, mental deficiencies, epilepsy and behavior or emotional disorders; that such facilities should be located close to the people they serve in order to speed rehabilitation and restoration and to provide for out-patient and in-patient care, including after care, diagnostic and rehabilitative services and residential accommodations for operation as hostels; that it is the policy of the state to promote the provision of such community mental health and developmental disabilities facilities; that there is a need for non-profit corporations to construct low cost community mental health and developmental disabilities facilities. In order to encourage the investment of private capital in such community mental health and developmental disabilities facilities, and to assure the expeditious completion of such community mental health and developmental disabilities facilities, the New York state housing finance agency should be empowered, through the issuance of its bonds, notes or other

obligations to the private investing public, to obtain funds necessary to make mortgage loans, at low interest rates, to non-profit corporations for the construction, acquisition, reconstruction, rehabilitation or improvement of such mental health and developmental disabilities facilities.

9. Many hospitals and other health facilities throughout the state are becoming obsolete and are no longer adequate to meet the needs of modern medicine. As a result of rapid technological changes, such facilities require substantial structural or functional changes. Others are unsuited for continued use by virtue of their location and the physical characteristics of their existing plants and should be replaced. Such inadequate and outmoded facilities deny to the people of the state the benefits of health care of the highest quality efficiently and promptly provided and at a reasonable cost. Their replacement and modernization is essential to protect and prolong the lives of the state's population and cannot be readily accomplished by the ordinary unaided operation of private enterprise. It is the policy of the state to encourage the provision of modern, well-equipped health facilities, including such other facilities as may be incidental and appurtenant thereto. In furtherance of this end and in order to obtain the investment of private capital in such hospitals and other health facilities, the New York state housing finance agency should also be empowered through the issuance of its bonds, notes or other obligations to the private investing public, to obtain the funds necessary to finance such hospital and health facilities.

10. Prompt provision of new and improved community senior citizens facilities is required for the increasing number of persons who are in need of programs and services for the aging. Such facilities should be located close to the people they serve and should supplement the programs and services provided for such persons by the office for the aging pursuant to title one of article two of the elder law; that it is the policy of the state to promote the provision of such facilities; that there is need for non-profit corporations to construct low cost community senior citizens facilities. In order to encourage the investment of private capital in such community senior citizens

facilities, and to assure the expeditious completion of such facilities, the New York state housing finance agency should be empowered, through the issuance of its bonds, notes or other obligations to the private investing public, to obtain funds necessary to make mortgage loans, at low interest rates, to non-profit corporations for the construction, acquisition, reconstruction, rehabilitation or improvement of such facilities.

11. It is frequently appropriate to combine and coordinate the development, rehabilitation and provision of housing with the development, rehabilitation and provision of health and health related facilities such as intermediate care, skilled nursing, aged treatment, and hospice facilities for which there is also a need. In order to encourage the investment of private capital in non-profit housing and health facilities, and to assure the expeditious completion of such facilities, the New York state housing finance agency should be empowered, through the issuance of its bonds, notes or other obligations to the private investing public, to obtain funds necessary to finance loans, for the construction, acquisition, reconstruction, rehabilitation or improvement of such facilities.

§ 42. Definitions. As used or referred to in this article, unless a different meaning clearly appears from the context:

1. "Agency" shall mean the corporate governmental agency created by section forty-three of this article.

1-a. "Amortized value" shall mean, when used with respect to securities purchased at a premium above or a discount below par, the value as of any given date obtained by dividing the total amount of the premium or discount at which such securities were purchased by the number of days remaining to maturity on such securities at the time of such purchase and by multiplying the amount so calculated by the number of days having passed since the date of such purchase; and (a) in the case of securities purchased at a premium, by deducting the product thus obtained from the purchase price, and (b) in the case of securities

purchased at a discount, by adding the product thus obtained to the purchase price.

2. "Bonds" and "notes" shall mean bonds and notes respectively, issued by the agency pursuant to this article.

3. "Equity bonds" and "equity notes" shall mean bonds and notes respectively, issued by the agency pursuant to subdivision four of section forty-six of this article.

4. "Equity loan" shall mean a loan made by the agency to a mutual company, mutual housing company, mutual redevelopment company, or housing development fund company which is organized pursuant to the business corporation law and article eleven of this chapter, in an amount not to exceed nine per centum of project cost and not in excess of the aggregate face value of home owners purchase notes received by such mutual company, mutual housing company, mutual redevelopment company, or housing development fund company, as the case may be, for the issuance of shares.

4-a. "Federally-aided mortgage loan" shall mean a loan secured by a first mortgage lien on the real property of which a project consists and the personal property attached to or used in connection with the construction, acquisition, reconstruction, rehabilitation, improvement or operation of the project, made or financed by the agency to the owner of such property, which loan is insured or co-insured by the federal government or in connection with which there has been assigned or pledged to the agency the right to receive housing assistance payments to be made by the federal government under a contract entered into pursuant to section eight of the United States housing act of nineteen hundred thirty-seven, as amended or supplemented, provided, however, that such term shall not include mortgage loans made by the agency and insured by the federal government pursuant to subsection (f) of section two hundred twenty-three of such act, to refinance mortgage loans made by the agency or the state prior to the first day of June, nineteen hundred seventy-nine or theretofore or thereafter, amended, modified, or increased or loans provided for pursuant to subdivision twenty-nine-a of

section forty-four of this article. Where all or part of the cost of acquiring any real property included in the project is to be financed by a federally-aided mortgage loan the term "owner" shall mean the owner upon such acquisition. Nothing contained herein shall limit or prohibit the agency from consenting to the modification of any instrument executed in connection with a federally-aided mortgage loan, provided that such modification will not materially reduce the value of the security for such mortgage loan.

4-b. "Federally guaranteed security" means any security, investment or evidence of indebtedness which is issued pursuant to the national housing act or any successor provision of law, as amended, which is either, directly or indirectly, insured or guaranteed in full as to the repayment of principal and interest by the United States of America or any instrumentality thereof.

5. "Home owners purchase note" shall mean home owners purchase note as defined in article one of this chapter.

5-a. "Insured mortgage reserve fund" shall mean the fund created by section fifty-seven of this chapter.

6. "Mortgage loan" shall mean a loan made by the agency to a company in an amount not to exceed ninety per centum of the project cost, except that in the case of a mutual company, an urban rental company which has not been aided by any loan made prior to September first, nineteen hundred sixty-eight, or a non-profit company incorporated pursuant to the provisions of the not-for-profit corporation law and this chapter for the purpose of providing housing for staff members, employees or students of a college, university, hospital or child care institution and their immediate families or in the case of a community development corporation the loan shall not exceed ninety-five per centum of the project cost and in the case of a non-profit company incorporated pursuant to the provisions of the not-for-profit corporation law and this chapter for the purpose of providing housing for aged or handicapped persons of low income or in the case of a low income non-profit housing company the loan shall not exceed the total project

cost, and secured by a first mortgage lien on the real property of which the project consists and the personal property attached to or used in connection with the construction, acquisition, reconstruction, rehabilitation, improvement or operation of the project. "Company," "mutual company," "urban rental company," "project cost" and "project" shall mean company, mutual company, urban rental company, project cost and project, respectively, as defined in article two of this chapter.

6-a. "Mortgage loan" shall also mean a loan made by the agency to a community senior citizens center and services company in an amount not to exceed the total project cost of a project undertaken by such company pursuant to article seven-A of this chapter, and secured by a first mortgage lien on the real property of which the project consists and the personal property attached to or used in connection with the construction, acquisition, reconstruction, rehabilitation, improvement or operation of the project.

6-b. "Mortgage loan" shall also mean a loan made by the agency to an eligible borrower as defined in article twenty-eight-B of the public health law in an amount not to exceed the total hospital project cost and secured by a first mortgage lien on the real property of which the hospital project consists and the personal property attached to or used in connection with the construction, acquisition, reconstruction, rehabilitation, improvement or operation of the hospital project. Such loan may be further secured by such a lien upon other real property owned by the eligible borrower. Notwithstanding the foregoing provisions of this subdivision or any other provisions of this article to the contrary, any personal property may be excluded from the lien of the mortgage provided (a) the commissioner of health finds that such property is not essential for the rendition of required hospital services as such term is defined in article twenty-eight of the public health law, and (b) the agency consents to such exclusion. "Hospital project cost" and "hospital project" shall mean hospital project cost and hospital project, respectively, as defined in article twenty-eight-B of the public health law.

6-c. "Mortgage loan" shall also mean a loan made by the agency to a

limited-profit nursing home company incorporated pursuant to the provisions of article twenty-eight-A of the public health law in an amount not to exceed ninety-five per centum of the nursing home project cost, and in the case of a non-profit nursing home company incorporated pursuant to the provisions of article twenty-eight-A of the public health law and the not-for-profit corporation law in an amount not to exceed the total nursing home project cost, and secured by a first mortgage lien on the real property of which the nursing home project consists and the personal property attached to or used in connection with the construction, acquisition, reconstruction, rehabilitation, improvement or operation of the nursing home 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 provided (a) the commissioner of health finds that such property is not essential for the nursing home project as such term is defined in article twenty-eight-A of the public health law, and (b) the agency consents to such exclusion. "Nursing home company", "limited-profit nursing home company", "non-profit nursing home company", "nursing home project cost" and "nursing home project" shall mean nursing home company, limited-profit nursing home company, non-profit nursing home company, nursing home project cost and nursing home project, respectively, as defined in article twenty-eight-A of the public health law.

6-d. "Mortgage loan" shall also mean a loan made by the agency to a company incorporated pursuant to the provisions of the not-for-profit corporation law in an amount not to exceed the total community mental health services project cost or community developmental disabilities services project cost, and secured by a first mortgage lien on the real property of which the community mental health services project or community developmental disabilities services project consists and the personal property attached to or used in connection with the construction, acquisition, reconstruction, rehabilitation, improvement or operation of the community mental health services project or community developmental disabilities services project. "Community mental health services company," "community developmental disabilities services company," "community mental health services project cost," "community

developmental disabilities services project cost," "community mental health services project" and "community developmental disabilities services project" shall mean community mental health services company, community developmental disabilities services company, community mental health services project cost, community developmental disabilities services project cost, community mental health services project and community developmental disabilities services project, respectively.

6-e. "Mortgage loan" shall also mean a loan made by the agency to a non-profit corporation which is an eligible borrower as defined in title five-A of article six of the social services law in an amount not to exceed the total youth facilities project cost, and secured by a first mortgage lien on the real property of which the youth facilities project consists and the personal property attached to or used in connection with the construction, acquisition, reconstruction, rehabilitation, improvement or operation of the youth facilities project. "Youth facilities project cost" and "youth facilities project" shall mean youth facilities project cost and youth facilities project, respectively, as defined in title five-A of article six of the social services law.

6-f. "Mortgage loan" shall also mean an instrument or instruments made by a company to evidence residual indebtedness, which instrument or instruments are secured by a mortgage on the real property of the project.

* 6-g. "Mortgage loan" shall also mean a loan secured by a first mortgage lien on the real property of which a project consists and the personal property attached to or used in connection with the construction or rehabilitation of the project, made or financed by the agency to the owner of such property, which property a municipal housing authority, constituted, created or established pursuant to article thirteen of the public housing law, has agreed to purchase upon the completion of such construction or rehabilitation.

* NB There are 2 sb 6-g's

* 6-g. "Mortgage loan" shall also mean a loan made by the agency to a mutual housing company for the purpose of refinancing the existing mortgage indebtedness of such company in an amount not to exceed the cost of refinancing the existing mortgage indebtedness of such company

and necessary funds for the replacement, improvement and rehabilitation of the project owned by such company, all costs incurred by such company relating to the refinancing of the existing mortgage indebtedness including amounts required to establish escrow accounts, reserves and working capital as determined by the agency, and such other amounts as are permitted by article four of this chapter, and secured by a first mortgage lien on the real property of which the project consists and the personal property attached to or used in connection with the construction, acquisition, reconstruction, rehabilitation, improvement or operation of the project.

* NB (Operative pending ruling by Internal Revenue Service)

* NB There are 2 sb 6-g's

7. "Mutual company", "mutual housing company" and "mutual redevelopment company" shall mean mutual company, mutual housing company and mutual redevelopment company as defined in articles two, four and five, respectively, of this chapter.

8. "Non-profit company" shall mean a company incorporated pursuant to the provisions of the not-for-profit corporation law and article two of this chapter for the purpose of providing housing for staff members, employees or students of a college, university, hospital or child care institution and their immediate families or for handicapped or aged persons of low income or housing for persons of low income or housing for families of low income as defined under article two of this chapter.

9. "Community development corporation" shall mean a corporation incorporated pursuant to the provisions of the not-for-profit corporation law and article six-A of this chapter.

10. "Non-profit project bonds" and "non-profit project notes" shall mean bonds and notes respectively, issued by the agency for the purposes of making mortgage loans to mutual companies, non-profit companies or community development corporations paying interest on such bonds and notes, establishing reserves to secure such bonds and notes, and paying of all other expenditures of the agency incident to and necessary or convenient for the making of such mortgage loans.

11. "Hospital and nursing home project bonds" and "hospital and nursing home project notes" shall mean bonds and notes respectively, issued by the agency for the purposes of making mortgage loans to hospital corporations which are eligible borrowers as defined in article twenty-eight-B of the public health law or nursing home companies, paying interest on such bonds and notes, establishing reserves to secure such bonds and notes, and paying of all other expenditures of the agency incident to and necessary or convenient for the making of such mortgage loans.

12. "Urban rental project bonds" and "urban rental project notes" shall mean bonds and notes respectively, issued by the agency after August thirty-first, nineteen hundred sixty-eight, for the purposes of making mortgage loans to urban rental companies, paying interest on such bonds and notes, establishing reserves to secure such bonds and notes, and paying of all other expenditures of the agency incident to and necessary or convenient for the making of such mortgage loans.

13. "Youth facilities project bonds" and "youth facilities project notes" shall mean bonds and notes, respectively, issued by the agency for the purposes of making mortgage loans to non-profit corporations which are eligible borrowers as defined in title five-A of article six of the social services law, paying interest on such bonds and notes, establishing reserves to secure such bonds and notes, and paying of all other expenditures of the agency incident to and necessary or convenient for the making of such mortgage loans.

14. "Community mental health services and developmental disabilities services project bonds" and "community mental health services and developmental disabilities services project notes" shall mean bonds and notes, respectively, issued by the agency for the purposes of making mortgage loans to companies incorporated pursuant to the not-for-profit corporation law, paying interest on such bonds and notes, establishing reserves to secure such bonds and notes, and paying of all other expenditures of the agency incident to and necessary or convenient for the making of such mortgage loans.

14-a. "Community mental health services and developmental disabilities services project revenue bonds" and "community mental health services and developmental disabilities services project revenue notes" shall mean bonds and notes, respectively, issued by the agency for the purpose of making mortgage loans to companies incorporated pursuant to the not-for-profit corporation law and article seventy-five of title E of the mental hygiene law, paying interest on such bonds and notes, establishing reserves to secure such bonds and notes, and paying of all other expenditures of the agency incident to and necessary or convenient for the making of such mortgage loans.

15. "Community senior citizens services project bonds" and "community senior citizens services project notes" shall mean bonds and notes, respectively, issued by the agency for the purposes of making mortgage loans to companies incorporated pursuant to the not-for-profit corporation law and article seven-A of this chapter, paying interest on such bonds and notes, establishing reserves to secure such bonds and notes, and paying of all other expenditures of the agency incident to and necessary or convenient for the making of such mortgage loans.

16. "State of New York municipal bond bank agency bonds" and "State of New York municipal bond agency notes" shall mean bonds and notes, respectively, issued by the state of New York municipal bond bank agency for the purposes of purchasing municipal bonds from municipalities.

17. "New York state medical care facilities finance agency bonds" and "New York state medical care facilities finance agency notes" shall mean bonds and notes, respectively, issued by the New York state medical care facilities finance agency for the corporate purposes of the New York state medical care facilities finance agency.

18. "New York state project finance agency bonds" and "New York state project finance agency notes" shall mean bonds and notes, respectively, issued by the New York state project finance agency for the corporate purposes of the New York state project finance agency.

19. "Residual indebtedness." Residual indebtedness shall be indebtedness of a company in an amount equal to the unpaid principal balance due on the original mortgage plus all interest accrued thereon at such time as the mortgage is refinanced less an amount equal to the principal amount, when made, of the mortgage insured by the federal government in connection with the refinancing of a project. Such indebtedness shall be secured by a mortgage which may be subordinate to the lien of any mortgage loan insured by the federal government and may contain such terms and conditions not inconsistent with this article as may be approved by the commissioner, and as the agency may deem necessary or desirable to secure the repayment of such residual indebtedness.

* 20. "Revenue housing bonds" shall mean bonds issued by the agency after May thirty-first, nineteen hundred seventy-six for the purpose of making mortgage loans to mutual companies, non-profit companies, or urban rental companies, funding non-profit project notes and urban rental project notes issued for the purpose of making such mortgage loans, paying interest on such bonds, establishing reserves to secure such bonds and paying all other expenditures of the agency incident to and necessary or convenient for the making of such mortgage loans or the funding of such notes.

* NB (Effective until ruling by Internal Revenue Service)

* 20. "Revenue housing bonds" shall mean bonds issued by the agency after May thirty-first, nineteen hundred seventy-six for the purpose of making mortgage loans to mutual companies, mutual housing companies, non-profit companies, or urban rental companies, funding non-profit project notes and urban rental project notes issued for the purpose of making such mortgage loans, paying interest on such bonds, establishing reserves to secure such bonds and paying all other expenditures of the agency incident to and necessary or convenient for the making of such mortgage loans or the funding of such notes.

* NB (Effective pending ruling by Internal Revenue Service)

21. "Special revenue housing coverage reserve funds" shall mean the funds created by section fifty-eight of this article.

22. "Bond reserve insurance fund" shall mean the fund created by

section fifty-nine of this article.

* 23. "Lending institution" shall mean any bank or trust company or savings bank, or any corporation, association or other entity which is owned or controlled by any one or more such bank or trust company or savings bank, or any savings and loan association, credit union, federal national mortgage association approved mortgage banker, national banking association, federal savings and loan association, federal savings bank, public pension fund, pension fund with assets over fifty million dollars, insurance company, federal credit union or other financial institution or governmental agency of the United States which customarily makes, purchases, holds, insures or services residential mortgages.

* NB Effective until July 23, 2027

* 23. "Lending institution" shall mean any bank or trust company or savings bank, or any corporation, association or other entity which is owned or controlled by any one or more such bank or trust company or savings bank, or any savings and loan association, industrial bank, credit union, federal national mortgage association approved mortgage banker, national banking association, federal savings and loan association, pension fund, insurance company, federal credit union or other financial institution or governmental agency of the United States which customarily makes, purchases, holds or services residential mortgages.

* NB Effective July 23, 2027

* 24. "Housing development" shall mean a specific work or improvement, whether or not to effectuate all or any part of a plan, and consisting of five or more residential units, and including the lands, buildings and improvements acquired, owned, constructed, managed or operated to provide such units and such incidental and appurtenant commercial, recreation, cultural, communal, dining, medical and nursing treatment, day care or residential child care and community facilities as may be approved by the agency. As used in connection with the term housing development, the term residential unit shall refer to units suitable for residential use or accommodations included within the term housing as defined in subdivision nine of section twelve of this chapter.

* NB Repealed July 23, 2027

25. "Housing and non-profit health facility" shall mean a specific work or improvement, whether or not to effectuate all or any part of a plan consisting of five or more residential units, and at the election of the agency such additional health and health related facilities as the agency may approve; and including the lands, buildings and improvements acquired, owned, constructed, managed or operated to provide such units and health, or health related facilities and such incidental and appurtenant commercial, recreation, cultural, communal, dining, parking, day care or residential child care, senior citizen and community facilities as may be approved by the agency acquired, owned, constructed, rehabilitated, improved, managed or operated by a non-profit company except that any portion thereof meeting the definition of a housing development set forth in subdivision twenty-four hereof may be separately owned by a for profit owner approved by the agency. As used in connection with the term housing and non-profit health facility, the term residential unit shall refer to units suitable for residential use or accommodations included within the term housing as defined in subdivision nine of section twelve of this chapter, and the term non-profit company shall mean a company incorporated pursuant to the provisions of the not-for-profit corporation law for the purpose of providing housing for staff members, employees, students or users of a hospital, health, health related facility and their immediate families or for the purpose of providing a hospital, health, or health related facility.

§ 43. New York state housing finance agency. 1. There is hereby created the "New York state housing finance agency". The agency shall be a corporate governmental agency constituting a public benefit corporation. Its membership shall consist of the commissioner of housing and community renewal, the director of the budget, the commissioner of taxation and finance, one member appointed by the temporary president of the senate, and one member appointed by the speaker of the assembly. In addition, there shall be four members to be appointed by the governor with the advice and consent of the senate. The members first appointed by the governor shall serve for terms ending three, four, five and six years respectively from January first next

succeeding the date of their appointment. Their successors shall serve for terms of six years each. Members shall continue in office until their successors have been appointed and qualified. The members appointed by the temporary president of the senate and the speaker of the assembly shall serve at the pleasure of the temporary president of the senate and the speaker of the assembly respectively. In the event of a vacancy occurring in the office of any member by death, resignation or otherwise, such vacancy shall be filled, for the unexpired term, if applicable, in the same manner as the original appointment. The provisions of section thirty-nine of the public officers law shall apply to such members.

2. The governor shall designate from among the members appointed by him or her a chairman, who shall serve as such during his or her term as member. The members, including the chairman, shall serve without salary or other compensation, but each member, including the chairman, shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of his or her official duties and in the event that the chairman shall also be a full time officer or employee of the agency, the chairman shall receive no salary as chairman but shall receive only his or her regular salary as officer or employee, not to exceed the average of the salaries paid to the appointed commissioners of the state departments or the regular salary such officer or employee was receiving at the time of his or her appointment as chairman, whichever is greater.

3. Such members other than the commissioner of housing and community renewal, the director of the budget, the commissioner of taxation and finance and the chairman if he be a full time officer or employee of the agency, may engage in private employment, or in a profession or business, subject to the limitations contained in sections seventy-three and seventy-four of the public officers law. The agency shall, for the purposes of sections seventy-three and seventy-four of the public officers law, be a "state-agency," and such members shall be "officers" of the agency for the purposes of said sections.

4. Notwithstanding any inconsistent provisions of law, general, special or local, no officer or employee of the state, or of any civil

division thereof, shall be deemed to have forfeited or shall forfeit his office or employment by reason of his acceptance of membership on the agency created by this section; provided, however, a member who holds such other public office or employment shall receive no additional compensation or allowance for services rendered pursuant to this article, but shall be entitled to reimbursement for his actual and necessary expenses incurred in the performance of such services.

5. The governor may remove any member for inefficiency, neglect of duty or misconduct in office after giving him a copy of the charges against him, and an opportunity to be heard, in person or by counsel, in his defense, upon not less than ten days' notice. If any such member shall be removed, the governor shall file in the office of the department of state a complete statement of charges made against such member, and his findings thereon, together with a complete record of the proceeding. The holding of office by the commissioner of housing shall continue to be governed by the provisions of section eleven of the public housing law.

6. The agency and its corporate existence shall continue until terminated by law, provided, however, that no such law shall take effect so long as the agency shall have bonds, notes and other obligations outstanding. Upon termination of the existence of the agency, all its rights and properties shall pass to and be vested in the state.

7. The powers of the agency shall be vested in and exercised by no less than six of the members thereof then in office. The agency may delegate to one or more of its members, or its officers, agents and employees, such powers and duties as it may deem proper.

8. The commissioner of housing and community renewal, the director of the budget and the commissioner of taxation and finance each may appoint a person from their respective division or department to represent such member, respectively, at all meetings of the agency from which such member may be absent. Any such representative so designated shall have the power to attend and to vote at any meeting of the agency from which the member so designating him as a representative is absent with the

same force and effect as if the member designating him were present and voting. Such designation shall be by written notice filed with the chairman of the agency by each of the said members. The designation of such persons shall continue until revoked at any time by written notice to the chairman by the respective member making the designation. Such designation shall not be deemed to limit the power of the appointing member to attend and vote at any meeting of the agency.

§ 44. Powers of the agency. Except as otherwise limited by this article, 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 power and functions under this article;
4. To make and alter by-laws for its organization and internal management and, subject to agreements with noteholders or bondholders, to make rules and regulations governing the use of its property and facilities, which rules and regulations shall be filed with the department of state in the manner provided by section one hundred two of the executive law;
5. To acquire, hold and dispose of personal property for its corporate purposes;
6. To appoint officers, agents and employees, prescribe their duties and fix their compensation, subject to the provisions of the civil service law and to the rules and regulations of the civil service commission of this state;
7. To borrow money and issue negotiable notes, bonds or other obligations and to provide for the rights of the holders thereof;

8. Subject to any agreements with noteholders or bondholders, to invest any funds held in reserve or sinking funds, including the insured mortgage reserve fund and any special revenue housing coverage reserve fund or any monies not required for immediate use or disbursement, at the discretion of the agency, in obligations of the state or the United States government or obligations the principal and interest of which are guaranteed by the state or the United States government, or in any other obligations in which the comptroller of the state of New York is authorized to invest pursuant to section ninety-eight of the state finance law;

9. Subject to the approval of the commissioner in the case of mortgage loans to other than hospital corporations which are eligible borrowers as defined in article twenty-eight-B of the public health law or nursing home companies, non-profit corporations which are eligible borrowers as defined in title five-A of article six of the social services law, or companies incorporated pursuant to the not-for-profit corporation law and article seventy-five of the mental hygiene law, who shall be guided by the provisions governing state loans contained in article two of this chapter, to make mortgage loans, to participate with the state in making mortgage loans and to undertake commitments to make any such mortgage loans;

9-a. Subject to the approval of the commissioner of social services of the state of New York, to make mortgage loans and to undertake commitments to make mortgage loans to community senior citizens centers and services companies under and pursuant to article seven-A of this chapter.

10. Subject to the approval of the commissioner of housing and community renewal, the state commissioner of health, the state commissioner of mental hygiene or the state commissioner of social services, as the case may be, to sell, at public or private sale, any mortgage or other obligation securing a mortgage loan made by the agency;

* 10-a. To acquire and to contract to acquire, by assignment or

otherwise, any mortgage securing a loan and any note or bond made by a mutual housing company and to modify or satisfy such mortgage, bond or note and accept or make a new mortgage and other instruments for the purpose of refinancing the existing indebtedness of such company.

* NB (Effective pending ruling by Internal Revenue Service)

11. (a) In connection with the making or financing the making of mortgage loans and commitments therefor, except mortgage loans and commitments made with hospital corporations which are eligible borrowers as defined in article twenty-eight-B of the public health law, nursing home companies, non-profit corporations which are eligible borrowers as defined in title five-A of article six of the social services law, or companies incorporated pursuant to the not-for-profit corporation law and article seventy-five of the mental hygiene law, to make and collect such fees and charges, including but not limited to reimbursement of all costs of financing by the agency, service charges and insurance premiums, as the agency shall determine to be reasonable and as shall be approved by the commissioner of housing;

(b) In connection with the making of mortgage loans and commitments therefor to hospital corporations which are eligible borrowers as defined in article twenty-eight-B of the public health law or nursing home companies, to make and collect from such corporations and companies such fees and charges, including but not limited to reimbursement of all costs of financing by the agency, service charges and insurance premiums, as the agency shall determine to be reasonable;

(c) In connection with the making of mortgage loans and commitments therefor to non-profit corporations which are eligible borrowers as defined in title five-A of article six of the social services law, to make and collect from such corporations such fees and charges, including but not limited to reimbursement of all costs of financing by the agency, service charges and insurance premiums as the agency shall determine to be reasonable.

(d) In connection with the making of mortgage loans and commitments therefor to companies incorporated pursuant to the not-for-profit corporation law and article seventy-five of the mental hygiene law, to make and collect from such companies such fees and charges, including but not limited to reimbursement of all costs of financing by the

agency, service charges and insurance premiums, as the agency shall determine to be reasonable.

11-a. In connection with the making of mortgage loans and commitments therefor to companies incorporated pursuant to the not-for-profit corporation law and article seven-A of this chapter, to make and collect from such companies such fees and charges, including but not limited to reimbursement of all costs of financing by the agency, service charges and insurance premiums, as the agency shall determine to be reasonable.

11-b. To make or finance the making of federally-aided mortgage loans pursuant to section forty-four-c of this article and, in connection with such mortgage loans, to exercise such powers and undertake such responsibilities as may be required by any law, regulation or other requirement of the federal government.

11-c. Subject to the provisions of any contract with noteholders and bondholders (a) to make and contract for the making of mortgage loans for the construction or rehabilitation of projects which a municipal housing authority, constituted, created or established pursuant to article thirteen of the public housing law, has agreed to purchase on a turnkey basis in accordance with a federally assisted program for the production of public housing as authorized by the United States housing act of nineteen hundred thirty-seven as amended to the date of enactment of this subdivision of this section, upon the completion of such construction or rehabilitation and (b) to make and to contract for the making of loans to, or to purchase loans from banking or other lending institutions for the purpose of financing such construction or rehabilitation.

12. In connection with any property on which it has made or financed a mortgage loan, to foreclose on any such property or 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; and in such event the agency may complete, administer, pay the principal of and interest on any obligations

incurred in connection with such property, dispose of, and otherwise deal with, such property, in such manner as may be necessary or desirable to protect the interests of the agency therein;

13. To enter into agreements to pay annual sums in lieu of taxes to any political subdivision of the state with respect to any real property owned by the agency; provided, however, that the amount so paid for any year upon any such property shall not exceed the sum last paid as taxes on such property prior to the time of its acquisition by the agency;

14. To procure insurance against any loss in connection with its property and other assets (including mortgages, mortgage loans and federally guaranteed securities secured by such mortgage loans) in such amounts, and from such insurers, as it deems desirable;

15. (a) Subject to the approval of the commissioner and to the provisions of any contract with noteholders or bondholders, except with any holders of hospital and nursing home project bonds or notes or youth facilities project bonds or notes, or community mental health services and developmental disabilities services project bonds or notes, whenever it deems it necessary or desirable in the fulfillment of the purposes of this article, to consent to the modification, with respect to rate of interest, time of payment of any installment of principal or interest, security, or any other term, of any mortgage, mortgage loan, mortgage loan commitment, contract or agreement of any kind to which the agency is a party, except such mortgages, mortgage loans, mortgage loan commitments, contracts or agreements as may have been entered into with hospital corporations which are eligible borrowers as defined in article twenty-eight-B of the public health law, nursing home companies or non-profit corporations which are eligible borrowers as defined in title five-A of article six of the social services law or companies incorporated pursuant to the not-for-profit corporation law and article seventy-five of the mental hygiene law;

(b) Subject to the provisions of any contract with holders of hospital and nursing home project bonds or notes, whenever it deems it necessary or desirable in the fulfillment of the purposes of this article, to consent to the modification, with respect to rate of interest, time of

payment of any installment of principal or interest, security, or any other term of any mortgage, mortgage loan, mortgage loan commitment, contract or agreement of any kind between the agency and a hospital corporation which is an eligible borrower as defined in article twenty-eight-B of the public health law or a nursing home company;

(c) Subject to the provisions of any contract with holders of youth facilities project bonds or notes, whenever it deems it necessary or desirable in the fulfillment of the purposes of this article, to consent to the modification, with respect to rate of interest, time of payment of any installment of principal or interest, security, or any other term of any mortgage, mortgage loan, mortgage loan commitment, contract or agreement of any kind between the agency and a non-profit corporation which is an eligible borrower pursuant to title five-A of article six of the social services law.

(d) Subject to the provisions of any contract with holders of community mental health services and developmental disabilities services project bonds or notes, whenever it deems it necessary or desirable in the fulfillment of the purposes of this article, to consent to the modification, with respect to rate of interest, time of payment of any installment of principal or interest, security, or any other term of any mortgage, mortgage loan, mortgage loan commitment, contract or agreement of any kind between the agency and a company incorporated pursuant to the not-for-profit corporation law and article seventy-five of the mental hygiene law.

15-a. Subject to the provisions of any contract with holders of community senior citizens services project bonds or notes, whenever it deems it necessary or desirable in the fulfillment of the purposes of this article, to consent to the modification, with respect to rate of interest, time of payment of any installment of principal or interest, security, or any other term of any mortgage, mortgage loan, mortgage loan commitment, contract or agreement of any kind between the agency and a company incorporated pursuant to the not-for-profit corporation law and article seven-A of this chapter.

16. 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 from any other source and to comply, subject to the provisions of this article, with the terms and conditions thereof;

17. To engage the services of private consultants on a contract basis for rendering professional and technical assistance and advice;

18. Subject to the approval of the commissioner of housing and community renewal, to make equity loans to mutual companies, mutual housing companies, mutual redevelopment companies, and housing development fund companies which are corporations organized pursuant to the business corporation law and article eleven of this chapter, in amounts not to exceed the aggregate face value of home owners purchase notes accepted by such mutual companies, mutual housing companies, mutual redevelopment companies, or housing development fund companies, as the case may be, as consideration for the issuance of shares pursuant to the provisions of section nineteen of article two of this chapter, section seventy-eight of article four of this chapter, section one hundred eight of article five of this chapter, or subdivision four of section five hundred seventy-three of article eleven of this chapter, as the case may be; such loans shall be repaid over or within such period and shall be secured in such manner as the agency shall require and the commissioner shall approve.

19. Subject to the approval of the commissioner of health pursuant to the provisions of article twenty-eight-A of the public health law, to make mortgage loans to non-profit nursing home companies incorporated pursuant to the provisions of article twenty-eight-A of the public health law and the not-for-profit corporation law and to make mortgage loans to limited-profit nursing home companies incorporated pursuant to the provisions of article twenty-eight-A of the public health law and to undertake commitments to make any such mortgage loans.

20. Subject to the approval of the commissioner, to purchase or to contract to purchase from a mutual company, or from any shareholder thereof, as the case may be, the shares appertaining to the dwellings leased by it for the purposes set forth in section forty-four-a of this

article, to hold such shares or to sell or to contract to sell such shares to the sublessees of the agency who are residents in such dwellings, or to the designees of the mutual company. Such shares shall be purchased or sold by the agency for the par value thereof. The terms under which such shares may be sold, or be contracted to be sold shall be subject to the approval of the commissioner. Shares owned by the agency may not be voted.

21. Subject to the approval of the commissioner of social services pursuant to the provisions of title five-A of article six of the social services law, to make mortgage loans to non-profit corporations which are eligible borrowers pursuant to the provisions of the aforesaid title five-A and to undertake commitments to make any such mortgage loans.

21-a. Subject to the approval of the commissioner of social services of the state of New York pursuant to the provisions of article seven-A of this chapter, to make mortgage loans to companies incorporated pursuant to the provisions of such article and the not-for-profit corporation law and to undertake commitments to make any such mortgage loans.

22. Subject to the approval of the commissioner of mental hygiene pursuant to the provisions of article seventy-five of the mental hygiene law, to make loans to companies incorporated pursuant to the provisions of article seventy-five of the mental hygiene law and the not-for-profit corporation law and to undertake commitments to make any such mortgage loans. No such loan or commitment made on or after June first, nineteen hundred eighty-two, shall be made primarily for a purpose other than the refinancing of existing indebtedness pursuant to subdivision four of section 75.05 of the mental hygiene law.

23. Subject to the approval of the commissioner of health pursuant to the provisions of article twenty-eight-B of the public health law, to make mortgage loans to hospital corporations which are eligible borrowers as defined in article twenty-eight-B of the public health law and to undertake commitments to make any such mortgage loans.

24. To contract with the state of New York municipal bond bank agency to render such services as the agency may deem appropriate, including but not limited to the use of the premises, personnel and personal property of the agency and to charge the reasonable costs thereof and provide for the reimbursement to the agency for any expenses necessarily incurred by the agency in carrying out the terms of such contract. Any such contract shall be subject to the separate approval of the director of the budget.

25. To contract with the New York state medical care facilities finance agency to market and service any New York state medical care facilities finance agency bonds and New York state medical care facilities finance agency notes approved by the New York state medical care facilities finance agency, and to contract to render such other services as the New York state medical care facilities finance agency may request, including but not limited to the use of the premises, personnel and personal property of the agency, and to provide for reimbursement to the agency from the New York state medical care facilities finance agency for any expenses necessarily incurred by the agency in carrying out the terms of any such contract. Any such contract shall be subject to the separate approval of the director of the budget.

26. To contract with the New York state project finance agency to market and service any New York state project finance agency bonds and New York state project finance agency notes approved by the New York state project finance agency, and to contract to render such other services as the New York state project finance agency may request, including but not limited to the use of the premises, personnel and personal property of the agency, and to provide for reimbursement to the agency from the New York state project finance agency for any expenses necessarily incurred by the agency in carrying out the terms of any such contract. Any such contract shall be subject to the separate approval of the director of the budget.

27. To contract with the New York state urban development corporation to market and service any New York state urban development corporation bonds and New York state urban development corporation notes approved by

the New York state urban development corporation and to contract to render such other services as the New York state urban development corporation may request, including but not limited to the use of the premises, personnel and personal property of the agency, and to provide for reimbursement to the agency from the New York state urban development corporation for any expenses necessarily incurred by the agency in carrying out the terms of any such contract. Any such contract shall be subject to the separate approval of the director of the budget.

28. To participate in federal programs for the insurance of mortgage loans including programs which require the agency to share any loss arising out of any mortgage loan insured by the federal government, provided that the agency's share of any such loss shall not exceed fifty percent thereof.

28-a. To acquire and enter into commitments to acquire any federally guaranteed security to finance the making of mortgage loans pursuant to section forty-four-c of this article and to pledge or otherwise use any such federally guaranteed security in such manner as the agency deems in its best interest to secure or otherwise provide a source of repayment on bonds issued to finance the making of such mortgage loans.

29. To do any and all things necessary or convenient to carry out its purposes and exercise the powers expressly given and granted in this article.

* 29-a. (1) Subject to the provisions of any contract with noteholders and bondholders (a) to make and contract for the making of loans for the acquisition, construction or rehabilitation of housing developments for the purpose of providing residential units for occupancy by persons and families for whom the ordinary operations of private enterprise cannot provide an adequate supply of safe, sanitary and affordable housing accommodations or for residential units located in an area designated as blighted pursuant to article fifteen or sixteen of the general municipal law, and (b) to make and to contract for the making of loans to or to purchase loans from lending institutions for the purpose of financing loans for such acquisition, construction or rehabilitation. No loans may be financed pursuant to this subdivision unless the agency finds that

portions of the housing developments are to be occupied by persons or families of low or moderate income. In determining whether the portions of housing developments will be so occupied, the agency may consider and rely upon the fact that the housing developments will be occupied by persons and families in accordance with requirements for the interest on obligations issued to finance them to be exempt from taxation pursuant to section 103(b)(3) or 103(b)(4)(A) of the Internal Revenue Code of 1954, as amended.

(2) With regard to any loan made pursuant to this subdivision and notwithstanding the provisions of, or any regulation promulgated pursuant to, the emergency housing rent control law, the local emergency housing rent control act, or local law enacted pursuant thereto, the rent stabilization law of nineteen hundred sixty-nine, or the emergency tenant protection act of nineteen seventy-four, the owner of a housing development otherwise subject to any such law or act, with the approval of the agency, may establish the initial rent for each dwelling unit within the project. If the initial rents are to be established pursuant hereto, the agency shall notify occupants of the housing development, if any, of any such proposed rental establishment and offer to meet at least once with the occupants prior to its approval.

(3) The powers granted by this subdivision may be exercised only if (a) obligations of the agency have been issued to fund the loan made or purchased by the agency and such obligations have received an investment grade rating from a recognized rating agency; (b) the loan made or purchased by the agency is fully secured as to principal and interest by insurance or a commitment to insure issued by the state of New York mortgage agency or by the general credit of a bank, national bank, trust company, savings bank, savings and loan association, insurance company, governmental agency of the United States, or any combination thereof; or (c) obligations of the agency are purchased by a bank, national bank, trust company, savings bank, savings and loan association, insurance company, governmental agency of the United States, which for purposes of this subdivision, include the federal home loan mortgage corporation, the federal national mortgage association, the governmental national mortgage association, and any successor of the foregoing, or any wholly-owned subsidiary or combination thereof.

* NB Repealed July 23, 2027

29-b. To carry out its powers and responsibilities with respect to permanent housing projects for homeless families as provided for in article three-A of this chapter.

30. (1) Subject to the provisions of any contract with noteholders and bondholders (a) to make and contract for the making of loans for the acquisition, refinancing, construction or rehabilitation of housing and non-profit health facilities and (b) to make and to contract for the making of loans to or to purchase loans from lending institutions for the purposes of financing loans for such acquisition, construction or rehabilitation.

(2) The powers granted by this subdivision may be exercised only if: (a) the commissioner of health has approved any health and health related facilities which are in addition to the residential unit and housing portion of the facility, pursuant to section twenty-eight hundred two of the public health law in any case where the facility is subject to the provisions of such section or has approved the facility according to the guidelines prescribed in any other case; (b) with respect to any portion thereof owned by a for profit owner, the agency makes the finding required to finance housing developments under paragraph one of subdivision twenty-nine-a of this section; (c) (i) obligations of the agency have been issued to fund the loan made or purchased by the agency and such obligations have received an investment grade rating from a recognized rating agency, or (ii) the loan made or purchased by the agency is fully secured as to principal and interest by insurance or a commitment to insure issued by the state of New York mortgage agency or by the general credit of a bank, national bank, trust company, savings bank, savings and loan association, insurance company, the college construction loan insurance association, the student loan marketing association, or a governmental agency of the United States; and (d) approval from the applicable state agencies as to the need for the project has been obtained prior to joint financing.

31. 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.

32. To transfer funds in an amount to be agreed upon, at the request of the director of the division of the budget, to the state treasury for deposit to the general fund as an expense of the agency. 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.

§ 44-a. Low rent dwelling accommodations. 1. Subject to the approval of the commissioner and to the provisions of any contract with noteholders and bondholders, the agency shall have the power to lease dwellings in a project, not to exceed twenty per centum of the dwellings in such project, from a company, except that in the case of a project located in an area in which the commissioner finds that unusually difficult housing conditions exist, the number of dwellings which may be leased by the agency shall not exceed fifty per centum, and except that the agency may lease all or any portion of the dwellings in a non-profit company project designed or intended for occupancy by aged persons, at such rentals as may be fixed therefor by such company and approved by the commissioner or the supervising agency, as the case may be, pursuant to the provisions of subdivision one of section thirty-one of this chapter less an appropriate adjustment for the increased tax exemption, if any, attributable to such dwellings pursuant to subdivision two of section thirty-three of this chapter; and to sublet such dwellings, in accordance with subdivision two of this section, to persons or families eligible therefor in accordance with the provisions of paragraph (a) of subdivision two of section thirty-one of this chapter, except that dwellings in a non-profit company project designed or intended for occupancy by the aged shall be sublet only to aged persons, and except that in the case of mutual companies, dwellings may be leased only when the agency shall purchase the shares appertaining to such dwellings.

2. The rental of any dwelling sublet in accordance with subdivision one of this section shall be fixed at an amount equal to twenty per centum of the probable aggregate annual income of the occupants thereof, determined in accordance with section thirty-one of this chapter, at the time of the execution of such sublease and at a time thereafter proximate to each anniversary date of the execution of such sublease and at the time of any renewal or extension of such sublease, provided that no such dwelling shall be sublet (a) at an average rental of less than fifteen dollars per room per month or at a rental less than that of comparable dwellings in new state-aided public housing projects in the community, whichever is greater, or (b) to a person or family whose probable aggregate annual income exceeds five times the rental fixed therefor by the company pursuant to subdivision one of section thirty-one of this chapter, provided however, such person or family may continue to occupy such dwelling and pay to the agency such fixed rental, including any surcharges which would otherwise be authorized if such person or family were a tenant of the company, until the company shall have entered into a lease with such person or family or until such person or family has vacated or has been caused to vacate such dwelling.

3. Subject to the approval of the commissioner and to the provisions of any contract with noteholders and bondholders, the agency shall have the power to lease dwellings, within areas designated to receive benefits under the federal demonstration cities and metropolitan development act of nineteen hundred sixty-six, in a multiple dwelling receiving benefits and subject to control of its rents under article eight of this chapter from the owner thereof at such rentals as may be approved by the governmental agency having jurisdiction pursuant to the provisions of section four hundred five of this chapter; and to sublet such dwellings to persons or families eligible therefor in accordance with the provisions of subdivision three of section four hundred one of this chapter. The rental of any dwelling sublet pursuant to this subdivision shall be fixed at an amount equal to twenty per centum of the probable aggregate annual income of the occupants thereof, determined in accordance with subdivision three of section four hundred one of this chapter, at the time of the execution of such sublease and

at the time of each anniversary of the execution of such sublease and at the time of any renewal or extension of such sublease, provided that no such dwelling shall be sublet (a) at an average rental of less than fifteen dollars per room per month or at a rental less than that of comparable dwellings in new state-aided public housing projects in the community, whichever is greater, or (b) to a person or family whose probable aggregate annual income exceeds five times the rental fixed therefor pursuant to section four hundred five of this chapter.

4. The agency shall create and establish a special account, to be known as the low rent housing assistance account, and shall pay into such account all monies appropriated and made available by the state for the purposes of such account and any other monies which may be made available to the agency for the purposes of such account from any other source or sources. All monies held in the low rent housing assistance accounts shall be used by the agency (a) to meet, together with rentals received therefor from the occupants, the agency's rent obligation to the company or owner of a multiple dwelling with respect to dwellings leased pursuant to this section; (b) to make housing assistance payments pursuant to subdivision five of this section; (c) for the payment of administrative and other expenses of the agency allocable to its activities pursuant to this section, and (d) to reimburse the division of housing and community renewal the reasonable costs of services performed by the commissioner of housing and community renewal and the division of housing and community renewal in carrying out the provisions of this section pursuant to section fifty-five of this article. Any monies held in the low rent housing assistance account not required for immediate disbursement may be invested in the manner permitted by subdivision eight of section forty-four of this article. Any income or interest earned by, or increment to such account shall be added to the monies held in such account for the purposes herein provided.

5. (a) In lieu of leasing and subleasing housing accommodations pursuant to subdivisions one through three of this section, the agency may provide housing for persons and families of low income by making housing assistance payments to the company owning a project.

(b) A housing assistance payment pursuant to this subdivision may be

made only with respect to occupants of a dwelling in a project who would be eligible for a sublease under the provisions of this section.

(c) Tenants receiving housing assistance payments shall pay a rent to the company equal to the rent they would pay under a sublease pursuant to this section. Housing assistance payments equal to the difference between such rent and the rental fixed for the dwelling pursuant to section thirty-one of this chapter shall be made by or on behalf of the agency to the company.

(d) The agency and the division of housing and community renewal may make such regulations, not inconsistent with the provisions of this section, and enter into such agreements with the owners of projects as may be necessary or proper to carry out the provisions of this subdivision. Such agreements may, in the case of a project the mortgage on which is held by the agency, provide for the making of housing assistance payments in the form of a credit against the company's payments thereon.

§ 44-b. Mortgage modifications, evidence of pre-existing indebtedness.

1. Notwithstanding the provision of any law, general or special, the agency shall have the power to:

(i) consent to and contract for the modification of any of the terms of a mortgage, and note or bond secured thereby, made pursuant to this article for the purpose of obtaining insurance of such mortgage loan by the federal government in order to refinance all or any part of the indebtedness evidenced by such mortgage and note or bonds, or

(ii) satisfy such mortgage loan in order to enable the company to obtain insurance by the federal government of a mortgage loan made for the purpose of refinancing all or any part of the indebtedness evidenced by such mortgage and note or bond.

Notwithstanding the provisions hereof, the agency on or after June fifteen, nineteen hundred seventy-six, shall not modify or satisfy a mortgage loan, pursuant to this subdivision one, where the principal amount of the mortgage loan insured by the federal government is less than eighty-five per centum of the principal amount outstanding on the original mortgage loan at the time such original mortgage loan is

refinanced, unless such modification or satisfaction is first approved by the New York state public authorities control board created pursuant to article one-A of the public authorities law.

2. In the event that the existing mortgage loan is satisfied pursuant to this section, the agency may in consideration of the issuance of such satisfaction accept a new mortgage and note or bond insured by the federal government in an amount equal to the maximum principal amount of a mortgage loan the federal government will insure or accept the proceeds available to the housing company as a result of the refinancing.

3. In the event that there is residual indebtedness, the housing company shall make and the agency shall accept an instrument evidencing such indebtedness in such form and upon such terms as the agency may approve, provided that such terms are not inconsistent with subdivision two of section twenty of this chapter.

4. Notwithstanding any other provisions of this article where the commissioner has made the findings required in subdivision one of section twenty-six and where a project has been approved pursuant to subdivision five of section twenty-six of this chapter, the agency may make or contract to make a mortgage loan pursuant to subdivision two or three of this section without further findings by the commissioner or further approval by the local legislative body.

5. No company shall accept a mortgage loan to be insured by the federal government made for the purpose of refinancing the existing mortgage loan of a company which shall exceed the amount which can be supported by the income derived from the operation of the project at the rental rate determined by the commissioner that would be necessary to meet all necessary payments to be made by the company, of all expenses including fixed charges, sinking funds, reserves and dividends on outstanding stock as authorized by the commissioner, if the principal amount of the original mortgage loan of the company were to be fully repaid over the term of such mortgage loan by constant and equal payments of principal and interest and if the interest rate on the

company's original mortgage loan was eight and one-half percent per annum.

§ 44-c. Federally-aided mortgage loans. 1. In addition to the powers of the agency to make mortgage loans to companies organized pursuant to article two of this chapter and notwithstanding any limitations contained in such article or in this article in connection with mortgage loans made to such companies, the agency may make or finance the making of a federally-aided mortgage loan to the owner of a project upon such terms and conditions not inconsistent with the provisions of this section as it shall require, the proceeds of which are substantially to be used to finance the construction, reconstruction, rehabilitation or improvement of a project intended to be occupied by three or more families. A federally-aided mortgage loan made or financed by the agency shall not exceed an amount equal to the lesser of (i) the maximum mortgage loan authorized or approved by the federal government or (ii) one hundred percent of the development cost of the project approved by the agency.

2. No federally-aided mortgage loan shall be made or financed to a company organized pursuant to article two of this chapter unless the commissioner has made the findings required by such article. No federally-aided mortgage loan shall be made or financed to any other person, firm, corporation, partnership or association unless (a) the commissioner finds that (i) the project is consistent with the needs of the state and the county, city, town or village in which it is located, or with a plan or undertaking for the clearance, replanning, reconstruction or rehabilitation of a substandard and insanitary area or areas, and (ii) the plans and specifications for the project conform to all applicable federal, state and local laws, ordinances, rules, regulations or requirements, (in making such finding the commissioner may rely upon approvals, consents and certifications of governmental authorities exercising jurisdiction over the project, including the federal and state government, and any subdivision, agency, bureau, board or commission thereof), and (b) the agency finds that (i) the estimated revenues of the project will be sufficient to cover all probable costs

of operations and maintenance, all installments of principal and interest on the indebtedness relating to the project, taxes, and such other expenses, including the maintenance of reserves, as may be projected or required by the agency or the federal government, and (ii) the project is to be substantially occupied by persons or families of low-income. In determining whether a project will be substantially occupied by persons or families of low-income the agency may consider and rely upon the purpose of the federal program of mortgage insurance, co-insurance, or housing assistance payments in connection with which the mortgage loan is made.

3. A company organized pursuant to article two of this chapter which subsequent to the first day of June, nineteen hundred seventy-nine has obtained a commitment from the agency to make or finance the making of a federally-aided mortgage loan and the project of such company shall not be subject to any restrictions, limitation or procedure imposed by or pursuant to such article relating to any matter which is the subject of any restriction, limitation or procedure imposed by or pursuant to any applicable law, regulation or requirement of the federal government or agreement entered into pursuant thereto.

4. As used in this section or in connection with a federally-aided mortgage loan the term project shall mean a specific work or improvement, whether or not to effectuate all or any part of a plan, and shall include the lands, buildings and improvements acquired, owned, constructed, managed or operated to provide dwelling accommodations and such incidental and appurtenant commercial, recreational and community facilities as may be approved by the agency.

§ 45. Transfer of officers and employees. Officers and employees of state departments and agencies may be transferred to the agency and officers and employees of the agency may be transferred to state departments and agencies without examination and without loss of any civil service status or rights. No such transfer may, however, be made except with the approval of the head of the state department or division involved and the director of the budget and the chairman of the agency,

and in compliance with the rules and regulations of the civil service commission of the state.

§ 45-a. Housing trust fund corporation. 1. There is hereby established a public benefit corporation known as the "housing trust fund corporation" as a subsidiary corporation of the agency.

2. The agency may transfer to such subsidiary corporation any real, personal or mixed property in order to carry out the purposes of article eighteen of this chapter. Such subsidiary corporation shall have all the privileges, immunities, tax exemption and other exemptions of the agency to the extent the same are not inconsistent with this section.

3. The membership of such subsidiary corporation shall consist of the members identified pursuant to subdivision one of section forty-three of this article, and the powers of such subsidiary corporation shall be vested in and exercised by no less than six of its members thereof then in office. The subsidiary corporation may delegate to one or more of its members, or its officers, agents and employees, such powers and duties as it may deem proper.

3-a. The chairman of the agency may appoint an officer or employee of the agency to represent him at all meetings of the corporation from which he may be absent. Any such representative so designated shall have the power to attend and to vote at any meeting of the corporation from which the chairman of the agency is absent with the same force and effect as if the chairman of the agency were present and voting. Such designation shall be by written notice filed with the chairperson of the corporation. The designation of such person shall continue until revoked at any time by written notice to such chairperson. Such designation shall not be deemed to limit the power of the chairman of the agency to attend and vote at any meeting of the corporation.

4. No officer or member of the corporation shall receive any additional compensation, either direct or indirect, other than reimbursement for actual and necessary expenses incurred in the

performance of his duties, by reason of his serving as a member, director, or trustee of such subsidiary corporation.

5. Notwithstanding any inconsistent provisions of law, general, special or local, no officer or employee of the state, or of any civil division thereof, or any public benefit corporation, shall be deemed to have forfeited or shall forfeit his office or employment by reason of his acceptance of membership on the corporation created by this section.

6. The fiscal year of such subsidiary corporation shall begin with the first day of April of each year and end with the next following thirty-first day of March.

7. The corporation shall have the power to:

(a) Sue and be sued;

(b) Have a seal and alter the same at pleasure;

(c) Make and alter by-laws for its organization and internal management and make rules and regulations governing the use of its property and facilities;

(d) Make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this chapter;

(e) Acquire, hold and dispose of real or personal property for its corporate purposes;

(f) Engage the services of private consultants on a contract basis for rendering professional and technical assistance advice;

(g) Procure insurance against any loss in connection with its activities, properties and other assets, in such amount and from such insurers as it deems desirable; and

(h) Invest any funds of the corporation, or any other monies under its custody and control not required for immediate use or disbursement, at the discretion of the corporation, in obligations of the state or the United States government or obligations the principal and interest of which are guaranteed by the state or the United States government, or in any other obligations in which the comptroller of the state is authorized to invest pursuant to section ninety-eight of the state finance law.

8. The corporation will encourage the creation of local housing partnerships; such partnerships may include but not be limited to members of the business community, the financial community, housing developers, builders, not-for-profit organizations and community leaders who are committed to the development of low income housing within such community.

9. The corporation will facilitate the coordination of local housing partnerships and existing state, federal and local programs which promote the development of low income housing.

10. The corporation is a public housing agency as defined in the United States housing act of 1937, as amended, and may receive and administer funds including but not limited to subsidies, loans and fees made available through federal programs under such act.

(a) The corporation shall be the sole entity with authority in the state to undertake any statewide or regional multi-state contract for performance based annual contributions contract administration issued under authority granted in 42 U.S.C. section 1437f or any replacement program or contract, whether called an annual contributions contract or other name, that requires substantially the same administration or support services offered nationally, regionally or statewide. The corporation may in its discretion subcontract such activities as it may require. The division of housing and community renewal shall be the entity responsible for such statewide or regional multi-state contract administration with all powers and responsibilities which would otherwise be available to the corporation in the event the corporation is unable or unwilling to act as such entity.

(b) The powers vested in the corporation and the division of housing and community renewal pursuant to paragraph (a) of this subdivision are coincident to the powers of any municipal or other local public housing agency or public housing authority operating within the state on the effective date of this paragraph. The authority of the corporation and the division of housing and community renewal to operate on a statewide basis shall not limit the authority of such municipal public housing agency or local public housing authority to operate, service, administer

or enter into any project based section 8 contract or contracts where the project is located within a political subdivision of the state in which such public housing agency or public housing authority was operating on such effective date.

11. The corporation may do any and all things necessary or convenient to carry out and exercise the powers given and granted by this section and article eighteen of this chapter including, but not limited to contracting with the commissioner of the division of housing and community renewal to administer any of the provisions of the special needs housing act of 1988 and articles eighteen and eighteen-A of this chapter.

12. The division of housing and community renewal and all other state officers, departments, boards, divisions, commissions, public authorities and public benefit corporations may render such services to the corporation within their respective functions as may be requested by the corporation.

13. Notwithstanding the provisions of article one-A of the public authorities law, contracts entered into by the corporation pursuant to articles eighteen and eighteen-A of this chapter shall not be subject to the provisions of article one-A of the public authorities law.

§ 45-b. Affordable housing corporation. 1. There is hereby established a public benefit corporation known as the "affordable housing corporation" as a subsidiary corporation of the agency.

2. The agency may transfer to such subsidiary corporation any real, personal or mixed property in order to carry out the purposes of article nineteen of this chapter. Such subsidiary corporation shall have all the privileges, immunities, tax exemption and other exemptions of the agency to the extent the same are not inconsistent with this section.

3. The membership of such subsidiary corporation shall consist of the members identified pursuant to subdivision one of section forty-three of

this article, and the powers of such subsidiary corporation shall be vested in and exercised by no less than six of its members thereof then in office. The subsidiary corporation may delegate to one or more of its members, or its officers, agents and employees, such powers and duties as it may deem proper.

3-a. The commissioner of housing and community renewal, the director of the budget and the commissioner of taxation and finance each may appoint a person from their respective division or department to represent such member, respectively, at all meetings of the corporation from which such member may be absent. Any such representative so designated shall have the power to attend and to vote at any meeting of the corporation from which the member so designating him as a representative is absent with the same force and effect as if the member designating him were present and voting. Such designation shall be by written notice filed with the chairman of the corporation by each of the said members. The designation of such persons shall continue until revoked at any time by written notice to the chairman by the respective member making the designation. Such designation shall not be deemed to limit the power of the appointing member to attend and vote at any meeting of the corporation.

4. No officer or member of the corporation shall receive any additional compensation, either direct or indirect, other than reimbursement for actual and necessary expenses incurred in the performance of his duties, by reason of his serving as a member, director, or trustee of such subsidiary corporation.

5. Notwithstanding any inconsistent provisions of law, general, special or local, no officer or employee of the state, or of any civil division thereof, or any public benefit corporation, shall be deemed to have forfeited or shall forfeit his office or employment by reason of his acceptance of membership on the corporation created by this section.

6. The fiscal year of such subsidiary corporation shall begin with the first day of April of each year and end with the next following thirty-first day of March.

7. The corporation shall have the power to:

(a) Sue and be sued;

(b) Have a seal and alter the same at pleasure;

(c) Make and alter by-laws for its organization and internal management and make rules and regulations governing the use of its property and facilities;

(d) Make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this chapter;

(e) Acquire, hold and dispose of real or personal property for its corporate purposes;

(f) Engage the services of private consultants on a contract basis for rendering professional and technical assistance advice;

(g) Procure insurance against any loss in connection with its activities, properties and other assets, in such amount and from such insurers as it deems desirable; and

(h) Invest any funds of the corporation, or any other monies under its custody and control not required for immediate use or disbursement, at the discretion of the corporation, in obligations of the state or the United States government or obligations the principal and interest of which are guaranteed by the state or the United States government, or in any other obligations in which the comptroller of the state is authorized to invest pursuant to section ninety-eight of the state finance law.

8. The corporation may do any and all things necessary or convenient to carry out and exercise the powers given and granted by this section and article nineteen of this chapter including, but not limited to contracting with the commissioner of the division of housing and community renewal to administer any of the provisions of article nineteen of this chapter.

9. The agency and all other state officers, departments, boards, divisions, commissions, public authorities and public benefit corporations may render such services to the corporation within their respective functions as may be requested by the corporation.

10. Notwithstanding the provisions of article one-A of the public authorities law, contracts entered into by the corporation pursuant to article nineteen of this chapter shall not be subject to the provisions of article one-A of the public authorities law.

§ 45-c. Homeless housing and assistance corporation. 1. There is hereby established a public benefit corporation known as the "homeless housing and assistance corporation" as a subsidiary corporation of the agency.

2. The agency may transfer to such subsidiary corporation any real, personal or mixed property in order to carry out the purposes of title one of article two-A of the social services law. Such subsidiary corporation shall have all the privileges, immunities, tax exemption and other exemptions of the agency to the extent the same are not inconsistent with this section.

3. The membership of such subsidiary corporation shall consist of the commissioner of social services, who shall also serve as its chairperson, the chairperson of the agency and one additional member to be appointed by the chairperson of the homeless housing and assistance corporation, who shall serve at the pleasure of such chairperson. The powers of the corporation shall be vested in and exercised by no less than two of the members thereof then in office. The corporation may delegate to one or more of its members, or its officers, agents and employees, such duties and powers as it may deem proper.

3-a. The commissioner of social services, and the chairman of the agency may each appoint an individual to represent them at all meetings of the corporation from which they may be absent. Any such representative so designated shall have the power to attend and to vote at any meeting of the corporation as if the commissioner of social services or chairperson of the agency were present and voting. Such designation shall be by written notice filed with the chairperson of the corporation. The designation of such person shall continue until revoked

at any time by written notice to such chairperson. Such designation shall not be deemed to limit the power of the commissioner of social services or the chairperson of the agency to attend and vote at any meeting of the corporation.

4. No officer or member of the corporation shall receive any additional compensation, either direct or indirect, other than reimbursement for actual and necessary expenses incurred in the performance of his duties, by reason of his serving as a member, director, or trustee of such subsidiary corporation.

5. Notwithstanding any inconsistent provisions of law, general, special or local, no officer or employee of the state, or of any civil division thereof, or any public benefit corporation, shall be deemed to have forfeited or shall forfeit his office or employment by reason of his acceptance of membership on the corporation created by this section.

6. The fiscal year of such subsidiary corporation shall begin with the first day of April of each year and end with the next following thirty-first day of March.

7. The corporation shall have the power to:

(a) Sue and be sued;

(b) Have a seal and alter the same at pleasure;

(c) Make and alter by-laws for its organization and internal management and make rules and regulations governing the use of its property and facilities;

(d) Make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this chapter;

(e) Acquire, hold and dispose of real or personal property for its corporate purposes;

(f) Engage the services of private consultants on a contract basis for rendering professional and technical assistance advice;

(g) Procure insurance against any loss in connection with its activities, properties and other assets, in such amount and from such insurance as it deems desirable; and

(h) Invest any funds of the corporation, or any other monies under its custody and control not required for immediate use or disbursement, at the discretion of the corporation, in obligations of the state or the United States government or obligations the principal and interest of which are obligations in which the comptroller of the state is authorized to invest pursuant to section ninety-eight of the state finance law.

8. The corporation may do any and all things necessary or convenient to carry out and exercise the powers given and granted by this section and title one of article two-A of the social services law including, but not limited to contracting with the commissioner of social services to administer any of the provisions of title one of article two-A of the social services law.

9. The agency and all other state officers, departments, boards, divisions, commissions, public authorities and public benefit corporations may render such services to the corporation within their respective functions as may be requested by the corporation.

10. Notwithstanding the provisions of article one-A of the public authorities law, contracts entered into by the corporation pursuant to title one of article two-A of the social services law shall not be subject to the provisions of article one-A of the public authorities law.

§ 46. Notes and bonds of the agency. 1. (a) Subject to the provisions of section forty-seven of this article, the agency shall have power and is hereby authorized from time to time to issue its negotiable bonds and notes in conformity with applicable provisions of the uniform commercial code in such principal amount as, in the opinion of the agency, shall be necessary to provide sufficient funds for achieving its corporate purposes, including the making or financing the making of mortgage loans, the payment of interest on bonds and notes of the agency, establishment of reserves to secure such bonds and notes, and all other expenditures of the agency incident to and necessary or convenient to

carry out its corporate purposes and powers;

(b) The agency shall have power, from time to time, to issue renewal notes, to issue bonds to pay notes and whenever it deem refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and to issue bonds partly to refund bonds then outstanding and partly for any other purpose. The refunding bonds shall be sold and the proceeds applied to the purchase, redemption or payment of the bonds to be refunded;

(c) Except as may otherwise be expressly provided by the agency, every issue of its notes or bonds shall be general obligations of the agency payable out of any revenues or monies of the agency, subject only to any agreements with the holders of particular notes or bonds pledging any particular receipts or revenues;

2. a. The notes and bonds, except as provided in paragraph (c) of subdivision four of this section, shall be authorized by resolution of the members, shall bear such date or dates, and shall mature at such time or times, in the case of any such note, or any renewals thereof, issued for achieving its corporate purposes other than the making or financing the making of mortgage loans, not exceeding the term of any applicable lease or sublease, and in the case of any such note, or any renewals thereof, issued for the purpose of making or financing the making of mortgage loans, not exceeding the term for the repayment of the mortgage loan or the federally guaranteed securities acquired to finance such mortgage loan, and in the case of any such bond not exceeding fifty years from the date of issue, as such resolution or resolutions may provide.

b. In no event, however, shall any such note mature, in the case of a note or any renewals thereof, issued for the purpose of achieving its corporate purposes other than the making or financing the making of mortgage loans, later than eight years from the date of issue of such original note, and, in the case of a note or any renewals thereof, issued for the purpose of making or financing the making of mortgage loans, later than ten years from the date of issue of such original note, unless in each year at least that amount of principal is required to be paid as would be required if (i) the principal of and interest on

any such note were payable in such manner that the total annual charges required for the payment of principal and interest were approximately equal and constant for the period of such lease, sublease or mortgage, as the case may be, and (ii) at the expiration of the term of such lease, sublease or mortgage, the total of such required payments were sufficient to pay the full principal amount of such note; provided however, that such manner of payment of principal shall be required only from the date of the issuance of such note or from the commencement of the lease or sublease term in the case of a lease or sublease and from the occupancy date in the case of a mortgage whichever later occurs. Such payment of principal may be made either to the holder of such note or into a sinking fund. Notwithstanding the foregoing, no such note shall be issued pursuant to this paragraph b unless the state director of the budget has approved the issuance of any such note in writing prior to such issuance.

c. The notes and bonds shall bear interest at such rate or rates, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places and be subject to such terms of redemption as such resolution or resolutions may provide. The notes and bonds of the agency may be sold by the agency, at public or private sale, at such price or prices as the agency shall determine. No notes or bonds of the agency may be sold by the agency at private sale, however, unless such sale and the terms thereof have been approved in writing by (a) the comptroller, where such sale is not to the comptroller, or (b) the director of the budget, where such sale is to the comptroller.

3. Except as provided in paragraph (d) of subdivision four of this section, any resolution or resolutions authorizing any notes or bonds or any issue thereof may contain provisions, which shall be a part of the contract with the holders thereof, as to:

(a) pledging all or any part of the fees and charges made or received by the agency, and all or any part of the monies received in payment of mortgage loans or the federally guaranteed securities acquired to finance such mortgage loans and interest thereon, and other monies

received or to be received, to secure the payment of the notes or bonds or of any issue thereof, subject to such agreements with bondholders or noteholders as may then exist;

(b) pledging all or any part of the assets of the agency, including mortgages or the federally guaranteed securities acquired to finance such mortgage loans and obligations securing the same, to secure the payment of the notes or bonds or of any issue of notes or bonds, subject to such agreements with noteholders or bondholders as may then exist;

(c) the use and disposition of the gross income from mortgages owned or financed by the agency and payment of principal of mortgages owned by the agency;

(d) the setting aside of reserves or sinking funds and the regulation and disposition thereof;

(e) limitations on the purpose to which the proceeds of sale of notes or bonds may be applied and pledging such proceeds to secure the payment of the notes or bonds or of any issue thereof;

(f) limitations on the issuance of additional notes or bonds; the terms upon which additional notes or bonds may be issued and secured; the refunding of outstanding or other notes or bonds;

(g) the procedure, if any, by which the terms of any contract with noteholders or bondholders may be amended or abrogated, the amount of notes or bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(h) limitations on the amount of monies to be expended by the agency for operating, administrative or other expenses of the agency;

(i) vesting in a trustee or trustees such property, rights, powers and duties in trust as the agency may determine, which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to this article, and limiting or abrogating the right of the bondholders to appoint a trustee under this article or limiting the rights, powers and duties of such trustee;

(j) any other matters, of like or different character, which in any way affect the security or protection of the notes or bonds.

4. (a) Subject to the provisions of subdivisions three and four of section forty-seven of this article and notwithstanding anything to the contrary hereinabove provided in this section, the agency shall have

power and is hereby authorized from time to time to issue negotiable bonds and notes in such principal amount, as, in the opinion of the agency, shall be necessary to provide sufficient funds for the making of equity loans, the payment of interest on bonds and notes issued to provide funds for the making of such equity loans, the establishment of reserves to secure such bonds and notes, and all other expenditures of the agency incident to and necessary or convenient for the making of such equity loans;

(b) The provisions of paragraphs (b), (c) and (d) of subdivision one of this section shall apply to equity notes and bonds issued by the agency for the making of equity loans.

(c) The provisions of subdivision two of this section shall apply to equity notes and bonds issued by the agency for the making of equity loans except that any such equity notes, or any renewals thereof, and any such equity bond shall mature at such time or times as the resolution of the members shall provide, but in no event at a time subsequent to six months after the latest maturity date of the last maturing equity loan made from the proceeds of such equity notes or bonds.

(d) Any resolution or resolutions authorizing any equity notes or equity bonds or any issue thereof for the making of equity loans may contain any of the provisions set forth in subdivision three of this section, which shall be a part of the contract with the holders thereof, except that no such resolution or resolutions shall pledge any fees or charges collected by the agency pursuant to subdivision eleven of section forty-four, income from mortgages owned by the agency, or any payments of principal of mortgages owned by the agency.

5. It is the intention hereof that any pledge made by the agency shall be valid and binding from the time when the pledge is made; that the monies or property so pledged and thereafter received by the agency shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act; and that the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the agency, irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be

recorded.

6. Neither the members of the agency nor any person executing the notes or bonds shall be liable personally on the notes or bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

7. The agency, subject to such agreements with noteholders or bondholders as may then exist, shall have power out of any funds available therefor to purchase notes or bonds of the agency, which shall thereupon be cancelled, at a price not exceeding (a) if the notes or bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date thereon, or (b) if the notes or bonds 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 plus accrued interest to such date.

8. The state shall not be liable on notes or bonds of the agency and such notes and bonds shall not be a debt of the state, and such notes and bonds shall contain on the face thereof a statement to such effect.

§ 47. Reserve funds and appropriations. 1. (a) The agency shall create and establish a special fund (herein referred to as capital reserve fund), and shall pay into such capital reserve fund (1) any monies appropriated and made available by the state for the purposes of such fund, (2) any proceeds of sale of notes or bonds other than state university construction notes or state university construction bonds, equity notes or equity bonds, non-profit project notes or non-profit project bonds, hospital and nursing home project notes or hospital and nursing home project bonds, urban rental project notes or urban rental project bonds, health facilities notes or health facilities bonds, youth facilities project notes or youth facilities project bonds, community mental health services and developmental disabilities services project notes or community mental health services and developmental disabilities services project bonds, community senior citizens services project notes or community senior citizens services project bonds, mental hygiene

improvement notes or mental hygiene improvement bonds and revenue housing bonds, and bonds and notes for the housing program to the extent provided in the resolution of the agency authorizing the issuance thereof, and (3) any other moneys which may be made available to the agency for the purpose of such fund from any other source or sources. All moneys held in the capital reserve fund, except as hereinafter provided, shall be used solely for the payment of the principal of bonds of the agency other than state university construction bonds, equity bonds, non-profit project bonds, hospital and nursing home project bonds, urban rental project bonds, health facilities bonds, youth facilities project bonds, community mental health services and developmental disabilities services project bonds, community senior citizens services project bonds, mental hygiene improvement bonds and revenue housing bonds, and bonds and notes for the housing program as the same mature, required payments to any sinking fund established in a resolution of the agency for the amortization of term bonds (hereinafter referred to as "sinking fund payments"), the purchase or redemption of bonds of the agency other than state university construction bonds, equity bonds, non-profit project bonds, hospital and nursing home project bonds, urban rental project bonds, health facilities bonds, youth facilities project bonds, community mental health services and developmental disabilities services project bonds, community senior citizens services project bonds, mental hygiene improvement bonds and revenue housing bonds, and bonds and notes for the housing program the payment of interest on such bonds of the agency or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity; provided, however, that monies in such fund shall not be withdrawn therefrom at any time in such amount as would reduce the amount of such fund to less than the maximum amount of principal and interest maturing and becoming due and sinking fund payments required to be made in any succeeding calendar year on all bonds of the agency then outstanding other than state university construction bonds, equity bonds, non-profit project bonds, hospital and nursing home project bonds, urban rental project bonds, health facilities bonds, youth facilities project bonds, community mental health services and developmental disabilities services project bonds, community senior citizens services project bonds, mental hygiene improvement bonds and

revenue housing bonds and bonds and notes for the housing program, except for the purpose of paying principal of, interest and sinking fund payments becoming due on such bonds of the agency maturing and becoming due and for the payment of which other moneys of the agency are not available. For the purposes of this subdivision, in computing the maximum amount of principal maturing at a single future date (herein called "term bonds") in any succeeding calendar year, the principal amount of any such term bonds which are subject to mandatory redemption prior to such future date by sinking fund payments shall not be included in the computation determining the maximum amount of principal maturing in said future year. Any income or interest earned by, or increment to, the capital reserve fund due to the investment thereof may be transferred by the agency to the general reserve fund or other fund of the agency to the extent it does not reduce the amount of the capital reserve fund below the maximum amount of principal and interest maturing and becoming due and sinking fund payments required to be made in any succeeding calendar year on all such bonds of the agency then outstanding other than state university construction bonds, equity bonds, non-profit project bonds, hospital and nursing home project bonds, urban rental project bonds, health facilities bonds, youth facilities project bonds, community mental health services and developmental disabilities services project bonds, community senior citizens services project bonds, mental hygiene improvement bonds and revenue housing bonds and bonds and notes for the housing program.

(b) The agency shall not issue bonds other than state university construction bonds, equity bonds, non-profit project bonds, hospital and nursing home project bonds, urban rental project bonds, health facilities bonds, youth facilities project bonds, community mental health services and developmental disabilities services project bonds, community senior citizens services project bonds, mental hygiene improvement bonds and revenue housing bonds and bonds and notes for the housing program at any time secured by the capital reserve fund if the maximum amount of principal and interest maturing and becoming due and sinking fund payments required to be made in a succeeding calendar year on such bonds then to be issued and on all other bonds of the agency then outstanding other than state university construction bonds, equity bonds, non-profit project bonds, hospital and nursing home project

bonds, urban rental project bonds, health facilities bonds, youth facilities project bonds, community mental health services and developmental disabilities services project bonds, community senior citizens services project bonds, mental hygiene improvement bonds and revenue housing bonds and bonds and notes for the housing program will exceed the amount of the capital reserve fund at the time of issuance unless the agency, at the time of issuance of such bonds, shall deposit in such fund from the proceeds of the bonds so to be issued, or otherwise, an amount which, together with the amount then in such fund, will be not less than the maximum amount of principal and interest maturing and becoming due and sinking fund payments required to be made in any succeeding calendar year on such bonds then to be issued and on all other bonds of the agency then outstanding other than state university construction bonds, equity bonds, non-profit project bonds, hospital and nursing home project bonds, urban rental project bonds, health facilities bonds, youth facilities project bonds, community mental health services and developmental disabilities services project bonds, community senior citizens services project bonds, mental hygiene improvement bonds and revenue housing bonds and bonds and notes for the housing program.

(c) The agency shall not issue bonds and notes other than state university construction bonds and state university construction notes, hospital and nursing home project bonds and hospital and nursing home project notes, health facilities bonds and health facilities notes, youth facilities project bonds and youth facilities project notes, community mental health services and developmental disabilities services project bonds and community mental health services and developmental disabilities services project notes, community senior citizens services project notes or community senior citizens services project bonds and mental hygiene improvement bonds and mental hygiene improvement notes and bonds and notes for the housing program for any of its corporate purposes in an aggregate principal amount exceeding thirty-six billion two hundred eighty million dollars, excluding bonds and notes issued to refund outstanding bonds and notes.

(d) To assure the continued operation and solvency of the agency for the carrying out of the public purposes of this article, provision is made in paragraph (a) of this subdivision for the accumulation in the

capital reserve fund of an amount equal to the maximum amount of principal and interest maturing and becoming due and sinking fund payments required to be made in any succeeding calendar year on all bonds of the agency then outstanding other than state university construction bonds, equity bonds, non-profit project bonds, hospital and nursing home project bonds, urban rental project bonds, health facilities bonds, youth facilities project bonds, community mental health services and developmental disabilities services project bonds, community senior citizens services project bonds, mental hygiene improvement bonds and revenue housing bonds and bonds and notes for the housing program. In order further to assure such maintenance of the capital reserve fund, there shall be annually apportioned and paid to the agency for deposit in the capital reserve fund such sum, if any, as shall be certified by the chairman of the agency to the governor and director of the budget as necessary to restore the capital reserve fund to an amount equal to the maximum amount of principal and interest maturing and becoming due and sinking fund payments required to be made in any succeeding calendar year on the bonds of the agency then outstanding other than state university construction bonds, equity bonds, non-profit project bonds, hospital and nursing home project bonds, urban rental project bonds, health facilities bonds, youth facilities project bonds, community mental health services and developmental disabilities services project bonds, community senior citizens services project bonds, mental hygiene improvement bonds and revenue housing bonds and bonds and notes for the housing program. The chairman of the agency shall annually, on or before December first, make and deliver to the governor and director of the budget his certificate stating the amount, if any, required to restore the capital reserve fund to the amount aforesaid and the amount so stated, if any, shall be apportioned and paid to the agency during the then current state fiscal year. The principal amount of bonds secured by the capital reserve fund to which state funds are apportionable pursuant to this paragraph shall be limited to the total amount of bonds and notes outstanding on the effective date of this act, plus the total amount of bonds and notes contracted after the effective date of this act to finance projects in progress on the effective date of this act as determined by the New York state public authorities control board created pursuant to section fifty

of the public authorities law whose affirmative determination shall be conclusive as to all matters of law and fact solely for the purposes of the limitations contained in this paragraph, but in no event shall the total amount of bonds so secured by such a capital reserve fund or funds exceed three hundred thirty-eight million dollars, excluding bonds issued to refund such outstanding bonds until the date of redemption of such outstanding bonds. As outstanding bonds so secured are paid, the amount so secured shall be reduced accordingly but the redemption of such outstanding bonds from the proceeds of refunding bonds shall not reduce the amount so secured.

(e) In computing the amount of the capital reserve fund for the purposes of this section, securities in which all or a portion of such fund shall be invested shall be valued at par or if purchased at less than par, at their cost to the agency.

2. The agency shall create and establish a special fund (herein referred to as general reserve fund) and shall pay into such fund all fees and charges collected by the agency pursuant to paragraph (a) of subdivision eleven of section forty-four of this article, or otherwise, other than fees and charges collected in connection with the making of mortgage loans (or commitments therefor) to mutual companies, non-profit companies, urban rental companies or community development corporations, and any monies which the agency shall transfer from the capital reserve fund pursuant to the provisions of paragraph (a) of subdivision one of this section. Such monies and any other monies paid into the general reserve fund may, in the discretion of the agency but subject to agreements with bondholders and noteholders, be used by the agency (a) for the repayment of advances from the state in accordance with the provisions of repayment agreements between the agency and the director of the budget, (b) to reimburse the division of housing and community renewal the reasonable costs of the services performed by the commissioner of housing and community renewal and division of housing and community renewal pursuant to section fifty-five of this article, (c) to pay all costs, expenses and charges of financing, including fees and expenses of trustees and paying agents, (d) for transfers to the capital reserve fund, (e) for the payment of the principal of and interest on bonds or notes other than state university construction

bonds or state university construction notes, equity bonds or equity notes, non-profit project bonds or non-profit project notes, hospital and nursing home project bonds or hospital and nursing home project notes, urban rental project bonds or urban rental project notes, health facilities bonds or health facilities notes, youth facilities project bonds or youth facilities project notes, community mental health services and developmental disabilities services project bonds or community mental health services and developmental disabilities services project notes, community senior citizens services project notes or community senior citizens services project bonds, mental hygiene improvement bonds or mental hygiene improvement notes and revenue housing bonds and bonds and notes for the housing program issued by the agency when the same shall become due whether at maturity or on call for redemption and for the payment of any redemption premium required to be paid where such bonds or notes are redeemed prior to their stated maturities, and to purchase bonds or notes other than state university construction bonds or state university construction notes, equity bonds or equity notes, non-profit project bonds or non-profit project notes, hospital and nursing home project bonds or hospital and nursing home project notes, urban rental project bonds or urban rental project notes, health facilities bonds or health facilities notes, youth facilities project bonds or youth facilities project notes, community mental health services and developmental disabilities services project bonds or community mental health services and developmental disabilities services project notes, community senior citizens services project notes or community senior citizens services project bonds, mental hygiene improvement bonds or mental hygiene improvement notes and revenue housing bonds and bonds and notes for the housing program issued by the agency, or (f) for such other corporate purposes of the agency as the agency in its discretion shall determine and provide.

3. (a) The agency shall create and establish a special fund (herein referred to as equity reserve fund), and shall pay into such equity reserve fund (1) any monies appropriated and made available by the state for the purposes of such fund, (2) any proceeds of sale of equity notes or equity bonds, to the extent provided in the resolution of the agency authorizing the issuance thereof, and (3) any other monies which may be

made available to the agency for the purpose of such fund from any other source or sources. All moneys held in the equity reserve fund, except as hereinafter provided, shall be used solely for the payment of the principal of equity bonds of the agency, as the same mature, the purchase of equity bonds of the agency, the payment of interest on equity bonds of the agency or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity; provided, however, that moneys in such fund shall not be withdrawn therefrom at any time in such amount as would reduce the amount of such fund to less than the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on all equity bonds of the agency then outstanding, except for the purpose of paying principal and interest on equity bonds of the agency maturing and becoming due and for the payment of which other monies of the agency are not available. Any income or interest earned by, or increment to, the equity reserve fund due to the investment thereof may be transferred to the equity loan fund or other fund of the agency to the extent it does not reduce the amount of the equity reserve fund below the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on all equity bonds of the agency then outstanding.

(b) The agency shall not issue equity bonds at any time secured by the equity reserve fund if the maximum amount of principal and interest maturing and becoming due in a succeeding calendar year on the equity bonds then to be issued and on all other equity bonds of the agency then outstanding will exceed the amount of the equity reserve fund at the time of issuance, unless the agency, at the time of issuance of such bonds, shall deposit in such fund from the proceeds of the bonds so to be issued, or otherwise, an amount which together with the amount then in such fund, will be not less than the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the equity bonds then to be issued and on all other equity bonds of the agency then outstanding.

(c) The agency shall not issue equity bonds and equity notes in an aggregate principal amount exceeding fifty million dollars, excluding equity bonds and notes issued to refund outstanding equity bonds and notes.

(d) To assure the continued operation and solvency of the agency for

the carrying out of the public purposes of this article, provision is made in paragraph (a) of this subdivision for the accumulation in the equity reserve fund of an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on all equity bonds of the agency then outstanding. In order further to assure such maintenance of the equity reserve fund, there shall be annually apportioned and paid to the agency for deposit in the equity reserve fund such sum, if any, as shall be certified by the chairman of the agency to the governor and director of the budget as necessary to restore the equity reserve fund to an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the equity bonds of the agency then outstanding. The chairman of the agency shall annually, on or before December first, make and deliver to the governor and director of the budget his certificate stating the amount, if any, required to restore the equity reserve fund to the amount aforesaid and the amount so stated, if any, shall be apportioned and paid to the agency during the then current state fiscal year. The principal amount of bonds secured by the equity reserve fund to which state funds are apportionable pursuant to this paragraph shall be limited to the total amount of bonds and notes outstanding on the effective date of this act, plus the total amount of bonds and notes contracted after the effective date of this act to finance projects in progress on the effective date of this act, as determined by the New York state public authorities control board created pursuant to section fifty of the public authorities law whose affirmative determination shall be conclusive as to all matters of law and fact solely for the purposes of the limitations contained in this paragraph, but in no event shall the total amount of bonds so secured by such a equity reserve fund or funds exceed three hundred fifteen thousand dollars, excluding bonds issued to refund such outstanding bonds until the date of redemption of such outstanding bonds. As outstanding bonds so secured are paid, the amount so secured shall be reduced accordingly but the redemption of such outstanding bonds from the proceeds of refunding bonds shall not reduce the amount so secured.

(e) In computing the amount of the equity reserve fund for the purposes of this section, securities in which all or a portion of such fund shall be invested shall be valued at par if purchased at par, or if

purchased at other than par, at amortized value.

4. The agency shall create and establish a special fund (herein referred to as equity loan fund) and shall pay into such fund any monies which the agency shall transfer from the equity reserve fund pursuant to the provisions of paragraph (a) of subdivision three of this section and any monies received in payment of principal of or interest on equity loans. Such monies and any other monies paid into the equity loan fund may, in the discretion of the agency, but subject to agreements with the holders of equity bonds and equity notes be used by the agency (a) for the repayment of advances from the state in accordance with the provisions of repayment agreements between the agency and the director of the budget, (b) to reimburse the division of housing the reasonable costs of the services performed by the commissioner of housing and division of housing pursuant to section fifty-five of this article, (c) to pay all costs, expenses and charges of financing equity loans, including fees and expenses of trustees and paying agents, (d) for transfers to the equity reserve fund, (e) for the payment of the principal of and interest on equity bonds or equity notes issued by the agency when the same shall become due whether at maturity or on call for redemption and for the payment of any redemption premium required to be paid where such bonds or notes are redeemed prior to their stated maturities, and to purchase equity bonds or equity notes issued by the agency, or (f) for such other corporate purposes of the agency as the agency in its discretion shall determine and provide.

5. (a) The agency may create and establish one or more additional reserve funds to be known as debt service reserve funds and may pay into such reserve funds (1) any moneys appropriated and made available by the state for the purposes of such funds, (2) any proceeds of sale of non-profit project notes or non-profit project bonds, to the extent provided in the resolution of the agency authorizing the issuance thereof, and (3) any other moneys which may be made available to the agency for the purposes of such funds from any other source or sources. The moneys held in or credited to any debt service reserve fund established under this subdivision except as hereinafter provided, shall be used solely for the payment of the principal of non-profit project

bonds of the agency secured by such reserve fund, as the same mature, required payments to any sinking fund established in a resolution of the agency for the amortization of term bonds (hereinafter referred to as "sinking fund payments"), the purchase or redemption of such non-profit project bonds of the agency, the payment of interest on such non-profit project bonds of the agency or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity; provided, however, that moneys in any such fund shall not be withdrawn therefrom at any time in such amount as would reduce the amount of such fund to less than the maximum amount of principal, interest maturing and becoming due and sinking fund payments required to be made in any succeeding calendar year on the non-profit project bonds of the agency then outstanding and secured by such reserve fund, except for the purpose of paying principal and interest and sinking fund payments becoming due on the non-profit project bonds of the agency secured by such reserve fund maturing and becoming due and for the payment of which other moneys of the agency are not available. For the purposes of this subdivision five, in computing the maximum amount of principal maturing at a single future date (herein called "term bonds") in any succeeding calendar year, the principal amount of any such term bonds which are subject to mandatory redemption prior to such future date by sinking fund payments shall not be included in the computation determining the maximum amount of principal maturing in said future year. Any income or interest earned by, or increment to, any such debt service reserve fund due to the investment thereof may be transferred to any other fund or account of the agency to the extent it does not reduce the amount of such debt service reserve fund below the maximum amount of principal and interest maturing and becoming due and sinking fund payments required to be made in any succeeding calendar year on all non-profit project bonds of the agency then outstanding and secured by such reserve fund.

(b) The agency shall not issue non-profit project bonds at any time if the maximum amount of principal and interest maturing and becoming due and sinking fund payments required to be made in a succeeding calendar year on the non-profit project bonds outstanding and then to be issued and secured by a debt service reserve fund will exceed the amount of such reserve account at the time of issuance, unless the agency, at the time of issuance of such bonds, shall deposit in such reserve fund from

the proceeds of the bonds so to be issued, or otherwise, an amount which together with the amount then in such reserve fund, will be not less than the maximum amount of principal and interest maturing and becoming due and sinking fund payments required to be made in any succeeding calendar year on the non-profit project bonds then to be issued and on all other non-profit project bonds of the agency then outstanding and secured by such reserve fund.

(c) To assure the continued operation and solvency of the agency for the carrying out of the public purposes of this article provision is made in paragraph (a) of this subdivision for the accumulation in each debt service reserve fund of an amount equal to the maximum amount of principal and interest maturing and becoming due and sinking fund payments required to be made in any succeeding calendar year on all non-profit project bonds of the agency then outstanding and secured by such reserve fund. In order further to assure the maintenance of such debt service reserve funds, there shall be annually apportioned and paid to the agency for deposit in each debt service reserve fund such sum, if any, as shall be certified by the chairman of the agency to the governor and director of the budget as necessary to restore such reserve fund to an amount equal to the maximum amount of principal and interest maturing and becoming due and sinking fund payments required to be made in any succeeding calendar year on the non-profit project bonds of the agency then outstanding and secured by such reserve fund. The chairman of the agency shall annually, on or before December first, make and deliver to the governor and director of the budget his certificate stating the sum, if any, required to restore each such debt service reserve fund to the amount aforesaid, and the sum or sums so certified, if any, shall be apportioned and paid to the agency during the then current state fiscal year. The principal amount of bonds secured by a debt service reserve fund or funds to which state funds are apportionable pursuant to this paragraph shall be limited to the total amount of bonds and notes outstanding on the effective date of this act, plus the total amount of bonds and notes contracted after the effective date of this act to finance projects in progress on the effective date of this act as determined by the New York state public authorities control board created pursuant to section fifty of the public authorities law whose affirmative determination shall be conclusive as to all matters of law

and fact solely for the purpose of the limitations contained in this paragraph, but in no event shall the total amount of bonds so secured by such a debt service reserve fund or funds exceed seven hundred ninety-three million dollars, excluding bonds issued to refund such outstanding bonds until the date of redemption of such outstanding bonds. As outstanding bonds so secured are paid, the amount so secured shall be reduced accordingly but the redemption of such outstanding bonds from the proceeds of refunding bonds shall not reduce the amount so secured.

(d) In computing any debt service reserve fund for the purposes of this section, securities in which all or a portion of such reserve fund shall be invested shall be valued at par, or if purchased at less than par, at their cost to the agency.

6. (a) The agency may create and establish a special fund to be known as hospital and nursing home capital reserve fund and may pay into such reserve funds (1) any monies appropriated and made available by the state for the purposes of such funds, (2) any proceeds of sale of hospital and nursing home project notes or hospital and nursing home project bonds, to the extent provided in the resolution of the agency authorizing the issuance thereof, and (3) any other monies which may be made available to the agency for the purposes of such accounts from any other source or sources. The monies held in or credited to the capital reserve fund established under this subdivision except as hereinafter provided, shall be used solely for the payment of the principal of hospital and nursing home project bonds of the agency secured by such reserve fund, as the same mature, required payments to any sinking fund established in a resolution of the agency for the amortization of term bonds (hereinafter referred to as "sinking fund payments") the purchase or redemption of such hospital and nursing home project bonds of the agency, the payment of interest on such hospital and nursing home project bonds of the agency, or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity; provided, however, that monies in any such fund shall not be withdrawn therefrom at any time in such amount as would reduce the amount of such fund to less than the maximum amount of principal and interest maturing and becoming due and sinking fund payments required to be made in any

succeeding calendar year on the hospital and nursing home project bonds of the agency then outstanding and secured by such reserve fund, except for the purpose of paying principal, interest on hospital and nursing home project bonds of the agency secured by such reserve fund maturing and becoming due and sinking fund payments becoming due and for the payment of which other monies of the agency are not available. For the purposes of this subdivision six, in computing the maximum amount of principal maturing at a single future date (herein called "term bonds") in any succeeding calendar year, the principal amount of any such term bonds which are subject to mandatory redemption prior to such future date by sinking fund payments shall not be included in the computation determining the maximum amount of principal maturing in said future year. Any income or interest earned by, or increment to, any such hospital and nursing home capital reserve fund due to the investment thereof may be transferred to the hospital and nursing home general reserve fund or other fund of the agency, to the extent it does not reduce the amount of such hospital and nursing home capital reserve fund below the maximum amount of principal and interest maturing and becoming due and sinking fund payments required to be made in any succeeding calendar year on all hospital and nursing home project bonds of the agency then outstanding and secured by such reserve fund.

(b) The agency shall not issue hospital and nursing home project bonds and notes in an aggregate principal amount exceeding one billion nine hundred fifty million dollars excluding hospital and nursing home project bonds and hospital and nursing home project notes issued to refund outstanding hospital and nursing home project bonds and hospital and nursing home project notes, nor shall it issue hospital and nursing home project bonds at any time secured by the hospital and nursing home capital reserve fund if the maximum amount of principal and interest maturing and becoming due and sinking fund payments required to be made in a succeeding calendar year on the hospital and nursing home project bonds outstanding and then to be issued and secured by the hospital and nursing home capital reserve fund will exceed the amount of such reserve fund at the time of issuance, unless the agency, at the time of issuance of such bonds, shall deposit in such reserve fund from the proceeds of the bonds so to be issued, or otherwise, an amount which together with the amount then in such reserve fund, will be not less than the maximum

amount of principal and interest maturing and becoming due and sinking fund payments required to be made in any succeeding calendar year on the hospital and nursing home project bonds then to be issued and on all other hospital and nursing home project bonds of the agency then outstanding and secured by such reserve fund.

(c) To assure the continued operation and solvency of the agency for the carrying out of the public purposes of this article provision is made in paragraph (a) of this subdivision for the accumulation in the hospital and nursing home capital reserve fund of an amount equal to the maximum amount of principal and interest maturing and becoming due and sinking fund payments to be made in any succeeding calendar year on all hospital and nursing home project bonds of the agency then outstanding and secured by such reserve fund. In order further to assure the maintenance of such hospital and nursing home capital reserve fund, there shall be annually apportioned and paid to the agency for deposit in such hospital and nursing home capital reserve fund such sum, if any, as shall be certified by the chairman of the agency to the governor and director of the budget as necessary to restore such reserve fund to an amount equal to the maximum amount of principal and interest maturing and becoming due and sinking fund payments required to be made in any succeeding calendar year on the hospital and nursing home project bonds of the agency then outstanding and secured by such reserve fund. The chairman of the agency shall annually, on or before December first, make and deliver to the governor and director of the budget his certificate stating the sums, if any, required to restore such hospital and nursing home capital reserve fund to the amount aforesaid, and the sums so certified, if any, shall be apportioned and paid to the agency during the then current state fiscal year. The principal amount of bonds secured by the hospital and nursing home capital reserve fund to which state funds are apportionable pursuant to this paragraph shall be limited to the total amount of bonds and notes outstanding on the effective date of this act, plus the total amount of bonds and notes contracted after the effective date of this act to finance projects on progress on the effective date of this act as determined by the New York state public authorities control board created pursuant to section fifty of the public authorities law whose affirmative determination shall be conclusive as to all matters of law and fact solely for the purposes of

the limitations contained in this paragraph, but in no event shall the total amount of bonds so secured by such a capital reserve fund or funds exceed nine hundred sixteen million dollars, excluding bonds issued to refund such outstanding bonds until the date of redemption of such outstanding bonds. As outstanding bonds so secured are paid, the amount so secured shall be reduced accordingly but the redemption of such outstanding bonds from the proceeds of refunding bonds shall not reduce the amount so secured.

(d) In computing any hospital and nursing home capital reserve fund for the purposes of this section, securities in which all or a portion of such reserve fund shall be invested shall be valued at par, or if purchased at less than par, at their cost to the agency.

7. The agency shall create and establish one or more additional special funds (herein referred to as hospital and nursing home general reserve funds) and shall, to the extent provided in the applicable bond resolution of the agency authorizing the issuance of hospital and nursing home project bonds, pay into any such fund the fees and charges collected by the agency pursuant to paragraph (b) of subdivision eleven of section forty-four of this article and any monies which the agency shall transfer from the hospital and nursing home capital reserve fund pursuant to the provisions of paragraph (a) of subdivision six of this section. Such monies and any other monies paid into a hospital and nursing home general reserve fund may, in the discretion of the agency, but subject to agreements with bondholders and noteholders, be used by the agency (a) for the repayment of advances from the state in accordance with the provisions of repayment agreements between the agency and the director of the budget, (b) to reimburse the department of health the reasonable costs of the services performed by the commissioner of health and the department of health pursuant to subdivision three of section fifty-five of this article, (c) to pay all costs, expenses and charges of financing, including fees and expenses of trustees and paying agents, (d) for transfers to the hospital and nursing home capital reserve fund, (e) for the payment of principal and interest on hospital and nursing home project bonds and notes issued by the agency when the same shall become due whether at maturity or on call for redemption and for the payment of any redemption premium required to

be paid where such hospital and nursing home project bonds and notes are redeemed prior to their stated maturities and to purchase hospital and nursing home project bonds or notes issued by the agency, or (f) for such other corporate purposes of the agency as the agency in its discretion shall determine and provide.

8. (a) The agency may create and establish one or more additional reserve funds to be known as health facilities reserve funds and may pay into such reserve funds (1) any monies appropriated and made available by the state for the purposes of such funds, (2) any proceeds of sale of health facilities notes or health facilities bonds, to the extent provided in the resolution of the agency authorizing the issuance thereof, and (3) any other monies which may be made available to the agency for the purposes of such funds from any other source or sources. The monies held in or credited to any health facilities reserve fund established under this subdivision, except as hereinafter provided, shall be used solely for the payment of the principal of health facilities bonds of the agency secured by such reserve fund, as the same mature, required payments to any sinking fund established in a resolution of the agency for the amortization of term bonds (hereinafter referred to as "sinking fund payments") the purchase or redemption of such health facilities bonds of the agency, the payment of interest on such health facilities bonds of the agency, or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity; provided, however, that monies in any such fund shall not be withdrawn therefrom at any time in such amount as would reduce the amount of such fund to less than the maximum amount of principal and interest maturing and becoming due and sinking fund payments required to be made in any succeeding calendar year on the health facilities bonds of the agency then outstanding and secured by such reserve fund, except for the purpose of paying principal, interest and sinking fund payments becoming due on the health facilities bonds of the agency secured by such reserve fund maturing and becoming due and for the payment of which other monies of the agency are not available. For the purposes of this subdivision eight, in computing the maximum amount of principal maturing at a single future date (herein called "term bonds") in any succeeding calendar year, the principal amount of any such term bonds which are

subject to mandatory redemption prior to such future date by sinking fund payments shall not be included in the computation determining the maximum amount of principal maturing in said future year. Any income or interest earned by, or increment to, any such health facilities reserve fund due to the investment thereof may be transferred to any other fund or account of the agency to the extent it does not reduce the amount of such health facilities reserve fund below the maximum amount of principal and interest maturing and becoming due and sinking fund payments required to be made in any succeeding calendar year on all health facilities bonds of the agency then outstanding and secured by such reserve fund.

(b) The agency shall not issue health facilities bonds at any time if the maximum amount of principal and interest maturing and becoming due and sinking fund payments required to be made in a succeeding calendar year on the health facilities bonds outstanding and then to be issued and secured by any health facilities reserve fund will exceed the amount of such reserve account at the time of issuance, unless the agency, at the time of issuance of such bonds, shall deposit in such reserve fund from the proceeds of the bonds so to be issued, or otherwise, an amount which together with the amount then in such reserve fund will be not less than the maximum amount of principal and interest maturing and becoming due and sinking fund payments required to be made in any succeeding calendar year on the health facilities bonds then to be issued and on all other health facilities bonds of the agency then outstanding and secured by such reserve fund.

(c) To assure the continued operation and solvency of the agency for the carrying out of the public purposes of this article, provision is made in paragraph (a) of this subdivision for the accumulation in each health facilities reserve fund of an amount equal to the maximum amount of principal and interest maturing and becoming due and sinking fund payments required to be made in any succeeding calendar year on all health facilities bonds of the agency then outstanding and secured by such reserve fund. In order further to assure the maintenance of such health facilities reserve funds, there shall be annually apportioned and paid to the agency for deposit in each health facilities reserve fund such sum, if any, as shall be certified by the chairman of the agency to the governor and director of the budget as necessary to restore such

reserve fund to an amount equal to the maximum amount of principal and interest maturing and becoming due and sinking fund payments required to be made in any succeeding calendar year on the health facilities bonds of the agency then outstanding and secured by such reserve fund. The chairman of the agency shall annually, on or before December first, make and deliver to the governor and director of the budget his certificate stating the sums, if any, required to restore each such health facilities reserve fund to the amount aforesaid, and the sums so certified, if any, shall be apportioned and paid to the agency during the then current state fiscal year. The principal amount of bonds secured by a health facilities reserve fund or funds to which state funds are apportionable pursuant to this paragraph shall be limited to the total amount of bonds and notes outstanding on the effective date of this act, plus the total amount of bonds and notes contracted after the effective date of this act to finance projects in progress on the effective date of this act as determined by the New York state public authorities control board created pursuant to section fifty of the public authorities law whose affirmative determination shall be conclusive as to all matters of law and fact solely for the purposes of the limitations contained in this paragraph, but in no event shall the total amount of bonds so secured by such a reserve fund or funds exceed six hundred seventy-five million dollars, excluding bonds issued to refund such outstanding bonds until the date of redemption of such outstanding bonds. As outstanding bonds so secured are paid, the amount so secured shall be reduced accordingly but the redemption of such outstanding bonds from the proceeds of refunding bonds shall not reduce the amounts so secured.

(d) In computing any health facilities reserve fund for the purposes of this section, securities in which all or a portion of such reserve fund shall be invested shall be valued at par, or if purchased at less than par, at their cost to the agency.

9. (a) The agency may create and establish one or more additional reserve funds to be known as urban rental debt service reserve funds and may pay into such reserve funds (1) any monies appropriated and made available by the state for the purposes of such funds, (2) any proceeds of sale of urban rental project notes or urban rental project bonds, to

the extent provided in the resolution of the agency authorizing the issuance thereof, and (3) any other monies which may be made available to the agency for the purposes of such funds from any other source or sources. The monies held in or credited to any urban rental debt service reserve fund established under this subdivision except as hereinafter provided, shall be used solely for the payment of the principal of urban rental project bonds of the agency secured by such reserve fund, as the same mature, required payments to any sinking fund established in a resolution of the agency for the amortization of term bonds (hereinafter referred to as "sinking fund payments"), the purchase or redemption of such urban rental project bonds of the agency, the payment of interest on such urban rental project bonds of the agency, or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity; provided, however, that monies in any such fund shall not be withdrawn therefrom at any time in such amount as would reduce the amount of such fund to less than the maximum amount of principal and interest maturing and becoming due and sinking fund payments required to be made in any succeeding calendar year on the urban rental project bonds of the agency then outstanding and secured by such reserve fund, except for the purpose of paying principal, interest and sinking fund payments becoming due on the urban rental project bonds of the agency secured by such reserve fund maturing and becoming due and for the payment of which other monies of the agency are not available. For the purposes of this subdivision nine, in computing the maximum amount of principal maturing at a single future date (herein called "term bonds") in any succeeding calendar year, the principal amount of any such term bonds which are subject to mandatory redemption prior to such future date by sinking fund payments shall not be included in the computation determining the maximum amount of principal maturing in said future year. Any income or interest earned by, or increment to, any such urban rental debt service reserve fund due to the investment thereof may be transferred to any other fund or account of the agency to the extent it does not reduce the amount of such urban rental debt service reserve fund below the maximum amount of principal and interest maturing and becoming due and sinking fund payments required to be made in any succeeding calendar year on all urban rental project bonds of the agency then outstanding and secured by such reserve fund.

(b) The agency shall not issue urban rental project bonds at any time if the maximum amount of principal and interest maturing and becoming due and sinking fund payments required to be made in any succeeding calendar year on the urban rental project bonds outstanding and then to be issued and secured by an urban rental debt service reserve fund will exceed the amount of such reserve account at the time of issuance, unless the agency, at the time of issuance of such bonds, shall deposit in such reserve fund from the proceeds of the bonds so to be issued, or otherwise, an amount which together with the amount then in such reserve fund, will be not less than the maximum amount of principal and interest maturing and becoming due and sinking fund payments required to be made in any succeeding calendar year on the urban rental project bonds then to be issued and on all other urban rental project bonds of the agency then outstanding and secured by such reserve fund.

(c) To assure the continued operation and solvency of the agency for the carrying out of the public purposes of this article provision is made in paragraph (a) of this subdivision for the accumulation in each urban rental debt service reserve fund of an amount equal to the maximum amount of principal and interest maturing and becoming due and sinking fund payments required to be made in any succeeding calendar year on all urban rental project bonds of the agency then outstanding and secured by such reserve fund. In order further to assure the maintenance of such urban rental debt service reserve funds, there shall be annually apportioned and paid to the agency for deposit in each urban rental debt service reserve fund such sum, if any, as shall be certified by the chairman of the agency to the governor and director of the budget as necessary to restore such reserve fund to an amount equal to the maximum amount of principal and interest maturing and becoming due and sinking fund payments required to be made in any succeeding calendar year on the urban rental project bonds of the agency then outstanding and secured by such reserve fund. The chairman of the agency shall annually, on or before December first, make and deliver to the governor and director of the budget his certificate stating the sums, if any, required to restore each such urban rental debt service reserve fund to the amount aforesaid, and the sums so certified, if any, shall be apportioned and paid to the agency during the then current state fiscal year. The principal amount of bonds secured by an urban rental debt service

reserve fund or funds to which state funds are apportionable pursuant to this paragraph shall be limited to the total amount of bonds and notes outstanding on the effective date of this act, plus the total amount of bonds and notes contracted after the effective date of this act to finance projects in progress on the effective date of this act as determined by the New York state public authorities control board created pursuant to section fifty of the public authorities law whose affirmative determination shall be conclusive as to all matters of law and fact solely for the purposes of the limitations contained in this paragraph, but in no event shall the total amount of bonds so secured by such a debt service reserve fund or funds exceed six hundred forty-five million dollars, excluding bonds issued to refund such outstanding bonds until the date of redemption of such outstanding bonds. As outstanding bonds so secured are paid, the amount so secured shall be reduced accordingly but the redemption of such outstanding bonds from the proceeds of refunding bonds shall not reduce the amount so secured.

(d) In computing any urban rental debt service reserve fund for the purposes of this section, securities in which all or a portion of such reserve fund shall be invested shall be valued at par if purchased at par, or if purchased at other than par, at amortized value.

10. (a) The agency may create and establish a special fund to be known as youth facilities capital reserve fund and may pay into such reserve funds (1) any monies appropriated and made available by the state for the purposes of such funds, (2) any proceeds of sale of youth facilities project notes or youth facilities project bonds, to the extent provided in the resolution of the agency authorizing the issuance thereof, and (3) any other monies which may be made available to the agency for the purposes of such accounts from any other source or sources. The monies held in or credited to the capital reserve fund established under this subdivision except as hereinafter provided, shall be used solely for the payment of principal of youth facilities project bonds of the agency secured by such reserve fund, as the same mature, the purchase of such youth facilities project bonds of the agency, the payment of interest on youth facilities project bonds of the agency, or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity; provided, however, that monies in any such fund shall

not be withdrawn therefrom at any time in such amount as would reduce the amount of such fund to less than the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the youth facilities project bonds of the agency then outstanding and secured by such reserve fund, except for the purpose of paying principal and interest on youth facilities project bonds of the agency secured by such reserve fund maturing and becoming due and for the payment of which other monies of the agency are not available. Any income or interest earned by, or increment to, any such youth facilities capital reserve fund due to the investment thereof may be transferred to the youth facilities general reserve fund or other fund of the agency, to the extent it does not reduce the amount of such youth facilities capital reserve fund below the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on all youth facilities project bonds of the agency then outstanding and secured by such reserve fund.

(b) The agency shall not issue youth facilities project bonds and notes in an aggregate principal amount exceeding one hundred million dollars excluding youth facilities project bonds and youth facilities project notes issued to refund outstanding youth facilities project bonds and youth facilities project notes, nor shall it issue youth facilities project bonds at any time secured by the youth facilities capital reserve fund if the maximum amount of principal and interest maturing and becoming due in a succeeding calendar year on the youth facilities project bonds outstanding and then to be issued and secured by the youth facilities capital reserve fund will exceed the amount of such reserve fund at the time of issuance, unless the agency, at the time of issuance of such bonds, shall deposit in such reserve fund from the proceeds of the bonds so to be issued, or otherwise, an amount which together with the amount then in such reserve fund, will be not less than the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the youth facilities project bonds then to be issued and on all other youth facilities project bonds of the agency then outstanding and secured by such reserve fund.

(c) To assure the continued operation and solvency of the agency for the carrying out of the public purposes of this article provision is made in paragraph (a) of this subdivision for the accumulation in the

youth facilities capital reserve fund of an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on all youth facilities project bonds of the agency then outstanding and secured by such reserve fund. In order further to assure the maintenance of such youth facilities capital reserve fund, there shall be annually apportioned and paid to the agency for deposit in such youth facilities capital reserve fund such sum, if any, as shall be certified by the chairman of the agency to the governor and director of the budget as necessary to restore such reserve fund to an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the youth facilities project bonds of the agency then outstanding and secured by such reserve fund. The chairman of the agency shall annually, on or before December first, make and deliver to the governor and director of the budget his certificate stating the sums, if any, required to restore such youth facilities capital reserve fund to the amount aforesaid, and the sums so certified, if any, shall be apportioned and paid to the agency during the then current state fiscal year. The principal amount of bonds secured by the youth facilities capital reserve fund to which state funds are apportionable pursuant to this paragraph shall be limited to the total amount of bonds and notes outstanding on the effective date of this act, plus the total amount of bonds and notes contracted after the effective date of this act to finance projects in progress on the effective date of this act as determined by the New York state public authorities control board created pursuant to section fifty of the public authorities law whose affirmative determination shall be conclusive as to all matters of law and fact solely for the purposes of the limitations contained in this paragraph, but in no event shall the total amount of bonds so secured by such a capital reserve fund exceed twenty-four million dollars, excluding bonds issued to refund such outstanding bonds until the date of redemption of such outstanding bonds. As outstanding bonds so secured are paid, the amount so secured shall be reduced accordingly but the redemption of such outstanding bonds from the proceeds of refunding bonds shall not reduce the amount so secured.

(d) In computing any youth facilities capital reserve fund for the purpose of this section, securities in which all or a portion of such

reserve fund shall be invested shall be valued at par if purchased at par, or if purchased at other than par, at amortized value.

11. The agency shall create and establish a special fund (herein referred to as the youth facilities general reserve fund) and shall pay into such fund all fees and charges collected by the agency pursuant to paragraph (c) of subdivision eleven of section forty-four of this article and any monies which the agency shall transfer from the youth facilities capital reserve fund pursuant to the provisions of paragraph (a) of subdivision ten of this section. Such monies and any other monies paid into the youth facilities general reserve fund may, in the discretion of the agency, but subject to agreements with bondholders and noteholders, be used by the agency (a) for the repayment of advances from the state in accordance with the provisions of repayment agreements between the agency and the director of the budget, (b) to reimburse the department of social services the reasonable costs of the services performed by the commissioner of social services and the department of social services pursuant to subdivision four of section fifty-five of this article, (c) to pay all costs, expenses and charges of financing, including fees and expenses of trustees and paying agents, (d) for transfers to the youth facilities capital reserve fund, (e) for the payment of principal of and interest on youth facilities project bonds and notes issued by the agency when the same shall become due whether at maturity or on call for redemption and for the payment of any redemption premium required to be paid where such youth facilities project bonds and notes are redeemed prior to their stated maturities and to purchase youth facilities project bonds or notes issued by the agency, or (f) for such other corporate purposes of the agency as the agency in its discretion shall determine and provide.

12. (a) The agency may create and establish a special fund to be known as community mental health services and developmental disabilities services capital reserve fund and may pay into such reserve funds (1) any monies appropriated and made available by the state for the purposes of such funds, (2) any proceeds of sale of community mental health services and developmental disabilities services project notes or community mental health services and developmental disabilities services

project bonds, to the extent provided in the resolution of the agency authorizing the issuance thereof, and (3) any other monies which may be made available to the agency for the purposes of such accounts from any other source or sources. The monies held in or credited to the capital reserve fund established under this subdivision except as hereinafter provided, shall be used solely for the payment of principal of community mental health services and developmental disabilities services project bonds of the agency secured by such reserve fund, as the same mature, the purchase of such community mental health services and developmental disabilities services project bonds of the agency, the payment of interest on such community mental health services and developmental disabilities services project bonds of the agency, or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity; provided, however, that monies in any such fund shall not be withdrawn therefrom at any time in such amount as would reduce the amount of such fund to less than the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the community mental health services and developmental disabilities services project bonds of the agency then outstanding and secured by such reserve fund, except for the purpose of paying principal and interest on community mental health services and developmental disabilities services project bonds of the agency secured by such reserve fund maturing and becoming due and for the payment of which other monies of the agency are not available. Any income or interest earned by, or increment to, any such community mental health services and developmental disabilities services capital reserve fund due to the investment thereof may be transferred to the community mental health services and developmental disabilities services general reserve fund or other fund of the agency, to the extent it does not reduce the amount of such community mental health services and developmental disabilities services capital reserve fund below the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on all community mental health services and developmental disabilities services project bonds of the agency then outstanding and secured by such reserve fund.

(b) The agency shall not issue community mental health services and developmental disabilities services project bonds and notes in an

aggregate principal amount exceeding one hundred million dollars excluding community mental health services and developmental disabilities services project bonds and community mental health services and developmental disabilities services project notes issued to refund outstanding community mental health services and developmental disabilities services project bonds and community mental health services and developmental disabilities services project notes, nor shall it issue community mental health services and developmental disabilities services project bonds at any time secured by the community mental health services and developmental disabilities services capital reserve fund if the maximum amount of principal and interest maturing and becoming due in a succeeding calendar year on the community mental health services and developmental disabilities services project bonds outstanding and then to be issued and secured by the community mental health services and developmental disabilities services capital reserve fund will exceed the amount of such reserve fund at the time of issuance, unless the agency, at the time of issuance of such bonds, shall deposit in such reserve fund from the proceeds of the bonds so to be issued, or otherwise, an amount which together with the amount then in such reserve fund, will be not less than the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the community mental health services and developmental disabilities services project bonds then to be issued and on all other community mental health services and developmental disabilities services project bonds of the agency then outstanding and secured by such reserve fund.

(c) To assure the continued operation and solvency of the agency for the carrying out of the public purposes of this article provision is made in paragraph (a) of this subdivision for the accumulation in the community mental health services and developmental disabilities services capital reserve fund of an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on all community mental health services and developmental disabilities services project bonds of the agency then outstanding and secured by such reserve fund. In order further to assure the maintenance of such community mental health services and developmental disabilities services capital reserve fund, there shall be annually apportioned and

paid to the agency for deposit in such community mental health services and developmental disabilities services capital reserve fund such sum, if any, as shall be certified by the chairman of the agency to the governor and director of the budget as necessary to restore such reserve fund to an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the community mental health services and developmental disabilities services project bonds of the agency then outstanding and secured by such reserve fund. The chairman of the agency shall annually, on or before December first, make and deliver to the governor and director of the budget his or her certificate stating the sums, if any, required to restore such community mental health services and developmental disabilities services capital reserve fund to the amount aforesaid, and the sums so certified, if any, shall be apportioned and paid to the agency during the then current state fiscal year. The principal amount of bonds secured by the community mental health services and developmental disabilities services capital reserve fund to which state funds are apportionable pursuant to this paragraph shall be limited to the total amount of bonds and notes outstanding on the effective date of this act, plus the total amount of bonds and notes contracted after the effective date of this act to finance projects in progress on the effective date of this act as determined by the New York state public authorities control board created pursuant to section fifty of the public authorities law whose affirmative determination shall be conclusive as to all matters of law and fact solely for the purposes of the limitations contained in this paragraph, but in no event shall the total amount of bonds so secured by such a capital reserve fund or funds exceed thirteen million dollars, excluding bonds issued to refund such outstanding bonds until the date of redemption of such outstanding bonds. As outstanding bonds so secured are paid, the amount so secured shall be reduced accordingly but the redemption of such outstanding bonds from the proceeds of refunding bonds shall not reduce the amount so secured.

(d) In computing any community mental health services and developmental disabilities services capital reserve fund for the purposes of this section, securities in which all or a portion of such reserve fund shall be invested shall be valued at par if purchased at par, or if purchased at other than par, at amortized value.

13. The agency shall create and establish a special fund (herein referred to as community mental health services and developmental disabilities services general reserve fund) and shall pay into such fund all fees and charges collected by the agency pursuant to paragraph (c) of subdivision eleven of section forty-four of this article and any monies which the agency shall transfer from the community mental health services and developmental disabilities services capital reserve fund pursuant to the provisions of paragraph (a) of subdivision ten of this section. Such monies and any other monies paid into the community mental health services and developmental disabilities services general reserve fund may, in the discretion of the agency, but subject to agreements with bondholders and noteholders, be used by the agency (a) for the repayment of advances from the state in accordance with the provisions of repayment agreements between the agency and the director of the budget, (b) to reimburse the department of mental hygiene the reasonable costs of the services performed by the commissioner of mental hygiene and the department of mental hygiene pursuant to subdivision four of section fifty-five of this article, including the reasonable costs of such services performed by the health and mental hygiene facilities improvement corporation upon request by the commissioner of mental hygiene pursuant to the provisions of section 75.25 of the mental hygiene law, (c) to pay all costs, expenses and charges of financing, including fees and expenses of trustees and paying agents, (d) for transfers to the community mental health services and developmental disabilities services capital reserve fund, (e) for the payment of principal of and interest on community mental health services and developmental disabilities services project bonds and notes issued by the agency when the same shall become due whether at maturity or on call for redemption and for the payment of any redemption premium required to be paid where such community mental health services and developmental disabilities services project bonds and notes are redeemed prior to their stated maturities and to purchase community mental health services and developmental disabilities services project bonds or notes issued by the agency, or (f) for such other corporate purposes of the agency as the agency in its discretion shall determine and provide.

14. (a) The agency may create and establish a special fund to be known as community senior citizens services capital reserve fund and may pay into such reserve fund (1) any moneys appropriated and made available by the state for the purposes of such fund, (2) any proceeds of sale of community senior citizens services project notes or community senior citizens services project bonds, to the extent provided in the resolution of the agency authorizing the issuance thereof, and (3) any other moneys which may be made available to the agency for the purposes of such accounts from any other source or sources. The moneys held in or credited to the capital reserve fund established under this subdivision except as hereinafter provided, shall be used solely for the payment of principal of community senior citizens services project bonds of the agency secured by such reserve fund, as the same mature, the purchase of such community senior citizens services project bonds of the agency, the payment of interest on such community senior citizens services project bonds of the agency, or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity; provided, however, that moneys in any such fund shall not be withdrawn therefrom at any time in such amount as would reduce the amount of such fund to less than the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the community senior citizens services project bonds of the agency then outstanding and secured by such reserve fund, except for the purpose of paying principal and interest on community senior citizens services project bonds of the agency secured by such reserve fund maturing and becoming due and for the payment of which other moneys of the agency are not available. Any income or interest earned by, or increment to, any such community senior citizens services capital reserve fund due to the investment thereof may be transferred to the community senior citizens services general reserve fund or other fund of the agency, to the extent it does not reduce the amount of such community senior citizens services capital reserve fund below the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on all community senior citizens services project bonds of the agency then outstanding and secured by such reserve fund.

(b) The agency shall not issue community senior citizens services project bonds and notes in an aggregate principal amount exceeding fifty

million dollars excluding community senior citizens services project bonds and community senior citizens services project notes issued to refund outstanding community senior citizens services project bonds and community senior citizens services project notes, nor shall it issue community senior citizens services project bonds at any time secured by the community senior citizens capital reserve fund if the maximum amount of principal and interest maturing and becoming due in a succeeding calendar year on the community senior citizens services project bonds outstanding and then to be issued and secured by the community senior citizens services capital reserve fund will exceed the amount of such reserve fund at the time of issuance, unless the agency, at the time of issuance of such bonds, shall deposit in such reserve fund from the proceeds of the bonds so to be issued, or otherwise, an amount which together with the amount then in such reserve fund, will be not less than the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the community senior citizens services project bonds then to be issued and on all other community senior citizens services project bonds of the agency then outstanding and secured by such reserve fund.

(c) To assure the continued operation and solvency of the agency for the carrying out of the public purposes of this article provision is made in paragraph (a) of this subdivision for the accumulation in the community senior citizens services capital reserve fund of an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on all community senior citizens services project bonds of the agency then outstanding and secured by such reserve fund. In order further to assure the maintenance of such community senior citizens services capital reserve fund, there shall be annually apportioned and paid to the agency for deposit in such community senior citizens services capital reserve fund such sum, if any, as shall be certified by the chairman of the agency to the governor and director of the budget as necessary to restore such reserve fund to an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the community senior citizens services project bonds of the agency then outstanding and secured by such reserve fund. The chairman of the agency shall annually, on or before December first, make and deliver to the governor and

director of the budget his certificate stating the sums, if any, required to restore such community senior citizens services capital reserve fund to the amount aforesaid, and the sums so certified, if any, shall be apportioned and paid to the agency during the then current state fiscal year. The principal amount of bonds secured by the community senior citizens services capital reserve fund to which state funds are apportionable pursuant to this paragraph shall be limited to the total amount of bonds and notes outstanding on the effective date of this act, plus the total amount of bonds and notes contracted after the effective date of this act to finance projects in progress on the effective date of this act as determined by the New York state public authorities control board created pursuant to section fifty of the public authorities law whose affirmative determination shall be conclusive as to all matters of law and fact solely for the purposes of the limitations contained in this paragraph, but in no event shall the total amount of bonds so secured by such a capital reserve fund or funds exceed two million eight hundred thousand dollars, excluding bonds issued to refund such outstanding bonds until the date of redemption of such outstanding bonds. As outstanding bonds so secured are paid, the amount so secured shall be reduced accordingly but the redemption of such outstanding bonds from the proceeds of refunding bonds shall not reduce the amount so secured.

(d) In computing any community senior citizens services capital reserve fund for the purposes of this section, securities in which all or a portion of such reserve fund shall be invested shall be valued at par if purchased at par, or if purchased at other than par, at amortized value.

15. The agency shall create and establish a special fund (herein referred to as community senior citizens services general reserve fund) and shall pay into such fund all fees and charges collected by the agency pursuant to subdivision eleven-a of section forty-four of this article and any moneys which the agency shall transfer from the community senior citizens services capital reserve fund pursuant to the provisions of paragraph (a) of subdivision fourteen of this section. Such moneys and any other moneys paid into the community senior citizens services general reserve fund may, in the discretion of the agency, but

subject to agreements with bondholders and noteholders, be used by the agency (a) for the repayment of advances from the state in accordance with the provisions of repayment agreements between the agency and the director of the budget, (b) to reimburse the department of social services of the state of New York for the reasonable costs of the services performed by such department pursuant to subdivision six of section fifty-five of this article, (c) to pay all costs, expenses and charges of financing, including fees and expenses of trustees and paying agents, (d) for transfers to the community senior citizens services capital reserve fund, (e) for the payment of principal of and interest on community senior citizens services project bonds and notes issued by the agency when the same shall become due whether at maturity or on call for redemption and for the payment of any redemption premium required to be paid where such community senior citizens services project bonds and notes are redeemed prior to their stated maturities and to purchase community senior citizens services project bonds or notes issued by the agency, or (f) for such other corporate purposes of the agency as it, in its discretion, shall determine and provide.

16. (a) The agency may create and establish one or more special funds to be known as community mental health services and developmental disabilities services capital reserve funds and may pay into such reserve funds (1) any monies appropriated and made available by the state for the purposes of such funds, (2) any proceeds of the sale of community mental health services and developmental disabilities services project revenue bonds or notes, to the extent provided in the resolution of the agency authorizing the issuance thereof, and (3) any other monies which may be made available to the agency for the purposes of such fund or funds from any other source or sources. The monies held in or credited to a capital reserve fund established under this subdivision, except as hereinafter provided and as provided in agreements with bondholders and noteholders, shall be used solely for the payment of principal of community mental health services and developmental disabilities services project revenue bonds of the agency secured by such reserve fund, as the same mature, required payments to any sinking fund established in a resolution of the agency for the amortization of term bonds (hereinafter referred to as "sinking fund payments"), the

purchase of such revenue bonds of the agency, the payment of interest on such revenue bonds of the agency, or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity. Any income or interest earned by, or increment to, any such community mental health services and developmental disabilities services capital reserve fund due to the investment thereof may be transferred to the agency, subject to agreements with bondholders and noteholders.

(b) In computing any community mental health services and developmental disabilities services capital reserve fund for the purposes of this section, securities in which all or a portion of such reserve fund shall be invested shall be valued at par if purchased at par, or if purchased at other than par, at the amortized value.

(c) The agency shall create and establish one or more special funds (herein referred to as community mental health services and developmental disabilities services general reserve funds) and shall to the extent provided in the applicable bond resolution of the agency authorizing the issuance of community mental health services and developmental disabilities services project revenue bonds, pay into any such fund the fees and charges collected by the agency pursuant to paragraph (d) of subdivision eleven of section forty-four of this article and any monies which the agency shall transfer from a community mental health services and developmental disabilities services capital reserve fund pursuant to the provisions of paragraph (a) of this subdivision. Such monies and any other monies paid into a community mental health services and developmental disabilities service general reserve fund may, in the discretion of the agency, but subject to agreements with bondholders and noteholders, be used by the agency (i) for the repayment of advances from the state in accordance with the provisions of repayment agreements between the agency and the director of the budget, (ii) to reimburse the department of mental hygiene the reasonable costs of the services performed by the commissioner of mental hygiene and the department of mental hygiene pursuant to subdivision five of section fifty-five of this article, including the reasonable costs of such services performed by the facilities development corporation upon request by the commissioner of mental hygiene pursuant to the provisions of section 75.25 of the mental hygiene law, (iii) to pay all costs, expenses and charges of financing, including fees and

expenses of trustees and paying agents, (iv) for transfers to a community mental health services and developmental disabilities services capital reserve fund, (v) for the payment of principal of and interest on community mental health services and developmental disabilities services project revenue bonds and notes issued by the agency when the same shall become due whether at maturity or on call for redemption and for the payment of any redemption premium required to be paid where such community mental health services and developmental disabilities services project revenue bonds and notes are redeemed prior to their stated maturities and to purchase community mental health services and developmental disabilities services revenue bonds or notes issued by the agency, or (vi) for such other corporate purposes of the agency as the agency in its discretion shall determine and provide.

§ 47-a. State university construction bonds and notes. 1.

Definitions. For the purposes of section forty-seven and of this section:

a. "State university facility" shall mean a classroom, lecture hall, library, laboratory or other academic building, or any structure on or improvement to real property of any kind or description, including fixtures and equipment which are an integral part of any such building, structure or improvement, a walkway or roadway, and improvements and connections for water, sewer, gas, electrical, telephone, heating, air conditioning and other utility services at a state-operated institution or statutory or contract college under the jurisdiction of the state university of New York, and shall include a housing unit or any emergency temporary housing, with necessary and usual attendant and related facilities and equipment, for the use of students, faculty and staff, and their families, at such an institution or statutory or contract college.

b. "State university construction bonds" and "state university construction notes" shall mean bonds and notes respectively, issued by the agency pursuant to subdivision two of this section.

2. Additional powers of the agency.

a. The agency shall have power to cause state university facilities to be constructed, acquired, reconstructed, rehabilitated or improved on any real property leased or made available by the state university of New York, or any state-operated institution or statutory or contract college under the jurisdiction of the state university of New York, under an agreement with the state university construction fund created by section three hundred seventy-one of the education law and in connection therewith may authorize the state university construction fund to act as its agent for the purpose of constructing, acquiring, reconstructing, rehabilitating or improving such state university facilities.

b. The agency shall have power and is hereby authorized from time to time to issue negotiable bonds and notes in conformity with applicable provisions of the uniform commercial code in such principal amount as, in the opinion of the agency, shall be necessary, after taking into account other monies which may be available for the purpose, to provide sufficient funds for the construction, acquisition, reconstruction, rehabilitation or improvement of state university facilities pursuant to the preceding paragraph of this subdivision, the payment of interest on state university construction bonds and state university construction notes issued for such purposes, the establishment of reserves to secure such bonds and notes, and all other expenditures of the agency incident to and necessary or convenient for any such construction, acquisition, reconstruction, rehabilitation or improvement; provided, however, that the agency shall not issue state university construction bonds and state university construction notes in an aggregate principal amount exceeding three billion dollars, excluding state university construction bonds and state university construction notes issued to refund outstanding state university construction bonds or state university construction notes. In no event, however, shall the agency issue state university construction bonds or state university construction notes after August first, nineteen hundred eighty-eight, except state university construction bonds or state university construction notes issued to refund outstanding state university construction bonds or state university

construction notes; provided, however, that only state university construction bonds to be issued to refund state university construction bonds may be issued after August first, nineteen hundred eighty-eight. Such bonds shall be excluded from such limitation as to the aggregate principal amount of state university construction bonds and state university construction notes if the present value of the aggregate debt service on the refunding bonds does not exceed the present value of the aggregate debt service on the bonds refunded thereby. For purposes hereof, the present value of the aggregate debt service of the refunding bonds and the aggregate debt service of the bonds refunded, shall be calculated by utilizing the true interest cost of the refunding bonds, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding bonds from the payment dates thereof to the date of issue of the refunding bonds to the purchase price of the refunding bonds, including interest accrued thereon prior the issuance thereof.

3. Application of other provisions of article. Except as stated in section forty-seven, the other provisions of this article shall apply to state university construction bonds and state university construction notes issued by the agency pursuant to this section, provided, however, that such bonds and notes, subject to any agreements with the holders of particular bonds or notes pledging any specified portions thereof, shall be secured by a pledge to the payment thereof of (i) rentals paid to the agency with respect to state university facilities financed with the proceeds of such bonds and notes, and (ii) any other assets, monies or accounts pledged or assigned to the agency as security for the payment of such rentals, and provided further that no resolution or resolutions authorizing state university construction bonds and state university construction notes shall (i) pledge all or any part of the fees and charges made or received by the agency pursuant to subdivision eleven of section forty-four in connection with the making of mortgage loans or commitments therefor, or all or any part of the monies received in payment of such mortgage loans and interest thereon, or (ii) pledge all or any part of the mortgages of the agency or obligations securing the same, or (iii) provide as to the use and disposition of the gross income

from mortgages owned by the agency or as to the payment of principal of mortgages owned by the agency, or (iv) pledge all or any part of the rentals paid to the agency under leases, subleases or other agreements for health facilities or mental hygiene facilities entered into by the agency in accordance with this article, or (v) pledge or assign all or any part of any other assets, monies or accounts pledged or assigned to the agency as security for the payment of rentals for such health facilities or mental hygiene facilities.

4. Repayment fund. The agency shall create and establish a special fund (herein referred to as state university repayment fund) and shall pay into such fund any monies which the agency shall receive in payment of rentals due under one or more lease agreements referred to in subdivision three of this section. Such monies and any other monies paid into the state university repayment fund may, in the discretion of the agency but subject to agreements with the holders of state university construction bonds and state university construction notes, be used by the agency (a) for the repayment of advances, if any, from the state to the agency in connection with state university facilities in accordance with the provisions of repayment agreements between the agency and the director of the budget, (b) to pay all costs, expenses and charges of financing the construction, acquisition, reconstruction, rehabilitation or improvement of state university facilities on any real property leased or made available to the agency by the state university of New York, including fees and expenses of trustees and paying agents and the reasonable costs of services performed by the commissioner of housing and division of housing in respect thereof, and (c) for the payment of the principal of and interest on state university construction bonds or state university construction notes issued by the agency when the same shall become due whether at maturity or on call for redemption and for the payment of any redemption premium required to be paid where such bonds or notes are redeemed prior to their stated maturities, and to purchase state university construction bonds or state university construction notes issued by the agency.

§ 47-b. Mental hygiene improvement bonds and notes. 1. Definitions.

For the purposes of section forty-seven and of this section:

a. "Community mental health and developmental disabilities facility" shall mean a building, a unit within a building, a laboratory, a classroom, a housing unit, a dining hall, an activities center, a library, or any structure on or improvement to real property of any kind or description, including fixtures and equipment which are an integral part of such building, unit or structure or improvement, a walkway, a roadway or a parking lot and improvements and connections for water, sewer, gas, electrical, telephone, heating, air conditioning and other utility services, or a combination of any of the foregoing, whether for patient care and treatment or staff, staff family or service use, located in a city, or in a county not wholly included within a city, authorized to provide community mental health services in accordance with the provisions of article forty-one of title E of the mental hygiene law, which is utilized or to be utilized for the administration and conduct of programs for people living with either mental illness or developmental disabilities, or both, and for the provision of services therefor. A community mental health and developmental disabilities facility shall also mean and include a residential facility to be operated as a community residence for the mentally disabled, and a treatment facility for use in the conduct of an alcoholism treatment program or of a substance abuse treatment program as defined in the mental hygiene law.

b. "Mental hygiene facility" shall mean a building, a unit within a building, a laboratory, a classroom, a housing unit, a dining hall, an activities center, a library, or any structure on or improvement to real property of any kind or description, including fixtures and equipment which are an integral part of any such building, unit, structure or improvement, a walkway, a roadway or a parking lot, and improvements and connections for water, sewer, gas, electrical, telephone, heating, air conditioning and other utility services, or a combination of any of the foregoing, whether for patient care and treatment or staff, staff family or service use, located at or related to any state hospital, any state school, or any state psychiatric or research institute now or hereafter established under the professional jurisdiction, supervision and control

of the state department of mental hygiene. A mental hygiene facility shall mean and include a "community mental health and developmental disabilities facility", unless such facility is expressly excepted or the context clearly requires otherwise, and shall also mean and include a treatment facility for use in the conduct of an alcoholism or substance abuse treatment program as defined in the mental hygiene law, unless such facility is expressly excepted or the context clearly requires otherwise. The definition contained in this subdivision shall not be construed to exclude therefrom a facility to be made available under license or permit from the health and mental hygiene facilities improvement corporation to a voluntary agency at the request of the commissioners of the offices of the department of mental hygiene having jurisdiction thereof for use in providing community mental health and developmental disabilities services, or for use in the conduct of an alcoholism or substance abuse treatment program.

c. "Mental hygiene improvement bonds" and "mental hygiene improvement notes" shall mean bonds and notes, respectively, issued by the agency pursuant to subdivision two of this section.

d. "Mental hygiene facilities improvement program" shall mean a program undertaken by the agency and the health and mental hygiene facilities improvement corporation for the purpose of constructing, acquiring, reconstructing, rehabilitating or improving mental hygiene facilities or causing such facilities to be constructed, acquired, reconstructed, rehabilitated or improved pursuant to the health and mental hygiene facilities improvement act and this article.

2. Additional powers of the agency.

a. The agency shall have power to lease one or more existing mental hygiene facilities from the trustees of the health and mental hygiene facilities improvement corporation and to construct, acquire, reconstruct, rehabilitate and improve new mental hygiene facilities at such facilities, or on any real property leased from the said corporation, and to cause such new facilities to be constructed, acquired, reconstructed, rehabilitated or improved by the trustees of

the said corporation as its agent, all in accordance with a lease, sublease or other agreement entered into between the agency and the trustees of the said corporation pursuant to subdivision four of section nine of the health and mental hygiene facilities improvement act.

b. The agency shall have power and is hereby authorized from time to time to issue negotiable bonds and notes in conformity with applicable provisions of the uniform commercial code in such principal amount as, in the opinion of the agency, shall be necessary, after taking into account other monies which may be available for the purpose, to provide sufficient funds for the construction, acquisition, reconstruction, rehabilitation or improvement of mental hygiene facilities pursuant to the preceding paragraph of this subdivision, the payment of interest on mental hygiene improvement bonds and mental hygiene improvement notes issued for such purposes, the establishment of reserves to secure such bonds and notes, and all other expenditures of the agency incident to and necessary or convenient for any such construction, acquisition, reconstruction, rehabilitation or improvement; provided, however, that the agency shall not issue mental hygiene improvement bonds and mental hygiene improvement notes in an aggregate principal amount exceeding seven hundred five million dollars, excluding mental hygiene improvement bonds and mental hygiene improvement notes issued to refund outstanding mental hygiene improvement bonds or mental hygiene improvement notes.

3. Application of other provisions of article. Except as stated in section forty-seven, the other provisions of this article shall apply to mental hygiene improvement bonds and mental hygiene improvement notes issued by the agency pursuant to this section, provided, however, that such bonds and notes, subject to any agreements with the holders of particular bonds or notes pledging any specified portions thereof, shall be secured by a pledge to the payment thereof of (i) rentals paid to the agency with respect to mental hygiene facilities financed with the proceeds of such bonds and notes, and (ii) any other assets, monies or accounts pledged or assigned to the agency as security for the payment of such rentals, and provided further that no resolution or resolutions authorizing mental hygiene improvement bonds and mental hygiene improvement notes shall (i) pledge all or any part of the fees and

charges made or received by the agency pursuant to subdivision eleven of section forty-four in connection with the making of mortgage loans or commitments therefor, or all or any part of the monies received in payment of such mortgage loans and interest thereon, or (ii) pledge all or any part of the mortgages of the agency or obligations securing the same, or (iii) provide as to the use and disposition of the gross income from mortgages owned by the agency or as to the payment of principal of mortgages owned by the agency, or (iv) pledge all or any part of the rentals paid to the agency under leases, subleases or other agreements for state university facilities or health facilities entered into by the agency in accordance with this article, or (v) pledge or assign all or any part of any other assets, monies or accounts pledged or assigned to the agency as security for the payment of rentals for such state university facilities or health facilities.

4. Mental hygiene facilities fund. The agency shall create and establish a special fund (herein referred to as mental hygiene facilities fund) and shall pay into such fund any monies which the agency shall receive in payment of rentals due under one or more leases, subleases or other agreements entered into pursuant to subdivision four of section nine of the health and mental hygiene facilities improvement act and any other monies which the agency shall receive from the health and mental hygiene facilities improvement corporation as security for or in payment of such rentals. Such monies and any other monies paid into the mental hygiene facilities fund may, in the discretion of the agency, but subject to agreements with the holders of mental hygiene improvement bonds and mental hygiene improvement notes, be used by the agency (a) for the repayment of advances, if any, from the state to the agency in connection with mental hygiene facilities, and any real property required therefor, in accordance with the provisions of repayment agreements related thereto which have been entered into with the director of the budget, (b) to pay all costs, expenses and charges of financing mental hygiene facilities including fees and expenses of trustees and paying agents, (c) to pay the administrative and other expenses of the agency allocable to the services performed by the agency in the financing of the construction, acquisition, reconstruction, rehabilitation or improvement of mental hygiene facilities and matters

relating thereto, (d) for the payment of the principal of and interest on mental hygiene improvement bonds or mental hygiene improvement notes issued by the agency when the same shall become due whether at maturity or by call for redemption and for the payment of any redemption premium required to be paid where such bonds or notes are redeemed prior to their stated maturities, and to purchase mental hygiene improvement bonds or mental hygiene improvement notes issued by the agency, or (e) for such other corporate purposes of the agency relating to the carrying out of its functions, powers and duties with respect to the financing of the construction, acquisition, reconstruction, rehabilitation or improvement of mental hygiene facilities as the agency in its discretion shall determine and provide.

§ 47-c. Special provisions related to certain bonds and notes.

Notwithstanding any other provision of law, general or special:

1. Any public corporation or officer responsible for the acquisition of real property or the planning, supervision or administration of facilities thereon which may be constructed, acquired, reconstructed, rehabilitated or improved by the agency pursuant to this article is hereby authorized for and on behalf and in the name of the people of the state of New York, to execute and deliver to the agency, for such consideration, if any, as may be determined by such public corporation or officer and the agency, but not to exceed the cost of acquisition thereof and the cost of improvements thereon, a lease for a term not exceeding fifty years or a quitclaim deed conveying to the agency all the right, title and interest of the people of the state of New York in and to any of the lands acquired by such public corporation or officer for such facilities, and in and to any of the improvements thereon, for the purpose of constructing, reconstructing, rehabilitating or improving thereon one or more facilities pursuant to this article for lease or sublease to any such public corporation or officer, in accordance with the terms of an agreement entered into among them in accordance with law. The agency is hereby authorized to accept any such lease or conveyance, to lease or sublease such lands, improvements and facilities to such public corporation or officer, and to hold the same subject to

the terms of any such lease, conveyance, sublease or other agreement, and such public corporation or officer is hereby authorized, with the approval of the governor, or where so designated by the governor for such purpose, the director of the budget, to lease or sublease any such lands or improvements or the facilities constructed, reconstructed, rehabilitated or improved thereon pursuant to this article or other provisions of law, and to hold such lands, improvements and facilities subject to the terms of any such lease, sublease or other agreement.

2. a. In the event that the agency shall fail, within five years from the date of a lease or conveyance authorized pursuant to subdivision one of this section, to construct, reconstruct, rehabilitate or improve the facility or facilities thereon for which the conveyance was made, as provided for in a lease, sublease or other agreement entered into with such public corporation or officer, or in the event that such facility or facilities shall cease to be used for the purposes intended, then and in either event but subject to the terms of any lease, sublease or other agreement undertaken by the agency, such lands, and the improvements and facilities thereon, shall revert to the people of the state of New York with right of re-entry thereupon, and such lease or deed shall be made subject to such conditions; provided, however, that as a condition precedent to the exercise of such right of re-entry the state of New York, or such public corporation or officer, shall pay to the agency an amount equal to the purchase price of such lands and improvements, the depreciated cost of any facility or facilities constructed, reconstructed, rehabilitated or improved thereon, and all other costs of the agency incident to the acquisition of such lands and the financing of construction, reconstruction, rehabilitation or improvement relating to such facility or facilities, all as provided in the aforesaid lease, sublease or other agreement entered into with such public corporation or officer.

b. In the event that the agency shall determine that any portions of the lands leased or conveyed pursuant to subdivision one hereof are in excess of the lands needed to construct, reconstruct, rehabilitate or improve the facility or facilities thereon for which the conveyance was made, as provided in a lease, sublease or other agreement entered into

with such public corporation or officer, the agency may terminate its lease with respect to such excess portions of such lands or reconvey such excess portions to the people of the state of New York; provided, however, that the state of New York or such public corporation or officer shall pay to the agency an amount equal to the consideration, if any, paid by the agency to such public corporation or officer allocable to such excess lands and such other costs of the agency as are incident to the acquisition of such excess lands, all as may be approved by such public corporation or officer and the agency. Any monies so paid to the agency shall be used and applied, subject to the provisions of any contract with noteholders and bondholders, for the sole purpose of paying costs and expenses of the agency incident to the financing of the facility or facilities to be constructed, reconstructed, rehabilitated or improved on such other portions of the land as shall have been leased or conveyed to the agency pursuant to subdivision one hereof.

3. The attorney general shall pass upon the form and sufficiency and manner of execution of any deed of conveyance and of any lease or sublease of lands authorized to be given under subdivision one of this section and the same shall not be effective unless so approved by him.

4. The cost of construction, acquisition, reconstruction, rehabilitation or improvement of facilities undertaken by the agency pursuant to this article may include the cost of acquisition of any land and improvements leased or conveyed to the agency in accordance with subdivision one of this section and the cost of the original furnishings, equipment, machinery and apparatus determined by the responsible public corporation or officer to be needed to furnish and equip such facilities upon the completion of work. The agency shall have power to acquire or lease and to hold land and improvements required for the construction, acquisition, reconstruction, rehabilitation or improvement of facilities undertaken by the agency pursuant to this article and to provide the original furnishings, equipment, machinery and apparatus determined by the responsible public corporation or officer to be needed to furnish and equip such facilities upon the completion of work and to issue its bonds and notes to provide sufficient funds to pay the cost thereof.

5. Any public corporation or officer referred to in subdivision one of this section is hereby authorized and empowered, in connection with any lease, sublease or other agreement with the agency to which such public corporation or officer is a party, and subject to such agreements with third parties as may then exist, to:

(a) pledge or assign to the agency all or any portion of the revenues and monies received or to be received by such public corporation or officer, which may be available for the purpose of paying rentals for the use of the facilities constructed, acquired, reconstructed, rehabilitated or improved or to be constructed, acquired, reconstructed, rehabilitated or improved under such agreement, so that the payment of such rentals may be fully secured and protected; provided, however, that such pledge or assignment shall not extend to appropriations or advances from the state except appropriations or advances made specifically for the purpose of paying all or any part of such rentals;

(b) use and dispose of such revenues and monies, or any portions thereof, for the purpose of defraying, in whole or in part, (1) the cost of acquiring any real property for the purpose of constructing, acquiring, reconstructing, rehabilitating or improving facilities thereon which may be constructed, acquired, reconstructed, rehabilitated or improved by the agency pursuant to this article, (2) the cost of financing the construction, acquisition, reconstruction, rehabilitation or improvement of such facilities, and (3) the cost of acquiring the original furnishings, equipment, machinery and apparatus needed to furnish and equip such facilities upon the completion of work;

(c) set aside rental reserves and to agree to the maintenance, regulation and disposition thereof;

(d) agree to limitations on the purposes to which the proceeds of sale of agency notes or bonds may be applied and to the pledging of such proceeds to secure the payment of agency notes or bonds or of any issue thereof;

(e) agree to limitations on the making of additional leases, subleases or agreements with the agency or with others, and the terms upon which such additional leases, subleases or agreements may be made;

(f) recognize and give effect to such assignment, upon receipt of any notice of assignment by the agency of any such lease, sublease or other

agreement with the agency, or of any of its rights under such lease, sublease or other agreement, and to pay the assignee thereof rentals or other payments then due or which may become due under any such lease, sublease or other agreement which has been so assigned by the agency; and

(g) agree to any other matters, of like or different character, which in any way affect the security or protection of the rental payments required to be made under the terms of such lease, sublease or other agreement with the agency.

6. (a) Any state university facility, as defined in section forty-seven-a of this article, which has been constructed, acquired, reconstructed, rehabilitated or improved, in whole or in part, out of monies advanced to the state university of New York, the state university construction fund, the state office of general services or the dormitory authority since August first, nineteen hundred sixty-two pursuant to appropriations or reappropriations as advances from the capital construction fund, and the lands upon which such a facility is located, may be leased or conveyed to the agency by the state university of New York, the state university construction fund or the dormitory authority in accordance with the provisions of subdivisions one through five of this section, notwithstanding that the construction, acquisition, reconstruction, rehabilitation or improvement of such facility may have been completed by the state university of New York, the state university construction fund, the dormitory authority or the state office of general services, or may have been undertaken or may hereafter be undertaken by the dormitory authority under agreement with the state university of New York or the state university construction fund.

(b) Subject to such agreements with third parties as may then exist, the state university of New York and the state university construction fund are hereby authorized and empowered to enter into leases, subleases and other agreements with the agency with respect to any state university facility described in paragraph (a), and the lands upon which such a facility is or may be located, in accordance with the provisions of section three hundred seventy-eight of the education law and the provisions of subdivisions one through five of this section; and the

agency is hereby authorized and empowered to accept any lease or conveyance of any such state university facility, and the lands upon which such a facility is or may be located, to acquire, construct, reconstruct, rehabilitate or improve any such facility and to issue bonds and notes to provide sufficient funds therefor in accordance with the provisions of section forty-seven-a of this article and the provisions of subdivisions one through five of this section.

(c) Any mental hygiene facility, as defined in section forty-seven-b of this article, which has been constructed, acquired, reconstructed, rehabilitated or improved, in whole or in part, out of monies advanced or deemed to have been advanced to the health and mental hygiene facilities improvement corporation, the state department of mental hygiene or the office of general services, since April first, nineteen hundred sixty-three pursuant to appropriations or reappropriations as advances from the capital construction fund, and the lands upon which such a facility is located, may be leased or conveyed to the agency by the health and mental hygiene facilities improvement corporation or the commissioner of mental hygiene in accordance with the provisions of subdivisions one through five of this section, notwithstanding that the construction, acquisition, reconstruction, rehabilitation or improvement of such facility may have been completed by the health and mental hygiene facilities improvement corporation, the state department of mental hygiene or the office of general services.

(d) Subject to such agreements with third parties as may then exist, the health and mental hygiene facilities improvement corporation is hereby authorized and empowered to enter into leases, subleases and other agreements with the agency with respect to any mental hygiene facility described in paragraph (c), and the lands upon which such a facility is or may be located, in accordance with the provisions of subdivision four of section nine of the health and mental hygiene facilities improvement act and the provisions of subdivisions one through five of this section; and the agency is hereby authorized and empowered to accept any lease or conveyance of any such mental hygiene facility, and the lands upon which such a facility is or may be located, to acquire, construct, reconstruct, rehabilitate or improve any such facility, and to issue bonds and notes to provide sufficient funds therefor in accordance with the provisions of section forty-seven-b of

this article and the provisions of subdivisions one through five of this section.

7. a. The agency shall have the power to acquire by lease or deed from the health and mental hygiene facilities improvement corporation any real property acquired by the corporation pursuant to the provisions of subdivision six of section nine of the facilities development corporation act (i) for the purpose of constructing, reconstructing, rehabilitating or improving thereon one or more community mental health and developmental disabilities facilities or (ii) for the purpose of financing the acquisition, construction, reconstruction, rehabilitation or improvement thereon of one or more community mental health and developmental disabilities facilities, pursuant to the provisions of this article and the facilities development corporation act. The agency is hereby authorized to lease or sublease such real property and facilities thereon to the corporation for the purpose of making the same available to a city or a county not wholly within a city, for use and occupancy in accordance with the provisions of a lease, sublease or other agreement between the corporation and such city or county.

b. In the event that the agency shall fail, within five years after the date of a lease or conveyance of such real property from such city or county to the corporation, to construct, reconstruct, rehabilitate or improve the community mental health and developmental disabilities facility or facility thereon for which such lease or conveyance was made, as provided for in a lease, sublease or other agreement entered into by such city or county and the corporation, then, subject to the terms of any lease, sublease or other agreement undertaken by the agency, such real property and any facilities thereon shall revert to the corporation with right of re-entry thereupon, and such lease or deed shall be made subject to such condition of reverter and re-entry; provided, however, that as a condition precedent to the exercise of such right of re-entry the corporation shall pay to the agency an amount equal to the sum of the purchase price of such real property, the depreciated cost of any community mental health and developmental disabilities facility or facilities constructed, reconstructed, rehabilitated or improved thereon and all other costs of the agency

incident to the acquisition of such lands and the financing of construction, reconstruction, rehabilitation or improvement relating to such community mental health and developmental disabilities facility or facilities, all as provided in the aforesaid lease, sublease or other agreement entered into with the corporation.

c. No real property or interest therein shall be acquired by the agency pursuant to this subdivision unless the title thereto shall be approved by the attorney general.

d. The attorney general shall pass upon the form and sufficiency and manner of execution of any deed of conveyance and of any lease or sublease of real property authorized to be acquired by the agency pursuant to this subdivision and the same shall not be effective unless such deed, lease or sublease shall be so approved by him.

§ 47-d. Health facilities bonds and notes. 1. Definitions. For the purposes of section forty-seven and this section:

a. "Municipality" means a county, city or town constituting a social services district as defined in sections two, sixty-one, seventy-five and seventy-five-a of the social services law, or any two or more of the foregoing which are acting jointly to provide a health facility or health facilities.

b. "Health facility" means a building, a unit within a building, a laboratory, a classroom, a housing unit, a dining hall, an activities center, a library, or any structure on or improvement to real property of any kind or description, including fixtures and equipment which are an integral part of any such building, unit, structure or improvement, a walkway, a roadway or a parking lot, and improvements and connections for water, sewer, gas, electrical, telephone, heating, air conditioning and other utility services, or a combination of any of the foregoing, whether for patient care and treatment of staff, staff family or service use, located at or related to or constituting a hospital of, and located in, a municipality.

c. "Health facilities bonds" and "health facilities notes" shall mean bonds and notes, respectively, issued by the agency pursuant to subdivision two of this section.

d. "Health facilities improvement program" shall mean a program undertaken by the agency and the health and mental hygiene facilities improvement corporation for the purpose of constructing, acquiring, reconstructing, rehabilitating or improving health facilities or causing such facilities to be constructed, acquired, reconstructed, rehabilitated or improved pursuant to the health and mental hygiene facilities improvement act and this article.

2. Additional powers of the agency. In accordance with any agreement entered into pursuant to this article and the health and mental hygiene facilities improvement act: a. The agency shall have powers: (i) to lease or purchase one or more existing health facilities from a municipality and cause such facility or facilities to be reconstructed, rehabilitated or improved by the health and mental hygiene facilities improvement corporation, created by the health and mental hygiene facilities improvement act, as its agent or, on any real property leased or purchased from a municipality to cause one or more health facilities to be constructed by the health and mental hygiene facilities improvement corporation as its agent; (ii) to lease or purchase from any person, firm or corporation real property for the purpose of causing health facilities to be constructed, reconstructed, rehabilitated or improved by the health and mental hygiene facilities improvement corporation as its agent; (iii) to lease or sublease to a municipality health facilities which have been constructed, acquired, reconstructed, rehabilitated or improved by the agency pursuant to this article and the health and mental hygiene facilities improvement act; and (iv) to do all or any combination of the foregoing.

b. The agency shall have power and is hereby authorized from time to time to issue negotiable bonds and notes in such principal amount as, in the opinion of the agency, shall be necessary, after taking into account other monies which may be available for the purpose, to provide

sufficient funds for the construction, acquisition, reconstruction, rehabilitation or improvement of health facilities pursuant to this subdivision two, the payment of interest on health facilities bonds and health facilities notes issued for such purposes, the establishment of reserves to secure such bonds and notes, and all other expenditures of the agency incident to and necessary or convenient for any such construction, acquisition, reconstruction, rehabilitation or improvement, provided, however, that the agency shall not issue health facilities bonds and health facilities notes in an aggregate principal amount exceeding eight hundred million dollars, excluding health facilities bonds and health facilities notes issued to refund outstanding health facilities bonds or health facilities notes.

3. Application of other provisions of article. Except as stated in section forty-seven, the other provisions of this article shall apply to health facilities bonds and health facilities notes issued by the agency pursuant to this section, provided, however, that such bonds and notes, subject to any agreements with the holders of particular bonds or notes pledging any specified portions thereof, shall be secured by a pledge to the payment thereof of (i) rentals paid to the agency with respect to health facilities financed with the proceeds of such bonds and notes, and (ii) any other assets, monies or accounts pledged or assigned to the agency as security for the payment of such rentals, and provided further that no resolution or resolutions authorizing health facilities bonds and health facilities notes shall (i) pledge all or any part of the fees and charges made or received by the agency pursuant to subdivision eleven of section forty-four in connection with the making of mortgage loans or commitments therefor, or all or any part of the monies received in payment of such mortgage loans and interest thereon, or (ii) pledge all or any part of the mortgages of the agency or obligations securing the same, or (iii) provide as to the use and disposition of the gross income from mortgages owned by the agency or as to the payment of principal of mortgages owned by the agency, or (iv) pledge all or any part of the rentals paid to the agency under leases, subleases or other agreements for state university facilities and mental hygiene facilities entered into by the agency in accordance with this article, or (v) pledge or assign all or any part of any other assets, monies or accounts

pledged or assigned to the agency as security for the payment of rentals for such state university facilities and mental hygiene facilities.

4. Health facilities income accounts. a. The agency shall create and establish one or more special accounts (herein referred to as health facilities income accounts) and shall pay into such accounts any monies which the agency shall receive in payment of rentals due under one or more leases or subleases entered into pursuant to subdivision two of this section and any other monies which the agency shall receive from a municipality as security for or in payment of such rentals. Such monies and any other monies paid into such health facilities income accounts, may, in the discretion of the agency, but subject to agreements with the holders of health facilities bonds and health facilities notes, be used by the agency (1) for the repayment of advances, if any, from the state to the agency in connection with health facilities, and any real property required therefor, in accordance with the provisions of repayment agreements related thereto which have been entered into with the director of the budget, (2) to pay all costs, expenses and charges of financing the health facilities applicable to such account or accounts including fees and expenses of trustees and paying agents, (3) to pay the administrative and other expenses of the agency allocable to the services performed by the agency in the financing of the construction, acquisition, reconstruction, rehabilitation or improvement of health facilities and matters relating thereto, (4) for the payment of the principal of and interest on health facilities bonds or health facilities notes issued by the agency when the same shall become due whether at maturity or by call for redemption and for the payment of any redemption premium required to be paid where such bonds or notes are redeemed prior to their stated maturities, and to purchase health facilities bonds or health facilities notes issued by the agency, or (5) for such other corporate purposes of the agency relating to the carrying out of its functions, powers and duties with respect to the financing of the construction, acquisition, reconstruction, rehabilitation or improvement of health facilities as the agency in its discretion shall determine and provide.

b. To assure the continued payment of rentals due under one or more

leases or subleases entered into pursuant to subdivision two of this section, the agency shall annually, not later than November first in each year, make and deliver to the appropriate chief fiscal officer of the municipality a certificate setting forth the amount, if any, due and not paid for the preceding fiscal year of the agency under such lease or sublease with such municipality. In the event of the failure or inability of the municipality to pay over the stated amount to the agency on or before December first of the same year, the agency shall forthwith make and deliver to the comptroller of the state of New York, the director of the budget of the state of New York and the commissioners of health and social services of the state of New York a further certificate restating the amount due and not paid, and such amount shall be paid over to the agency, upon the warrant of the comptroller on vouchers certified as correct by the commissioner of health and approved by the commissioner of social services, out of the next payment of state aid to such municipality pursuant to section three hundred sixty-eight-a of the social services law or funds appropriated for the purpose of making payments on behalf of such municipality pursuant to section three hundred sixty-seven-b of such law. To the extent any such payments to the agency are made from state aid payments pursuant to section three hundred sixty-eight-a of such law, the amount of such payments shall be deducted from the corresponding apportionment of state aid otherwise credited to such municipality, and the state shall not be obligated to pay, nor shall such municipality be entitled to receive, by virtue of such deduction, any additional or increased apportionment or payment of state aid pursuant to section three hundred sixty-eight-a of the social services law. To the extent any such payments to the agency are made from funds appropriated for the purpose of making payments on behalf of such municipality pursuant to section three hundred sixty-seven-b of such law, the amount of such payments may be deducted from any other payments of state assistance to such municipality under the social services law and the state shall not be obligated to pay, nor shall the municipality be entitled to receive, by virtue of such deduction, any additional or increased apportionment or payment of such state assistance, provided, however, that nothing contained in this sentence shall be construed to limit, impair, impede, or otherwise adversely affect in any manner the rights or remedies of

the purchasers and holders and owners of any bonds or notes of the state or any agency or instrumentality, public benefit corporation or political subdivision thereof under which such purchasers and holders and owners have any right of payment of such bonds or notes by recourse to such state assistance monies.

5. Special provisions. Notwithstanding any other provision of law, general, special or local, or any provision of any charter or ordinance:

a. A municipality is hereby authorized to execute and deliver to the agency for such consideration as may be determined by the municipality, the agency and the health and mental hygiene facilities improvement corporation, but not to exceed the cost of acquisition thereof to the municipality and the cost of improvements thereon, a lease for a term not exceeding fifty years or a quit claim deed conveying to the agency all right, title and interest of such municipality in and to real property, for the purpose of constructing, reconstructing, rehabilitating, or improving one or more health facilities pursuant to this article and the health and mental hygiene facilities improvement act for subsequent lease or sublease to such municipality, in accordance with the terms of any agreement entered into pursuant to this article and the health and mental hygiene facilities improvement act.

b. A municipality is hereby authorized to lease or sublease from the agency the health facilities constructed, reconstructed, rehabilitated or improved pursuant to this article and the health and mental hygiene facilities improvement act, in accordance with the terms of any agreement entered into pursuant to this article and such act. At such time as all rentals due or to become due to the agency pursuant to the terms of any such lease or sublease have been paid or such lease or sublease is terminated pursuant to the provisions thereof, the jurisdiction of the agency over the real property leased or conveyed pursuant to paragraph a of this subdivision, together with the improvements thereon shall cease and all interest real and personal in such real property and improvements vested in the agency shall vest in the municipality with right of re-entry thereon, provided, however if such real property were leased or conveyed to the agency by a

municipality which constituted a city social services district which district was dissolved pursuant to the provisions of chapter twenty-eight of the laws of nineteen hundred seventy-two, all interest real and personal in such real property and improvements vested in the agency shall vest in the municipality which formerly constituted the city social services district with right of re-entry thereon.

c. No real property or interest therein shall be acquired by the agency pursuant to this subdivision unless title thereto shall have been approved by the attorney general.

d. The attorney general shall pass upon the form and sufficiency and manner of execution of any deed of conveyance and of any lease or sublease to which the agency and a municipality are parties, and the same shall not be effective unless approved by him.

e. In the event that the agency shall fail within five years from the date of a lease or conveyance authorized pursuant to paragraph a of this subdivision five to construct, reconstruct, rehabilitate or improve the health facilities thereon for which the lease or conveyance was made, as provided for in any agreement entered into pursuant to this article and the health and mental hygiene facilities improvement act, or in the event that such health facilities shall cease to be used for the purposes intended, then and in either event but subject to the terms of any lease, sublease or other agreement between the agency and the municipality, such real property and any health facilities thereon, shall revert to the municipality with right of re-entry thereupon and such lease or deed shall be made subject to such conditions; provided, however, that as a condition precedent to the exercise of such right of re-entry the municipality shall pay to the agency an amount equal to the purchase price of such real property, the depreciated cost of any health facilities constructed, reconstructed, rehabilitated or improved, and all other costs of the agency incident to the acquisition of such real property and the financing of construction, reconstruction, rehabilitation or improvement relating to such facilities, all as provided in the aforesaid lease, sublease or other agreement entered into with such municipality.

f. In the event that the agency shall determine that any portions of the real property leased or conveyed pursuant to paragraph a of this subdivision five are in excess of the real property needed to construct, reconstruct, rehabilitate or improve the facility or facilities thereon for which the conveyance was made, as provided in any agreement entered into pursuant to this article and the health and mental hygiene facilities improvement act, the agency may terminate its lease with respect to such excess portions of such real property or reconvey such excess portions to the municipality, provided, however, that the municipality shall pay to the agency an amount equal to the consideration, if any, paid by the agency to such municipality allocable to such excess real property and such other costs of the agency as are incident to the acquisition of such excess real property, all as may be approved by such municipality and the agency. Any monies so paid to the agency shall be used and applied, subject to the provisions of any contract with noteholders and bondholders, for the sole purpose of paying costs and expenses of the agency incident to the financing of the health facilities to be constructed, reconstructed, rehabilitated or improved on such other portions of the real property as shall have been leased or conveyed to the agency pursuant to paragraph a of this subdivision five.

g. The cost of construction, acquisition, reconstruction, rehabilitation or improvement of health facilities undertaken by the agency pursuant to this article and the health and mental hygiene facilities improvement act may include the cost of acquisition of any real property leased or conveyed to the agency in accordance with paragraph a of this subdivision five and the cost of the original furnishings, equipment, machinery and apparatus needed to furnish and equip such facilities upon the completion of the work. The agency shall have power to acquire or lease and to hold real property required for the construction, acquisition, reconstruction, rehabilitation or improvement of the health facilities undertaken by the agency pursuant to this article and the health and mental hygiene facilities improvement act and to provide the original furnishings, equipment, machinery and apparatus needed to furnish and equip such facilities upon the

completion of work and to issue its bonds and notes to provide sufficient funds to pay the cost thereof.

h. A municipality is hereby authorized and empowered, in connection with any lease, sublease or other agreement with the agency to which such municipality is a party, and subject to such agreements with third parties as may then exist, to:

(1) pledge or assign to the agency all or any portion of the revenues and monies received or to be received by the municipality, which may be available for the purpose of paying rentals for the use of the health facilities constructed, acquired, reconstructed, rehabilitated or improved under such agreement, so that the payment of such rentals may be fully secured and protected;

(2) use and dispose of such revenues and monies, or any portions thereof, for the purpose of defraying, in whole or in part (a) the cost of acquiring any real property for the purpose of constructing, acquiring, reconstructing, rehabilitating or improving facilities thereon which may be constructed, acquired, reconstructed, rehabilitated or improved by the agency pursuant to this article and the health and mental hygiene facilities improvement act, (b) the cost of financing the construction, acquisition, reconstruction, rehabilitation or improvement of such facilities, and (c) the cost of acquiring the original furnishings, equipment, machinery and apparatus needed to furnish and equip such facilities upon the completion of the work;

(3) set aside rental reserves and to agree to the maintenance, regulation and disposition thereof;

(4) agree to limitations on the purposes to which the proceeds of sale of agency notes or bonds may be applied and to the pledging of such proceeds to secure the payment of agency notes or bonds or of any issued thereof;

(5) agree to limitations on the making of additional leases, subleases or agreements with the agency or with others, and the terms upon which such additional leases, subleases or agreements may be made;

(6) upon receipt of any notice of assignment by the agency of any such lease, sublease or other agreement with the agency, or of any of its rights under such lease, sublease or other agreement, recognize and give effect to such assignment and to pay the assignee thereof rentals or

other payments then due or which may become due under any such lease, sublease or other agreement which has been so assigned by the agency; and

(7) agree to any other matters, of like or different character, which in any way affect the security or protection of the rental payments required to be made under the terms of such lease, sublease or other agreement with the agency.

§ 47-e. Housing program bonds and notes. 1. Definitions. For the purposes of this section and paragraph (c) of subdivision one of section forty-seven of this chapter:

(a) "Housing program" shall mean the housing assistance projects or programs funded from an appropriation or an apportionment to the:

(1) housing assistance fund created by section ninety-two-q of the state finance law;

(2) the affordable housing corporation and deposited in the affordable housing development account established pursuant to section fifty-nine-b of this chapter;

(3) the housing trust fund corporation and deposited in the housing trust fund account established pursuant to section fifty-nine-a of this chapter; and

(4) the homeless housing and assistance account established pursuant to section fifty-nine-i of this chapter.

(5) Housing project repair fund created by section sixty of this chapter.

(b) "Housing program bonds and housing program notes" shall mean bonds and notes issued by the agency pursuant to subdivision two of this section.

(c) "Code" shall mean the federal internal revenue code.

2. (a) Subject to the provisions of chapter fifty-nine of the laws of two thousand, in order to enhance and encourage the promotion of housing programs and thereby achieve the stated purposes and objectives of such housing programs, the agency shall have the power and is hereby authorized from time to time to issue negotiable housing program bonds and notes in such principal amount as shall be necessary to provide

sufficient funds for the repayment of amounts disbursed (and not previously reimbursed) pursuant to law or any prior year making capital appropriations or reappropriations for the purposes of the housing program; provided, however, that the agency may issue such bonds and notes in an aggregate principal amount not exceeding eighteen billion eighty-four million seven hundred sixty-four thousand dollars \$18,084,764,000, excluding bonds issued after April first, two thousand twenty-five to (i) fund one or more debt service reserve funds, (ii) pay costs of issuance of such bonds, and (iii) refund or otherwise repay such bonds or notes previously issued, provided that nothing herein shall affect the exclusion of refunding debt issued prior to such date. No reserve fund securing the housing program bonds shall be entitled or eligible to receive state funds apportioned or appropriated to maintain or restore such reserve fund at or to a particular level, except to the extent of any deficiency resulting directly or indirectly from a failure of the state to appropriate or pay the agreed amount under any of the contracts provided for in subdivision four of this section.

(b) In computing for the purposes of this section the aggregate amount of bonds and notes of the agency issued pursuant to this section, there shall be excluded (i) the amount of bonds and notes issued that would constitute interest under the code, and (ii) the amount of bonds and notes issued to refund bonds and notes, provided, that the amount so excluded under this subparagraph (ii) may exceed the amount of the bonds and notes which the refunding bonds or notes were issued to refund only if the present value of the aggregate debt service on the refunding bonds or notes does not exceed the present value of the aggregate debt service of the bonds or notes to be refunded, such present value in each case to be calculated by using the effective interest rate of the refunding bonds or notes, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding bonds or notes from the payment date thereof to the date of issue of the refunding bonds or notes and to the price bid therefor, or to the proceeds received by the agency from the sale thereof, in each case including estimated accrued interest.

(c) The agency shall annually prepare and approve a bond sale report which shall include the agency's bond sale guidelines, amendments to

such guidelines since the last agency report, and, if necessary, an explanation of the bond sale guidelines and the results of any sale including, but not limited to, the underwriter's discount and net interest costs of bonds sold during the fiscal year. Such bond sale report shall also identify which of the agency's bond sales were conducted as public sales and which were conducted as private sales and of those, which were taxable, and describe the participation of minority and women-owned business enterprise firms in such sales. Such bond sale report may be part of any other annual report that the agency is required to make. The agency shall annually submit its bond sale report to the comptroller and copies thereof to the senate finance committee and the assembly ways and means committee. The agency shall make available to the public copies of its bond sale report upon reasonable request therefor. Nothing contained in this subdivision shall be deemed to alter, affect the validity of, modify the terms of or impair any contract or agreement made or entered into in violation of, or without compliance with, the provisions of this subdivision.

(d) The bonding authority granted by this section and the issuance of bonds for the purposes described therein shall in no way act to:

(i) delay or impede the obligation, encumbrance and timely disbursement of funds appropriated or reappropriated for the housing program, or any financial commitments made pursuant to such program as defined in this section;

(ii) impair or impede the continued operation and administration of such program by the agency, any of its subsidiaries or the division of housing and community renewal pursuant to law and rules and regulations thereby established.

3. Subject to any agreements with the holders of particular bonds or notes pledging any specified portions thereof, the housing program bonds and notes shall be secured by a pledge to the payment thereof of the state payments made pursuant to the service contracts referred to in subdivision four of this section.

4. (a) Notwithstanding the provisions of any general or special law to the contrary, and subject to the making of annual appropriations therefor by the legislature, in order to assist the agency and its

subsidiary corporations in undertaking and providing services with respect to housing programs and in consideration of the undertaking thereof and the benefits to be derived therefrom by the people of the state, the director of the budget is authorized in any state fiscal year to enter into one or more service contracts, none of which shall exceed thirty years in duration, with the agency, upon such terms as the director of the budget and the agency agree, so as to provide annually to the agency in the aggregate a sum not to exceed the annual debt service payments required for the bonds and notes issued pursuant to this section.

(b) Any service contract entered into pursuant to paragraph (a) of this subdivision shall provide that the obligation of the director of the budget or of the state to fund or to pay the amounts therein provided for shall not constitute a debt of the state within the meaning of any constitutional or statutory provision and shall be deemed executory only to the extent of moneys available and that no liability shall be incurred by the state beyond the moneys available for the purpose, and that such obligation is subject to annual appropriation by the legislature.

(c) Any such contract or any payments made or to be made thereunder may be assigned and pledged by the agency as security for its bonds and notes authorized by this section.

5. (a) Subject to the provisions of chapter fifty-nine of the laws of two thousand, upon the issuance of housing program bonds or notes, the agency shall apply such amount of the proceeds thereof as shall be designated and specified in the bond or note resolution or resolutions authorizing the issuance of such bonds or notes to the specific funds and/or accounts of one or more housing programs. The bond resolution or resolutions authorizing the issuance of such bonds or notes shall only allocate net proceeds of bonds or notes to a particular fund or account of a housing program if the legislature has authorized pursuant to law or any prior year an advance to such fund or account, and the amount of such bond or note proceeds so allocated to such fund or account shall not exceed the total amount so authorized to be advanced. Such proceeds shall be disbursed to such a fund or account in accordance with such allocation only for application to the repayment of advances previously

or thereupon made and not previously repaid. Such proceeds may not be transferred from an entity authorized to administer a housing program to the state or a fund of the state, except in repayment of such advances. Except in the case of refunding bonds or notes authorized hereunder, any net proceeds not so allocated or disbursed shall be utilized first to pay debt service on the applicable bonds or notes in the current or the succeeding fiscal year and second to the redemption of such bonds; provided that such application may be adjusted to comply with applicable federal law as to federal tax exemption. For purposes of this paragraph, earnings from the investment of net proceeds shall be treated as net proceeds.

(b) Each of the entities authorized to administer the respective housing programs is hereby authorized to accept advances of funds referred to in paragraph (a) of this subdivision and to apply any such advances in such manner authorized by law and to repay any such advances from the proceeds of housing program bonds or notes deposited therewith pursuant to paragraph (a) of this subdivision.

(c) The state comptroller is hereby authorized to receive from the agency repayments of moneys, if any, advanced by the state for purposes of the housing program and to deposit the same to the credit of the capital projects fund, the housing program fund, the housing assistance fund or other appropriate fund.

§ 48. Agreement with the state. The state does hereby pledge to and agree with the holders of any notes or bonds issued under this article, that the state will not limit or alter the rights hereby vested in the agency to fulfill the terms of any agreements made with the holders thereof, or in any way impair the rights and remedies of such holders until such notes or bonds, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The agency is authorized to include this pledge and agreement of the state in any agreement with the holders of such notes or bonds.

§ 49. State's right to require redemption of bonds. Notwithstanding and in addition to any provisions for the redemption of bonds which may be contained in any contract with the holders of the bonds, the state may, upon furnishing sufficient funds therefor, require the agency to redeem, prior to maturity, as a whole, any issue of bonds on any interest payment date not less than twenty years after the date of the bonds of such issue at one hundred five per centum of their face value and accrued interest or at such lower redemption price as may be provided in the bonds in case of the redemption thereof as a whole on the redemption date. Notice of such redemption shall be published in at least two newspapers publishing and circulating respectively in the cities of Albany and New York at least twice, the first publication to be at least thirty days before the date of redemption. The provisions of this section relating to the state's right to require redemption of bonds, shall not apply to state-supported debt, as defined in section sixty-seven-a of the state finance law, issued by the agency. Such agency bonds shall remain subject to redemption pursuant to any contract with the holders of such bonds.

§ 50. Remedies of noteholders and bondholders. 1. In the event that the agency shall default in the payment of principal of or interest on any issue of notes or bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the agency shall fail or refuse to comply with the provisions of this article, or shall default in any agreement made with the holders of any issue of notes or bonds, the holders of twenty-five per centum in aggregate principal amount of the notes or bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county of Albany and approved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such notes or bonds for the purposes herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such notes or bonds then outstanding shall, in his or its own name:

(a) by action or special proceeding in accordance with the civil practice law and rules, enforce all rights of the noteholders or bondholders, including the right to require the agency to collect fees and charges and interest and amortization payments on mortgage loans made by it adequate to carry out any agreement as to, or pledge of, such fees and charges and interest and amortization payments on such mortgages, and other properties and to require the agency to carry out any other agreements with the holders of such notes or bonds and to perform its duties under this title;

(b) bring suit upon such notes or bonds;

(c) by action or special proceeding require the agency to account as if it were the trustee of an express trust for the holders of such notes or bonds;

(d) by action or special proceeding enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such notes or bonds;

(e) declare all such notes or bonds due and payable, and if all defaults shall be made good, then, with the consent of the holders of twenty-five per centum of the principal amount of such notes or bonds then outstanding, to annul such declaration and its consequences.

3. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders or noteholders in the enforcement and protection of their rights.

4. The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of such noteholders or bondholders. The venue of any such suit, action or proceeding shall be laid in the county of Albany.

5. Before declaring due and payable the principal of notes or bonds issued in connection with any mortgage or other obligation securing a mortgage loan made by the agency, the trustee shall first give thirty days' notice in writing to the governor, to the agency, to the commissioner of housing and community renewal, the state commissioner of

health, the state commissioner of mental hygiene or the state commissioner of social services, as the case may be, and to the attorney general of the state.

§ 51. Monies of the agency. 1. All monies of the agency, except as otherwise authorized or provided in this article, shall be paid to the commissioner of taxation and finance as agent of the agency, who shall not commingle such monies with any other monies. Such monies shall be deposited in a separate bank account or accounts. The monies in such accounts shall be paid out on checks signed by the commissioner of taxation and finance on requisition of the chairman of the agency or of such other officer or employee or officers or employees as the agency shall authorize to make such requisition. All deposits of such monies shall, if required by the commissioner of taxation and finance or the agency, be secured by obligations of the United States or of the state of a market value equal at all times to the amount of the deposit and all banks and trust companies are authorized to give such security for such deposits.

Notwithstanding the provisions of this section, the agency shall have power, subject to the approval of the commissioner of taxation and finance, to contract with the holders of any of its notes or bonds, as to the custody, collection, securing, investment, and payment of any monies of the agency, of any monies held in trust or otherwise for the payment of notes or bonds, and to carry out such contract. Monies held in trust or otherwise for the payment of notes or bonds or in any way to secure notes or bonds and deposits of such monies may be secured in the same manner as monies of the agency, and all banks and trust companies are authorized to give such security for such deposits.

2. Subject to agreements with noteholders and bondholders and the approval of the comptroller, the agency shall prescribe a system of accounts.

3. The comptroller, or his legally authorized representative, is hereby authorized and empowered from time to time to examine the books

and accounts of the agency including its receipts, disbursements, contracts, reserve funds, sinking funds, investments, and any other matters relating to its financial standing. Such an examination shall be conducted by the comptroller at least once in every five years; the comptroller is authorized, however, to accept from the agency, in lieu of such an examination, an external examination of its books and accounts made at the request of the agency.

4. The agency shall submit to the governor, chairman of the senate finance committee, chairman of the assembly ways and means committee and the comptroller, within thirty days of the receipt thereof by the agency, a copy of the report of every external examination of the books and accounts of the agency other than copies of the reports of such examinations made by the comptroller.

§ 51-a. Federal rental assistance program administrative fees. All administrative fee monies received by the agency from the federal government pursuant to section eight of the United States housing act of 1937, as amended by the Housing and Community Development Act of 1974 and subsequent amendments, shall be allocated according to the following schedule:

1. ninety percent of such fees shall be allocated to the not-for-profit corporations or local government agencies providing services under such section eight;

2. ten percent of such fees shall be retained by the state and unless otherwise allocated pursuant to an agreement between the agency and the division of housing and community renewal:

(a) ninety-five percent of such amount shall be allocated to the division of housing and community renewal; and

(b) five percent shall be retained by the agency.

§ 52. Notes and bonds as legal investment. The notes and bonds of the agency are hereby made securities in which all public officers and

bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations, and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them.

§ 53. Exemption from taxation of property and income. The property of the agency and its income and operations shall be exempt from taxation.

§ 54. Exemption from taxation of notes and bonds. It is hereby determined that the creation of the agency is in all respects for the benefit of the people of the state and for the improvement of their health, safety, welfare, comfort and security, and that said purposes are public purposes and that the agency will be performing an essential governmental function in the exercise of the powers conferred upon it by this article. The state covenants with the purchasers and all subsequent holders and transferees of notes and bonds issued by the agency, in consideration of the acceptance of and payment for the notes and bonds, that the notes and bonds of the agency, issued pursuant to this article and the income therefrom and all its fees, charges, gifts, grants, revenues, receipts, and other monies received or to be received, pledged to pay or secure the payment of such notes or bonds shall at all times be free from taxation, except for estate and gift taxes and taxes on transfers.

§ 55. Assistance by state officers, departments, boards and commissions. 1. The department of audit and control, department of law, commissioner of housing and division of housing, and all other state officers, departments, boards, divisions and commissions may render such

services to the agency within their respective functions as may be requested by the agency.

2. The commissioner of housing and community renewal and the division of housing and community renewal are hereby designated to act for and in behalf of the agency in servicing the mortgage loans and equity loans of the agency, except mortgage loans made to hospital corporations which are eligible borrowers as defined in article twenty-eight-B of the public health law, nursing home companies, non-profit corporations which are eligible borrowers as defined in title five-A of article six of the social services law, or companies incorporated pursuant to the not-for-profit corporations law and article seventy-five of the mental hygiene law, and in carrying out the provisions of section forty-four-a of this article, and shall perform such functions and services in connection with the making, servicing and collection of such loans and pursuant to such section forty-four-a of this article as shall be requested by the agency. The agency shall pay to the division of housing and community renewal from any of the monies available for such purpose, such amounts as are necessary to reimburse it for the reasonable costs of the services performed by the commissioner of housing and community renewal and the division of housing and community renewal pursuant to this section.

3. The state commissioner of health and the state department of health are hereby designated to act for and in behalf of the agency in servicing the nursing home company mortgage loans of the agency and the mortgage loans of the agency to hospital corporations which are eligible borrowers as defined in article twenty-eight-B of the public health law, and shall perform such functions and services in connection with the making, servicing and collection of such loans as shall be requested by the agency. The agency shall pay to the department of health from any monies of the agency available for such purpose, such amounts as are necessary to reimburse the department of health for the reasonable cost of the services performed by the commissioner of health and department of health pursuant to this section.

4. The state commissioner of social services and the state department

of social services are hereby designated to act for and in behalf of the agency in servicing the youth facilities project mortgage loans of the agency and shall perform such functions and services in connection with the making, servicing and collection of such loans as shall be requested by the agency. The agency shall pay to the department of social services from any monies of the agency available for such purpose, such amounts as are necessary to reimburse the department of social services for the reasonable cost of the services performed by the commissioner of social services and department of social services pursuant to this section.

5. The state commissioner of mental hygiene and the state department of mental hygiene are hereby designated to act for and in behalf of the agency in servicing the community mental health services and developmental disabilities services companies mortgage loans of the agency and shall perform such functions and services in connection with the making, servicing and collection of such loans as shall be requested by the agency. The agency shall pay to the department of mental hygiene from any monies of the agency available for such purpose, such amounts as are necessary to reimburse the department of mental hygiene for the reasonable cost of the services performed by the commissioner of mental hygiene and department of mental hygiene pursuant to this section, including such amounts as are necessary to reimburse the health and mental hygiene facilities improvement corporation for the reasonable cost of such services performed by the health and mental hygiene facilities improvement corporation upon request by the commissioner of mental hygiene pursuant to the provisions of section 75.25 of the mental hygiene law.

6. The department of social services of the state of New York is hereby designated to act for and in behalf of the agency in servicing the community senior citizens centers and services companies mortgage loans of the agency and shall perform such functions and services in connection with the making, servicing and collection of such loans as shall be requested by the agency. The agency shall pay to such department from any moneys of the agency available for such purposes, such amounts as are necessary to reimburse such department for the reasonable cost of the services performed by such department pursuant to

this section.

*** § 56. Reports.** 1. The agency shall submit to the governor, the chairman of the senate finance committee, the chairman of the assembly ways and means committee, the comptroller and the director of the budget within ninety days after the end of its fiscal year, a complete and detailed report setting forth: (1) its operations and accomplishments; (2) its receipts and expenditures during such fiscal year in accordance with the categories or classifications established by the agency for its operating and capital outlay purposes, including a listing of all private consultants engaged by the agency on a contract basis and a statement of the total amount paid to each such private consultant; (3) its assets and liabilities at the end of its fiscal year, including a schedule of its mortgage loans and commitments and the status of reserve, special or other funds; and (4) a schedule of its bonds and notes outstanding at the end of its fiscal year, together with a statement of the amounts redeemed and incurred during such fiscal year.

2. The agency shall provide the commissioner of housing and community renewal, on a timely basis, with the data and other information necessary to compile the report or reports required pursuant to section twenty of the public housing law.

* NB Effective until July 23, 2027

* § 56. Annual report. The agency shall submit to the governor, the chairman of the senate finance committee, the chairman of the assembly ways and means committee, the comptroller and the director of the budget within ninety days after the end of its fiscal year, a complete and detailed report setting forth: (1) its operations and accomplishments; (2) its receipts and expenditures during such fiscal year in accordance with the categories or classifications established by the agency for its operating and capital outlay purposes, including a listing of all private consultants engaged by the agency on a contract basis and a statement of the total amount paid to each such private consultant; (3) its assets and liabilities at the end of its fiscal year, including a schedule of its mortgage loans and commitments and the status of reserve, special or other funds; and (4) a schedule of its bonds and

notes outstanding at the end of its fiscal year, together with a statement of the amounts redeemed and incurred during such fiscal year.

* NB Effective July 23, 2027

§ 56-a. Indemnification of members, officers and employees. The state shall save harmless and indemnify the respective members, officers and employees of the agency and its subsidiary corporations pursuant to section seventeen of the public officers law against any claim, demand, suit or judgment arising by reason of any act or omission to act by such member, officer or employee occurring in the discharge of his duties and within the scope of his service on behalf of the agency or its subsidiary corporations. In the event of any claim, demand, suit or judgment based on allegations that financial loss was sustained by any person in connection with the acquisition, disposition or holding of notes, bonds or other obligations of the agency, a member, officer or employee of the agency shall be saved harmless and indemnified notwithstanding any limitations contained in such section seventeen, unless such individual is found by a final judicial determination not to have acted, in good faith, for a purpose which he reasonably believed to be in the best interests of the agency or not to have had reasonable cause to believe that his conduct was lawful. All of the provisions of section seventeen of the public officers law which are not inconsistent with this section shall apply to the members, officers and employees of the agency or its subsidiary corporations, including the provisions relating to the defense by the attorney general or private counsel of any civil action and the payment of legal costs incurred in connection with the defense of any such action. Any member, officer or employee of the agency or its subsidiary corporations seeking to be saved harmless or indemnified or to claim any other benefits available pursuant to this section or section seventeen of the public officers law shall comply with the procedural requirements of such section seventeen. As used in this section the terms "member", "officer" and "employee" shall include a former member, officer or employee, his estate or judicially appointed personal representative.

§ 57. Insured mortgage reserve fund. 1. The agency shall create and establish a special fund, to be known as the insured mortgage reserve fund, and shall pay into such fund all monies appropriated and made available by the state for the purposes of such fund and any other monies from any other source or sources available therefor. The monies held in such fund shall be used (1) to meet the agency's obligations under an agreement with the federal government pursuant to subdivision twenty-eight of section forty-four of this article, (2) to meet the agency's obligations to pay the principal of and interest on notes issued for the purpose of making a mortgage loan to a company which mortgage loan or a subsequent mortgage loan to such company has been insured by the federal government, only however to the extent that all other revenues of the agency, including the proceeds of any sale, assignment or other disposition of a mortgage loan insured by the federal government, available for such purposes are not sufficient to meet such obligations of the agency, (3) to establish escrow accounts as may be required by the federal government as a condition for the issuance of mortgage insurance, (4) to pay for installation of such life safety devices as may be required by the federal government which devices are in addition to and not in substitution for any requirement heretofore imposed on the company, and (5) to pay closing costs arising out of the company's obtaining mortgage insurance from the federal government. Any income or interest earned by, or increment to the insured mortgage reserve fund may be used for authorized purposes including, but not limited to, the addition of such income or interest earned, or increment to the monies held in such fund for the purposes herein provided, the repayment of appropriation expenditures made to the credit of such fund, or to secure the payment of the principal of and interest on notes or revenue housing bonds. Any portion of the monies held in such fund shall, if the federal government so requires, be segregated from any other portion thereof and applied solely to meet the agency's obligations under any agreement made pursuant to subdivision twenty-eight of section forty-four, provided that the amount so segregated shall not exceed the maximum obligation under any such contract or contracts.

§ 58. Special revenue housing coverage reserve funds. The agency may create and establish one or more special funds to be known as special revenue housing coverage reserve funds and may pay into such reserve funds any monies appropriated and made available by the state for the purpose of such funds and any other monies which may be made available to the agency for the purposes of such funds from any other source or sources. The monies held in or credited to any such fund, except as hereinafter provided, shall be used solely for the payment of the principal of or interest on the revenue housing bonds of the agency secured by such fund as the same shall become due, whether at maturity or upon call for redemption, and for the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity. Any income or interest earned by, or increment to any such special revenue housing coverage reserve fund may be used for authorized purposes including, but not limited to, the addition of such income or interest earned, or increment to the monies held in such fund for the purposes herein provided, or the repayment of appropriation expenditures made to the credit of such fund.

§ 59. Bond reserve insurance fund. The agency shall create and establish a special fund, to be known as the bond reserve insurance fund and shall pay into such fund all monies appropriated and made available by the state for the purposes of such fund and any other monies which may be made available to the agency for the purposes of such fund from any other source or sources. All monies held in the bond reserve insurance fund shall be used by the agency to meet the agency's obligation to repay principal and interest on its outstanding bonds, solely to the extent all other revenues of the agency available for such purposes are not sufficient to meet such obligations of the agency. Any income or interest earned by, or increment to the bond reserve insurance fund may be used for authorized purposes including, but not limited to, the addition of such income or interest earned, or increment to the monies held in such fund for the purposes herein provided, or the repayment of appropriation expenditures made to the credit of such fund.

§ 59-a. Housing trust fund account. The housing trust fund corporation created by section forty-five-a of this chapter shall create and establish a special account to be known as the housing trust fund account and shall pay into such account any moneys which may be made available to such corporation for the purposes of such account from any source including but not limited to moneys appropriated by and made available pursuant to appropriation by the state and any income or interest earned by, or increment to, the account due to the investment thereof or loans made pursuant to article eighteen of this chapter. The moneys held in or credited to the housing trust fund account established under this section shall be expended solely to carry out the provisions of article eighteen of this chapter.

§ 59-b. Affordable housing development account. The affordable housing corporation created by section forty-five-b of this chapter shall create and establish a special account to be known as the affordable housing development account and shall pay into such account any moneys which may be made available to such corporation for the purposes of such account from any source including but not limited to moneys appropriated by and made available pursuant to appropriation by the state and any income or interest earned by, or increment to, the account due to the investment thereof or loans made pursuant to article nineteen of this chapter. The moneys held in or credited to the affordable housing development account established under this section shall be expended solely to carry out the provisions of article nineteen of this chapter.

§ 59-c. Insured housing initiatives fund. 1. The agency shall create and establish a special fund to be known as the insured housing initiatives fund and shall pay into such fund any moneys which may be made available to the agency for the purposes of such fund from any source, including, but not limited to, moneys appropriated by and made available pursuant to appropriation by the state and any income or interest earned by, or increment to, the fund due to the investment thereof or moneys payable to the agency under any contract entered into pursuant to subdivision two of this section. Subject to the provisions

of any contract with bondholders and noteholders and any contract authorized pursuant to this section for the provision of insurance, letters of credit or other financial mechanisms, the moneys held in or credited to the insured housing initiatives fund established under this subdivision, in the discretion of the agency, shall be used by the agency in accordance with subdivision two of this section to enable it to reduce the debt service that would otherwise be payable by the agency on its bonds, notes and other obligations issued to make loans pursuant to subdivision twenty-nine-a of section forty-four of this article, and thereby to reduce the obligations of the borrower to the agency. The reduction in debt service as a result of any contract entered into pursuant to subdivision two of this section shall result solely in the reduction of rents payable by low income individuals or families residing in those units in the housing development assisted by the fund that are required to be occupied by such individuals or families for interest on obligations issued to finance such housing development to be exempt from taxation pursuant to section 103(b)(4) of the internal revenue code of 1954, as amended. Provided, however, to the extent that such rents for such units are affordable to persons or families whose income is not in excess of sixty-five percent of median income for the area, as defined by the agency, then any remaining savings or benefits shall be applied to the further reduction of such rents for such units, and/or the reduction of rents payable by other low income individuals or families residing in the housing development assisted by such fund and/or the increase in the occupancy of low income individuals or families residing in such housing development in excess of that required pursuant to section 103(b)(4) of the internal revenue code of 1954, as amended.

2. The agency may enter into contracts for the provision of insurance, letters of credit or other financial mechanisms designed to reduce such debt service on bonds, notes and other obligations of the agency in accordance with this section, so long as such obligations receive an investment grade rating from a recognized rating agency. The moneys held in or credited to the fund shall not be used to pay the principal of or interest on such obligations of the agency, the principal of or interest on the obligations of the borrower to the agency or any fees of the

agency.

3. For the purposes of this section, "low income individuals or families" shall mean persons or families with incomes of no more than eighty percent of the median income for the area, as defined by the agency.

4. The agency shall account separately for all moneys received by the fund.

§ 59-d. Turnkey/enhanced housing account. The housing trust fund corporation created by section forty-five-a of this article shall create and establish a special account to be known as the "turnkey/enhanced housing account" and shall pay into such account any moneys which may be made available to such corporation for the purposes of such account from any source including but not limited to moneys appropriated by and made available pursuant to appropriation by the state and any income or interest earned by, or increment to, the account due to the investment thereof or loans made from the account pursuant to article eighteen-A of this chapter. The moneys held in or credited to the turnkey/enhanced housing account established under this section shall be expended solely to carry out the provisions of and to pay expenses associated with article eighteen-A of this chapter.

§ 59-e. Infrastructure development fund. The agency shall create and establish a special fund to be known as the "infrastructure development fund" and shall pay into such fund any moneys which may be made available to the corporation for the purposes of such fund from any source, including but not limited to moneys appropriated by and made available pursuant to appropriation by the state and any income or interest earned by, or increment to, the fund due to the investment thereof. The moneys held in or credited to the fund shall be expended solely to carry out the provisions of and to pay expenses associated with article twenty-one of this chapter.

§ 59-g. Permanent housing for homeless families fund. The agency shall create and establish a special fund to be known as the "permanent housing for homeless families fund" and shall pay into such fund any moneys which may be made available to the agency for the purposes of such fund from any source, including but not limited to moneys appropriated by and made available pursuant to appropriation by the state and moneys made available by cities with a population of one million or more and any income or interest earned by, or increment to, the fund due to the investment thereof. The moneys held in or credited to the fund shall be expended solely to carry out the provisions of and to pay expenses associated with article three-A of this chapter.

§ 59-h. Manufactured home cooperative fund. The agency shall create and establish a special fund to be known as the manufactured home cooperative fund and shall pay into such fund any moneys which may be made available to such agency for the purposes of such fund from any source including but not limited to moneys appropriated by and made available pursuant to appropriation by the state, civil penalties imposed pursuant to subdivision v of section two hundred thirty-three of the real property law and any income or loan repayments or interest earned by, or increment to, the fund due to the investment thereof or loans made pursuant to article twenty of this chapter. The moneys held in or credited to the manufactured home cooperative fund established under this section shall be expended solely to carry out the provisions of article twenty of this chapter.

§ 59-i. Homeless housing and assistance account. The homeless housing and assistance corporation created by section forty-five-c of this chapter shall create and establish a special account to be known as the homeless housing and assistance account and shall pay into such account any moneys which may be made available to such corporation for the purposes of such account from any source including but not limited to moneys appropriated by and made available pursuant to appropriation by the state and any income or interest earned by, or increment to, the

account due to the investment thereof. The moneys held in or credited to the homeless housing and assistance account established under this section shall be expended solely to carry out the provisions of title one of article two-A of the social services law.

§ 60. Housing project repair fund. 1. As used in this section, (a) the term "current economic rent" shall mean the rent or carrying charges determined by the commissioner to be sufficient, together with monies available to the company from the state, the federal government, or any other source, to provide for the payment of (i) all current mortgage interest, fees, charges, and amortization, (ii) all current real property taxes and water and sewer charges, or payments in lieu thereof, (iii) all other current operating expenses of the project, and (iv) all current payments into reserve funds required by the commissioner; provided, however, that any payments required for reserves for replacements shall be in an amount which on an aggregate annual basis is not less than six-tenths of one percent of the cost for constructing such project as determined by the commissioner, except that in the case of a project receiving payments pursuant to this section which otherwise would be made from such reserve for replacements, the commissioner shall take such payments into account in determining the necessary amount of payments to reserves for replacements; and

(b) the term "total economic rent" shall mean the sum of the current economic rent, as defined in paragraph (a) of this subdivision, plus an amount sufficient to amortize all mortgage repayment arrearages, including fees and charges, and all real property tax arrearages, including applicable interest, if any, and all water and sewer charge arrearages, including applicable interest, if any, of the company.

2. The agency shall create and establish a special fund, to be known as the housing project repair fund and shall pay into such fund all monies appropriated and made available to the agency by the state for the purposes of such fund and any other monies which may be made available to the agency for the purposes of such fund from any other source or sources.

3. Monies held in the housing project repair fund may be used by the agency to provide for the correction of construction-related problems in housing projects financed by the agency by means of the necessary repair, reconstruction or replacement of any of the facilities or site conditions, the cost of which was included in the project cost and which form an integral part of the project, and for such other purposes which may be necessary to effectuate the provisions of this section. A construction-related problem shall mean any deficiency or defect in the design, construction or site preparation of a project, its buildings, utilities and grounds; provided, however, a deficiency which results from conformance to design and construction standards in effect at the time of such construction shall not constitute such a construction related problem. The agency shall not expend monies from the fund as payment to any housing company for the correction of a construction-related problem unless the following conditions have been met:

a. The agency has either (1) received a certification by an independent consultant with appropriate qualifications engaged by the agency certifying (i) the scope and total cost of the corrective work required to be performed at the project after taking into consideration emergency conditions, if any, which may exist, and such other factors as may be appropriate; (ii) the cost effectiveness of alternative methods of performing the corrective work; and (iii) the extent to which the corrective work to be performed results from a construction-related problem, or (2) equivalent findings have been made in arbitration or other fact finding procedures established by agreement between a housing company, the commissioner and the agency; and

b. The agency has found and determined that (i) the projected annual aggregate rent revenues for the project and any other monies available to the company from the state or federal government or any other source as certified by the commissioner constitute current economic rent, or (ii) a mortgage modification agreement has been entered into with the housing company which operates the project, after consultation with the commissioner and in accordance with the guidelines approved by the director of the budget. Such a mortgage modification agreement shall be

entered into only in the event that the agency projects that the imposition of total economic rent will require the company to vary rental rates or carrying charges by an amount that exceeds the rental rates or carrying charges of a company in effect immediately prior to the date of such a modification by the greater of twenty percentum or ten dollars per room per month. A mortgage modification agreement may permit the variation of rental rates or carrying charges over a period agreed upon by the agency and the housing company not to exceed seventy-five months from the effective date of the initial variation in rental rates or carrying charges so as to result in the imposition of a current economic rent level at a date no later than the beginning of the seventy-sixth month, and shall make provision for the payment by the housing company of all current real property taxes and water and sewer charges, or payments in lieu thereof, and for the payment by the housing company of (i) all real property tax arrearages, including applicable interest, if any, over a period not to exceed fifteen years from the effective date of the initial variation in rental rates or carrying charges, (ii) all water and sewer charge arrearages, including applicable interest, if any, over a period not to exceed fifteen years from the effective date of the initial variation in rental rates or carrying charges, (iii) all mortgage repayment arrearages, including fees and charges, over a period not to exceed the scheduled date of the expiration of the mortgage repayment period pursuant to the provisions of the original mortgage and (iv) any mortgage repayment deficiencies accumulated during the term of the mortgage modification agreement over a period not to exceed ten years from the expiration of such agreement.

4. Monies shall not be available from the fund to reimburse a housing company for work performed or contracted on account of which such housing company has received a credit against monies otherwise payable to the agency as mortgage repayments prior to the effective date of this section, nor for work required to maintain, or correct deficiencies or defects in, construction performed or contracted for by a municipality or public utility, nor for work for which federal monies are available as determined by the commissioner, and the agency shall not expend monies beyond those required to meet the portion of the cost of correction of a condition which constitutes a construction-related

problem, as determined by the agency; provided, however, that monies from the fund may be used to pay for the costs associated with the hiring of an independent consultant engaged by the agency to effectuate the purposes of this section and for otherwise administering the provisions of this section.

5. Notwithstanding any other provision of this section the agency shall allocate fifteen per centum of the monies from the fund as payment to housing companies financed by the agency or the state for energy conservation improvements or tenant health and safety improvements provided that the following conditions are met:

a. The agency has received a certification from the commissioner that energy saving or other modifications to the project will either (i) result in savings projected over a seven year term or (ii) rectify an imminent threat to tenant health and safety, and there is no alternative source of funding to make such modifications.

b. The agency has reviewed the findings of the commissioner and is in agreement with such findings.

c. The agency has determined that the requirements of paragraph b of subdivision three of this section have been satisfied.

d. The agency has determined that a plan for performing energy conservation or tenant health and safety improvements as submitted by the housing company is the most cost-effective alternative available to the housing company.

The agency shall apportion such allocations among housing companies in an equitable manner and shall not make any such allocation in a given year to a housing company which will, in such year, receive ten percent or more of the monies available in the fund for the correction of construction-related problems.

6. To assist in the administration of this section, the agency is authorized to request the assistance of and utilize the services of any

state department, agency, board, commission or public benefit corporation, and any such department, agency, board, commission or public benefit corporation is authorized to provide such assistance and service.

7. Nothing contained in this section or in the administration or application hereof shall be construed as creating any private right of action on the part of any persons, firm or corporation against the state of New York, the agency, the division of housing and community renewal, or any officer or employee thereof based upon a construction-related problem and neither the certification or finding of the existence of a construction-related problem as provided in this section nor the implementation of the provisions of this section may be asserted as a defense by way of answer, counterclaim, or otherwise in any action or proceeding brought to enforce the provisions of a mortgage or any related agreement made by the agency with respect to a project, or brought by the commissioner with respect to a project, or brought by the commissioner to enforce any of the provisions of this chapter or any order made by him pursuant to this chapter. In any case where monies held in the housing project repair fund have been expended to provide for the correction of any construction-related problem, the agency shall accede to any and all rights and remedies which the housing company on whose behalf such payment was made may have against any third party with respect to any such construction-related problem to the extent of such payment.

8. Notwithstanding any other provisions of this section, no monies shall be expended from the housing project repair fund unless the agency has submitted a plan to the director of the budget and the comptroller describing the work required to repair the construction-related or other problem, or problems, which also describes the method to be used for the awarding of contracts for such work, and the director of the budget and the comptroller have approved the plan and all contracts let pursuant thereto as being in accordance with the provisions of this section and in accordance with subdivision two of section one hundred twelve of the state finance law. In addition, no monies shall be expended from the housing project repair fund unless the director of the budget has

approved a plan detailing the scheduling of the work to be performed to repair any such construction-related or other problem or problems and the scheduling of the payments for total cost of the work to be performed. In addition, no monies in excess of the total cost of any corrective work certified in accordance with paragraph a of subdivision three of this section shall be expended from such fund without the approval of the director of the budget.

9. Notwithstanding any other law, no monies shall be provided pursuant to this section unless a company shall require the tenants and occupants residing in the housing project or projects to submit an annual income affidavit as prescribed by the commissioner or the supervising agency, as the case may be, together with proper documentation as and if prescribed by the commissioner or the supervising agency, as the case may be. Upon submission of such affidavit and documentation, if any, the company shall assess such tenant or occupant the rental surcharge, if applicable, prescribed pursuant to section thirty-one of this chapter on the basis of the verified income of such tenant or occupant. If the tenant or occupant shall fail to submit such affidavit and documentation, or if such verification shall result in a disagreement caused by understatement of income and the tenant shall have failed to correct such original affidavit and documentation on forms specified by the commissioner within sixty days of notification by certified mail by the commissioner addressed to the tenant, the commissioner shall so notify the company. Thereupon, the company shall assess such tenant or occupant the maximum rental surcharge permitted pursuant to section thirty-one of this chapter, and provided further, that the company, with the approval of the commissioner or the supervising agency, as the case may be, may proceed to remove said tenant or occupant from occupancy on the ground that said tenant or occupant has materially misrepresented income. The failure of the tenant to accurately verify such income shall be prima facie evidence that such material misrepresentation was made by the tenant. The provisions of any other law to the contrary notwithstanding, solely for the purpose of verification of income, the commissioner or the supervising agency, as the case may be, may contract with the department of taxation and finance for services performed by such department in verifying income information forwarded by a company,

the commissioner, or the supervising agency to such department. Nothing contained herein shall be construed to authorize the commissioner to contract with such department to provide any income information whatsoever and such agreement shall be limited solely to the verification of income information. No officer or employee of the division of housing and community renewal, the supervising agency, or a company shall be subject to any civil or criminal liability by reason of his forwarding to the department of taxation and finance of any income information pursuant to this subdivision, unless (i) such information is knowingly and willfully materially misrepresented by such officer or employee or (ii) such information is knowingly and willfully divulged to any person, except in the discharge of such officer's or employee's duties solely for the purpose of verification of income, for any reason whatsoever. The commissioner or the supervising agency as the case may be, shall promulgate rules and regulations to effect the provisions of this subdivision. The provisions of the state freedom of information act shall not apply to any income information obtained by a company, the commissioner, or the supervising agency, as the case may be, pursuant to the provisions of this subdivision.

§ 61. Inconsistent provisions in other laws superseded. Insofar as the provisions of this article are inconsistent with the provisions of any other law, general, special or local, the provisions of this article shall be controlling.

§ 61-a. Actions. Except in an action for wrongful death, in any case founded upon tort a notice of claim shall be required as a condition precedent to the commencement of an action or special proceeding against the agency, any of its subsidiary corporations, or any officer, appointee or employee thereof, and the provisions of section fifty-e of the general municipal law shall govern the giving of such notice. No such action shall be commenced more than one year and ninety days after the cause of action therefor shall have accrued. An action for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of the public

authorities law.

§ 62. Article not affected if in part unconstitutional. If any section, subdivision, paragraph, sentence, clause or provision of this article shall be unconstitutional or be ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective and no other section, subdivision, paragraph, sentence, clause or provision shall on account thereof be deemed invalid or ineffective.

ARTICLE III-A

PERMANENT HOUSING FOR HOMELESS FAMILIES

- Section 63. Legislative findings and declaration.
64. Definitions.
65. Permanent housing for homeless families site review advisory board.
- 65-a. Permanent housing projects for homeless families.
- 65-b. Funds for permanent housing projects for homeless families.
- 65-c. Approval of funding agreement; issuance of requests for proposals.
- 65-d. Selection of developers.
66. Authorized courses of action.
67. Liability on obligations.
68. State/city allocations of permanent housing projects for homeless families.
69. Compliance; general and administrative provisions.

§ 63. Legislative findings and declaration. The legislature hereby finds and declares that many homeless families live in overcrowded and often dilapidated welfare hotels in cities with a population of one million or more; that welfare hotel placements are expensive and yet offer only minimal shelter services; and that while the state and cities with a population of one million or more must continue to develop cost

effective alternatives to welfare hotels, ultimately permanent housing is the only real answer to the homeless problem. It is further found that absent development of more permanent housing, lengths of stay in temporary shelters will continue to increase forcing an even more rapid escalation in the welfare hotel population and the concomitant growth in total state emergency shelter spending.

The legislature further finds that the New York state infrastructure trust fund provides a unique opportunity to increase permanent housing for homeless families. The legislature therefore finds that the state should dedicate New York state infrastructure trust fund moneys to the creation of permanent housing for families in cities with a population of one million or more who are homeless or at risk of being homeless and primarily for families referred from hotels, motels or tier II shelters for families; that such state funds shall be matched by an equal amount of city funding and that the city of New York in the most recent homeless families plan submitted to the council of the city of New York by the human resources administration has proposed to provide eighty-five million dollars for such funding; that permanent housing projects shall be constructed or rehabilitated and sites selected in accordance with a homeless families plan.

The legislature further finds that the key elements of such projects shall be: identification by the city of proposed project sites; review by an advisory board of the sites proposed by the city in order to identify those buildings and properties that can be expeditiously developed and produce the maximum number of units at the lowest cost per unit; approval of recommended sites by the city; administration of construction or rehabilitation activities by the New York state housing finance agency; and selection of a developer or developers to design, construct or rehabilitate permanent housing projects for homeless families.

§ 64. Definitions. The following terms, whenever used or referred to in this article, unless the context indicates otherwise, shall have the following meanings:

1. "Agency" shall mean the New York state housing finance agency.

2. "City" shall mean cities with a population of one million or more.

3. "Eligible homeless families" shall mean in cities with a population of one million or more families who are homeless or who live in temporary or transitional housing and are unable to secure permanent and stable housing without special assistance, or families who live in permanent housing who are in danger of becoming homeless, or such other categories of families at risk of being homeless as determined by the commissioner of social services or a social services district.

4. "Permanent housing for homeless families site review advisory board" or "board" shall mean the board referred to in section sixty-five of this article.

5. "Permanent housing project for homeless families" or "project" shall mean a specific work or improvement, including lands, buildings and improvements acquired, owned, constructed, renovated, rehabilitated, managed or operated pursuant to this article, and such incidental or appurtenant facilities as may be approved by the agency.

6. "Eligible project costs" shall mean the reasonable and necessary cost of any and all undertakings for planning, financing, land acquisition, demolition, construction, rehabilitation, equipment and site development, and such other expenses incurred in relation to the project with respect to units to be occupied by eligible homeless families as the agency may deem appropriate to effectuate the purposes of this article.

7. "State" shall mean the state of New York.

§ 65. Permanent housing for homeless families site review advisory board. 1. There is hereby created the permanent housing for homeless families site review advisory board. The board will consist of the state

commissioner of housing and community renewal, the state commissioner of social services, the commissioner of the department of housing preservation and development of the city, the commissioner/administrator of the human resources administration of the city, and two representatives of organizations involved in providing housing. The governor of the state and the mayor of the city shall each appoint one of the aforementioned representatives to the board. Any action taken by the members shall require the affirmative vote of a majority of the members. Any member who is not appointed by the governor or mayor may select a designee from their respective departments or divisions. Any such designees shall have the power to attend and to vote at any meeting of the board from which the member is absent with the same force and effect as if the member were present and voting. Such designation shall be by written notice filed with the board. The designation of such person shall continue until revoked at any time by written notice to the board. Notwithstanding any inconsistent provisions of law, general, special or local, no officer or employee of the state, or of any civil division thereof, or any public benefit corporation, shall be deemed to have forfeited or shall forfeit his or her office or employment by reason of acceptance of membership on the board created by this section.

2. In carrying out its duties under this article the board may request the assistance of appropriate city and state agencies, public benefit corporations and public authorities. The aforesaid agencies, public benefit corporations and public authorities are authorized to provide such assistance within their respective functions as the board may require.

3. Notwithstanding any other provision of law, the board shall be authorized to let contracts in such manner as it deems appropriate and to execute all instruments as necessary to carry out its responsibilities. The board may contract with the agency to provide for the reasonable and necessary expenses of the board.

4. Moneys in the permanent housing for homeless families fund may not be used to pay for any administrative or other expenses of the agency or board, provided however, that moneys in such fund may be used to pay for

eligible project costs.

§ 65-a. Permanent housing projects for homeless families. 1. Site identification; initial project description. For each proposed permanent housing project for homeless families, the city will identify a site or sites for development of permanent housing for homeless families. If the site or sites are proposed to the board for rehabilitation, any building or buildings on the site must be vacant. Prior to any action by the board, the city must submit to the board an initial project description which sets forth, to the extent known, (a) a detailed physical description of the property and the number of eligible homeless families estimated to be served by the project; (b) the tenant population that will be served by the project and how the project will address the needs of these tenants; (c) a description of other funding sources that will be used to develop the project, if any; (d) the category of permanent housing proposed to be established; (e) a plan which provides that the units for eligible homeless families provided under this article will to the maximum extent practicable be occupied by eligible homeless families referred from hotels, motels or shelters that are regulated by title eighteen of the official compilation of codes, rules and regulations of the state of New York; (f) where relevant, information stating whether the city intends to convey the project to a not-for-profit corporation or housing development fund company, and, unless stated otherwise, it will be assumed that the city will hold title to the project once completed; (g) a proposed development timetable; (h) the names, addresses and business background of the principals involved, the nature of their fiduciary relationship and their financial relationship, past, present and future, to the project and to each other; (i) information regarding the operation of such project and the affordability of such project for eligible homeless families; and (j) such other information as the board may require. The board will also require in the project description that the costs associated with the construction or rehabilitation of those portions of projects that are not designed for occupancy by eligible homeless families are paid for by other funding programs or sources, and that completed projects must meet all applicable city or state codes governing such construction or

rehabilitation. With the approval of the city, a not-for-profit corporation, housing development fund company or a person, firm or corporation that will agree to limit its profits or rate of return of investors in accordance with a formula established or approved by the agency, may submit to the board one or more sites along with a project description in the form prescribed above.

2. After receipt of the initial project description described above, the board will review each proposed site and identify those sites that the board finds suitable for construction or rehabilitation for permanent housing for eligible homeless families. No site may be considered by the board unless the project proposed for the site will carry out the objectives of the homeless families plan most recently submitted to the council of the city by the New York city human resources administration. In its review, the board will give preference to those projects that will result in the lowest costs per unit, can be completed in the least amount of time, serve the greatest need for such housing and also provide housing for occupants who are not eligible homeless families.

3. After it has completed its review, the board shall advise the mayor of the city of its recommendations concerning the suitability of proposed sites for development as permanent housing for the homeless. No project shall be undertaken by the agency pursuant to this article unless the project site has been approved by the advisory board.

§ 65-b. Funds for permanent housing projects for homeless families.

The agency is authorized to receive and administer funds provided by the state and a city, as well as grants-in-aid and gifts of real and personal property, including money, from any source whatsoever, to be used to develop permanent housing accommodations for eligible homeless families. In carrying out its duties under this article the agency may require the assistance of appropriate city and state departments or agencies, public benefit corporations and public authorities. The aforesaid departments, agencies, public benefit corporations and public authorities are authorized to provide such assistance within their

respective functions as the agency may require.

§ 65-c. Approval of funding agreement; issuance of requests for proposals. The city's funds for such projects shall be provided as payments, grants or loans pursuant to a funding agreement or agreements with the agency. Any such agreement shall include the amount of funding to be provided by the city, the manner in which the city will make the funds available to the agency or the agency's designee, and a description of the projects and project sites, and shall be subject to the approval of the mayor and the local legislative body of the city. Notwithstanding any inconsistent provisions of law, general, special or local, or charter, the mayor and the local legislative body shall take action to approve or disapprove such agreement within sixty days of its submission, provided, however, that if the mayor fails to approve or disapprove the agreement during such period the mayor shall be deemed to have approved the agreement and provided further that if the local legislative body fails to approve or disapprove such agreement during such period the local legislative body shall be deemed to have approved the agreement. In the case of a project for which a not-for-profit corporation, housing development fund company or limited profit entity has provided sites with the city's approval, approval by the mayor and the local legislative body shall not be required under this section where such project has already received approval from the mayor and the local legislative body. Upon approval by the mayor and the local legislative body of such agreement, and upon satisfaction of such other conditions as the agency may establish, including but not limited to, satisfactory assurances from the city that projects on approved sites will receive expedited reviews by city departments and agencies having jurisdiction over the project, the agency is authorized to issue one or more requests for proposals to developers who shall be not-for-profit organizations or persons, partnerships, corporations or other entities that will agree to limit their profits or rate of return of investors in accordance with a formula established or approved by the agency with respect to the project, for the development, design, construction, or rehabilitation of permanent housing projects for eligible homeless families. Approval of an agreement by the mayor and the local

legislative body pursuant to this section shall not itself require compliance with any local land use review procedure, nor shall it constitute an action for purposes of article eight of the environmental conservation law, provided, however, that this section shall not grant any exemption from such procedures or laws if otherwise applicable. Notwithstanding the provisions of article one-A of the public authorities law, contracts entered into by the agency pursuant to this article shall not be subject to the provisions of article one-A of the public authorities law.

§ 65-d. Selection of developers. Following receipt by the agency of proposals in response to such request, the agency shall evaluate the proposals in consultation with appropriate city departments and agencies and recommend to the mayor of the city for his approval developers who are suitable and qualified to develop, design, construct or rehabilitate one or more permanent housing projects for eligible homeless families. The agency is authorized to contract with any developer who is approved by the mayor for the development, design, construction or rehabilitation of such projects.

§ 66. Authorized courses of action. For each project, the agency will review and approve or disapprove a final project description containing the information specified in section sixty-five-a of this article. The final project description shall include the identity of the project owner. After consultation with the city and review of responses to requests for proposals and within the limit of funds available in the permanent housing for homeless families fund, the agency shall award such contracts as it deems appropriate to developers in order to provide one or more projects for which it has approved a final project description. In proceeding with a project, the agency is authorized to take such courses of action, including, but not limited to, the following, as may be necessary or useful in enabling the agency to accomplish its purposes:

1. The developer may hold title to the project during development,

construction and rehabilitation;

2. In order to facilitate project development, the agency may enter into a license agreement with the holder of the title to the project;

3. Upon completion of construction or rehabilitation of the project by a developer who has taken title to the project, title shall be conveyed in accordance with the approved final project description, or, in the absence of a not-for-profit corporation or housing development fund company designated by the city to receive title to the project, title shall be conveyed to the city.

§ 67. Liability on obligations. 1. Except for obligations which the agency assumes by contract for the construction, rehabilitation and development period of any project, neither the agency nor the state shall have any responsibility or liability as to the construction, rehabilitation, operation, maintenance, repair or use of projects unless otherwise specifically provided by statute.

2. Any contract entered into pursuant to this article between the agency and the developer or owner of a project shall cite and set forth subdivision one of this section.

§ 68. State/city allocations of permanent housing projects for homeless families. 1. No contract shall be entered into by the agency or its designee in connection with the administration of projects, including the payment of project costs, unless the agency is assured to its satisfaction that the city has provided or will provide fifty percent of such costs to the agency or its designee. Moneys received from sources other than the city or the state may, at the agency's discretion, be expended without regard to such limitation. Notwithstanding any other provision of law, payments, grants and loans may be deposited by the agency directly with a lending institution at or before the time of initial loan closing pursuant to an escrow agreement satisfactory to the agency.

2. Moneys expended by the agency for the purposes of this article shall not substitute for locally funded operating or capital expenditures which the city would have allocated through its normal budgetary process to programs that provide permanent housing for homeless families in the absence of the funds provided for this program. All such moneys shall be used to increase locally funded operating or capital expenditures for permanent housing for homeless families to a level which is greater than the level which would have existed if such moneys had not been provided by the state. Nothing in this subdivision shall require the city to allocate funds for housing programs if in the city's judgment such allocation would require an increase in taxation or a reduction in other city services.

§ 69. Compliance; general and administrative provisions. 1. The owner of each project shall be responsible for assuring compliance with the terms and conditions of the approved project description and this article. Any project owned by a not-for-profit corporation or a housing development fund company shall be subject to such terms and conditions for a period of thirty-five years or such longer period as may be provided in the project description. No project may be transferred except in accordance with the project description, and the project description may not be changed without the approval of the agency.

2. The agency shall issue and promulgate guidelines for the administration of this article. The guidelines shall include provisions concerning approval of project descriptions, the eligibility of developers for contracts under this article; funding criteria and the funding determination process; supervision and evaluation of contracting developers; reporting, budgeting and record-keeping requirements; provisions for modification and termination of contracts and recapture of funds; and such other matters not inconsistent with the purposes and provisions of this article as the agency shall deem necessary or appropriate.

ARTICLE IV

LIMITED DIVIDEND HOUSING COMPANIES

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72. Housing companies; how created.
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74. Application of other laws.
75. Designation of and service of process on secretary of state and registered agent.
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97. Corporations in existence prior to enactment of article.

§ 70. General policy. It is hereby declared to be the policy of this article to encourage the investment of the savings of the people in low rent housing accommodations, to protect such investment against loss and to assure a fair return thereon. To this end, every responsible official of the state shall, wherever necessary, take all reasonable steps to the end that the security and safety of the mortgages referred to in this article shall be safeguarded and to maintain public confidence in the stock and obligations of housing companies created under this article.

§ 71. Definitions. The following terms, whenever used or referred to in this act, shall be construed as follows:

1. The term "housing company" means a limited-dividend housing corporation, a partnership (general or limited) or a trust organized pursuant to this article.

2. The term "project" means a specific work or improvement undertaken by a housing company, which shall include lands, buildings and improvements acquired or constructed to provide dwelling accommodations within the rental limitations prescribed by this article, and such stores, offices, social, recreational, communal or other non-housing facilities as may be deemed by the commissioner to be incidental or appurtenant to a project.

3. The term "mutual" when applied to a housing company shall mean a housing company which is a corporation operated exclusively for the benefit of the persons or families who are entitled to occupancy in a project of such housing company by reason of ownership of shares in such housing company.

4. The term "local and municipal taxes" means taxes levied by a county, city, village, town, school and special district but shall not include assessments for local improvements.

5. The term "state urban development corporation project" means a project of a limited-dividend housing company which is a subsidiary of the New York state urban development corporation, as the term "subsidiary" is defined in the New York state urban development corporation act.

6. The term "capital" means, in the case of a corporation, its capital shares issued and outstanding; in the case of a partnership, the aggregate value of the money and property contributed by the partners for the purpose of carrying on the business of the partnership, so far as such is credited to the partners on capital account; and in the case of a trust, the aggregate value of the money or property subject to the trust.

§ 72. Housing companies; how created. 1. Three or more persons may become a housing company which is a corporation, for the purpose of carrying out a project or projects, on making, signing, acknowledging and filing a certificate which shall contain:

(1) The name of the proposed housing company.

(2) The purposes for which it is to be formed which shall be as follows: To acquire, construct, maintain and operate projects.

(3) The amount of the capital shares, and if any be preferred shares, the preference thereof.

(4) The number of shares of which the capital shall consist, all of which shall have a par value.

(5) The city, village or town and county or borough in which its principal business office is to be located and the address to which the secretary of state shall mail a copy of process in any action or proceeding against the housing company which may be served upon him.

(6) Its duration, which shall not be less than twenty years.

(7) The number of directors, which shall not be less than three.

(8) The names and post-office addresses of the directors for the first year.

(9) The names and post-office addresses of the subscribers to the certificate and a statement of the number of shares which each agrees to take in the housing company.

(10) A provision that the real property of the housing company shall not be sold, transferred or assigned except under and pursuant to the terms and provisions of this article.

(11) A declaration that all of the subscribers to the certificate are of full age; that at least two-thirds of them are citizens of the United States and that at least one of them is a resident of the state of New York; that at least one of the persons named as a director is a citizen of the United States and a resident of the state of New York.

(12) That the secretary of state is designated as the agent of the housing company upon whom process in any action or proceeding against it may be served.

2. (1) A housing company may be created as a general partnership by the partners signing, acknowledging and filing as hereinafter provided a certificate which shall contain:

(a) The matters set out in paragraphs one, two, five, six, and ten of subdivision one of this section.

(b) The names and post-office addresses of the partners.

(c) A statement of the capital of the partnership.

(d) A declaration that all the partners are of full age, that at least two-thirds of them are citizens of the United States, and that at least one of them is a resident of the state of New York.

(2) A housing company may be created as a limited partnership by the partners filing as provided herein a copy of the certificate filed with the county clerk pursuant to article eight of the partnership law. The partners shall at the same time sign, acknowledge and file a further certificate which shall contain the matters set out in paragraphs one, two, five, six and ten of subdivision one of this section and a declaration that all the general partners are of full age, and at least two-thirds of them are citizens of the United States, and at least one of them is a resident of the state of New York.

3. A housing company may be created as a trust by the settlor signing, acknowledging and filing as hereinafter provided a certificate which shall contain:

(1) The matters set out in paragraphs one, two, five, six, and ten of subdivision one of this section.

(2) A statement of the capital of the trust.

(3) The name and post-office address of the trustee or trustees.

(4) The name and post-office address of any person having a beneficial interest, whether vested or contingent, under the trust.

(5) A declaration that all the trustees are of full age; that at least two-thirds of them are citizens of the United States, and that at least one of them is a resident of the state of New York.

4. A certificate made pursuant to this section shall further contain a declaration that the housing company has been organized to serve a public purpose and that it shall remain at all times subject to the supervision and control of the commissioner or of other appropriate state authority; that all real estate acquired by it and all structures erected by it, shall be deemed to be acquired for the purpose of promoting the public health and safety and subject to the provisions of this article, and that the shareholders, partners or in the case of a trust, the settlor, trustees or beneficiaries as their interest may appear, shall be deemed to have agreed that they shall at no time receive or accept from the housing company, in repayment of their investment or interest in its capital, any sums in excess of the par value of the shares, or of the amount of their contribution to, or beneficial interest in capital, together with cumulative distributions upon capital at the rate of six per centum per annum, and that any surplus in excess of such amount if said company shall be dissolved, or terminated, in the case of a housing company which is a trust, shall be paid into the general fund of the state of New York if the buildings and improvements of the project have not received exemption from taxation by the municipality pursuant to subdivision three or four of section ninety-three, or if the company has not received a loan from the municipality, but if such tax exemption or loan has been received, any remaining surplus shall be paid into the general fund of the municipality.

5. A certificate made pursuant to the provisions of this section may provide that in the event that income debenture certificates are issued by the housing company, the owners thereof may be given the same right to vote as they would have if possessed of shares of equivalent par

value in the case of a corporation or if they had contributed capital in the case of a partnership or had a beneficial interest under the trust vested in the case of a trust, of the amount of the income debenture certificates held by them.

If provision is made for the issuance of income debenture certificates, interest shall be paid by the housing company on income debenture certificates only out of net earnings of the housing company that would be applicable to payment of distributions if there were no income debentures.

6. The certificate may permit the retirement of income debenture certificates and capital of the housing company if, as and when there shall be funds available in the treasury of the housing company from the receipt of amortization or sinking fund installments for that purpose as provided for by this article, but the amount so retired shall not exceed ninety per centum of the par value of shares or amount of the capital and the face value of income debentures issued and outstanding at the time of the final completion of the building or buildings embraced in the project.

§ 73. Consent of commissioner to creation of housing companies. 1. If any certificate made pursuant to subdivision one of section seventy-two shall be presented to the secretary of state he shall not file said certificate unless there shall accompany the same a certificate of the commissioner that he consents to the filing of such certificate. In the case of a housing company which is a partnership or trust, the certificate shall be filed with the commissioner.

2. The commissioner shall not accept for filing a certificate of a housing company which is a partnership (general or limited) or a trust unless there has first been filed with him a partnership agreement or trust agreement as the case may be, the terms and conditions of which shall be subject to his approval.

§ 74. Application of other laws. The provisions of the business corporation law as hereafter from time to time amended shall apply to housing companies which are corporations, and the provisions of all applicable law shall apply to housing companies which are partnerships or trusts, except where any such provisions are in conflict with this article.

§ 75. Designation of and service of process on secretary of state and registered agent. The provisions of sections three hundred four, three hundred five and three hundred six of the business corporation law shall apply to housing companies heretofore or hereafter organized as corporations under this article.

§ 76. Limited return on capital and debentures. No shareholder, partner or beneficiary of a trust having an interest vested in possession in any housing company formed hereunder shall receive any distribution on capital in any one year in excess of six per centum per annum except that when in any preceding year distributions in the amount prescribed in the certificate shall not have been paid on the said capital, the shareholders, partners or beneficiaries, as the case may be, may be paid such deficiency without interest out of any surplus earned in any succeeding years. This provision shall likewise be applicable to income debenture certificates and interest thereon at the rate specified in such certificates shall be cumulative.

§ 77. Time of payment of subscription or capital contributions. 1. Subscriptions to the shares or income debentures of a housing company organized as a corporation shall be paid at such times and in such installments as the board of directors and the commissioner may require. If any default shall be made in the payment of any installment as so required, the board of directors may enforce said subscription by appropriate action and upon their failure so to do said subscription may be enforced by the commissioner. At the option of the board of directors with the consent of the commissioner, the board of directors may upon

such default declare the shares or income debentures and all previous payments thereon forfeited, after the expiration of twenty days from the service on the defaulting shareholder personally, or by mail directed to him at his address as shown on the books of the housing company, of a written notice requiring him to make payment within twenty days from the service of the notice at a place specified therein and stating that, in case of failure to do so, his shares or income debentures and all previous payments thereon will be forfeited. Such shares or income debentures if forfeited may be reissued or reoffered for subscription. If a receiver of the housing company has been appointed, all unpaid subscriptions shall be paid at such times and in such installments as such receiver or the court may direct.

2. Capital contributions to a housing company organized as a partnership (general or limited) or a trust shall be paid at such times and in such installments as shall be provided by the partnership agreement or trust agreement. Such partnership agreement or trust agreement shall contain provisions for enforcement of the terms and conditions thereof by the partners or trustees, or upon their failure to do so, by the commissioner, if any payment so required shall not be made. If a receiver of the housing company has been appointed, all unpaid capital contributions shall be paid at such times and in such installments as such receiver or the court may direct.

§ 78. Consideration for capital and bonds. No housing company which is a corporation shall issue shares, nor shall a housing company which is a partnership credit sums to the partners on capital account, nor shall a housing company which is a trust subject amounts to the trust, and no housing company shall issue bonds or income debentures, except for money or property actually received for the use and lawful purposes of the housing company, provided, however, that a mutual housing company may issue shares for home owners purchase notes if the purchase transaction has received the written endorsement of the commissioner in accordance with supplementary rules and regulations of the commissioner made therefor and if at least two hundred dollars in money or property is received by such mutual housing company toward the issuance of such

shares. The consideration for all capital, bonds or income debentures based upon property received shall equal a valuation approved by the commissioner and such valuation shall be used in computing actual or estimated cost.

In no event shall the capital of, and income debentures issued by, the housing company be less than the total of twenty per centum of the actual cost, as defined in this article, of any project or projects undertaken pursuant to this article.

The commissioner may permit capital to be increased, or income debentures to be issued, to an amount not exceeding three per centum of the estimated total cost, or three per centum of the actual cost, if actual cost should exceed estimated cost, of a project for working capital to be used in connection with such project.

§ 79. Minimum amount of capital and debentures. The entire amount of capital, together with any income debentures of a housing company shall be equivalent to at least twenty per centum of the actual cost of the project or projects which it operates except that in the case of a housing company which receives a loan from the New York state urban development corporation, created by the New York state urban development corporation act, such amount shall be equivalent to at least five per centum of such actual cost. The provisions of this section shall not be applicable to any housing company if such company shall receive a loan from a municipality pursuant to section ninety-three of the public housing law, or if funds made available by the federal government or any instrumentality thereof, or any mortgage or mortgage bonds insured by the federal housing administrator or any other instrumentality of the federal government are used in financing the project in whole or in part.

§ 80. Income debentures. With the approval of the commissioner the certificate, or an amended certificate, may authorize the issuance of income debenture certificates bearing no greater interest than six per

centum per annum. In the case of a housing company organized as a corporation the directors thereof may, with the consent of two-thirds of the holders of the preferred shares issued and outstanding, offer to the shareholders of the housing company, the privilege of exchanging their shares in such quantities and at such times as may be approved by the commissioner for such income debenture certificates. In no event shall the amount of shares of the housing company be less than ten per centum of the total of shares and income debentures.

§ 81. Mortgages and mortgage bonds. 1. (a) Any housing company formed under this article may, subject to the approval of the commissioner, borrow funds and secure the repayment thereof by bond or note and mortgage or by an issue of bonds under trust indenture. Each mortgage or issue of bonds by a housing company formed hereunder shall relate only to a single specified project and no other and said bonds shall be secured by mortgage upon all of the real property of which said project consists.

(b) First lien bonds or notes of such housing company when secured by a mortgage not exceeding four-fifths of the estimated cost prior to the completion of the project, or four-fifths of the appraised value or actual cost, whichever shall be less, after such completion, as certified by the commissioner, are hereby declared securities in which all public officers and bodies of the state and of the municipal subdivisions, all insurance companies and associations, and all savings banks and savings institutions, including savings and loan associations, in the state may properly and legally invest the funds within their control.

2. The bonds and notes so issued and secured and the mortgage or trust indentures relating thereto, may create a first or senior lien and a second or junior lien upon the real property embraced in any project; provided, however, that the total mortgage liens shall not exceed eighty per centum of the estimated cost prior to the completion of the project, or eighty per centum of the appraised value or actual cost, whichever shall be less, as certified by the commissioner after such completion. Where there is a first and a second mortgage lien upon the property

embraced in a project, only the first or senior lien thereon shall be deemed a security in which such officers, bodies, corporations and associations may invest the funds within their control. Such bonds and mortgages, notes and mortgages or trust indentures may contain such other clauses and provisions as shall be approved by the commissioner, including the right to assignment of rents and entry into possession in case of default and including in the case of a housing company which is a partnership or trust the right of the partners or trustees, as the case may be, to be free of any personal liability thereunder; but the operation of the housing project in the event of such entry by mortgagee or receiver shall be subject to the regulations of the commissioner under this article. Provisions for the amortization of the bonded indebtedness or notes of indebtedness of companies formed under this article shall be subject to the approval of the commissioner.

3. (a) So long as funds made available by the federal government or any instrumentality thereof or any mortgage, mortgage bonds or notes guaranteed or insured by the federal government or any instrumentality thereof, or any mortgage or mortgage bonds or notes secured by obligations so guaranteed or insured, or tax exempt obligations issued pursuant to section eleven of the United States housing act of nineteen hundred thirty-seven, are used in financing, in whole or in part, any project under this article, the capital structure of a housing company undertaking such project and the proportionate amount of the cost of the lands and improvements to be represented by mortgages, bonds or notes shall be entirely in the discretion of the commissioner; and all restrictions as to the amounts to be represented by mortgages, mortgage bonds, mortgage notes, income debentures or shares shall be inapplicable to such projects or to housing companies undertaking such projects, except that the bonds, notes, mortgages, debentures and shares covering any project shall not exceed the actual final cost of such project, as defined in this article.

(b) Notwithstanding anything contained in paragraph (b) of subdivision one of this section, first lien bonds or other obligations of housing companies, secured by a first mortgage upon all of the real property of a project and not exceeding the estimated cost prior to the completion of the project, or the appraised value or actual cost, whichever shall

be less, after such completion, as certified by the commissioner, are hereby declared securities in which all public officers and bodies of the state and of the municipal subdivisions, all insurance companies and associations, and all savings banks and savings institutions, including savings and loan associations, in the state may properly and legally invest the funds within their control, provided that

(1) the federal housing commissioner has insured, or has made a commitment to insure, such mortgage; or

(2) such bonds or other obligations are guaranteed or insured to at least forty per centum of the principal amount thereof under title three of an act of congress of the United States entitled the "Servicemen's Readjustment Act of 1944," or are secured by obligations so guaranteed or insured; or

(3) such bonds or other obligations evidence a loan for the purpose of financing construction and are to be guaranteed or insured under said title three, as hereinabove provided, upon completion of such construction, and all funds advanced on such loan are guaranteed or insured under said title three to the extent of at least thirty per centum of such advance, or are secured by obligations so guaranteed or insured.

* 4. So long as funds made available by the New York state urban development corporation, pursuant to the New York state urban development corporation act, are used in financing, in whole or in part, any project under this article, all restrictions as to the amounts to be represented by mortgages, mortgage bonds, mortgage notes, income debentures or capital shall be inapplicable to such projects or to housing companies undertaking such projects, provided however that any mortgage loan from the New York state urban development corporation to housing companies undertaking such projects shall not exceed ninety-five per centum of project cost, as certified by the commissioner.

* NB (Effective until ruling by Internal Revenue Service)

* 4. So long as funds made available by the New York state urban development corporation or the New York state housing finance agency, pursuant to the New York state urban development corporation act or the New York state housing finance agency act, as the case may be, are used in financing, in whole or in part, any project under this article, all restrictions as to the amounts to be represented by mortgages, mortgage

bonds, mortgage notes, income debentures or capital shall be inapplicable to such projects or to housing companies undertaking such projects, provided however that any mortgage loan from the New York state urban development corporation or the New York state housing finance agency, as the case may be, to housing companies undertaking such projects shall not exceed ninety-five per centum of project cost, as certified by the commissioner.

* NB (Effective pending ruling by Internal Revenue Service)

5. The capital structure of a housing company acquiring a project from a company organized pursuant to article eleven of this chapter may be fixed by the commissioner, notwithstanding any limitations in this article as to the amount to be represented by mortgages, debentures or capital.

§ 82. Limitations. No housing company shall:

1. Acquire any real property or interest therein unless it shall first have obtained approval of the project from the commissioner, and a certificate that such acquisition is necessary or convenient for the public purpose defined in this article, and unless any deed, lease or other instrument by which such real property or interest therein is acquired contains a statement that the conveyance is to a housing company organized pursuant to article four of the private housing finance law.

2. Sell, exchange, transfer or assign any real property except (a) to a municipality wherein a project is to be located, for public purposes only and upon such terms and conditions, with or without compensation, as the commissioner may approve, or with the written consent of the commissioner to another housing company formed under this chapter, and (b) for a price not in excess of the cost of the said property less any amounts paid in amortization of the mortgage indebtedness and the retirement of capital, plus so much of the distribution on capital of the said housing company as shall have been unpaid, and accrued interest on the mortgage indebtedness and income debenture certificates. Real

property surplus to the needs of the housing company may be sold, exchanged, transferred or assigned to any person, partnership, trust, firm or corporation upon such terms and conditions as the commissioner may approve.

3. Encumber or lease all or any part of its real property to any other person, partnership, trust, firm, or public or private corporation, without the written consent of the commissioner, provided, however, that leases conforming to the regulations and rules of the commissioner and for actual occupancy by the lessees may be made without the consent of the commissioner. Any conveyance, encumbrance, lease or sub-lease made in violation of the provisions of this section and any transfer or assignment thereof shall be void.

4. Pay interest returns on its mortgage indebtedness at a higher rate than six per centum per annum, or at the rates of interest of mortgages or mortgage bonds insured by the federal housing administration or any other instrumentality of the federal government applicable at the time the housing company incurs the mortgage indebtedness, or at such higher rates as may be approved by the commissioner, or pay interest upon its income debenture certificates at a rate higher than six per centum per annum.

5. Issue its shares, in the case of a housing company which is a corporation, credit sums to partners on capital account, in the case of a housing company which is a partnership, subject amounts to the trust, in the case of a housing company which is a trust, and no housing company shall issue debentures and bonds covering any project undertaken by it in an amount greater in the aggregate than the total actual final cost of such project, including the lands, improvements, charges for financing and supervision approved by the commissioner and interest and other carrying charges during construction, and an allowance for working capital to be approved by the commissioner but not exceeding three per centum of the estimated cost or of the total actual final cost of the project if that shall be greater than the estimated cost.

6. Mortgage any real property without first having obtained the

consent of the commissioner.

7. Issue any securities or evidences of indebtedness without first having obtained the approval of the commissioner.

8. Use any building erected or acquired by it for other than housing purposes, except that when permitted by law the story of the building above the cellar or basement and the space below such story may be used for stores, co-operative or community purposes, and when permitted by law the roof may be used for co-operative or community purposes.

9. Charge or accept any rental for housing accommodations in any project constructed, acquired, operated or managed by it in excess of the prices approved by the commissioner.

10. Enter into contracts for the payment of salaries to officers, employees, directors, partners, trustees or beneficiaries except subject to the approval of the commissioner and under such regulations as the commissioner may from time to time prescribe.

11. Enter into contracts for the construction or for the substantial repair, improvement or operation of projects except subject to the approval of the commissioner and under such regulations as the commissioner may from time to time prescribe.

12. Voluntarily dissolve, or in the case of a trust, terminate, without first having obtained the consent of the commissioner.

13. Make any guaranty without the approval of the commissioner.

14. Without the prior approval of the commissioner as to the terms and conditions thereof, sell, lease, or otherwise convey all or any part of a project to an authority.

The commissioner may declare that any of the limitations set forth in this section shall be inapplicable, in whole or in part, to mutual housing companies after the period of municipal tax exemption granted to

such mutual housing company projects pursuant to this article has expired.

§ 82-a. Redevelopment loans. Notwithstanding any provision of section eighty-one or eighty-two of this article to the contrary, where a housing company undergoes a comprehensive redevelopment plan, the commissioner may approve a loan and encumbrance of such project in an amount in excess of actual cost of the project, provided that such amount represents cost of capital improvements, redevelopment or acquisition by a new owner, any consequent rent increase is not unduly burdensome to the tenants, and the housing company enters into an agreement to remain subject to the provisions of this article for a period of no less than fifteen years from issuance of the loan and encumbrance.

§ 83. Execution of housing company projects. No building or construction shall be undertaken by any housing company without the approval of the commissioner. Such approval shall be conditioned upon:

1. The submission of a plan in such form and with such assurances as the commissioner may prescribe, to raise at least twenty per centum of the actual cost of the lands and improvements through investment in the capital of such housing company together with the sale of income debentures, where provided for by such plan; and to raise the balance by mortgage bonds which shall not exceed eighty per centum of the actual cost of the said project. The plan may provide for the raising of working capital in an amount to be approved by the commissioner not to exceed three per centum of the actual cost through investment in the capital and sale of income debentures of the housing company. Wherever reference is made in this article to cost of projects, or of buildings and improvements in projects, such cost shall include charges for financing and supervision approved by the commissioner, including a reasonable proportion to be fixed by the commissioner, of the expenses of the commissioner, applicable to the examination and supervision of the project, and carrying charges during construction required in the

project, including interest on borrowed, and where approved by the commissioner, on invested capital. Notwithstanding the provisions of any other general, special or local laws, all moneys payable by the project to reimburse the commissioner for his expenses applicable to the examination and supervision of the project during construction as herein provided shall be paid to the executive department.

2. The acceptance of a designee of the commissioner as a member of the board of directors of said housing company. In the case of all mutual companies an additional director shall be designated by the commissioner at the creation of the company and shall serve from the time of such designation at least until a board of directors has been elected by the tenants entitled to occupancy in the project by reason of ownership of shares in such company. Such directors appointed by the commissioner need not be stockholders or meet other qualifications which may be prescribed by the certificate of incorporation or the by-laws. In the absence of fraud or bad faith the director appointed by the commissioner shall not be personally liable for the debts, obligations or liabilities of the corporation.

3. The approval by the commissioner of the plans, specifications and estimated costs of the proposed housing facilities in respect to the conformity thereof to reasonable standards of health, sanitation, safety and provision for light and air.

4. When required by the commissioner, and except in the case of a housing company which is a subsidiary of the New York state urban development corporation, created by the New York state urban development corporation act, the designation by the commissioner with respect to each project approved by him of a trustee, which shall be a banking corporation authorized to perform trust functions, and such trustee shall receive moneys received by the housing company as its capital, or as proceeds of its mortgage bonds, notes or income debentures and make payment therefrom for the acquisition of land, the construction of improvements and other items entering into cost of land and improvements upon presentation of draft, check or order signed by a proper officer or designee of the housing company and countersigned by the said

commissioner or a person designated by him for said purpose. Any funds remaining in the custody of said trustee after the completion of the said project and payment or arrangement in a manner satisfactory to the commissioner for payment in full therefor shall be paid to the housing company.

5. No such project shall be approved in contravention of any planning, zoning, sanitary and building laws, ordinances and regulations applicable to the municipality in which the project is situated.

6. Notwithstanding the provisions of subdivision five hereof, no state urban development corporation project shall be approved unless it complies with the requirements of local laws, ordinances, codes, charters or regulations applicable to the construction, reconstruction, rehabilitation, alteration or improvement of such project, except where the state urban development corporation, in its discretion, finds such compliance not feasible or practicable, in which event no such project shall be approved unless it complies with the requirements of the state building construction code, formulated by the state building code council pursuant to article eighteen of the executive law, applicable to such construction, reconstruction, rehabilitation, alteration or improvement. No county, city, town or village shall have power to modify or change the drawings, plans or specifications for the construction, reconstruction, rehabilitation, or improvement of any such project or the construction, plumbing, heating, lighting or other mechanical branch of work necessary to complete the work in question, nor to require that any person, firm or corporation employed on any such work shall perform any such work in any other or different manner than that provided by such plans and specifications, nor to require that any such person, firm or corporation obtain any other or additional authority, approval, permit or certificate, from such county, city, town or village as a condition of doing such work, nor shall any condition whatever be imposed by any such county, city, town or village in relation to the work being done, and the doing of any such work by any person, firm or corporation in accordance with the terms of such drawings, plans, specifications or contracts shall not subject said person, firm or corporation to any liability or penalty, civil or criminal, other than

as may be stated in such contracts or incidental to the proper enforcement thereof; nor shall any county, city, town or village have power to require that any subsidiary of the New York state urban development corporation, or any lessee therefrom or successor in interest thereto, obtain any other or additional authority, approval, permit, certificate or certificate of occupancy from such county, city, town or village as a condition of owning, using, maintaining, operating or occupying any project acquired, constructed, reconstructed, rehabilitated or improved by any such subsidiary of the New York state urban development corporation.

§ 84. Regulation of housing companies. The commissioner may:

1. Order such repairs as will preserve the health and safety of the occupants of such buildings and structures owned or operated by housing companies, and the maintenance thereof in proper condition and repair.

2. Order all housing companies to do such acts as may be necessary to comply with the provisions of the law, the rules and regulations adopted by the commissioner, or the terms of any project approved by the commissioner, or to refrain from doing any acts in violation thereof.

3. Examine all housing companies and keep informed as to their general condition, their capitalization and the manner in which their property is constructed, leased, operated or managed with respect to their compliance with all provisions of law and orders of the commissioner.

4. Either himself or through his inspectors or employees duly authorized by him, enter in or upon and inspect the property, equipment, buildings, plants, offices, apparatus and devices of any housing companies; examine all books, contracts, records, documents and papers of any housing companies and by subpoena duces tecum compel the production thereof.

5. In his discretion, prescribe uniform methods and forms of keeping accounts, records and books to be observed by housing companies, and

after a hearing to prescribe by order accounts in which particular outlays and receipts shall be entered, charged or credited.

6. Require every housing company to file with the commissioner an annual report setting forth such information as the commissioner may require, verified by the oath of the president, vice-president, treasurer, secretary, general manager or receiver, if any, thereof, or by the person required to file the same. Such report shall be in the form, cover the period and be filed at the time prescribed by the commissioner. The commissioner may further require specific answers to questions upon which the commissioner may desire information and may also require such housing company to file periodic reports in the form, covering the period, and at the time prescribed by the commissioner.

7. (a) Administer oaths, take affidavits, hear testimony and take proof under oath at public or private hearings; (b) subpoena and require the attendance of witnesses and the production of books and papers pertaining to any investigation and inquiries authorized by this article and examine them in relation to any matter concerning which the power to investigate is granted; (c) issue commissions for the examination of witnesses who are out of the state or unable to attend before him or are excused from attendance; (d) investigate into the affairs of a housing company and into the dealings, transactions or relationships of such company with third persons; (e) intervene, as a matter of right, in any action or proceeding of which notice shall be given, affecting the project of a housing company; (f) take such steps in such action or proceeding as may be necessary to protect the public interest.

With regard to duties or liabilities arising out of this article, the state or the commissioner may be sued in the same manner as a private person. No costs shall be awarded against the commissioner or the state in any such litigation.

8. Waive, in whole or in part, any of the regulatory powers over mutual housing companies vested in him by this article after the period of municipal tax exemption granted to such mutual housing company projects pursuant to this article has expired.

8-a. Notwithstanding any other provision of law, with respect to projects completed prior to July first, nineteen hundred eighty-five, no limited dividend housing company shall be required to pay the commissioner any fees for the audit or other regulation of the company.

9. From time to time make, amend and repeal rules and regulations for carrying into effect the provisions of this article.

10. Modify supervision of a housing company upon finding that duplicative supervisory functions may impose an undue regulatory burden or unnecessary expenditure of agency resources, by taking such actions as are deemed appropriate, including consolidating supervisory functions associated with different programs, and entering into memoranda of understanding with other agencies for the allocation of supervisory functions.

§ 84-a. Additional supervision and regulation of housing companies.

The commissioner shall require that every company file with him, within six months of the effective date of regulations implementing this section and in such format as the commissioner shall prescribe an energy audit report which identifies potential energy-saving building improvements, including alterations, modifications and adjustments to the building structure, heating, cooling, lighting and ventilation systems; their relative costs; potential energy and cost savings; and simple payback periods, which for the purpose of this section shall mean that period of time within which the estimated cost of such improvements, exclusive of the cost of capital, would be recovered from the savings generated by reduced energy consumption resulting from the improvements. The energy audit shall be conducted by a public utility, an engineer or architect licensed by the state, or the managing agent or other representative of the company. A copy of the energy audit report, required herein, shall be given to any duly constituted tenant's association or cooperator's advisory council and a copy shall be available for inspection and copying by any individual tenant who requests it. The commissioner shall also require that every company

certify by March thirty-first, nineteen hundred eighty-four that all compatible conservation measures identified in the energy audit report which have simple payback period of one year or less have been implemented; provided, however, if the commissioner determines within sixty days of the date the energy audit report is filed that one or more of such identified conservation measures cannot be implemented by March thirty-first, nineteen hundred eighty-four, given the projected rent revenues and any other monies available to the company from reserve funds, loans or grants from the state or federal government or any other source, the implementation of such conservation measures shall be provided for according to a schedule prescribed by the commissioner.

§ 85. Control of rentals. 1. The commissioner shall fix the maximum rental per room to be charged the tenants of the dwellings furnished by a housing company, the average of such rentals for the dwellings in any project not to exceed the maximum average rental prescribed by law, except as provided in section eighty-seven. Such maximum average rental rate shall be determined upon the basis of the actual final cost of the project containing such rooms so as to secure, together with all other income of the housing company, a sufficient income to meet all necessary payments to be made by said housing company, as hereinafter prescribed, and such room rental rates shall be subject to revision by the commissioner from time to time. The payments to be made by a housing company shall be

(a) All fixed charges, and all operating and maintenance charges and expenses which shall include a charge to be fixed by the commissioner to reimburse him in whole or in part for the expenses of inspection, supervision and auditing, taxes, assessments, insurance, amortization charges in amounts approved by the commissioner to amortize the mortgage indebtedness in whole or in part, improvements and additions to the projects to the extent and in the amount approved by the commissioner; depreciation charges if, when and to the extent deemed necessary by the commissioner; reserves, sinking funds and expenses essential to operation and management of the project in amounts approved by the commissioner.

(b) A distribution not exceeding the maximum fixed by this article

upon the capital of the housing company allotted to the project by the commissioner, and interest on income debentures.

(c) Where feasible in the discretion of the commissioner a sinking fund in an amount to be fixed by the commissioner for the gradual retirement of the capital, and income debentures of the housing company to the extent permitted by this article. When tenants own shares or income debentures in a housing company, a sinking fund may with the approval and subject to the regulations of the commissioner be set up and maintained out of the net profits applicable to surplus and used subject to the regulations of the commissioner for the purchase at not to exceed par and accrued interest of the shares and income debentures held by tenants ceasing to be occupants of the buildings; shares so purchased may be resold by the housing companies. The moneys payable by the project to reimburse the commissioner for the expenses of inspection, supervision and auditing as herein provided shall be paid to the executive department. Letting, subletting or assignment of leases of apartments in such buildings or structures at greater rentals than prescribed by the order of the commissioner are prohibited and all such leases shall be void for all purposes.

2. For the purpose of calculating rentals in such dwellings, alcoves, dining bays, and similar accommodations where their existence is legally permissible, and bathrooms in the case of apartments of three rooms or less, may, in the discretion of the commissioner, be counted as half rooms; bathrooms in apartments of four rooms or more shall not be counted as rooms or half rooms.

3. In projects where the land is leased from a municipality the value of the land shall be taken at a sum fixed by the board, body or officer designated by the local legislative body and approved by the commissioner. For all the purposes of this article (including the provisions of section eighty-one) the determination of the actual or estimated cost of projects involving leased lands shall be made on the basis provided in section eighty-three and other sections of this article in the case of projects involving land purchased in fee by a housing company, except that in projects involving leased land the value of the land leased, ascertained in the manner described above, shall be

used instead of the cost of the land in determining the total cost of the land and improvements comprising the project. In projects involving leased land, the rental, if any, during the period of construction may be included as part of the cost of the project. The sections of this article requiring the investment of at least one-fifth of the cost of the projects capital and income debentures shall not apply to projects involving leased land but in such projects the value of the land, ascertained in the manner described above, plus the amount obtained by the investment in the capital and income debentures of the housing company shall be at least one-fifth of the cost of the project, and the amounts, if any, to be raised by mortgage indebtedness shall not exceed four-fifths of such cost.

§ 85-a. Selection of tenants and occupants. 1. The dwellings in a housing company project, other than a mutual project, shall be available

(a) If such project was completed or acquired on or after July first, nineteen hundred fifty-five, for persons or families whose probable aggregate annual income at the time of admission does not exceed seven times the rental (including the value or cost to them of heat, light, water and cooking fuel) of the dwellings to be furnished such persons or families, except that in the case of persons or families with three or more dependents, such ratio shall not exceed eight to one;

(b) If such project was completed prior to July first, nineteen hundred fifty-five, for persons or families whose probable aggregate annual income at the time of admission does not exceed seven times the rental (including the value or cost to them of heat, light, water and cooking fuel) of the dwellings to be furnished such persons or families, except that in the case of persons or families with three or more dependents, such ratio shall not exceed eight to one;

(c) In the event that the income of a person or family residing in a project increases and the ratio to the rental of the dwelling becomes greater than prescribed by law for admission or in this subdivision, whichever is greater, and the income is not more than fifty per centum above the income so prescribed for admission to the dwelling and such increased income continues for a period of three months or more, the housing company may permit such person or family to continue to remain

in occupancy provided the housing company is convinced that such person or family cannot secure other safe and sanitary dwelling accommodations, or by reason of other facts the removal of such person or family from the project would occasion other undue hardship to such person or family. However, such person or family shall pay a rental surcharge in accordance with a schedule of surcharges promulgated by the company with the approval of the commissioner and in no event shall such removal be effected against any person or family which was in occupancy prior to July first, nineteen hundred eighty-three;

(d) In the event that the ratio of the income of a person or family to the rental of the dwelling becomes greater than that prescribed by law for admission or in this subdivision, whichever is greater, and is more than fifty per centum above the income so prescribed for admission to the dwelling and such increased income continues for a period of three months, the housing company shall require such person or family to remove from the dwelling and may take such steps, including summary proceedings, as are necessary to effect the removal of the person or family. A three months' period shall be given such person or family to find new accommodations. Pending removal from the dwelling, such person or family shall pay a rental surcharge in accordance with a schedule promulgated by the company with the approval of the commissioner. In no event shall a removal otherwise authorized by this paragraph be effected against any person or family which was in occupancy prior to July first, nineteen hundred eighty-three.

2. The dwellings in any mutual housing company project shall be available

(a) In the case of such projects constructed or acquired on or after July first, nineteen hundred fifty-five, for such persons or families whose probable aggregate annual income during the period of occupancy does not exceed, the greater of (i) the median income for such persons or families for the metropolitan statistical area in which the project is located, or if a project is located outside a metropolitan statistical area, the median income for such persons or families for the county in which the project is located, as most recently determined by the United States department of housing and urban development, in which case any person or family becoming eligible for admission pursuant to

this subparagraph shall pay, from the time of admission, a rental surcharge as provided for in subdivision three of this section, computed on the basis of the income limitations applicable to such persons or families in the absence of this subparagraph, or (ii) seven times the rental (including the value or cost to them of heat, light, water and cooking fuel) of the dwellings to be furnished such persons or families, except that in the case of persons or families with three or more dependents, such ratio shall not exceed eight to one. For the purpose of determining the eligibility of tenant cooperators in a mutual housing company project, there shall be added to the total annual carrying charges an amount equal to six per centum of the investment of a person or family in the equity obligations of such housing company and, to the extent authorized by the commissioner or the supervising agency as the case may be, the value or cost to them of repainting and the replacement of fixtures and appliances;

(b) In the case of such projects constructed prior to July first, nineteen hundred fifty-five, for such persons or families whose probable aggregate annual income during the period of occupancy does not exceed, the greater of (i) the median income for such persons or families for the metropolitan statistical area in which the project is located, or if a project is located outside a metropolitan statistical area, the median income for such persons or families for the county in which the project is located, as most recently determined by the United States department of housing and urban development, in which case any person or family becoming eligible for admission pursuant to this subparagraph shall pay, from the time of admission, a rental surcharge as provided for in subdivision three of this section, computed on the basis of the income limitations applicable to such persons or families in the absence of this subparagraph, or (ii) seven times the rental (including the value or cost to them of heat, light, water and cooking fuel) of the dwellings to be furnished such persons or families, except that in the case of persons or families with three or more dependents, such ratio shall not exceed eight to one; provided, however, that, in the discretion of the commissioner upon application of the mutual housing company, the income limitations set forth in paragraph (a) of this subdivision shall be applicable to such projects, and, in such case, investment in the equity obligations of such housing companies shall include: the value of the

stock of said housing company at time of purchase; all moneys paid towards the rental of the dwellings which are allocated to the reduction of the principal amount of the mortgage loan secured by a mortgage lien on the real property of the housing company; and all accruals to equity, approved by the commissioner, resulting from capital improvements;

(c) The limitations as to income contained hereinabove in paragraphs (a) and (b) of this subsection shall not apply in mutual housing company projects after the period of municipal tax exemption of such project has expired, and provided the commissioner has waived his rights over the control of rentals and selection of tenants under this article;

(d) No occupant whose income increases shall be compelled to vacate the project unless the ratio of his income to rental of the dwelling becomes greater by fifty per centum or more than is prescribed by law at the time of admission or in this subdivision, whichever is greater, and unless at the same time he shall be discharged from all liability on any note, bond or other evidence of indebtedness relating thereto, and there shall be repaid to such person by the housing company all sums paid to such company for or on account of the purchase of stock or income debentures as a condition of such occupancy. The housing company may, with the approval of the commissioner, permit such occupant whose income increases and the ratio of income to rental of the dwelling becomes greater by fifty per centum or more than is prescribed by law at the time of admission or in this subdivision, whichever is greater, to occupy the dwelling for not more than three years from the time such increase in income first accrues unless such occupancy is extended with the approval of the commissioner. In no event shall a removal otherwise authorized by this paragraph be effected against any person or family which has been in occupancy prior to July first, nineteen hundred eighty-three. However, such occupant shall pay a rental surcharge in accordance with a schedule of surcharges promulgated by the company with the approval of the commissioner.

3. Twenty-five per centum of rental surcharges collected pursuant to this section on account of rentals payable prior to July first, nineteen hundred eighty-three shall be paid by the company to the municipality which has granted tax exemption pursuant to section ninety-three of this article as a credit against the grant of tax exemption, the value of

such tax exemption and of such credit to be determined on an individual dwelling unit basis. In the event that such tax exemption has not been granted, or in the event the period of tax exemption has expired, or in the event that a sum equal to the total of all accrued taxes as to individual dwelling units where such tax exemption was granted have been paid to the municipality, the excess, if any, of surcharges and all surcharges imposed after June thirtieth, nineteen hundred eighty-three shall be applied to the expenses of operation and management as approved by the commissioner.

4. The commissioner may approve or disapprove an application for a lease in accordance with the income limits prescribed herein and, where there is discrimination in violation of section six hundred two of this chapter, may compel a housing company to grant a lease or renewal thereof to a person or family as a tenant in the project.

5. The "probable aggregate annual income" means the annual income of the chief wage earner of the family plus all other income of members of the family over the age of twenty-one years, plus a proportion of the income of members under the age of twenty-one years to be determined by the commissioner, excluding therefrom a deduction of fifteen thousand dollars from the income of secondary wage earners of the family or a larger deduction if approved by the commissioner or the supervising agency, as the case may be, except that the company, as approved by the commissioner, may exclude a proportion of the income of other members of the family over the age of twenty-one years for the purpose of determining eligibility for admission or continued occupancy, or for establishing the rental of such family, or for all such purposes.

6. A company may rent one or more dwelling units to a social services official or duly authorized agency, as defined in section three hundred seventy-one of the social services law, for the operation of agency boarding homes or group homes or to any public agency as defined in section four hundred sixty-one of the general municipal law, which provides residences and social services to dependent aged persons.

7. (a) For the purpose of enabling lower income elderly persons to

continue in occupancy without paying rentals in excess of a fair proportion of their income, any municipality having a population of less than one million is authorized to make and to contract to make periodic payments to a company in an amount not exceeding the difference between the rent or carrying charges for the dwellings occupied by such lower income persons and one-third of their net probable aggregate annual income, where such rent or carrying charges exceed such one-third of income; provided that the aggregate amount of periodic payments to be made in accordance with contracts entered into by the municipality during any fiscal year thereof pursuant to this subdivision, subdivision nine of section thirty-one, section one hundred twenty-six and section five hundred seventy-seven-a of this chapter shall not exceed the aggregate amount of all real property taxes paid or payable during such fiscal year by all companies organized pursuant to this article, article II, article V and article XI of this chapter and the aggregate estimated receipts of all such companies in such fiscal year from rental surcharges collected or to be collected pursuant to this chapter.

(b) Such payments shall be made only on account of a person or family in occupancy where the head of the household is sixty-two years of age or older and is not a recipient of public assistance pursuant to the social services law, and where the net probable aggregate annual income of the person or family in occupancy does not exceed six thousand five hundred dollars a year. Notwithstanding the provisions of subdivision twenty-nine of section two of this chapter net probable aggregate annual income as used in this subdivision shall mean annual income of family members from all sources after deduction of federal, state and city income taxes; provided that any municipality may provide that increases in benefits under the social security act which take effect after such person or family has assumed occupancy shall not be taken into account.

(c) A company having a contract with the municipality pursuant to this subdivision may not collect from persons or families in occupancy on whose account such payments are made any rentals in excess of the amounts specified in such contract.

8. Notwithstanding the provisions of this section, persons or families with two or more dependents whose probable aggregate annual income does not exceed one hundred twenty-five percent of the limitations as to

income applicable without reference to this subdivision, shall also be eligible for admission to the project on the understanding that any person or family becoming eligible by reason hereof, shall pay from the time of admission a rental surcharge computed on the basis of the income ratios applicable to such person or family in the absence of this subdivision. In applying the provisions of paragraphs (c) and (d) of subdivision one and of paragraph (d) of subdivision two of this section to a family becoming eligible by reason of this subdivision, the "ratio prescribed by law" shall mean such ratio as would be prescribed in the absence of this subdivision.

9. Notwithstanding the provisions of this section or any law to the contrary, any limited dividend mutual housing company which:

(a) owns or operates a project or projects that are located in the county of Queens and were constructed or acquired prior to July first, nineteen hundred sixty-five; and

(b) did not receive a loan, construction subsidy, mortgage, mortgage guarantee or any other form of financial assistance from the state of New York or from any state agency, authority or public benefit corporation created by the state; and

(c) is no longer required to pay rental surcharges to the municipality in which it is located; and

(d) has commenced paying real property taxes on the value of the land and improvements pursuant to a resolution adopted by the governing body of the municipality in which it is located; and

(e) has determined, by a two-thirds vote of the directors of the housing company taken on or before July first of each year that rental surcharges based on incomes of persons or families residing in the project, as specified in this article or any other provision of law, are not required for the purpose of maintaining or operating said project or projects. Any such vote shall be preceded by a timely notice to the project's shareholders that such vote will take place; shall be excused from undertaking a survey of the aggregate and individual annual incomes of persons or families residing in such project or projects constructed or acquired by such housing company, and shall not be required to impose rental surcharges based on the incomes of such persons or families.

10. A housing company shall accept federal reimbursement under section eight of the Housing and Community Development Act of 1974 in lieu of such amount in rent payment for a person qualifying under such act and residing in a project of such company. A housing company shall not reject an applicant for an apartment solely on the basis that all or part of the rent shall be paid under section eight of the Housing and Community Development Act of 1974.

§ 85-b. Resale price of shares. Notwithstanding any other provision of this article and subject to any regulation not inconsistent with this section which may be promulgated by the commissioner:

(a) The resale price of shares in a mutual company shall be fixed by the mutual company, subject to the approval of the commissioner, and shall be equal to (1) the consideration the selling tenant-cooperator paid for such shares and (2) any capital assessments and voluntary capital contributions approved by the commissioner and paid by the selling tenant-cooperator to the mutual company, to the extent not already included in the consideration paid for such shares, and, if established by the mutual company, (3) a proportionate share of the actual aggregate amortization paid on all existing and prior mortgages on the project in reduction of total outstanding principal indebtedness during such period as shall be fixed by the board of directors of the mutual company, to the extent not already included in the consideration paid for such shares, and (4) reasonable administrative charges.

(b) The aggregate amount to be paid to the selling tenant-cooperator with respect to the sale of the selling tenant-cooperator's shares shall be fixed by the board of directors of the mutual company, subject to the approval of the commissioner, and shall be equal to (1) the consideration the selling tenant-cooperator paid for such shares, (2) any capital assessments and voluntary capital contributions approved by the commissioner and paid by the selling tenant-cooperator to the mutual company, to the extent not already included in the consideration paid for such shares, and (3) a proportionate share of the actual aggregate amortization paid by the selling tenant-cooperator on all existing and prior mortgages on the project in reduction of total outstanding

principal indebtedness during such period as shall be fixed by the board of directors pursuant to subdivision (a) of this section, to the extent not already included in the consideration paid for such shares. To the extent that a selling tenant-cooperator may be entitled to an amount less than the resale price of his shares, the difference shall be retained by the mutual company.

(c) The board of directors may, subject to the approval of the commissioner, establish a general policy pursuant to which a selling tenant-cooperator who had occupied more than one dwelling unit is paid an amount measured by his proportionate share of the actual aggregate amortization paid during his period of occupancy on all existing or prior mortgages on the project. To the extent that a selling tenant-cooperator may be entitled to an amount greater than the resale price of shares, the difference may be paid to the selling tenant-cooperator by the mutual company.

(d) The "proportionate share of the actual aggregate amortization paid on all existing and prior mortgages on the project" referred to in subdivision (a) of this section shall be in the same ratio to such actual aggregate amortization as the number of shares held by the selling tenant-cooperator at the time of sale bears to the total number of shares of issued and outstanding capital stock of the mutual company during such period.

(e) Nothing contained in this section shall prohibit the continued use of any method of calculating resale price adopted by a mutual company and approved by the commissioner prior to the effective date of this section.

§ 86. Reduction of rentals in housing company projects. If in any calendar or fiscal year the gross receipts of any housing company should exceed the payments or charges specified in section eighty-five, the sums necessary to pay distributions or interest accrued or unpaid on any shares, income debentures or other capital, and the authorized transfer to surplus, the balance shall, unless the board of directors, the partners or the trustees, as the case may be, with the approval of the commissioner shall deem such balance too small for the purpose, be applied to the reduction of rentals, for such year or years as the

commissioner may specify, or to the further reduction of any mortgage indebtedness, or both, as the commissioner may determine.

§ 87. Increase of rentals in housing company projects. Whenever it shall appear that the interests of lienholders, creditors, debenture holders, shareholders, partners or beneficiaries cannot otherwise be safeguarded, the commissioner shall, notwithstanding the limitation prescribed in this article upon maximum average rental, have power by his order made upon written application of a housing company or of a lienholder, a creditor, or of holders of ten per centum of the income debentures of the housing company, or, in the case of a housing company which is a corporation, the holders of ten per centum of the shares, or, in the case of a housing company which is a partnership, the partners having an interest in capital equal to ten per centum thereof, or, in the case of a housing company which is a trust, the beneficiaries having a beneficial interest in capital equal to ten per centum thereof, to authorize such housing company to increase rentals beyond the maximum provided in this article as follows:

(a) If the application is made before occupancy of the dwellings embraced in the project and it is shown to the satisfaction of the commissioner that owing to causes beyond the control of the housing company or contingencies which in the opinion of the commissioner could not reasonably have been anticipated, the maximum rentals are insufficient to meet the payments authorized in section eighty-five in which event the commissioner may authorize an increase in the minimum amount necessary to enable such housing company to make such payments.

(b) If the application is made after occupancy the order shall be made only after a public hearing. Said hearing shall be held upon no less than twenty days' written notice to the tenants and such notice shall have annexed thereto a copy of the application for increase in rentals. No such order or authorization shall be made or given unless the commissioner shall find that because of changes in economic conditions in their application to the project with respect to which request for increased rentals shall have been made or because of special assessments or causes or contingencies beyond the control of the housing company, affecting such project, the maximum rentals fixed as herein provided are

insufficient to meet the payments authorized in section eighty-five of this article and unless the commissioner shall find that such insufficiency cannot be corrected by reasonable economies in management and operation of said project. The commissioner shall not authorize any increase in rentals in excess of the minimum amount necessary to enable the said housing company to make the said payments authorized in section eighty-five. Any order by the commissioner shall be final and conclusive upon all questions within his jurisdiction, with respect to the project affected thereby, unless reversed or modified on appeal therefrom as hereinafter provided. Within thirty days after notice of the filing of the order of the commissioner has been sent to the said housing company and served upon the said tenants affected thereby in such manner as the commissioner shall prescribe, an appeal may be taken to the appellate division of the supreme court in the department in which the project affected by the order is located, from such order of the commissioner by any party in interest. If notice of such appeal is served upon the commissioner, he shall, within thirty days thereafter, serve upon the parties in interest a statement of his conclusions of fact and rulings of law in such case. The commissioner may also in his discretion certify to such appellate division of the supreme court questions of law involved in his order. Such appeal and the questions so certified shall be heard in a summary manner and shall have precedence over all other civil cases in such court. The commissioner shall be deemed a party to every such appeal.

An appeal may also be taken by the commissioner or by any party in interest to the court of appeals in the same manner and subject to the same limitations as is now provided in civil actions. It shall not be necessary to file exceptions to the rulings of the commissioner. The commissioner shall not be required to file a bond upon an appeal by him to the court of appeals. Upon final determination of such an appeal, the commissioner shall enter an order in accordance therewith.

§ 88. Surplus. The amount of net earnings transferable to surplus in any year after making or providing for the payments specified in items (a), (b) and (c) of subdivision one of section eighty-five of this

article shall be subject to the approval of the commissioner. The amount of such surplus shall not exceed twelve per centum of the outstanding capital and income debentures of the housing company, but the surplus so limited shall not be deemed to include any increase in assets due to reduction of mortgage or amortization or similar payments. On dissolution of any housing company, organized as a corporation, the shareholders shall in no event receive more than the par value of their shares plus accumulated, accrued or unpaid dividends at the rate of six per centum per annum; on dissolution of a housing company organized as a partnership, the partners shall in no event receive more than the value of their paid in capital plus accumulated, accrued or unpaid distributions on capital at the rate of six per centum per annum; on termination of a housing company organized as a trust, the beneficiaries shall in no event receive more than the value of the money or property subject to the trust plus accumulated, accrued or unpaid distributions on capital at the rate of six per centum per annum; on dissolution of any housing company income debenture holders shall in no event receive more than the face value of income debentures outstanding plus accumulated, accrued and unpaid interest at the rate of six per centum per annum. Any remaining surplus shall be paid into the general fund of the state of New York, if the buildings and the improvements of the project have not received exemption from taxation by the municipality pursuant to subdivision three or four of section ninety-three and if the company has not received a loan from the municipality, but if such tax exemption or loan has been received, any remaining surplus shall be paid into the general fund of the municipality.

§ 89. Consolidated projects; operation of more than one project. The commissioner may permit the consolidation of two or more approved projects or the extension or amendment of any approved project or the consolidation of any approved project with a proposed project. In any of these events, the consolidated project shall be treated as an original project and an application shall be submitted as in the case of an original project and rents and costs may be averaged throughout the consolidated or extended project. The commissioner may likewise permit any housing company to organize and operate more than one project or to

take over any project heretofore approved by the commissioner and to operate it independently of other projects of the housing company. The commissioner may in his discretion decline to permit more than one project to be operated by the same housing company.

§ 90. Purchase by housing companies. Before any housing company shall purchase the property of any other housing company, it shall file an application with the commissioner in the manner hereinbefore provided as for a new project and shall obtain the consent of the commissioner to the purchase and agree to be bound by the provisions of this article and the commissioner shall not give his consent unless it is shown to the satisfaction of the commissioner that the project is one that can be successfully operated according to the provisions of this article.

§ 91. Proceedings against housing companies. 1. Whenever the commissioner shall be of the opinion that a housing company is failing or omitting, or is about to fail or omit to do anything required of it by law or by order of the commissioner or is doing or is about to do anything, or permitting anything, or is about to permit anything to be done, contrary to and in violation of law or of any order of the commissioner, or which is improvident or prejudicial to the interest of the public, the lienholders, the shareholders, partners, beneficiaries or the tenants, the commissioner shall commence an action or proceeding in the supreme court of the state of New York in the name of the commissioner, in accordance with the provisions of the civil practice law and rules for the purpose of having such violations or threatened violations stopped and prevented, and in such action or proceeding, the court may appoint a temporary or permanent receiver or both. Such action or proceeding shall be commenced by a petition to the supreme court, alleging the violation complained of and praying for appropriate relief. It shall thereupon be the duty of the court to specify the time, not exceeding twenty days after service of a copy of the petition, within which the housing company complained of must answer the petition. In case of default in answer or after answer the court shall immediately inquire into the facts and circumstances in such manner as the court

shall direct without other or formal pleadings, and without respect to any technical requirements. Such other persons or corporations as it shall seem to the court necessary or proper to join as parties in order to make its order or judgment effective, may be joined as parties. The final judgment in any such action or proceeding shall either dismiss the action or proceeding or direct that an order or an injunction, or both, issue, or provide for the appointment of a receiver as prayed for in the petition, or grant such other relief as the court may deem appropriate.

2. In the event that a municipality shall make a loan to a housing company, the municipality, as well as the commissioner, shall have the powers enumerated in subdivision one of this section.

§ 92. Reorganization. 1. Reorganization of housing companies shall be subject to the supervision and control of the commissioner and no such reorganization shall be had without the authorization of the commissioner.

2. Upon all such reorganizations the capital structure of the housing company shall be subject to the approval of the commissioner in accordance with the provisions of section seventy-eight of this article.

§ 93. Tax exemptions. 1. Any housing company shall be exempt from the payment of any and all franchise, organization, income, mortgage recording and other taxes to the state and all fees to the state or its officers.

2. Bonds and mortgages and the income debenture certificates of all housing companies are declared to be instrumentalities of the state, issued for public purposes and shall, together with interest thereon, be exempt from taxation. Distributions on capital of said companies shall be exempt from taxation by the state.

3. Any municipality in which projects of housing companies are located is authorized to exempt the buildings and improvements created in

connection with such projects from local taxation, and should said municipality exempt such buildings and improvements from such taxation the buildings and improvements of said company shall to the extent of such exemption be exempt from any and all state taxation. This provision shall apply only to projects completed prior to January first, nineteen hundred thirty-nine.

4. Any municipality in which projects of housing companies are located is authorized, through its local legislative body, to exempt from local and municipal taxes, other than assessments for local improvements, all or part of the value of the property included in any such projects as represents an increase over the assessed valuation of the real property, both land and improvements, acquired for the project at the time of its acquisition by the housing company which originally undertook the project; and should a municipality grant such tax exemption, all projects of housing companies shall to the extent of such municipal exemption and during the period thereof, be exempt from any and all state taxes. Such exemption of projects from taxation by a municipality and the state shall not extend to projects erected prior to January first, nineteen hundred thirty-nine nor to projects erected after January first, nineteen hundred seventy-three and prior to January first, nineteen hundred seventy-nine.

5. The tax exemption specified in subdivisions three and four of this section shall not operate for a period of more than fifty years, commencing in each instance from the date on which the benefits of such exemption first become available and effective.

6. Notwithstanding the provisions of subdivisions four and five of this section, the real property owned, acquired, leased, managed or operated by a state urban development corporation project shall be exempt from all local and municipal taxes, other than assessment for local improvements, to the extent of the value of the property included in such project as represents an increase over the assessed valuation of the real property, both land and improvements acquired for the project on the date of its acquisition by the housing company. The tax exemption shall operate and continue so long as the mortgage loans of such

limited-dividend housing company are outstanding, but in no event for a period of more than forty years, commencing in each instance from the date when such limited-dividend housing company first acquired such property. If a state urban development corporation project qualifying for tax exemption pursuant to this subdivision is sold, with the approval of the commissioner, to another limited-dividend housing company, such successor company shall be entitled to all the benefits of this subdivision.

7. Any project that received a tax exemption under this section may, upon the expiration of the tax exemption period, be granted an additional tax exemption period of up to fifty years, or until such time as the project is no longer operated under the restrictions and for the purposes set forth in this article, whichever is sooner.

8. Notwithstanding any other provision of this section, the maximum combined local and municipal taxes, other than assessments for local improvements, that a project operated by a housing company established pursuant to this article, and which is eligible for a tax exemption pursuant to any other subdivision of this section, shall be required to pay in a city with a population of one million or more shall be no more than the equivalent of five per centum of the annual shelter rent or carrying charges of such project. Upon the consent of the local legislative body of the municipality, other than a city with a population of one million or more, in which the project is located, the amount of such taxes may be further reduced to five per centum or less of the annual shelter rent or carrying charges of the project. Any such granted consent to reduce the amount of such taxes shall expire every ten years. If such authorization is not renewed, the rate of taxation shall revert to the level established before the consent was granted. For the purposes of this subdivision, "shelter rent" shall have the same meaning as such term is defined to have in paragraph a of subdivision one of section thirty-three of this chapter.

§ 94. Foreclosure. 1. In any foreclosure action the commissioner, and the municipality if it has made a loan to the housing company, in

addition to other necessary parties, shall be made parties defendant; and the commissioner and the municipality shall take all steps in such action necessary to protect the interest of the public therein, and no costs shall be awarded against him or the municipality. Foreclosure shall not be decreed unless the court to which application therefor is made shall be satisfied that the interests of the lienholder or holders can not be adequately secured or safeguarded except by the sale of the property. In any such proceeding, the court shall be authorized to make an order increasing the rentals to be charged for the housing accommodations in the project involved in such foreclosure, but not exceeding the maximum average rentals fixed herein, or appoint the commissioner as a receiver of the property and in the event the municipality has made a loan to the housing company, appoint an officer or employee of the municipality, or grant such other and further relief as may be reasonable and proper. In the event of a foreclosure sale or other judicial sale, the property shall, except as provided in the next succeeding paragraph of this section, be sold only to a housing company, unless the court shall find that the interest on the bonds cannot be earned under the restrictions imposed by the provisions of this article and that the proceeding was brought in good faith. In such event the property shall be sold free of all restrictions imposed by this article and all the benefits theretofore granted under this article to such project shall thereupon terminate.

2. Notwithstanding the foregoing provisions of this section, wherever it shall appear that a government, the New York state housing finance agency, the New York state urban development corporation, created by the New York state urban development corporation act, the New York city housing development corporation, Battery Park city authority, an organization or entity investing or participating in a loan pursuant to subdivision one of section fifteen of this chapter, or a corporation subject to the supervision of the state department of financial services, shall have loaned on a mortgage which is a lien upon any such property, such government, New York state housing finance agency, New York state urban development corporation, New York city housing development corporation, Battery Park city authority, an organization or entity investing or participating in a loan pursuant to said section

fifteen or a corporation subject to such supervision, or any trustee or trustees, or any successor trustee or trustees, for the benefit of any one or more of the aforesaid classes shall have all the remedies available to a mortgagee under the laws of the state of New York, free from any restrictions contained in this section except that the commissioner shall be made a party defendant and that the commissioner shall take all steps necessary to protect the interests of the public and no costs shall be awarded against him or her

§ 95. Judgments against housing companies not relating to mortgage indebtedness. In the event of a judgment against a housing company in any action not pertaining to the collection of a mortgage indebtedness, there shall be no sale of any of the real property of such housing company except upon sixty days' written notice to the commissioner and, if the municipality has made a loan to the housing company, to the municipality in which the project is located. Upon receipt of such notice the commissioner and the municipality shall take such steps as in its judgment may be necessary to protect the rights of all parties.

§ 96. Voluntary dissolution. 1. Notwithstanding any provisions in this article to the contrary, a housing company organized pursuant to this article after April first, nineteen hundred sixty-two, may voluntarily be dissolved, or in the case of a housing company which is a trust, be terminated, without the consent of the commissioner, not less than twenty years after the occupancy date upon the payment in full of the remaining balance of principal and interest due and unpaid upon the mortgage or mortgages and of any and all expenses incurred in effectuating such voluntary dissolution or termination.

2. Upon such dissolution or termination, title to the project may be conveyed in fee to the owner or owners of its capital or to any corporation, partnership or trust designated by it or them for the purpose, or the company may be reconstituted pursuant to appropriate laws relating to the formation and conduct of corporations, partnerships or trusts, provided, however, that prior to any such dissolution or

termination and conveyance or reconstitution payment shall be made of all current operating expenses, taxes, indebtedness and all accrued interest thereon and the par value of the shares or amount of the capital of such company and accrued distributions in respect thereof. If after making such payments and after conveyance of the project, a surplus remains in the treasury of the housing company, such surplus shall, upon dissolution or termination be distributed to the shareholders, partners or beneficiaries, as their interests may appear. After such dissolution or termination and conveyance, or such reconstitution, the provisions of this article shall become and be inapplicable to any such project and its owner or owners, and any tax exemption granted with respect to such project pursuant to section ninety-three hereof shall cease and terminate.

§ 97. Corporations in existence prior to enactment of article.

Nothing in this article contained shall be deemed to require the reincorporation of any public limited dividend housing company or any private limited dividend housing company heretofore organized under the provisions of chapter eight hundred twenty-three of the laws of nineteen hundred twenty-six, entitled "state housing law," as amended prior to the enactment of this article, nor to alter or affect any rights, privileges, powers, benefits, or immunities granted to such corporations by the provisions of any law, general, special or local. Such housing companies shall exist, continue to function and they and their stockholders, debenture holders, tenants, mortgagees, creditors and all other persons having an interest therein shall possess the powers, rights and privileges, be subject to the duties, restrictions and liabilities, of this article, provided that the legality, terms, rights, duties, limitations, privileges and immunities with respect to rents, dividend returns, mortgage interest, state and local tax exemptions and investments in such companies heretofore made and of transactions heretofore had by such companies shall not be affected by the provisions of this article, but the same shall continue to be governed by the provisions of chapter eight hundred twenty-three of the laws of nineteen hundred twenty-six and amendatory acts thereto, and for such purposes, such chapter and amendatory acts thereto shall continue to be in full

force and effect.

ARTICLE V
REDEVELOPMENT COMPANIES

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§ 100. Short title. This article shall be known and may be cited and referred to as the "Redevelopment Companies Law."

§ 101. Policy of state and purpose of act. It is hereby declared that in certain areas of municipalities located within this state there exist substandard conditions and insanitary housing conditions owing to obsolescence, deterioration and dilapidation of buildings, or excessive land coverage, lack of planning, of public facilities, of sufficient light, air and space, and improper design and arrangement of living quarters; that there is not in such areas a sufficient supply of adequate, safe and sanitary dwelling accommodations properly planned and related to public facilities; that modern standards of urban life require the housing be related to adequate and convenient public facilities; that the aforesaid substandard and insanitary conditions depress and destroy the economic value of large areas and by impairing the value of private investments threaten the sources of public revenues; that the public interest requires the clearance, replanning, reconstruction and neighborhood rehabilitation of such substandard and insanitary areas, together with adequate provision for recreational and other facilities incidental and appurtenant thereto according to the requirements of modern urban life and that such clearance, replanning, reconstruction and neighborhood rehabilitation are essential to the protection of the financial stability of such municipalities; that in order to protect the sources of public revenue it is necessary to modernize the physical plan and conditions of urban life; that these conditions cannot be remedied by the ordinary operations of private enterprise; that provision must be made to encourage the investment of funds in corporations, partnerships and trusts engaged in providing redevelopment facilities to be constructed according to the requirements

of city planning and in effectuation of official city plans and regulated by law as to profits, dividends and disposition of their property or franchises; that provision must be made to enable insurance companies to provide such facilities, subject to regulation by law as to the return from such facilities and the disposition of property acquired for such purpose; and that provision must also be made for the acquisition for such corporations, partnerships, limited liability companies and trusts and companies at fair prices of real property required for such purposes in substandard areas and for public assistance of such corporations, partnerships and trusts and such companies by the granting of partial tax exemptions; that the cooperation of the state and its subdivisions is necessary to accomplish such purposes; that the clearance, replanning and reconstruction, rehabilitation and modernization of substandard and insanitary areas and the provision of adequate, safe, sanitary and properly planned housing accommodations in effectuation of official city plans by such corporations, partnerships, limited liability companies and trusts and such companies in these areas are public uses and purposes for which private property may be acquired for such corporations, partnerships, limited liability companies and trusts and such companies and partial tax exemption granted for such corporations, partnerships, limited liability companies and trusts and such companies; that these conditions require the creation of the agencies, instrumentalities, corporations, partnerships and trusts hereinafter prescribed for the purpose of attaining the ends herein recited; and the necessity in the public interest for the provisions hereinafter enacted is hereby declared as a matter of legislative determination.

§ 102. Definitions. As used in this article, the following terms shall mean and include:

1. "Project." A specific work or improvement to effectuate all or any part of a plan including lands, buildings and improvements acquired, owned, constructed, managed or operated in an area by a redevelopment company or an insurance company providing dwelling accommodations pursuant to this article and such business, commercial, cultural or

recreational facilities appurtenant thereto as may be approved pursuant to section one hundred fourteen of this article.

2. "Supervising agency." The municipal comptroller in a municipality having a comptroller; in a municipality having no comptroller the chief financial officer of such municipality; except that in the city of New York it shall be the department of housing preservation and development. However, as to any insurance company providing dwelling accommodations pursuant to this article, or if any of the stock and income debenture certificates having voting power of a redevelopment company are or are to be issued to one or more insurance companies, the term shall mean only the superintendent of financial services.

3. "Local and municipal taxes." Taxes levied by a county, city, village, town, school and special district but shall not include assessments for local improvements.

3-a. "Redevelopment company." A corporation, partnership (general or limited), limited liability companies or trust created as provided in section one hundred three of this article.

4. "Capital." In the case of a corporation, the capital shares of that corporation for the time being issued and outstanding; in the case of a partnership, the aggregate value of the money and property contributed by the partners for the purpose of carrying on the business of the partnership, so far as such is credited to the partners on capital account; in the case of a limited liability company, the aggregate value of the money and property contributed by the members for the purpose of carrying on the business of the company; and in the case of a trust, the aggregate value of the money or property subject to the trust.

5. "Federally-aided mortgage." A mortgage loan made or insured by the federal government or any agency or instrumentality thereof or a mortgage loan entered into in conjunction with a housing assistance payments contract in connection with new construction or substantial rehabilitation or moderate rehabilitation pursuant to section eight of the United States housing act of 1937, as amended.

6. The term "mutual" when applied to a redevelopment company shall mean a redevelopment company which is a corporation operated exclusively for the benefit of the persons or families who are entitled to occupancy in a project of such redevelopment company by reason of ownership of shares in such redevelopment company.

§ 103. Redevelopment companies; how created. 1. A redevelopment company may be created as a corporation by three or more persons signing, acknowledging and filing a certificate which shall contain:

(1) The name of the proposed redevelopment company.

(2) The purposes for which it is to be formed which shall be as follows: To acquire one or more areas under a plan or plans, and to construct, own, maintain, operate, sell and convey projects pursuant to the terms and provisions of this article.

(3) The amount of the capital shares, and if any be preferred shares, the preference thereof.

(4) The number of shares of which the capital shall consist, all of which shall have a par value.

(5) The city, village or town in which its principal business office is to be located; if located in the city of New York, the borough thereof in which it is to be located.

(6) Its duration, which shall not be less than twenty years.

(7) The number of directors, which shall not be less than three and who need not be shareholders. One additional director may be designated by the supervising agency, and, in the case of all mutual companies, such additional director shall be designated by the supervising agency at the creation of the company and shall serve from the time of such designation at least until a board of directors has been elected by the tenants entitled to occupancy in the project by reason of ownership of shares in such company. The directors appointed by the supervising agency need not meet any of the qualifications prescribed in the certificate of incorporation or the by-laws, and in the absence of fraud or bad faith shall not be personally liable for the debts, obligations or liabilities of the corporation.

(8) The names and post-office addresses of the directors for the first

year.

(9) The names and post-office addresses of the subscribers to the certificate and a statement of the number of shares which each agrees to take in the redevelopment company.

(10) A provision that, so long as this article shall remain applicable to any project of the redevelopment company, the real property of the redevelopment company shall not be sold, transferred or assigned except as permitted by the terms and provisions of this article.

(11) A declaration that all of the subscribers to the certificate are of full age; that at least two-thirds of them are citizens of the United States and that at least one of them is a resident of the state of New York; that at least one of the persons named as a director is a citizen of the United States and a resident of the state of New York.

(12) A declaration that the redevelopment company has been organized to serve a public purpose and that it shall be and remain subject to the supervision and control of the supervising agency except as provided in this article, so long as this article remains applicable to any project of the redevelopment company; that all real and personal property acquired by it and all structures erected by it, shall be deemed to be acquired or created for the promotion of the purposes of this article.

(13) A declaration that, upon the dissolution of the company pursuant to the provisions of subdivision one of section one hundred twenty-three, the property may be conveyed in fee as provided in said subdivision.

(14) A declaration that mortgage indebtedness, income debenture certificates and capital of the redevelopment company may be retired if, as and when there shall be funds available for amortization purposes in the treasury of the redevelopment company.

(15) A declaration that in the event of a violation by a company of a provision of its certificate or of law or any rules and regulations promulgated pursuant to the provisions of this article, the supervising agency may, by written notice, as provided by this article, advise the directors, partners or trustees, as the case may be, of the company of its desire to remove any or all of the existing directors or to appoint a manager or managers of the partnership or trust who shall exclusively exercise all of the powers of such partners or trustees, as the case may be, for the duration of the appointment of such manager or managers. In

the event that the company fails to comply with the requirements of the supervising agency within thirty days from date of mailing of said written notice, the supervising agency may, with the written approval of any mortgagee and without further notice to the company or to its directors, partners or trustees, as the case may be, remove such directors in the case of a redevelopment company which is a corporation or any of them from office and appoint such person or persons as the supervising agency, in its sole discretion, deems advisable, including officers or employees of the supervising agency, as new directors to serve in the places of those removed or appoint such manager or managers in the case of a redevelopment company which is a partnership or trust who shall exclusively exercise all of the powers of such partners or trustees, as the case may be. Directors or managers so appointed need not meet qualifications which may be prescribed by the certificate, by-laws, partnership or trust agreement, or other rules or regulations of the company. In the absence of fraud or bad faith, directors or managers so appointed shall not be personally liable for debts, obligations or liabilities of the company. Directors or managers so appointed shall serve only for a period coexistent with the duration of such violation or until the supervising agency is assured, in a manner satisfactory to it, against violations of a similar nature. Officers or employees of the supervising agency who are appointed as such directors or managers shall serve in such capacity without compensation.

(16) A designation of the secretary of state as agent of the corporation upon whom process against it may be served and the post office address within or without this state to which the secretary of state shall mail a copy of any process against it served upon him.

(17) If the corporation is to have a registered agent, his name and address within this state and a statement that the registered agent is to be the agent of the corporation upon whom process against it may be served.

2. (1) A redevelopment company may be created as a general partnership by the partners signing, acknowledging and filing as hereinafter provided a certificate which shall contain:

(a) The matters set out in paragraphs one, two, five, six, ten, twelve, thirteen, fourteen and fifteen of subdivision one of this

section.

(b) The names and post-office addresses of the partners.

(c) A statement of the capital of the partnership.

(d) As to all the partners who are individuals, a declaration that (i) all such partners are of full age; (ii) all of them if there be no more than two and at least two-thirds of them if there be more than two are citizens of the United States; and (iii) at least one of them is a resident of the state of New York; and as to all partners which are corporations, a declaration that each such corporation is either incorporated under the laws of the state of New York or is a foreign corporation duly authorized to do business in the state of New York.

(2) A redevelopment company may be created as a limited partnership by the partners filing as provided herein a copy of the certificate filed with the county clerk pursuant to article eight of the partnership law. The partners shall at the same time sign, acknowledge and file a further certificate which shall contain the matters set out in paragraphs one, two, five, six, ten, twelve, thirteen, fourteen and fifteen of subdivision one of this section and a declaration as to all of the general partners which shall comply with the requirements of subparagraph (d) of paragraph one of this subdivision.

2-a. A redevelopment company may be created as a limited liability company by the members signing, acknowledging and filing as hereinafter provided a certificate which shall contain:

(1) The matters set out in paragraphs one, two, five, six, ten, twelve, thirteen, fourteen and fifteen of subdivision one of this section.

(2) The names and post-office addresses of the members.

(3) A statement of the capital of the limited liability company.

(4) As to all the members who are individuals, a declaration that (a) all such members are of full age; (b) all of them if there be no more than two and at least two-thirds of them if there be more than two are citizens of the United States; and (c) at least one of them is a resident of the state of New York; and as to all members which are corporations, a declaration that each such corporation is either incorporated under the laws of the state of New York or is a foreign corporation duly authorized to do business in the state of New York.

3. A redevelopment company may be created as a trust by the settlor signing, acknowledging and filing as hereinafter provided a certificate which shall contain:

(1) The matters set out in paragraphs one, two, five, six, ten, twelve, thirteen, fourteen and fifteen of subdivision one of this section.

(2) A statement of the capital of the trust.

(3) The name and post-office address of the trustee or trustees.

(4) The name and post-office address of any person having a beneficial interest, whether vested or contingent, under the trust.

(5) As to all the trustees who are individuals, a declaration that (i) all such trustees are of full age; (ii) that all of them if there be no more than two and at least two-thirds of them if there be more than two are citizens of the United States; and (iii) that at least one of them is a resident of the state of New York; and as to all trustees which are corporations, a declaration that each such corporation is either incorporated under the laws of the state of New York or is a foreign corporation duly authorized to do business in the state of New York.

4. A certificate made pursuant to this section shall further contain a declaration that after providing for all expenses, taxes and assessments, there shall be paid annually out of the earnings of the redevelopment company, a sum for interest on and amortization of any mortgage indebtedness and depreciation charges if, when and to the extent deemed necessary by the supervising agency, plus interest not exceeding six per centum on outstanding income debentures and a distribution to the shareholders, to the partners or to the beneficiaries of the trust having interests vested in possession, as the case may be, not exceeding six per centum of the total of the capital; that the obligation in respect of such payments shall be cumulative, and any deficiency in interest, amortization, depreciation and distribution in any year shall be paid either from any cash surplus derived from earnings remaining in the treasury of the redevelopment company in excess of the amount necessary to provide such cumulative annual sums or from the first available earnings in subsequent years; and that any cash surplus derived from earnings remaining in the treasury of the

redevelopment company in excess of the amount necessary to provide such cumulative annual sums shall upon the dissolution of, or in the case of a redevelopment company which is a trust the termination of, the company be paid into the general fund of the municipality.

5. A certificate made pursuant to the provisions of this section may provide that in the event that income debenture certificates are issued by the redevelopment company, the owners thereof may be given the same right to vote as they would have if possessed of shares of equivalent par value in the case of a corporation or if they had contributed capital in the case of a partnership, or had a beneficial interest under the trust vested in the case of a trust, of an amount equal to the amount of the income debenture certificates held by them.

If provision is made for the issue of income debenture certificates, interest shall be paid by the redevelopment company on income debenture certificates only out of net earnings of the redevelopment company that would be applicable to payment of distributions if there were no income debentures.

§ 104. Consent of supervising agency to creation of redevelopment companies. A certificate or a copy of a certificate made pursuant to section one hundred three of this article shall be presented for filing to the secretary of state in the case of a corporation or limited liability company and to the supervising agency in the case of a partnership or trust. No certificate or any amendment thereto shall be filed without the prior written consent of the supervising agency. Such consent of the supervising agency shall not be given in the case of a partnership (general or limited), a limited liability company or a trust unless there has been filed with the supervising agency a partnership agreement, operating agreement or trust agreement, as the case may be, the terms and conditions of which shall be subject to the approval of the supervising agency.

§ 105. Application of other corporation laws. The provisions of the

business corporation law as presently in effect and as hereafter from time to time amended, shall apply to redevelopment companies which are corporations, except where such provisions are in conflict with the provisions of this article. In the event that any action with respect to which the holders of income debentures shall have the right to vote is proposed to be taken with regard to a redevelopment company which is a corporation, then notice of any meeting at which such action is proposed to be taken shall be given to such holders in the same manner and to the same extent as if they were shareholders entitled to notice of and to vote at such meeting, and any certificate filed pursuant to law in the department of state with respect to any such action, whether taken with or without meeting, and any affidavit required by law to be annexed to such certificate, shall contain the same statements or recitals and such certificate shall be subscribed and acknowledged, and such affidavit shall be made, in the same manner as if such holders were shareholders holding shares of an additional class of shares entitled to vote on such action, or with respect to the proceedings provided for in such certificate.

§ 105-a. Application of other laws. The provisions of the limited liability company law as presently in effect and as hereafter from time to time amended, shall apply to redevelopment companies which are limited liability companies, except where such provisions are in conflict with the provisions of this article.

§ 106. Powers of redevelopment companies. Each redevelopment company shall have and may exercise such of the powers conferred by law as shall be necessary in conducting the business of a redevelopment company and consistent with the provisions of this article.

§ 107. Limited return on investment. Subject to the provisions of section one hundred twenty-three of this article, there shall be paid annually out of the earnings of the redevelopment company, after providing for all expenses, taxes and assessments, a sum for interest on

and amortization of any mortgage indebtedness and depreciation charges if, when and to the extent deemed necessary by the supervising agency, plus a distribution of six per centum on the capital and interest not exceeding six per centum on outstanding income debentures; except that in the case of redevelopment companies formed prior to April twenty-ninth nineteen hundred sixty, and subject to the provisions of section one hundred twenty-three of this article, there shall be paid annually out of the earnings of the redevelopment company, after providing for all expenses, taxes and assessments a sum for interest amortization, depreciation and distributions, equal to but not exceeding six per centum of the total actual final cost of the project as defined by subdivision two of section one hundred twelve of this article; the obligation in respect of such payments shall be cumulative, and any deficiency in interest, amortization, depreciation and distributions in any year shall be paid either from any cash surplus derived from earnings remaining in the treasury of the redevelopment company in excess of the amount necessary to provide such cumulative annual sums or from the first available earnings in subsequent years; and any cash surplus derived from earnings remaining in the treasury of the redevelopment company in excess of the amount necessary to provide such cumulative annual sums shall, upon the dissolution of, or in the case of a redevelopment company which is a trust the termination of the company, be paid into the general fund of the municipality except as otherwise contemplated by subdivision five of section one hundred twenty-three of this article.

§ 108. Consideration for capital and bonds. No redevelopment company which is a corporation shall issue shares, nor shall a redevelopment company which is a partnership credit sums to the partners on capital account, nor shall a redevelopment company which is a limited liability company credit sums to the members on capital account, nor shall a redevelopment company which is a trust subject amounts to the trust, and no redevelopment company shall issue bonds or income debenture certificates except for money or property actually received for the use and lawful purposes of the redevelopment company, provided, however, that a mutual redevelopment company may issue shares for home owners

purchase notes if the purchase transaction has received the written endorsement of the commissioner in accordance with supplementary rules and regulations of the commissioner made therefor and if at least two hundred dollars in money or property is received by such mutual redevelopment company toward the issuance of such shares. The consideration for all capital, bonds or income debenture certificates based upon property received shall equal a valuation approved by the supervising agency and such a valuation shall be used in computing actual or estimated cost.

§ 109. Minimum amount of capital and debentures. Except as provided in this section the capital of a redevelopment company together with any income debentures shall in no event be less than the total of ten per centum of the actual cost of any project or projects undertaken pursuant to this article. The supervising agency may permit capital to be increased or income debenture certificates to be issued for working capital to be used in connection with such project to an amount not exceeding three per centum of the estimated cost, or three per centum of the total actual final cost, if that should exceed the estimated cost of a project.

The provisions of this section shall not be applicable to any redevelopment company if funds made available by the federal government or any instrumentality thereof, or any mortgage or mortgage bonds insured by the federal housing administrator or any other instrumentality of the federal government are used in financing the project in whole or in part.

§ 110. Income debentures. With the approval of the supervising agency, the certificate creating a redevelopment company, or an amended certificate, may authorize the issuance of income debenture certificates bearing no greater interest than six per centum per annum. Such income debenture certificates and any instrument under which they are issued may contain such other provisions, including provision for amortization by serial maturities, through the operation of a sinking fund or

otherwise, as may be approved by the supervising agency.

§ 111. Mortgages and mortgage bonds. Any redevelopment company, subject to the approval of the supervising agency, may borrow funds and secure the repayment thereof by bond and mortgage or by an issue of bonds under a trust indenture. Each mortgage or issue of bonds of a redevelopment company shall relate only to a single specified project and to no other and such bonds shall be secured by mortgage upon all of the real property of which such project consists.

First lien bonds of such redevelopment company when secured by a mortgage not exceeding ninety per centum of the estimated cost prior to the completion of the project, and in no event exceeding ninety per centum of the actual cost upon such completion, as certified by the supervising agency, or, in the case of a completed project, not exceeding ninety per centum of the appraised value or such previously certified actual cost, whichever is less, are hereby declared securities in which all public officers and bodies of the state and of its municipal subdivisions, all insurance companies and associations, all savings banks and savings institutions, including savings and loan associations, executors, administrators, guardians, trustees and all other fiduciaries in the state may properly and legally invest the funds within their control.

First lien bonds of such a redevelopment company issued under a trust indenture and pursuant to a building loan contract, or a building loan bond and building loan mortgage under which advances are made pursuant to a building loan contract, where the aggregate principal amount to be issued or advanced does not exceed ninety per centum of the estimated cost prior to the completion of the project, and in any event does not exceed ninety per centum of the actual cost upon such completion, as certified by the supervising agency, are hereby declared securities in which all banks, savings banks, savings institutions and trust companies in addition to all such officers, bodies, companies, associations, institutions and fiduciaries may properly and legally invest the funds within their control; provided, however, that such investment is made as

a construction loan with a maturity of not to exceed two years. The maturity of any such construction loan may be extended from time to time with the approval of the board of directors or trustees of the bank, savings banks, savings institutions or trust company holding such loan but no one such extension shall be for a period of time exceeding six months.

The bonds so issued and secured and the mortgage or trust indenture relating thereto, may create a first or senior lien and a secondary or junior liens upon the real property embraced in any project; provided, however, that the total mortgage liens shall not exceed ninety per centum of the estimated cost prior to the completion of the project, and shall not in any event exceed ninety per centum of the actual cost upon such completion, or, in the case of a completed project, not exceeding ninety per centum of the appraised value or such previously certified actual cost, whichever is less. Such bonds and mortgages or trust indentures may contain such other clauses and provisions as shall be approved by the supervising agency, including the right to assignment of rents and entry into possession in case of default and including in the case of a redevelopment company which is a partnership or trust the right of the partners or trustees, as the case may be, to be free of any personal liability thereunder; but the operation of the housing project in the event of such entry by mortgagee or receiver shall be subject to regulations promulgated by the supervising agency. Provisions for the amortization of the bonded indebtedness of companies formed under this article shall be subject to the approval of the supervising agency. So long as funds made available by the federal government or any instrumentality thereof or any mortgage or mortgage bonds, insured by the federal housing administrator or any other instrumentality of the federal government are used in financing, in whole or in part, any project under this article, the capital structure of a redevelopment company undertaking such project and the proportionate amount of the cost of the lands and improvements to be represented by mortgages or bonds shall be entirely in the discretion of the supervising agency; and all restrictions as to the maturity of any construction loan and as to the amounts to be represented by mortgages, mortgage bonds, income debentures or capital shall be inapplicable to such projects or to

redevelopment companies undertaking such projects, except that the bonds, mortgages, debentures and capital covering any project shall not exceed the total actual final cost of such project as defined in subdivision two of section one hundred twelve of this article.

Interest rates on mortgage indebtedness shall not exceed the greater of

(a) six percentum per annum,

(b) the rate prescribed by the superintendent of financial services pursuant to section fourteen-a of the banking law,

(c) the rates of mortgages or mortgage bonds insured by the federal housing administration or any other instrumentality of the federal government and

(d) such rate as may be approved by the supervising agency provided, however, that the applicable rate for purposes of paragraphs (b), (c) and (d), of this section one hundred eleven shall be the rate applicable or approved at the time the redevelopment company incurs the mortgage indebtedness.

As used in this section the term "bond" includes a note heretofore or hereafter made.

§ 111-a. Participation by certain corporations and individuals. Any bank, savings bank, savings institution, savings and loan association, trust company, insurance company or association, or fiduciary authorized to invest in mortgages and mortgage bonds of a redevelopment company, or any combination of the foregoing, shall have power to participate and invest, singly or jointly, with the New York city housing development corporation in a bond or note and single participating mortgage, or in separate bonds or notes and mortgages pursuant to this article. In the event of such participation, the interest of each shall have equal priority as to lien in proportion to the amount of loan so secured, but need not be equal as to interest rate, time or rate of amortization or otherwise.

§ 111-b. Mortgage modification provisions for redevelopment companies in cities with a population of one million or more. 1. For purposes of this section, "restrictive agreement" shall mean a binding and irrevocable agreement between the redevelopment company and the supervising agency providing that such redevelopment company for a term of five years from the date of such agreement (i) shall not voluntarily dissolve or reconstitute pursuant to section one hundred twenty-three of this article, (ii) shall exercise any and all available options to renew any housing assistance payments contract pursuant to section eight of the United States Housing Act of nineteen hundred thirty-seven, as amended, and any successor rent subsidy program, (iii) shall not cause such a contract to be terminated by reason of such redevelopment company's noncompliance with any of the terms thereof, and (iv) shall not voluntarily cause or permit such a contract to expire, to not be extended, to not be renewed, or to be terminated.

2. Notwithstanding the provisions of this article or the provisions of any law, general or special, in cities with a population of one million or more, a redevelopment company with a federally-aided mortgage formed pursuant to this article may borrow funds and secure the repayment thereof by note and mortgage or any other manner approved by the supervising agency, provided, however, that (a) such approval by the supervising agency shall be conditioned upon a restrictive agreement, and (b) such redevelopment company may not increase the rents paid by the tenants to pay for any such increase in indebtedness that is not attributable to project cost.

§ 112. Limitations. In addition to limitations prescribed by this article a redevelopment company shall not have power to:

1. Acquire any real property or interest therein for a project or projects unless the supervising agency and the local legislative body determine as provided in this article that such acquisition is necessary or convenient for the public purpose defined in this article, and unless any deed, lease or other instrument by which such real property or interest therein is acquired contains a statement that the conveyance is

to a redevelopment company organized pursuant to article five of the private housing finance law.

2. Create its capital, or issue its debentures and and bonds covering any project undertaken by it in an amount greater in the aggregate than the total actual final cost of such project. The actual cost of such project shall include the cost of the lands and improvements constituting the project and charges for financing and supervision approved by the supervising agency, condemnation charges and interest and other carrying charges during the period of acquisition and of construction. The total actual final cost shall be deemed to be an amount equal to such actual cost plus an allowance for working capital. Such allowance for working capital shall not exceed an amount equal to three per centum of the estimated cost or of the total actual final cost of the project if that shall be greater than the estimated cost.

3. Enter into contracts for the payment of salaries to officers or employees, or for the construction or for the substantial repair, improvement or operation of projects except subject to the approval of the supervising agency.

§ 112-a. Redevelopment loans. Notwithstanding any provision of section one hundred eleven or one hundred twelve of this article to the contrary, where a redevelopment company undergoes a comprehensive redevelopment plan, the supervising agency may approve a loan and encumbrance of such project in an amount in excess of actual cost of the project, provided that such amount represents cost of capital improvements, redevelopment, or acquisition by a new owner, any consequent rent increase is not unduly burdensome to the tenants, and the redevelopment company enters into an agreement to remain subject to the provisions of this article for a period of no less than fifteen years from issuance of the loan and encumbrance.

§ 113. Use of projects. The project or projects of any redevelopment company shall be designed and used primarily for housing purposes, but

portions of the project may be planned and used for business, commercial, cultural or recreational purposes appurtenant thereto as approved in the project.

§ 114. Procedure for submission and approval of plan or project.

Every plan or plan of a project proposed by a redevelopment company shall contain a general description of the area to be redeveloped and a statement of the plan of redevelopment with such detail of information with reference thereto as may be necessary to a general understanding thereof. Where changes in the city map and zoning amendments or variances are necessitated by such plan or project, such amendments, variances and changes shall be submitted together with the plan or project herein and considered as part thereof.

After preliminary approval thereof by the supervising agency as to conformity with the provisions and purposes of this article, every such plan or plan of a project shall be submitted to the planning commission for approval of the plan or plan of the project relating to:

1. Height and bulk of structures, density of population and percentage of land coverage by structures as to their conformity with the purposes of this article and with the master plan, if any; and the relationship of the density of population contemplated by the plan or plan of the project to the distribution of the population of the municipality in other areas or parts thereof, and

2. Provision, if any, for business or commercial facilities appurtenant to the plan or project, relationship to existing and planned public facilities, adequacy and planned rearrangement of street facilities and provisions for light, air, cultural and recreational facilities as to their conformity with the purposes of this article and their adequacy for accommodation of the density of population contemplated by the plan or plan of the project.

Where a project consists substantially of the rehabilitation of an existing structure or structures, and no changes in the city map and

zoning amendments or variances are necessitated by the project, the supervising agency may waive the preparation and submission of the plan or plan of a project.

Where a plan or plan of a project has been prepared and submitted, the planning commission, after public hearing, notice of which shall be published at least ten days prior thereto in the official publication of the municipality, or if none exists, in a newspaper circulating in the municipality, on the plan or plan of a project, may:

- a. Issue an unqualified certificate of approval thereof, or
- b. Issue a certificate of conditional or qualified approval thereof, with or without recommendations, or
- c. Disapprove thereof.

After action thereon by the planning commission, such plan or plan of a project with a proposed form of contract between the municipality and the redevelopment company or, when all stock, debentures and mortgage bonds of the company are owned or are to be owned by one or more insurance companies, between the municipality, redevelopment company and such insurance company or companies shall be submitted by the redevelopment company, with a certificate of approval of the supervising agency and the certificate or a statement of action, if any, on the plan or project by the planning commission, to the local legislative body for its approval of the project as to conformity with the provisions and purposes of this article, the extent of the tax exemption to be granted pursuant to section one hundred twenty-five, the amount and nature of the property to be condemned for the redevelopment company by the municipality and the terms and conditions of payment therefor by the redevelopment company, the amount of publicly owned land or facilities to be sold to the redevelopment company or exchanged for redevelopment company-owned lands and the availability of other suitable dwelling accommodations for families living in the area or part thereof to be affected by the plan or plan of the project.

As part of an approved project the local legislative body may require a redevelopment company to dedicate to the municipality or any agency thereof in the manner provided by law specified portions of the land in a project for parks, streets, public recreational and other public purposes.

The contract shall regulate the rents to be charged for rooms in the project and may contain such other provisions, not inconsistent with this article, as may be deemed necessary or desirable for the financing, construction, operation and supervision of the project.

In any case where a plan or plan of a project has been prepared and submitted and the planning commission shall have issued a certificate of unqualified approval, or where preparation and submission of a plan or plan of a project has been waived by the supervising agency in accordance with the provisions of this section, approval of the project by the local legislative body may be by resolution adopted by a majority of the whole number of votes authorized to be cast by all of the members thereof. In any case where a plan or plan of a project has been prepared and submitted and the planning commission shall not have issued a certificate of unqualified approval, the plan or plan of a project may nevertheless be approved by the local legislative body, after public hearings thereon, by resolution adopted by a three-fourths vote of the whole number of votes authorized to be cast by all of the members thereof. Notwithstanding any other provision of law, changes in the city map, zoning amendments, or variances contained in the plan shall be deemed approved by the local legislative body when it approves the plan or project. Any such changes in the city map, zoning amendments, or variances shall become effective on the date on which the supervising agency shall file a resolution with the local legislative body in implementation thereof. The local legislative body is authorized to enter into the necessary contract or contracts on behalf of the municipality.

If the contract parties are a municipality, a redevelopment company and one or more insurance companies which own or will own all of the stock, debentures, bonds and mortgage indebtedness of such redevelopment

company, or if the project is undertaken by an insurance company, then the certificate of the supervising agency approving such contract shall terminate the functions of the supervising agency pursuant to this article, and after the execution of such contract all references herein to the approval or other action by the supervising agency shall be inapplicable to the project provided for in such contract and to such redevelopment company or the insurance company undertaking such project.

§ 115. Limitation on changes. It shall be unlawful during the period of tax exemption, granted pursuant to section one hundred twenty-five of this article, for any redevelopment company or any successor in interest to its title to a project or any part thereof to change or modify any feature of a project for which approval of the planning commission is required by this article, without the approval of such commission, except by a three-quarters vote of the local legislative body.

§ 116. Transfer of real property to redevelopment company. Notwithstanding any requirement of law to the contrary or the absence of direct provision therefor in the instrument under which a fiduciary is acting, every executor, administrator, trustee, guardian or other person, holding trust funds or acting in a fiduciary capacity, unless the instrument under which such fiduciary is acting expressly forbids, the state, its subdivisions, municipalities, all other public bodies, all public officers, persons, partnerships and corporations organized under or subject to the provisions of the insurance law, the superintendent of financial services as conservator, liquidator or rehabilitator of any such person, partnership or corporation, owning or holding any real property within an area, may grant, sell, lease or otherwise transfer any such real property to a redevelopment company and receive and hold any cash, stock, income debentures, bonds, mortgages, or other securities or obligations, secured or unsecured, exchanged therefor by such redevelopment company and may execute such instruments and do such acts as may be deemed necessary or desirable by them or it and by the redevelopment company in connection with a project or projects. An insurance company which has undertaken a project through

direct ownership and/or lease may transfer to the project any real property which it owns or holds within an area and the actual cost of such property to the insurance company shall be included in the total actual final cost of such project.

§ 117. Rules and regulations. The planning commission and the supervising agency, respectively, shall have power to make rules and regulations to carry out their powers and duties pursuant to this article and to effectuate the purposes thereof.

§ 118. Fees. The supervising agency, the local legislative body and the planning commission, if any, may each adopt a reasonable schedule of fees to be paid by redevelopment companies upon the filing with said supervising agency, local legislative body or planning commission of a plan, plans for a project or projects, amendments thereto and other instruments in connection therewith and redevelopment companies shall pay reasonable fees to the said supervising agency as said agency shall prescribe for processing a redevelopment plan and for the supervision of construction and for the audit, regulation and general supervision of the management of the company, which fees shall be set aside in a separate account and shall be used to pay for the expenses of administering and carrying out the provisions of the redevelopment companies law.

§ 119. Acquisition. A municipality may take property by acquisition pursuant to the provisions of the eminent domain procedure law for a redevelopment company, provided the contract or contracts executed pursuant to section one hundred fourteen contain a requirement that the company shall pay to the municipality all sums expended or required to be expended by the municipality in the acquisition of such real property, provision as to the time of payment and manner of securing payment thereof, and provisions requiring that the municipality receive, before proceeding with the acquisition of such real property, such assurances as to payment or reimbursement by the redevelopment company,

or otherwise, as the local legislative body may deem advisable. Upon the execution of such contract or contracts the company shall cause to be made two copies of surveys or maps of the real property described in the contract, one of which shall be filed in the office of the redevelopment company, one in the office of the corporation counsel or chief law officer of the municipality, and one in the office in which instruments affecting real property in the county are recorded. Upon compliance by the redevelopment company with the applicable terms and conditions of such contract or contracts the municipality shall proceed to acquire title to the real property in accordance with the provisions of the eminent domain procedure law and when title to the real property shall have vested in the municipality, it shall convey the same to the redevelopment company upon final compliance by the redevelopment company with such terms and conditions. As soon as title shall have vested in the municipality, the redevelopment company may, upon the authorization of the mayor, enter upon the real property taken, take over and dispose of existing improvements, and carry out the terms of the project with respect thereto.

Real property in an area, needed or convenient for the project, which is to be acquired pursuant to this section, may be acquired by the municipality for the project, including any property devoted to a public use, whether or not held in trust, notwithstanding that such property may have been previously acquired or is owned by a public utility corporation, it being hereby expressly determined that the public use in conformity with the provisions of this article shall be deemed a superior public use. The local legislative body may consent to the acquisition of property owned by the municipality, whether or not such property be held in trust, or may sell or lease any such property necessary or convenient for a project of a redevelopment company without public bidding, provided notice of such sale or lease is published and a public hearing is held before the local legislative body. The term of any such lease shall not be limited by any provision of any general, special or local law or city charter limiting the period of time during which a lease or any renewal thereof may run. Real property belonging to a public utility corporation may not be acquired without the approval of the commission or other officer or tribunal having regulatory power over

such corporation.

An award of compensation shall not be increased by reason of any increase in the value of the real property caused by the assembly, clearance or reconstruction, or proposed assembly, clearance or reconstruction for the purposes of this article of the real property in an area.

A local legislative body, upon payment therefor or upon exchange for other lands, may convey to any redevelopment company land in any street or public place which is duly closed or discontinued pursuant to the plan of a project.

Notwithstanding the provisions of any general, special or local law, charter or ordinance, the local legislative body of a city having a population of one million or more may, upon the request of or with the approval of the board of education of such city's school district, grant, sell, lease or otherwise transfer any lands or rights or interests therein or thereto, including fee interests, easements, space rights or air rights or other rights or interests owned by such city and occupied or reserved for school purposes and needed therefor, to a redevelopment company where necessary for the joint development of a project and a school or appurtenant facilities without public bidding, provided notice of such lease or contract for the sale or other transfer of such lands or rights or interests therein or thereto is published and a public hearing is held before such local legislative body. No such sale, lease or transfer of lands or rights therein or thereto is authorized where the development of a project contemplates the erection of housing facilities over an existing school or playground. The terms of any such lease shall not be limited by any provision of any general, special or local law or charter applicable to such city limiting the period of time during which a lease or any renewal thereof may run.

Nothing in this section shall be deemed to forbid or prevent the acquisition of any real or personal property by a redevelopment company by gift, devise, bequest, grant, or subject to the provisions of this article, by purchase at public or private sale.

§ 120. Regulation of redevelopment companies. The supervising agency shall:

Examine each redevelopment company and keep informed as to its general condition, its capitalization and the manner in which its property is constructed, leased, operated or managed with respect to its compliance with all provisions of law and orders of the supervising agency.

The supervising agency may:

1. Either itself or through its inspectors or employees duly authorized by it, enter in or upon and inspect the property, equipment, buildings, plants, offices, apparatus and devices of any redevelopment company; examine all books, contracts, records, documents and papers of any redevelopment company and by subpoena duces tecum compel the production thereof.

2. In its discretion, prescribe uniform methods and forms of keeping accounts, records and books to be observed by redevelopment companies, and after a hearing to prescribe by order accounts in which particular outlays and receipts shall be entered, charged or credited.

3. Require specific answers to questions upon which it may desire information and require the filing of periodic reports in the form, covering the period, and at the time prescribed by it.

4. In the event of a violation by a company of any provision of its certificate or of law or any rules and regulations promulgated pursuant to the provisions of this article, the supervising agency may, by written notice to all of the directors, partners, members or trustees, as the case may be, of a company, at their last known address, specifying the reasons therefor, advise such directors, partners, members or trustees, as the case may be, of its intention to remove any or all of the existing directors or to appoint a manager or managers of the limited liability company, partnership or trust who shall

exclusively exercise all of the powers of such partners, members or trustees, as the case may be, for the duration of the appointment of such manager or managers. A copy of any such notices shall be mailed to the mortgagee of record. In the event that the company fails to comply with the requirements of the supervising agency within thirty days from date of mailing of said written notice, the supervising agency may, with the written approval of the mortgagee and without further notice to the company or to its directors, partners, members or trustees, as the case may be, remove such directors in the case of a redevelopment company which is a corporation or any of them from office and appoint such person or persons as the supervising agency, in its sole discretion, deems advisable, including officers or employees of the supervising agency, as new directors to serve in the places of those removed, or appoint such manager or managers in the case of a redevelopment company which is a partnership, limited liability company or trust, who shall exclusively exercise all of the powers of such partners, members or trustees, as the case may be. Directors or managers so appointed need not meet qualifications which may be prescribed by the certificate, by-laws, partnership agreement, articles of organization or operating agreement of the limited liability companies or trust agreement, or other rules or regulations of the company. In the absence of fraud or bad faith directors or managers so appointed shall not be personally liable for debts, obligations or liabilities of the company. Directors or managers so appointed shall serve only for a period coexistent with the duration of such violation or until the supervising agency is assured, in a manner satisfactory to it, against violations of a similar nature. Officers or employees of the supervising agency who are appointed as such directors or managers shall serve in such capacity without compensation.

§ 120-a. State supervision and regulation. A municipality with a population of less than one million may, by action of its local legislative body concurred in by the commissioner, provide for the supervision and regulation of a project and the redevelopment company carrying out such project by the commissioner in lieu of the supervising agency. With respect to any such project and company, the commissioner

shall have, from and after the effective date of such action, all of the powers and duties of a supervising agency pursuant to this article. The company shall pay to the commissioner fees, as prescribed by the commissioner, to cover the expenses of examination, audit, and supervision of the company and the project.

§ 121. Sinking fund. Unless other provision be made therefor in the contract with the municipality, the supervising agency, if it shall deem it feasible at any time, subject to the limitation contained in section one hundred seven of this article, may require a redevelopment company to provide out of earnings, after provision for distributions and interest, a sinking fund in an amount to be fixed by such supervising agency for the gradual retirement of the capital and income debenture certificates of such company. Such sinking fund may be used either for the purchase or retirement, from time to time, of capital or income debenture certificates at a price approved by the supervising agency not exceeding par value thereof with accrued and unpaid distributions or interest, or if it be not practicable to purchase or retire such capital or such income debenture certificates at a price so approved, the moneys in such sinking fund may be added to the surplus of such company. Any capital evidenced by shares or income debenture certificates purchased or retired out of such sinking fund shall be cancelled and shall not be reissued.

§ 122. Transfer of title or foreclosure of project. 1. Until the termination of the tax exemption, whether by expiration or by any other cause, a redevelopment company, heretofore or hereafter organized, shall not have power to sell the real property constituting the project or any portion or portions thereof without the consent of the local legislative body.

2. If an action be brought to foreclose a mortgage or tax lien upon a redevelopment project, heretofore or hereafter authorized pursuant to this article, and the real property constituting the project shall be acquired at the foreclosure sale or from the mortgagee or lienor that

had acquired the property of such sale, or by a conveyance in lieu of such sale, by a redevelopment company organized pursuant to this article, or by the federal government or an instrumentality thereof, or by a corporation which is, or by agreement has become subject to the supervision of the superintendent of financial services, such successor in interest shall acquire such project subject to all provisions of the contract regulating such project and shall be entitled to all of the benefits contained in such contract. In all other cases of sale at foreclosure or forced sale, the real property constituting the project or any portion or portions thereof shall be sold free of all restrictions, except such covenants running with the land as may be contained in the contract regulating the project, or in the deed, if any, given by the municipality to the redevelopment company affecting all or any portion of the real property upon which the project is situated, and the tax exemption, if any, theretofore granted to such project pursuant to such contract shall immediately terminate.

§ 123. Dissolution. 1. After termination of any tax exemption granted pursuant to section one hundred twenty-five of this article, whether by expiration or by any other cause, or in the event that prior thereto the redevelopment company elects to pay to the municipality the total of all accrued taxes for which such exemption was granted and received, together with interest at the rate of five per centum per annum, a redevelopment company which is a corporation or partnership or limited liability company may voluntarily dissolve or, in the case of a redevelopment company which is a trust, may terminate, and title to the project may be conveyed in fee to the owner or owners of its capital or to any corporation, partnership, limited liability company or trust designated by it or them for the purpose, or the redevelopment company may be dissolved or terminated and reconstituted pursuant to appropriate laws relating to the formation and conduct of corporations, partnerships, limited liability companies or trusts, after providing, in any case, for the payment of all current operating expenses, taxes, indebtedness and all accrued interest thereon, and the par value or amount of the capital of the redevelopment company and accrued distributions in respect thereof. If, after making such provision and

after the conveyance of the project, a cash surplus remains in the treasury of the redevelopment company, such cash surplus shall, upon dissolution or termination, be paid into the general fund of the municipality. After such dissolution or termination and conveyance or such reconstitution, the provisions of this article shall become and be inapplicable to any such project and its owner or owners, and any tax exemption granted to such redevelopment company pursuant to section one hundred twenty-five of this article shall cease and terminate.

2. If prior to the termination of any tax exemption the project is sold for any reason, the redevelopment company shall dissolve or terminate, and any tax exemption granted to such redevelopment company pursuant to section one hundred twenty-five of this article shall cease and terminate, except as otherwise provided in section one hundred twenty-two of this article. In such case the shareholders, partners, members or beneficiaries, as the case may be, and income debenture certificate holders shall in no event receive more than the par value of their shares or amount of their capital and the face value of their income debenture certificates with accrued and unpaid distributions or interest in respect of such capital and income debenture certificates, and any remaining surplus shall be paid into the general fund of the municipality.

3. In no event shall a redevelopment company be voluntarily dissolved or terminated unless provision is made for the payment in full of the remaining balance of principal and interest due or unpaid upon any mortgage on its property or any part thereof, but any project may, with the consent of the local legislative body of the municipality, be conveyed and transferred to the municipality subject to such mortgage and accrued interest.

4. Unless the local legislative body of the municipality shall consent to the voluntary dissolution or termination of a redevelopment company, such a company shall not dissolve or terminate except in accordance with subdivisions one and two of this section or upon the expiration of its term as stated in the certificate creating the redevelopment company.

5. With the consent of the local legislative body and the superintendent of financial services, a redevelopment company heretofore or hereafter organized may voluntarily dissolve or terminate prior to the termination of any tax exemption granted pursuant to section one hundred twenty-five of this article and title to the project may be conveyed, and all other assets of such redevelopment company may be transferred, to an insurance company, whether or not such project shall have been theretofore completed. After such dissolution or termination and conveyance such tax exemption shall continue for the period of years originally provided for in the contract, or for the unexpired portion thereof if such period shall have theretofore commenced, subject to prior termination pursuant to section one hundred twenty-four or section one hundred twenty-five of this article, and the provisions of this article shall thereafter be applicable to such project and to such insurance company to the same extent and with the same force and effect as though such project had been initially undertaken by such insurance company pursuant to section one hundred twenty-four of this article; provided, however, that nothing herein contained shall be deemed to require the resubmission of the plan of the project and the contract relating thereto for approval pursuant to section one hundred fourteen of this article.

6. The contract with the municipality may contain such other provisions for the dissolution or termination of the redevelopment company as may be deemed advisable, not inconsistent with the provisions of this article. In case of a dissolution or termination and conveyance in accordance with subdivision five of this section, the contract may be modified consistently with the provisions of said subdivision five and section one hundred twenty-four of this article, any such modifications to be approved by the superintendent of financial services and the local legislative body.

7. Upon dissolution or termination as provided in this section, this article shall become and be inapplicable to the project and its owner or owners except as otherwise contemplated by subdivision five of this section.

§ 124. Participation by certain corporations. One or more insurance companies shall have the power to organize, or cause to be organized, a redevelopment company formed pursuant to the provisions of this article, and to purchase for cash or to receive and hold in exchange for property, and to own and control, the stock or the income debenture certificates or both of any redevelopment company and shall also have power to invest, singly or jointly, in a bond and first mortgage or in an issue of bonds secured by mortgage or trust indenture constituting a first lien upon any project as provided in this article. An insurance company, however, which owns stock or income debenture certificates of a redevelopment company and also owns bonds or a bond and mortgage or an interest in a bond and mortgage of the same redevelopment company shall not, without the consent of the supervising agency, sell all or any part of such bonds or such bond and mortgage or of its interest in such bond and mortgage unless it shall simultaneously sell such stock and such income debenture certificates owned by it.

Notwithstanding any other provision of law, an insurance company or companies operating a redevelopment project or owning all of the stock of a redevelopment company are hereby expressly authorized to enter into contracts contemplated by this article and to agree by contract with the municipality not to sell, assign, or otherwise transfer such project or the stock, income debentures or mortgage bonds of such redevelopment company during the period of tax exemption provided for by the contract pursuant to this article without the consent of the local legislative body of the municipality. An insurance company or companies owning all of the stock of a redevelopment company are hereby expressly authorized to make such capital contributions to any such redevelopment company, in cash or by cancellation of securities or otherwise, as may be necessary to enable such redevelopment company to comply with all conditions precedent to its dissolution and conveyance of its property in accordance with section one hundred twenty-three of this article, and upon dissolution of such a redevelopment company, to acquire the project, complete the same if not theretofore completed, and own and operate the same as a permanent investment for such period as it or they may deem desirable either directly or through acquisition and ownership

of the capital stock of any corporation which may acquire title to the project pursuant to subdivision one of section one hundred twenty-three.

An insurance company, instead of investing its funds in the stock and debentures or other obligations of a redevelopment company, may through direct ownership and/or lease acquire, own, construct, manage or operate as an investment for such period as it may deem desirable, one or more projects, in which event the provisions of subsection one of section one hundred twelve of this article applicable to redevelopment companies shall be applicable to such insurance company in its operations with respect to any such project but not otherwise. Said provisions and the ensuing provision of this section shall cease to be applicable to any such project and to such insurance company in its operations with respect to such project after termination of any tax exemption granted pursuant to section one hundred twenty-five of this article with respect to such project, whether such termination shall be by expiration or by any other cause, or in the event that prior thereto the insurance company elects to pay the municipality the total of all accrued taxes for which such exemption was granted and received, together with interest at the rate of five per centum per annum. If any such project shall be sold by an insurance company, the tax exemption with respect to such project shall thereupon cease and terminate unless the local legislative body shall otherwise provide.

Until the termination of any tax exemption granted pursuant to section one hundred twenty-five of this article or until the provisions of this article shall otherwise cease to be applicable:

1. An insurance company shall be entitled to earn and retain annually on a cumulative basis in respect of each project operated by it hereunder, before depreciation but after providing for all expenses, taxes and assessments attributable to such project or to the income therefrom, a sum equal to but not exceeding six per centum of the total actual final cost of the project as defined by subdivision two of section one hundred twelve of this article.

2. Separate accounts shall be kept for each project operated by an

insurance company.

3. If the income from any such project for any year, after all expenses, taxes and assessments attributable thereto or to the income therefrom, shall be in excess of six per centum of the total actual final cost of such project as defined by subdivision two of section one hundred twelve of this article, such excess shall be credited to a special reserve account.

4. If the income from any such project for any year, after all expenses, taxes and assessments attributable thereto or to the income therefrom shall be less than six per centum of such total actual final cost, such deficiency shall be charged against such special reserve account.

The amount of any accrued taxes and interest thereon paid by an insurance company pursuant to the second paragraph of section one hundred twenty-five of this article may be charged against such special reserve account. An amount equal to any balance remaining to the credit of such special reserve account on the termination of the period of tax exemption shall be paid into the general fund of the municipality. If any project shall be conveyed to an insurance company in accordance with subdivision five of section one hundred twenty-three of this article, an amount equal to all accrued and unpaid interest, amortization and dividends on the stock and evidences of indebtedness of the redevelopment company theretofore accumulated in accordance with section one hundred seven of this article shall be charged against the special reserve account except to the extent included in total actual final cost, and any remaining cash surplus derived from earnings remaining in the treasury of the redevelopment company shall be transferred to such insurance company and shall be credited by it to the special reserve account provided for in this section applicable to such project.

Except as specifically provided herein this article shall not be deemed to limit or restrict any power or authority granted to insurance companies or to any other corporation or to any fiduciary by any other provision of law heretofore or hereafter enacted.

§ 125. Tax exemptions. 1. (a) The local legislative body of any municipality in which a project of such company is or is to be located may by contract agree with any redevelopment company to exempt from local and municipal taxes, other than assessments for local improvements, all or part of the value of the property included in such project which represents an increase over the assessed valuation of the real property, both land and improvements, acquired for the project at the time of its acquisition by the redevelopment company which originally undertook the project and for such definite period of years as such contract may provide, except that where the real property in a project was acquired for purposes of rehabilitation, the local legislative body either may utilize the foregoing formula or may agree to exempt from such taxes all or part of the value of the property included in such project on condition that the amount of such taxes to be paid shall not be less than ten per centum of the annual shelter rent or carrying charges of such rehabilitation project. The tax exemption shall not operate for a period of more than twenty-five years, commencing in each instance from the date on which the benefits of such exemption first become available and effective; provided, however, that with respect to a project either acquired by a mutual redevelopment company pursuant to section one hundred twenty-six or owned and continuing to be owned by a mutual redevelopment company which would require substantial increases in carrying charges after the period of tax exemption is ended unless relief is provided, the local legislative body may contract with such mutual redevelopment company to extend such tax exemption for not more than twenty-five additional years at a rate of tax exemption not to exceed an average of fifty per centum during such additional period, provided that the tax exemption during the first two years of such additional period shall continue at the rate of the tax exemption of such project immediately preceding the termination of the initial twenty-five year period and that the tax exemption thereafter shall be decreased in equal biennial decrements, the first of which shall occur immediately following such two year period, and provided that such contract shall contain provisions as to income limitations relating to admission and continued occupancy of the project

and provisions as to rental surcharges to the same effect as are contained in subdivisions two, three, four and five of section thirty-one, except that in the case of projects owned and continuing to be owned by mutual redevelopment companies, persons or families whose probable aggregate annual income does not exceed the median income for families of the same size in the same metropolitan area shall also be eligible for admission to the project on the understanding that any person or family becoming eligible by reason hereof whose probable aggregate annual income at the time of admission or during the period of occupancy exceeds, the greater of (i) the median income for such persons or families for the metropolitan statistical area in which the project is located, or if a project is located outside a metropolitan statistical area, the median income for such persons or families for the county in which the project is located, as most recently determined by the United States department of housing and urban development, in which case any person or family becoming eligible for admission pursuant to this subparagraph shall pay, from the time of admission, a rental surcharge as provided for in subdivision three of section thirty-one of this chapter, computed on the basis of the income limitations applicable to such persons or families in the absence of this subparagraph, or (ii) six times the rental shall be liable for payment of rental surcharges hereunder computed on the basis of such ratio, except that in the case of families with three or more dependents such ratio shall be seven to one; and provided further that with respect to a project which is or is to be permanently financed by a federally-aided mortgage, the tax exemption shall operate for so long as such mortgage is outstanding, but in no event for a period of more than forty years, commencing in each instance from the date on which the benefits of such exemption first become available and effective; and provided further that with respect to a project which is or is to be permanently financed by a loan from the New York city housing development corporation, the tax exemption shall operate for so long as such loan is outstanding.

(a-1) Where the redevelopment contract between a mutual redevelopment company and the local legislative body under which the initial tax exemption was granted contains provisions different from those in subdivisions two, three, four and five of section thirty-one of this chapter, then a contract to extend the tax exemption for an additional

period under paragraph (a) of this subdivision may provide that those provisions of the redevelopment contract shall continue to apply (with such modifications as the supervising agency of such mutual redevelopment company shall approve) during the additional period as if such additional period were the initial period of tax exemption for such mutual redevelopment company, notwithstanding the provisions of paragraph (a) of this subdivision to the contrary.

(a-2) Any inconsistent provision of law notwithstanding, in a city having a population of one million or more, where a local legislative body has acted to extend the tax exemption of a mutual redevelopment company for an additional twenty-five years after the initial tax exemption period has expired, the local legislative body may authorize tax exemption during the final eleven years of such additional twenty-five year exemption period under this subdivision, provided that the amount of taxes to be paid by the mutual redevelopment company during the final eleven years of such additional twenty-five year exemption period shall not be less than an amount equal to the greater of (i) ten per centum of the annual rent or carrying charges of the project minus utilities for the residential portion of the project, or (ii) the taxes payable by such company for the residential portion of the project in the fourteenth year of such additional twenty-five year exemption period, and may further extend the period of such additional twenty-five year exemption for up to a total period of thirty-five years from the date of expiration of the initial tax exemption, provided that the amount of taxes to be paid by the mutual redevelopment company during any such extension beyond such additional twenty-five year exemption period shall not be less than an amount equal to the greater of (i) ten per centum of the annual rent or carrying charges of the project minus utilities for the residential portion of the project, or (ii) the taxes payable by such company for the residential portion of the project in the fourteenth year of such additional twenty-five year exemption period.

(a-3) Any inconsistent provision of law notwithstanding, the local legislative body of any municipality may grant an additional tax exemption period for any project, other than a project by a mutual redevelopment company, that received a tax exemption under paragraph (a) of this subdivision, upon the expiration of the tax exemption period.

The additional tax exemption period may be for a term of forty years, or until such time as the project is no longer operated under the restrictions and for the purposes set forth in this article, whichever is sooner. Unless otherwise approved by the local legislative body, the amount of taxes paid by the redevelopment company during such additional tax exemption period shall not be less than (i) the taxes payable by such company in accordance with the resolution for such redevelopment company that was approved by the local legislative body and that was in effect immediately prior to the expiration of the initial tax exemption period, or (ii) if there is no such resolution, the taxes payable by such company in accordance with the exemption authorized pursuant to this article immediately prior to the expiration of the initial tax exemption period.

(a-4) Any inconsistent provision of law notwithstanding, in a city having a population of one million or more, where a local legislative body has acted to extend the tax exemption of a mutual redevelopment company for the maximum period provided for in paragraph (a-2) of this subdivision, the local legislative body may grant an additional tax exemption for a period of up to fifty years, provided that the amount of taxes to be paid during any such period of tax exemption shall be not less than an amount equal to the lesser of (i) five per centum of the annual rent or carrying charges of the project minus utilities for the residential portion of the project, or (ii) the taxes payable by such company for the residential portion of the project during the tax year commencing July first, two thousand and ending on June thirtieth, two thousand one. Such grant of an additional tax exemption period shall take effect upon the expiration of the maximum period provided for in paragraph (a-2) of this subdivision.

(a-5) Any inconsistent provision of law notwithstanding, including but not limited to any limitation in paragraph (a) of this subdivision, the local legislative body of any municipality within the County of Nassau, with respect to a project either: (i) acquired by a mutual redevelopment company pursuant to section one hundred twenty-six of this article; or (ii) owned and continuing to be owned by a mutual redevelopment company where there is a restriction that said housing must be occupied by seniors with a minimum age of fifty-five as a condition to any restrictive covenants of said mutual redevelopment company, which would

require substantial increases in carrying or maintenance charges after the initial period of tax exemption is ended or is going to require increases in the carrying or maintenance charges during any such extended tax exemption pursuant to a present extension agreement due to the reduction or elimination of the tax exemption provided to the project immediately preceding the termination of the initial twenty-five year period, unless relief is provided, may contract with such mutual redevelopment company to: (i) extend such tax exemption for not more than twenty-five additional years at the rate of the tax exemption of such project immediately preceding the termination of the initial twenty-five year period for all of the additional twenty-five year period; or (ii) modify an existing extended tax exemption to provide for such an extension.

(b) A redevelopment company which has been granted and has received tax exemption pursuant to this section may at any time elect to pay to the municipality or other appropriate taxing jurisdiction the total of all accrued taxes for which exemption was granted and received, together with interest at the rate of five per centum per annum. Upon such payment the tax exemption of the project shall thereupon cease and terminate.

(c) Where a municipality acts on behalf of another taxing jurisdiction in assessing real property for the purpose of taxation, or in levying taxes therefor, the said agreement by the local legislative body of such municipality shall have the effect of exempting the real property in a project from local and municipal taxes, other than assessments for local improvements, levied by or in behalf of both such taxing jurisdictions.

(d) As used in this subdivision the term "taxing jurisdiction" means any municipal corporation or district corporation, including any school district or any special district, having the power to levy or collect taxes and benefit assessments upon real property, or in whose behalf such taxes or benefit assessments may be levied or collected.

2. Any inconsistent provision of law notwithstanding, mortgages of any such company issued to the federal government or any instrumentality thereof, or to any municipal housing authority or other public housing agency or instrumentality thereof whose obligations are determined to be exempt from federal taxation by the federal government, or issued to a

financial institution and insured or guaranteed by the federal housing administrator or any other instrumentality of the federal government shall be exempt from the mortgage recording taxes imposed by article eleven of the tax law.

§ 126. Reduced rentals for the elderly. (a) For the purpose of enabling lower income elderly persons to continue in occupancy without paying rentals in excess of a fair proportion of their income, any municipality having a population of less than one million is authorized to make and to contract to make periodic payments to a redevelopment company in an amount not exceeding the difference between the rent or carrying charges for the dwellings occupied by such lower income persons and one-third of their net probable aggregate annual income, where such rent or carrying charges exceed such one-third of income; provided that the aggregate amount of periodic payments to be made in accordance with contracts entered into by the municipality during any fiscal year thereof pursuant to this section, subdivision nine of section thirty-one, subdivision seven of section eighty-five-a, and section five hundred seventy-seven-a of this chapter shall not exceed the aggregate amount of all real property taxes paid or payable during such fiscal year by all companies organized pursuant to this article, article II, article IV, and article XI of this chapter and the aggregate estimated receipts of all such companies in such fiscal year from rental surcharges collected or to be collected pursuant to this chapter.

(b) Such payments shall be made only where the contract between the municipality and the company pursuant to section one hundred fourteen imposes income limitations on admission and on continued occupancy and requires the payment of surcharges to the municipality by over-income occupants.

(c) Such payments shall be made only on account of a person or family in occupancy where the head of the household is sixty-two years of age or older and is not a recipient of public assistance pursuant to the social services law, and where the net probable aggregate annual income of the person or family in occupancy does not exceed six thousand five hundred dollars a year.

Notwithstanding the provisions of subdivision twenty-nine of section two of this chapter, net probable aggregate annual income shall mean the annual income of family members from all sources after deductions of federal, state and city income taxes; provided that any municipality may provide that increases in benefits under the social security act which take effect after such person or family has assumed occupancy shall not be taken into account.

(d) A company having a contract with the municipality pursuant to this subdivision may not collect from persons or families in occupancy on whose account such payments are made any rentals in excess of the amounts specified in such contract.

§ 127. Acquisition by mutual redevelopment companies. Anything in this article to the contrary notwithstanding:

(a) With the approval of the supervising agency, any person owning a project may convey such project to a mutual redevelopment company and a mutual redevelopment company may be organized to acquire an existing project prior to expiration of an initial tax exemption granted pursuant to section one hundred twenty-five, and may own, maintain, operate, sell, and convey such project pursuant to this article. In part payment of the purchase price therefor, such company may execute and deliver a bond and mortgage or an issue of bonds under a trust indenture, the aggregate principal amount of which does not exceed ninety per centum of such purchase price, and which shall be secured by a first mortgage upon all the real property of which such project consists. Such bonds are hereby declared securities in which all public officers and bodies of the state and of its municipal subdivisions, all insurance companies and associations, all savings banks and savings institutions, including savings and loan associations, executors, administrators, guardians, trustees, and all other fiduciaries in the state may properly and legally invest the funds within their control. The total capital created and bonds or debentures issued by such mutual redevelopment company shall not exceed the total cost of the purchase of the project and an allowance for working capital not greater in amount than three per centum of such cost.

(b) With the consent of the local legislative body, any initial tax

exemption granted pursuant to section one hundred twenty-five, shall continue after conveyance of a project to a mutual redevelopment company for the period of years originally provided for in the contract, or for the unexpired portion thereof if such period shall have commenced, subject to prior termination pursuant to section one hundred twenty-four or section one hundred twenty-five, and this article shall continue to be applicable to such project as though such project had been initially undertaken by such mutual redevelopment company; provided, however, that nothing herein shall require the resubmission of the plan of the project and the contract relating thereto for approval pursuant to section one hundred fourteen. The contract may, with the approval of the local legislative body and of the holder of the mortgage on the project, be modified in a manner consistent with this section.

§ 128. Resale price of shares. Notwithstanding any other provision of this article and subject to any regulation not inconsistent with this section which may be promulgated by the supervising agency:

(a) The resale price of shares in a mutual company shall be fixed by the mutual company, subject to the approval of the supervising agency, and shall be equal to (1) the consideration the selling tenant-cooperator paid for such shares and (2) any capital assessments and voluntary capital contributions approved by the supervising agency and paid by the selling tenant-cooperator to the mutual company, to the extent not already included in the consideration paid for such shares, and, if established by the mutual company, (3) a proportionate share of the actual aggregate amortization paid on all existing and prior mortgages on the project in reduction of total outstanding principal indebtedness during such period as shall be fixed by the board of directors of the mutual company, to the extent not already included in the consideration paid for such shares, and (4) reasonable administrative charges.

(b) The aggregate amount to be paid to the selling tenant-cooperator with respect to the sale of the selling tenant-cooperator's shares shall be fixed by the board of directors of the mutual company, subject to the approval of the supervising agency, and shall be equal to (1) the consideration the selling tenant-cooperator paid for such shares, (2)

any capital assessments and voluntary capital contributions approved by the supervising agency and paid by the selling tenant-cooperator to the mutual company, to the extent not already included in the consideration paid for such shares, and (3) a proportionate share of the actual aggregate amortization paid by the selling tenant-cooperator on all existing and prior mortgages on the project in reduction of total outstanding principal indebtedness during such period as shall be fixed by the board of directors pursuant to subdivision (a) of this section, to the extent not already included in the consideration paid for such shares. To the extent that a selling tenant-cooperator may be entitled to an amount less than the resale price of his shares, the difference shall be retained by the mutual company.

(c) The board of directors may, subject to the approval of the supervising agency, establish a general policy pursuant to which a selling tenant-cooperator who had occupied more than one dwelling unit is paid an amount measured by his proportionate share of the actual aggregate amortization paid during his period of occupancy on all existing or prior mortgages on the project. To the extent that a selling tenant-cooperator may be entitled to an amount greater than the resale price of shares, the difference may be paid to the selling tenant-cooperator by the mutual company.

(d) The "proportionate share of the actual aggregate amortization paid on all existing and prior mortgages on the project" referred to in subdivision (a) of this section shall be in the same ratio to such actual aggregate amortization as the number of shares held by the selling tenant-cooperator at the time of sale bears to the total number of shares of issued and outstanding capital stock of the mutual company during such period.

(e) Nothing contained in this section shall prohibit the continued use of any method of calculating resale price adopted by a mutual company and approved by the supervising agency prior to the effective date of this section.

ARTICLE VI

URBAN REDEVELOPMENT CORPORATIONS

Section 200. Short title.

201. Legislative finding, policy of state, and purpose of article.
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§ 200. Short title. This article shall be known and may be cited and referred to as the "Urban Redevelopment Corporations Law."

§ 201. Legislative finding, policy of state, and purpose of article. It is hereby declared that in the cities of the state substandard and insanitary areas exist which have resulted from inadequate planning,

excessive land coverage, lack of proper light, air and open space, defective design and arrangement of buildings, lack of proper sanitary facilities, and the existence of buildings, which, by reason of age, obsolescence, inadequate or outmoded design, or physical deterioration have become economic or social liabilities, or both; that such conditions are prevalent in areas where substandard, insanitary, outworn or outmoded industrial, commercial or residential buildings prevail; that such conditions impair the economic value of large areas, infecting them with economic blight, and that such areas are characterized by depreciated values, impaired investments, and reduced capacity to pay taxes; that such conditions are chiefly in areas which are so subdivided into small parcels in divided ownerships and frequently with defective titles, that their assembly for purposes of clearance, replanning, rehabilitation and reconstruction is difficult and costly; that the existence of such conditions and the failure to clear, replan, rehabilitate or reconstruct these areas results in a loss of population by the areas and further deterioration, accompanied by added costs to the communities for creation of new public facilities and services elsewhere; that it is difficult and uneconomic for individual owners independently to undertake to remedy such conditions; that it is desirable to encourage owners of property or holders of claims thereon in such areas to join together and with outsiders in corporate groups for the purpose of the clearance, replanning, rehabilitation and reconstruction of such areas by joint action; that it is necessary to create, with proper safeguards, inducements and opportunities for the employment of private investment and equity capital in the clearance, replanning, rehabilitation and reconstruction of such areas; that such conditions require the employment of such capital on an investment rather than a speculative basis, allowing however, the widest latitude in the amortization of any indebtedness created thereby; that such conditions further require the acquisition at fair prices of adequate areas, the gradual clearance of such areas through demolition of existing obsolete, inadequate, unsafe and insanitary buildings and the redevelopment of such areas under proper supervision with appropriate planning, land use and construction policies; that the clearance, replanning, rehabilitation and reconstruction of such areas on a large scale basis are necessary for the public welfare; that the clearance,

replanning, reconstruction and rehabilitation of such areas are public uses and purposes for which private property may be acquired; that such substandard and insanitary areas constitute a menace to the health, safety, morals, welfare and reasonable comfort of the citizens of the state; that such conditions require the creation of the agencies, instrumentalities and corporations hereinafter described, which are hereby declared to be agencies and instrumentalities of the state, for the purpose of attaining the ends herein recited; that the protection and promotion of the health, safety, morals, welfare and reasonable comfort of the citizens of the state are matters of public concern; and the necessity in the public interest for the provisions hereinafter enacted is hereby declared as a matter of legislative determination.

§ 202. Definitions. The following terms, whenever used or referred to in this article, shall, unless a different intent clearly appears from the context, be construed as follows:

The term "development area" shall mean that portion of an area to which a development plan is applicable.

The term "development cost" shall mean the amount determined by the supervising agency to be the actual cost of the development, or of the part thereof for which such determination is made, and shall include, among other costs, the reasonable costs of planning the development, including preliminary studies and surveys, neighborhood planning, and architectural and engineering services, legal and incorporation expense, the actual cost, if any, of alleviating hardship to families occupying dwelling accommodations in the development area where such hardship results from the execution of the development plan, the reasonable costs of financing the development, including carrying charges during construction, working capital in an amount not exceeding five per centum of development cost, the actual cost of the real property included in the development, or if such real property or any part thereof were acquired partly or wholly in exchange for securities, then, an amount which shall be approved by the supervising agency as being equal to the reasonable value of the real property acquired therefor, the actual cost

of demolition of existing structures, the actual cost of utilities, landscaping and roadways, the amount of special assessments subsequently paid, the actual cost of construction, equipment and furnishing of buildings and improvements, including architectural, engineering and builder's fees, the actual cost of reconstruction, rehabilitation, remodeling or initial repair of existing buildings and improvements, reasonable management costs until the development is ready for use, and the actual cost of improving that portion of the development area which is to remain as open space, together with such additions to development cost as shall equal the actual cost of additions to or changes in the development in accordance with the original development plan or after approved changes in or amendments thereto.

The term "development plan" shall mean a plan for the redevelopment of all or any part of an area, and shall include any amendments thereto approved in accordance with the requirements of paragraph five of section two hundred three of this article.

The term "dividend year" shall mean, whether or not there exists a maximum exemption period with respect to any one or more parcels of real property, any of the recurrent periods of one year each ending on the last day of the calendar month immediately preceding the calendar month in which the assessment-rolls for the purpose of city taxes on real property are finally warranted to the official, bureau, board, commission or agency charged with collecting such taxes. The first dividend year may be a period of less than one year commencing with the beginning of the execution of the development plan and ending on such last day of such calendar month.

The terms "local taxation" and "local tax" shall include state, county, city, and school taxes, any special district taxes, and any other tax on real property, but shall not include assessments for benefit improvements.

The term "maximum assessed valuation" shall mean, with respect to any local tax on any parcel of real property, the assessed valuation of such parcel appearing on the last assessment-roll warranted to the official,

bureau, board, commission or agency charged with collecting the particular local tax involved, before the commencement of the maximum exemption period for such parcel.

The term "maximum exemption period" shall mean, with respect to any parcel of real property, the period commencing with the acquisition of such parcel by the redevelopment corporation, or the issuance of the certificate of approval required by paragraph four of section two hundred three of this article, whichever is later in time, and lasting for such period, not exceeding ten years from the date of completion, as certified to by the city department or body having jurisdiction over buildings and improvements, of the buildings or improvements required to be built on or made to such parcel by the development plan, as may be designated in the ordinance or local law, if any, adopted or enacted by the local legislative body pursuant to paragraph one of section two hundred eleven of this article, but not in excess of the period of time during which such parcel of real property is owned by the redevelopment corporation.

The term "maximum dividend" shall mean, with respect to any dividend year, an amount equal to five per centum of development cost less all amounts payable during the dividend year as interest on, but not as amortization of, any indebtedness of the redevelopment corporation. The maximum dividend, however, may be apportioned in accordance with the provisions of section two hundred seventeen of this article. The maximum dividend may change from time to time in accordance with changes in development cost, in outstanding indebtedness and in capital structure due to refunding operations.

The term "maximum local tax" shall mean, with respect to each and every local tax on any parcel of real property the local tax which would have been payable on such parcel if the assessed valuation for the purpose of such local tax had been, contrary to fact if need be, equal to the maximum assessed valuation thereof.

The term "minimum condemnation requirement" shall mean land and buildings or improvements constituting fifty-one per centum or more of

the land area and fifty-one per centum or more by assessed valuation for the purpose of city taxes of the land and buildings or improvements, as of the date of the issuance of the certificate of approval required by paragraph four of section two hundred three of this article, of all land and buildings or improvements fee title to which is to be acquired by the redevelopment corporation pursuant to the development plan, which are not exempt otherwise than by this article in whole or in part from local taxation, which are included in that stage of the development plan in which is located the real property sought to be condemned.

The term "planning commission" shall mean the official bureau, board, commission or agency of the city established under the general city law or under a home rule charter and authorized to prepare, adopt and amend or modify a master plan for the development of the city.

The term "redevelopment" shall mean the clearance, replanning, reconstruction or rehabilitation of an area or part thereof, and the provision of such industrial, commercial, residential or public structures or spaces as may be appropriate, including recreational and other facilities incidental or appurtenant thereto.

The term "redevelopment corporation" shall mean a corporation heretofore or hereafter organized pursuant to article four of the business corporation law whose certificate of incorporation shall comply with the requirements of section two hundred five of this article.

The term "supervising agency" shall mean the official, bureau, commission or agency appointed, established or designated by the local legislative body pursuant to section two hundred four of this article, except that if there is a board of estimate in the city, it shall mean such board of estimate.

§ 203. Development plans and approval thereof. 1. A development plan shall contain such information as the planning commission and the supervising agency shall, by rule or regulation require, including:

(a) A metes and bounds description of the development area;

(b) A statement of the real property in the development area fee title to which the redevelopment corporation proposes to acquire and a statement of the interests to be acquired in any other real property by the redevelopment corporation;

(c) A statement of the various stages, if more than one is intended, by which the development is proposed to be constructed or undertaken, and the time limit for the completion of each stage, together with a metes and bounds description of the real property to be included in each stage;

(d) A statement of the existing buildings or improvements in the development area, to be demolished immediately, if any;

(e) A statement of the existing buildings or improvements, in the development area not to be demolished immediately, if any, and the approximate period of time during which the demolition, if any, of each such building or improvement is to take place;

(f) A statement of the proposed improvements, if any, to each building not to be demolished immediately, any proposed repairs or alterations to such building, and the approximate period of time during which such improvements, repairs or alterations are to be made;

(g) A statement of the type, number and character of each new industrial, commercial, residential or other building or improvement to be erected or made; and a statement of the maximum limitations upon the bulk of such buildings or improvements to be permitted at various stages of the development plan;

(h) A statement of those portions, if any, of the development area which may be permitted or will be required to be left as open space, the use to which each such open space is to be put, the period of time each such open space will be required to remain an open space and the manner in which it will be improved and maintained, if at all;

(i) A statement of those portions, if any, of the development area which the redevelopment corporation proposes to sell, donate, exchange or lease to, with or from the city and an outline of the terms of such proposed sale, donation, exchange or lease;

(j) A statement of the proposed changes, if any, in zoning ordinances or maps, necessary or desirable for the development and its protection against blighting influences;

(k) A statement of the proposed changes, if any, in streets or street

levels and any proposed street closings;

(l) A statement of the character of the existing dwelling accommodations, if any, in the development area, the approximate number of families residing therein, together with a schedule of the rentals being paid by them, and a schedule of the vacancies in such accommodations, together with the rental demanded therefor;

(m) A statement of the character, approximate number of units, approximate rentals and approximate date of availability of the proposed dwelling accommodations, if any, to be furnished during construction and upon completion of the development;

(n) A statement of the proposed method of financing the development, in sufficient detail to evidence the probability that the redevelopment corporation will be able to finance or arrange to finance the development;

(o) A statement of persons who it is proposed will be active in or associated with the management of the redevelopment corporation during a period of at least one year from the date of the approval of the development plan.

The development plan, and any application to the planning commission or supervising agency for approval thereof, may contain in addition such other statements or material as may be deemed relevant by the proposer thereof, including limits on the amounts which may be paid as compensation for services to the officers and employees of the redevelopment corporation, suggestions for the clearance, replanning, reconstruction or rehabilitation of one or more areas which may be larger than the development area but which include it, and any other provisions for the redevelopment of such area or areas.

2. No development shall be initiated until certificates of approval of the development plan therefor shall have been issued by both the planning commission and the supervising agency.

3. A planning commission may approve a development plan after a public hearing, but no certificate of approval thereof shall be issued by it unless and until an application for approval has been filed with it, together with the development plan, and unless and until the planning

commission shall determine:

(a) That the area within which the development area is included is substandard or insanitary and that the redevelopment of the development area in accordance with the development plan is necessary or advisable to effectuate the public purposes declared in section two hundred one of this article;

(b) That the development plan is in accord with the master plan, if any, of the city;

(c) That the development area is not less than one hundred thousand square feet in area, except that it may be smaller in area when undertaken in connection with a public improvement, but in any event of sufficient size to allow its redevelopment in an efficient and economically satisfactory manner and to contribute substantially to the improvement of the area in which the development is located;

(d) That the various stages, if any, by which the development is proposed to be constructed or undertaken, as stated in the development plan, are practicable and in the public interest;

(e) That public facilities, including, but not limited to, school, fire, police, transportation, park, playground and recreation, are presently adequate, or will be adequate, at the time that the development is ready for use, to service the development area;

(f) That the proposed changes, if any, in the city map, in zoning ordinances or maps and in streets and street levels, or any proposed street closings, are necessary or desirable for the development and its protection against blighting influences and for the city as a whole;

(g) Upon data submitted by or on behalf of the redevelopment corporation, or upon data otherwise available to the planning commission, that there will be available for occupation by families, if any, then occupying dwelling accommodations in the development area legal accommodations at substantially similar rentals in the development area or elsewhere in a suitable location in the city, and that the carrying into effect of the development plan will not cause undue hardship to such families. The notice of the public hearing to be held by the planning commission prior to approval by it of the development plan shall contain separate statements to the effect that before the development plan is approved, the planning commission must make the determination required in subparagraph (g) of this paragraph three, and

that if the development plan is approved, real property in the development area is, upon the conditions stated elsewhere in this article, subject to condemnation.

Any such determination shall be conclusive evidence of the facts so determined except upon proof of fraud or wilful misfeasance. In arriving at such determination, the planning commission shall consider only those elements of the development plan relevant to such determination under subparagraphs (a) through (g) of this paragraph three of section two hundred three of this article and to the type of development which is physically desirable for the development area concerned from a city planning viewpoint and from a neighborhood unit viewpoint if the development plan provides that the development area is to be primarily residential. Upon approval of a development plan by the planning commission, it shall forthwith issue a certificate of approval thereof, which may be made subject to subsequent approval of the changes, if any, mentioned in subparagraph (f) of this paragraph three by the person, commission or body having jurisdiction thereof.

4. A supervising agency may approve a development plan, but no certificate of approval thereof shall be issued by it unless and until the planning commission shall first have approved thereof and there has been filed with the supervising agency the development plan, the certificate of approval by the planning commission and an application for approval by the supervising agency, and unless and until the supervising agency shall determine:

(a) That the proposed method of financing the development is feasible and that it is probable that the redevelopment corporation will be able to finance or arrange to finance the development;

(b) That the persons who it is proposed will be active in or associated with the management of the redevelopment corporation during a period of at least one year from the date of the approval of the development plan have sufficient ability and experience to cause the development to be undertaken, consummated and managed in a satisfactory manner.

Any such determination shall be conclusive evidence of the facts so

determined except upon proof of fraud or wilful misfeasance. In considering whether or not a certificate of approval of the development plan shall be issued, the supervising agency shall consider only those elements of the development plan relevant to such determination under subparagraphs (a) and (b) of this paragraph four of section two hundred three of this article. Upon approval of a development plan by the supervising agency, it shall forthwith issue a certificate of approval thereof.

5. The planning commission and the supervising agency may approve an amendment or amendments to a development plan, but no such amendment to a development plan which has theretofore been approved by the planning commission and the supervising agency shall be approved unless and until an application therefor has been filed with the planning commission or the supervising agency by the redevelopment corporation containing that part of the material required by paragraph one of this section two hundred three which shall be relevant to the proposed amendment, and unless and until the planning commission or the supervising agency, as the case may be, shall make the determinations required by paragraphs three or four of this section two hundred three which shall be relevant to the proposed amendment.

6. The planning commission and the supervising agency may each adopt a reasonable schedule of fees to be paid upon the filing of the development plan, amendments thereto and other instruments in connection therewith.

7. The planning commission and the supervising agency may, for the guidance of prospective proponents of development plans, fix general standards to which a development plan shall conform. Variations from such standards may be allowed for the accomplishment of the purposes of this article. Such standards may contain provisions more restrictive than those imposed by applicable planning, zoning, sanitary and building laws, ordinances and regulations.

8. The state division of housing, or a local housing authority where such exists, is hereby authorized to render such advisory services in

connection with the preliminary surveys, studies and preparation of a development plan as may be requested by a redevelopment corporation or a city planning commission and charge fees for such services on the basis of actual cost.

§ 204. Appointment of supervising agency. The local legislative body of a city is hereby authorized by general ordinance or local law to appoint, establish or designate the chief financial officer of the city or some other official or bureau, commission or agency as the person or body to exercise the powers and perform the duties held by or incumbent upon a supervising agency pursuant to this article, except that if there is a board of estimate in the city no such appointment, establishment or designation shall be made and the board of estimate shall exercise such powers and perform such duties or may delegate one or more of them to the chief financial officer of the city or to some other official, bureau, commission or agency.

§ 205. Redevelopment corporations. 1. Three or more persons may become a redevelopment corporation on making, subscribing, acknowledging and filing in the department of state a certificate pursuant to article four of the business corporation law, which shall be entitled and endorsed "Certificate of incorporation of Redevelopment Corporation, pursuant to article four of the business corporation law," the blank space being filled in with the remainder of the name of the corporation. Such certificate shall contain the provisions required in, and may contain any provisions consistent with the provisions of this article permitted in, a certificate of incorporation filed pursuant to article four of the business corporation law, except that:

(a) Included among the purposes for which the corporation is formed shall be the formulation, obtaining the approval of, and putting into effect of a development plan, the acquisition of real property in a development area, and the construction, maintenance and operation of a development pursuant to this article;

(b) The duration of the corporation shall be perpetual;

(c) The certificate may provide for the issuance of income debentures,

in which case the holders of such debentures may be allowed such voting rights as shall be specified therein;

(d) The certificate shall contain a declaration that the redevelopment corporation has been organized to serve a public purpose, and that it shall be subject to supervision and control as provided in this article. A copy of such certificate shall be filed with the planning commission and the supervising agency having jurisdiction within ten days of its being filed in the department of state.

2. If a redevelopment corporation shall not have obtained the certificates of approval of its development plan required by section two hundred three of this article within twelve months of the date upon which it became a redevelopment corporation, or shall not substantially comply with the development plan within the time limit for the completion of each stage thereof as therein stated, reasonable delays caused by unforeseen difficulties excepted, then upon the filing in the department of state of a certified copy of the order of the court establishing such failure to obtain such certificate or substantially so to comply, obtained pursuant to section two hundred thirteen of this article, such redevelopment corporation shall cease to have the special rights, powers and privileges granted to, or be subject to the special duties, liabilities and restrictions imposed upon a redevelopment corporation by this article, and shall thereafter change its name to remove the word "Redevelopment" therefrom. In such event, however, such corporation may thereafter continue in existence as a business corporation, subject to the business corporation law. In the event that a certified copy of such order shall be so filed, all real property acquired by or for such redevelopment corporation by condemnation shall be disposed of, either alone or in conjunction with additional real property not so acquired, within a reasonable time by bona fide sale. All amounts received by the redevelopment corporation for such real property in excess of an amount equal to that portion of the development cost allocable to the real property being disposed of, shall be paid to the city.

3. No corporation now organized under the laws of the state shall change its name to a name, and no such corporation hereafter organized

shall have a name, containing the word "redevelopment" as a part thereof, unless and until such corporation is or becomes a redevelopment corporation. No foreign corporation now authorized to do business in the state shall change its name to a name, and no such corporation shall hereafter be authorized to do business in the state with a name, containing the word "redevelopment" as a part thereof.

§ 206. Limitations of redevelopment corporations. No redevelopment corporation shall:

1. Undertake any clearance, reconstruction, improvement, alteration or construction in connection with any development until the certificates of approval required by section two hundred three of this article have been issued;

2. Change, alter, amend, add to or depart from the development plan until the planning commission or the supervising agency, as the case may be, has issued a certificate of approval of that portion of such change, alteration, amendment, addition or departure relevant to the determination required to be made by it as set forth in section two hundred three of this article;

3. After a development has been commenced, sell, transfer or assign any real property in the development area without first obtaining the consent of the supervising agency;

4. Undertake more than one development;

5. Pay interest on its income debentures, if any, except out of net earnings which would have been applicable to the payment of dividends on its capital stock if there were no such income debentures;

6. Pay as compensation for services to, or enter into contracts for the payment of compensation for services to, its officers or employees in an amount greater than the limit thereon contained in the development plan, or in default thereof, then in an amount greater than the

reasonable value of the services performed or to be performed by such officers or employees;

7. Lease an entire building or improvement in the development area to any person or corporation without obtaining the approval of the supervising agency, which may be withheld only if the lease is being made for the purpose of evading the provisions of this article;

8. Mortgage any of its real property without obtaining the approval of the supervising agency;

9. Make any guarantee without obtaining the approval of the supervising agency;

10. Dissolve without obtaining the approval of the supervising agency, which may be given upon such conditions as the supervising agency may deem necessary or appropriate to the protection of the interest of the city in the proceeds of the sale of the real property acquired by condemnation as provided in subdivision two of section two hundred five of this article, such approval to be endorsed on the certificate of dissolution and such certificate not to be filed in the department of state in the absence of such endorsement;

11. Reorganize without obtaining the approval of the supervising agency.

§ 207. Application of other corporation laws to redevelopment corporations. The provisions of the business corporation law as presently in effect and as hereafter from time to time amended, shall apply to redevelopment corporations heretofore or hereafter, except where such provisions are in conflict with the provisions of this article. In the event that any action with respect to which the holders of income debentures shall have the right to vote is proposed to be taken, then notice of any meeting at which such action is proposed to be taken shall be given to such holders in the same manner and to the same extent as if they were stockholders entitled to notice of and to vote at

such meeting, and any certificate filed pursuant to law in the department of state with respect to any such action, whether taken with or without meeting, and any affidavit required by law to be annexed to such certificate, shall contain the same statements or recitals and such certificate shall be subscribed and acknowledged, and such affidavit shall be made, in the same manner as if such holders were stockholders holding shares of an additional class of stock entitled to vote on such action, or with respect to the proceedings provided for in such certificate.

§ 208. Consideration for issuance of stock, bonds or income debentures. No redevelopment corporation shall issue stock, bonds or income debentures, except for money or property actually received for the use and lawful purposes of the corporation or services actually performed for the corporation.

§ 209. Determination of development cost. 1. Upon the completion of a development a redevelopment corporation shall, or upon the completion of a principal part of a development a redevelopment corporation may, file with the supervising agency an audited statement of the development cost thereof. Within a reasonable time after the filing of such statement, the supervising agency shall determine the development cost applicable to the development or such portion thereof and shall issue to the redevelopment corporation a certificate stating the amount thereof as so determined.

2. A redevelopment corporation may, at any time, whether prior or subsequent to the undertaking of any contract or expense, apply to the supervising agency for a ruling as to whether any particular item of cost therein may be included in development cost when finally determined by the supervising agency, and the amount thereof. The supervising agency shall, within a reasonable time after such application, render a ruling thereon, and in the event that it shall be ruled that any item of cost may be included in development cost, the amount thereof as so determined shall be so included in development cost when finally

determined.

§ 210. Regulation of redevelopment corporations by supervising agency.

A redevelopment corporation shall:

1. Furnish to the supervising agency from time to time, as required by it, but with respect to regular reports not more often than once every six months, such financial information, statements, audited reports or other material as such supervising agency shall require, each of which shall conform to such standards of accounting and financial procedure as the supervising agency may by general regulation prescribe.

2. Establish and maintain such depreciation and other reserves, surplus and other accounts as the supervising agency may reasonably require, including a yearly reserve with respect to each parcel of real property held by the redevelopment corporation against the increase in local taxes after the expiration of the maximum exemption period, which shall be equal to twenty per centum of the difference between the maximum local tax on the real property of the redevelopment corporation and the local tax which would have been payable except for the tax exemption period provided for in section two hundred eleven of this article.

Any provision of the general corporation law or the stock corporation law to the contrary notwithstanding, one member of the board of directors of a redevelopment corporation may be a designee of the supervising agency, as long as any of the real property of the redevelopment corporation is entitled to the tax exemption provided for in section two hundred eleven of this article.

§ 211. Exemption from increase in local taxation. 1. A local legislative body is hereby authorized, by adopting or enacting an ordinance or local law, to exempt all or part of the real property held by redevelopment corporations during a maximum exemption period, which shall not exceed ten years, which represents an increase in any local

tax over the maximum local tax. After the adoption or enactment of such an ordinance or local law, every parcel of real property held by any redevelopment corporation in the city shall be exempt during the maximum exemption period, from that portion of each and every local tax to the extent that such exemption has been granted by such ordinance or local law. If, during the last year of the maximum exemption period, such exemption is in existence on the day such local tax, or installment thereof, becomes a lien on such parcel of real property, such exemption shall extend for the full tax year for such local tax and shall not be apportioned because of the expiration of the maximum exemption period during such tax year.

2. For the purpose of fixing the date of commencement of the maximum exemption period for a group of parcels of real property in a development area, a city is hereby authorized, with the approval of its local legislative body, except that if there is a board of estimate in the city, then with the approval of the board of estimate, to contract with a redevelopment corporation to place in one or more groups the various parcels of real property therein. Such a contract may provide that all of the parcels in each group may be deemed to have had a common stated date of acquisition by the redevelopment corporation, regardless of the actual date of acquisition of each parcel contained therein. Such agreed date of acquisition shall thereupon serve as a basis for computing the maximum exemption period for each parcel of real property in the group. Such agreed date of acquisition shall not be later than the date of the actual acquisition of one or more parcels of real property in the group. After the making of any such contract, all of the parcels of real property in any such group shall be treated as a unit for the purposes of the assessment and collection of each local tax, and the maximum exemption period so computed shall be binding with respect to each local tax.

§ 212. Limited return on income debentures and stock. 1. No redevelopment corporation shall pay any interest on its income debentures or dividends on its stock during any dividend year, unless there shall exist at the time of any such payment no default under any

amortization requirements with respect to its indebtedness.

2. No redevelopment corporation shall pay or declare as interest on its income debentures and as dividends on its stock during any dividend year during any portion of which there shall exist pursuant to section two hundred eleven of this article any exemption from local taxation on any of its real property, an amount which in the aggregate is in excess of the maximum dividend, except as provided in paragraphs three and four of this section two hundred twelve.

3. In the event that in any dividend year the maximum exemption period with respect to some of the parcels of real property held by a redevelopment corporation shall have expired, and with respect to some such parcels shall not have expired, then that portion of its net earnings which may be paid or declared as interest on its income debentures and as dividends on its stock during such dividend year shall be determined as follows: multiply the net earnings of the corporation subject to payment or declaration as such interest or dividends, by a fraction the numerator of which is the total of the maximum assessed valuation of all real property for which the maximum exemption period has not expired and the denominator of which is the total of the maximum assessed valuation of all the real property of the corporation; and the result will be the apportioned net earnings restricted as to payment as such interest or dividends; compute the amount of the maximum dividend as though no apportionment of the same were to be affected and multiply the amount so arrived at by the same fraction; and the result will be the apportioned maximum dividend; only that portion of such apportioned net earnings which does not exceed such apportioned maximum dividend may be paid or declared as such interest or dividends; and that portion of the net earnings obtained by subtracting from total net earnings such apportioned net earnings restricted as to payment as such interest and dividends may be paid or declared without restriction as such interest or dividends.

4. In the event that in any one or more prior dividend years the total amount paid or declared as interest on the corporation's income debentures or as dividends on its stock shall have been less than the

amounts allowable pursuant to paragraphs two and three of this section two hundred twelve, then cumulative interest and dividends equal to the difference may be paid out of any net income applicable thereto in any subsequent dividend year despite the limitation imposed by paragraph two of this section two hundred twelve.

§ 213. Enforcement proceedings against redevelopment corporations.

Whenever a redevelopment corporation shall not have obtained the certificates of approval of its development plan required by section two hundred three of this article within twelve months of the date upon which it became a redevelopment corporation, or shall not have substantially complied with its development plan within the time limits for the completion of each stage thereof as therein stated, reasonable delays caused by unforeseen difficulties excepted, or shall do, permit to be done or fail or omit to do anything contrary to or required of it, as the case may be, by this article, or shall be about so to do, permit to be done or fail or omit to have done, as the case may be, then any such fact may be certified by the planning commission or the supervising agency, whichever shall have supervision thereof, to the chief legal officer of the city, who may thereupon commence a proceeding in the supreme court of the state of New York in its name for the purpose of having such action, failure or omission, or threatened action, failure or omission, established by order of the court for the purpose stated in subdivision two of section two hundred five of this article, or stopped, prevented or otherwise rectified by order, injunction or otherwise. Such proceeding shall be commenced by a petition to the supreme court alleging the violation complained of and praying for appropriate relief. It shall thereupon be the duty of the court to specify the time, not exceeding twenty days after service of a copy of the petition, within which the redevelopment corporation complained of must answer the petition. The court shall, immediately after a default in answering or after answer, as the case may be, inquire into the facts and circumstances in such manner as the court shall direct without other or formal proceedings, and without respect to any technical requirements. Such other persons or corporations as it shall seem to the court necessary or proper to join as parties in order to make its order or

judgment effective may be joined as parties. The final judgment or order in any such action or proceeding shall dismiss the action or proceeding or establish the failure complained of or direct that an order, or an injunction, or both, issue, or grant such other relief as the court may deem appropriate.

§ 214. Transfer of real property to redevelopment corporation.

Notwithstanding any requirement of law to the contrary or the absence of direct provision therefor in the instrument under which a fiduciary is acting, every executor, administrator, trustee, guardian or other person, holding trust funds or acting in a fiduciary capacity, unless the instrument under which such fiduciary is acting expressly forbids, the state, its subdivisions, cities, all other public bodies, all public officers, corporations organized under or subject to the provisions of the banking law (including savings banks, savings and loan associations, trust companies, private bankers and private banking corporations), the superintendent of financial services as conservator, liquidator or rehabilitator of any such person, partnership or corporation, persons, partnerships and corporations organized under or subject to the provisions of the insurance law, the superintendent of financial services as conservator, liquidator or rehabilitator of any such person, partnership or corporation, any of which owns or holds any real property within a development area, may grant, sell, lease or otherwise transfer any such real property to a redevelopment corporation, and receive and hold any cash, stocks, income debentures, mortgages, or other securities or obligations, secured or unsecured, exchanged therefor by such redevelopment corporation, and may execute such instruments and do such acts as may be deemed necessary or desirable by them or it and by the redevelopment corporation in connection with the development and the development plan.

§ 215. Methods of acquisition of real property. 1. A redevelopment corporation may:

(a) Whether before or after the certificates of approval of its development plan required by section two hundred three of this article

have been issued, acquire real property or secure options in its own name or in the name of nominees to acquire real property, by gift, grant, lease, purchase or otherwise, or awards in condemnation made or to be made therefor;

(b) After a certificate of approval of condemnation with respect to the real property in question has been issued pursuant to section two hundred sixteen of this article, acquire all or any portion of the real property included in such certificate of approval of condemnation not already under contracts of sale or option to it, by condemnation in the manner provided by the condemnation law, with such departures therefrom as are provided in this article.

2. A city may, upon request by a redevelopment corporation, and after a certificate of approval of condemnation with respect to the real property in question has been issued pursuant to section two hundred sixteen of this article, acquire, or obligate itself to acquire, for such redevelopment corporation any real property included in such certificate of approval of condemnation, by gift, grant, lease, purchase, condemnation, or otherwise, according to the provisions of any appropriate general, special or local law applicable to the acquisition of real property by the city. Real property acquired by a city for a redevelopment corporation shall be conveyed by such city to the redevelopment corporation upon payment to the city of all sums expended or required to be expended by the city in the acquisition of such real property.

3. The provisions of this article with respect to the condemnation of real property by or for a redevelopment corporation or by a city for a redevelopment corporation shall prevail over the provisions of any other general, special or local law.

§ 216. Proceedings to acquire. 1. When it is desired that any real property in a development area be acquired by condemnation, there shall be presented to the supervising agency by the redevelopment corporation a verified petition requesting the issuance of a certificate of approval of condemnation of such real property which shall contain, among other

things:

(a) A metes and bounds description of the real property involved and a statement of the estate, interest, privileges, franchise or right therein or appurtenant thereto to be condemned;

(b) Proof that such real property is within the development area;

(c) Proof that the redevelopment corporation has acquired the fee title, or valid and enforceable options or contracts for the acquisition of such title to or in real property satisfying the minimum condemnation requirement; and

(d) Proof that certificates of approval of the development plan required by section two hundred three of this article have been issued.

The supervising agency shall determine within a reasonable time thereafter the truth or sufficiency of the statements and proof contained in such petition, and, if such determination shall be in the affirmative, the supervising agency shall issue to the petitioner a certificate of approval of condemnation. Such certificate shall contain a description of the real property proposed to be condemned, the facts so determined with respect thereto, and a statement that the real property proposed to be condemned is required for a public use and that its acquisition for such use is necessary. A certified copy of such certificate of approval of condemnation shall be conclusive evidence of the facts stated therein in any condemnation proceeding to acquire the real property, or any part thereof, described in such certificate. No condemnation proceeding to acquire real property in a development area, whether by a redevelopment corporation or by a city for a redevelopment corporation, shall be commenced until such a certificate of approval of condemnation shall have been issued.

2. Acquisition proceedings by a redevelopment corporation shall be instituted pursuant to the provisions of the eminent domain procedure law.

3. Condemnation proceedings for a redevelopment corporation shall be initiated by a petition to the city to institute proceedings to acquire for the redevelopment corporation any real property in the development area. Such petition shall be granted or rejected by the local

legislative body, or if there is a board of estimate in the city then by the board of estimate, and the resolution or resolutions granting such petition shall contain a requirement that the redevelopment corporation shall pay to the city all sums expended or required to be expended by the city in the acquisition of such real property, and the time of payment and manner of securing payment thereof, and may require that the city shall receive, before proceeding with the acquisition of such real property, such assurances as to payment or reimbursement by the redevelopment corporation, or otherwise, as the city may deem advisable. Upon the passage of a resolution or resolutions by the local legislative body or the board of estimate, as the case may be, granting the petition, the redevelopment corporation shall cause to be made three copies of surveys or maps of the real property described in the petition, one of which shall be filed in the office of the redevelopment corporation, one in the office of the corporation counsel or chief law officer of the city, and one in the office in which instruments affecting real property in the county are recorded. The filing of such copies of surveys or maps shall constitute the acceptance by the redevelopment corporation of the terms and conditions contained in such resolution or resolutions. The city shall proceed under any provision of any general, special or local law applicable to the condemnation of real property for public improvements. When title to the real property shall have vested in the city, it shall convey the same to the redevelopment corporation upon payment by the redevelopment corporation of the sums and the giving of the security required by the resolution granting the petition. As soon as title shall have vested in the city, the redevelopment corporation may, upon the authorization of the chief executive officer of the city, enter upon the real property taken, take over and dispose of existing improvements, and carry out the terms of the development plan with respect thereto.

4. The following provisions shall apply to any proceedings for the assessment of compensation and damages for real property in a development area taken or to be taken by condemnation by or for a redevelopment corporation:

(a) At any stage of the proceeding, the court may require such prior notice to be given of an intention to introduce evidence as to the sale,

option, leasing or tenancy of real property other than the real property directly involved in the proceeding and of particulars relating thereto as it may deem necessary to prevent surprise.

(b) The deposition of any person, whether or not a party, may be taken in the manner provided by article thirty-one of the civil practice law and rules, and the provisions of this section. Such deposition may be taken upon any question or issue in the proceeding, including the facts as to any sale, option, lease or tenancy admissible in evidence pursuant to subdivision four hereof. The deposition may be taken at the instance of the redevelopment corporation, the city, or of any owner, or at the direction of the court, at any time during the pendency of the action or proceeding. At least five days' notice, or if service is through the mails, at least eight days' notice, shall be given of the taking of the testimony, if on the part of an owner, to the redevelopment corporation or city, as the case may be, and to all other owners who have appeared in the proceeding; if by the redevelopment corporation or a city, to all owners who have appeared in the proceeding.

(c) For the purposes of this article, the award of compensation shall not be increased by reason of any increase in the value of the real property caused by the assembly, clearance or reconstruction, or proposed assembly, clearance or reconstruction for the purposes of this article of the real property in the development area. No allowance shall be made for improvements begun on real property after notice to the owner of such property of the institution of the proceedings to condemn such property.

(d) Evidence shall be admissible bearing upon the insanitary, unsafe or substandard condition of the premises, or the illegal use thereof, or the enhancement of rentals from such illegal use, and such evidence may be considered in fixing the compensation to be paid, notwithstanding that no steps to remedy or abate such conditions have been taken by the department or officers having jurisdiction. If a violation order is on file against the premises in any such department, it shall constitute prima facie evidence of the existence of the condition specified in such order.

(e) If any of the real property in the development area which is to be acquired by condemnation has, prior to such acquisition, been devoted to another public use, it may nevertheless be acquired provided that no

real property belonging to the city or to any other governmental body, or agency or instrumentality thereof, corporate or otherwise, may be acquired without its consent. No real property belonging to a public utility corporation may be acquired without the approval of the commission or other officer or tribunal having regulatory power over such corporation.

(f) Upon the trial, evidence of the price and other terms upon a sale or assignment or of a contract for the sale or assignment of a mortgage, award, proposed award, transfer of a tax lien or lien of a judgment relating to property taken, shall be relevant, material and competent, upon the issue of value or damage and shall be admissible on direct examination.

(g) Upon the trial a statement, affidavit, deposition, report, transcript of testimony in an action or proceeding, or appraisal made or given by any owner or prior owner of the premises taken, or by any person on his behalf, to any court, governmental bureau, department or agency respecting the value of the real property for tax purposes, shall be relevant, material and competent upon the issue of value of damage and shall be admissible on direct examination.

(h) The term "owner," as used in this section two hundred sixteen, shall include a person having an estate, interest or easement in the real property to be acquired or a lien, charge or encumbrance thereon.

§ 217. Temporary use or occupation of real property taken by acquisition. When title to real property has vested in a redevelopment corporation or city by gift, grant, devise, purchase or in acquisition proceedings or otherwise, the redevelopment corporation or city, as the case may be, may in accordance with the provisions of the eminent domain procedure law agree with the previous owners of such property, or any tenants continuing to occupy or use it, or any other persons who may occupy or use or seek to occupy or use such property, that such former owner, tenant or other persons may occupy or use such property upon the payment of a fixed sum of money for a definite term or upon the payment periodically of an agreed sum of money.

In the event that a city has acquired real property for a

redevelopment corporation, the city shall, in transferring title to the redevelopment corporation, deduct from the consideration or other moneys which the redevelopment corporation has become obligated to pay to the city for such purpose, and credit the redevelopment corporation with, the amounts received by the city as payment for temporary occupation and use of the real property by a former owner, tenant, or other person, as in this section two hundred seventeen provided, less the cost and expense incurred by the city for the maintenance and operation of such real property.

§ 218. Mortgages. 1. Any redevelopment corporation may borrow funds and secure the repayment thereof by mortgage. Every such mortgage shall contain reasonable amortization provisions and shall be a lien upon no other real property except that forming the whole or a part of a single development area.

2. Certificates, bonds and notes, or part interests therein, or any part of an issue thereof, which are issued by a redevelopment corporation and secured by a first mortgage on the real property of the redevelopment corporation, or any part thereof, shall be securities in which all the following persons, partnerships or corporations and public bodies or public officers may legally invest the funds within their control, provided that the principal amount thereof shall not exceed the limits, if any, imposed by law for such investments by the person, partnership, corporation, public body or public officer making the same: every executor, administrator, trustee, guardian, committee, conservator or other person or corporation holding trust funds or acting in a fiduciary capacity; the state, its subdivisions, cities, all other public bodies, all public officers; persons, partnerships and corporations organized under or subject to the provisions of the banking law (including savings banks, savings and loan associations, trust companies, bankers and private banking corporations); the superintendent of financial services as conservator, liquidator or rehabilitator of any such person, partnership or corporation; persons, partnerships or corporations organized under or subject to the provisions of the insurance law; and the superintendent of financial services as

conservator, liquidator or rehabilitator of any such person, partnership or corporation.

3. Any mortgage on the real property in a development area, or any part thereof, may create a first lien, or a second or other junior lien, upon such real property.

4. The limits as to principal amount secured by mortgage referred to in paragraph two of this section two hundred eighteen shall not apply to certificates, bonds and notes, or part interests therein, or any part of an issue thereof, which are secured by first mortgage on real property in a development area, or any part thereof, which the federal housing administrator has insured or has made a commitment to insure under the national housing act. Any such person, partnership, corporation, public body or public officer may receive and hold any debentures, certificates or other instruments issued or delivered by the federal housing administrator, pursuant to the national housing act, in compliance with the contract of insurance of a mortgage on real property in the development area, or any part thereof.

§ 219. Sale or lease of real property by a city to a redevelopment corporation. 1. The local legislative body, or if there is a board of estimate in the city, then the board of estimate, may by resolution determine that real property, title to which is held by the city, specified and described in such resolution, is not required for use by the city and may authorize the city to sell or lease such real property to a redevelopment corporation; provided, however, that the title of the city to such real property be not declared inalienable by charter of the city, or other similar law or instrument.

2. Notwithstanding the provisions of any general, special or local law or ordinance, such sale or lease may be made without appraisal, public notice or public bidding for such price or rental and upon such terms (and, in case of a lease, for such term not exceeding fifty years with a right to one renewal term of thirty years) as may be agreed upon between the city and the redevelopment corporation.

3. Before any sale or lease to a redevelopment corporation shall be authorized, a public hearing shall be held by the local legislative body, or by the board of estimate, as the case may be, to consider the proposed sale or lease.

4. Notice of such hearing shall be published at least ten days before the date set for the hearing in such publication and in such manner as may be designated by the local legislative body, or the board of estimate, as the case may be.

5. The deed or lease of such real property shall be executed in the same manner as a deed or lease by the city of other real property owned by it and may contain appropriate conditions and provisions to enable the city to reenter the real property in the event of a violation by the redevelopment corporation of any of the provisions of this article relating to such redevelopment corporation or of the conditions or provisions of such deed or lease.

6. A redevelopment corporation purchasing or leasing real property from a city shall not, without the written approval of the city, use such real property for any purpose except in connection with its development. The deed shall contain a condition that the redevelopment corporation will devote the real property granted only for the purposes of its development subject to the restrictions of this article, for breach of which the city shall have the right to reenter and repossess itself of the real property.

§ 220. Provisions of lease. If real property of a city be leased to a redevelopment corporation:

1. The lease may provide that all improvements shall be the property of the lessor;

2. The lessor may grant to the redevelopment corporation the right to mortgage the fee of such property and thus enable the redevelopment

corporation to give as security for its notes or bonds a first lien upon the land and improvements;

3. The execution of a lease shall not impose upon the lessor any liability or obligation in connection with or arising out of the financing, construction, management or operation of a development involving the land so leased. The lessor shall not, by executing such lease, incur any obligation or liability with respect to such leased premises other than may devolve upon the lessor with respect to premises not owned by it. The lessor, by consenting to the execution by a redevelopment corporation of a mortgage upon the leased land, shall not thereby assume, and such consent shall not be construed as imposing upon the lessor, any liability upon the note or bond secured by the mortgage;

4. The lease may reserve such easements or other rights in connection with the real property as may be deemed necessary or desirable for the future planning and development of the city and the extension of public facilities therein (including the construction of subways and conduits, the widening and change of grade of streets); and it may contain such other provisions for the protection of the parties as are not inconsistent with the provisions of this article.

§ 221. Construction. This article shall be construed liberally to effectuate the purposes hereof, and the enumeration of specific powers in this article shall not operate to restrict the meaning of any general grant of power contained in this article or to exclude other powers comprehended in such general grant.

ARTICLE 6-A

COMMUNITY DEVELOPMENT CORPORATIONS

Section 250. Short title.

251. Policy and purposes of article.

252. Definitions.

253. Incorporation and organization.

254. Powers and limitations.

- 255. Members, officers and directors.
- 256. Mortgage loans.
- 257. Conditions and security for loans.
- 258. Transfer of real property.
- 259. Supervision and regulation.
- 260. Tax exemption.
- 261. Separability.

§ 250. Short title. This article shall be known and may be cited as the "Community Development Corporations Act".

§ 251. Policy and purposes of article. It is the policy of the state to promote the reconstruction and redevelopment of municipal urban renewal areas in a manner that will serve the civic, cultural and recreational needs of the community as a whole. There is need for local non-profit corporations to construct, with mortgage loan participation by the New York state housing finance agency and in furtherance of an urban renewal plan, civic, cultural and recreational structures and facilities and other capital development projects invested with a public interest, for the accomplishment of the purposes of article eighteen of the constitution and articles fifteen and fifteen-A of the general municipal law.

§ 252. Definitions. As used in this article, unless a different meaning clearly appears from the context: 1. "Agency", "area" and "plan" shall mean agency, urban renewal area and urban renewal plan, respectively, as defined in article fifteen of the general municipal law.

2. "Municipality" shall mean the city, town or village in which a community development corporation conducts or proposes to conduct its activities.

3. "Project" shall mean a non-profit capital development project

invested with a public interest, including facilities incidental or appurtenant thereto and all lands, buildings and improvements acquired, owned, constructed, maintained or operated pursuant to this article, or any combination thereof. It shall include but not be limited to civic auditoriums, libraries, museums and recreational centers.

§ 253. Incorporation and organization. Community development corporations shall be incorporated and organized in the manner provided in the not-for-profit corporation law for not-for-profit corporations, except that the certificate of incorporation shall be approved by the commissioner instead of such approval or approvals as may be required by the not-for-profit corporation law. In addition to those matters required to be set forth in the certificate of incorporation by the not-for-profit corporation law, the certificate shall state:

1. That the real property of the corporation shall not be sold, transferred, encumbered or assigned except as permitted by the provisions of this article.

2. That the corporation has been organized exclusively to serve a civic, cultural or recreational purpose, or any combination thereof, and that it shall be and remain subject to the supervision and control of the commissioner.

3. That all income and earnings of the corporation shall be used exclusively for its corporate purposes.

4. That no part of the net income or net earnings of the corporation shall inure to the benefit or profit of any private individual, firm or corporation.

§ 254. Powers and limitations. 1. Except as is inconsistent with the provisions of this article, a community development corporation shall have, in carrying out the purposes of this article, the powers conferred on corporations by the general corporation law and the business

corporation law, and shall be subject to the limitations contained therein.

2. Community development corporations shall have the following additional powers:

(a) To construct, reconstruct, improve, alter, repair, lease, manage, operate and otherwise provide projects;

(b) To enter into contracts with the New York state housing finance agency for mortgage loans;

(c) To receive assistance from the state, the federal government, municipalities and any person, firm or corporation, by contract or otherwise; and to comply, subject to the provisions of this article, with the terms and conditions of such assistance;

(d) Subject to the approval of the commissioner, to sell, lease or otherwise dispose of any of its real property, or any appurtenances thereto or any interest therein, to the municipality or to any person, firm or public or private corporation approved by the municipality by resolution of its local legislative body. In the case of a lease or other disposition not divesting such corporation of title, such approval of the municipality may be conditioned upon the making of pro rata payments in lieu of taxes to the municipality;

(e) To borrow money and give mortgages and other liens on its real and personal property to secure the repayment thereof, and to issue its notes, bonds or other obligations and to provide for the rights of the holders thereof;

(f) Subject to the approval of the commissioner, to enter into agreements to pay annual sums in lieu of taxes to any political subdivision of the state with respect to any of its real property; provided, however, that the amount so paid for any year upon any such property shall not exceed the sum last paid as taxes on such property prior to the time of its acquisition by the corporation, or by the municipality if such property has been conveyed by the municipality to the corporation, plus any sum or sums attributable as taxes to such parts or portions of such real property as may be operated for profit, under lease or otherwise by or for the benefit of any private person, firm or corporation.

3. No community development corporation shall:

(a) Acquire any real property or interest therein unless such corporation shall first have obtained from the commissioner a certificate that such acquisition is consistent with the purposes of this article.

(b) Pay interest on its mortgage indebtedness at a rate higher than six per centum per annum or upon its notes, bonds or other obligations.

(c) Issue notes, bonds or other obligations relating to any project in an aggregate amount greater than the project cost.

(d) Without first having obtained the written consent of the commissioner:

(i) Construct, reconstruct, improve or alter any project, or enter into any contract therefor.

(ii) Sell, transfer or assign any real property, except that no such consent shall be necessary in any sale in foreclosure.

(iii) Except as otherwise provided in this article, encumber or lease all or any part of its real property to any other person or corporation.

(iv) Enter into contracts for the operation of the project.

(v) Enter into contracts for the payment of salaries to officers or employees.

(vi) Make a guaranty of payment or pledge any or all of its assets, income or revenues to secure payment of its obligations.

(vii) Voluntarily dissolve.

§ 255. Members, officers and directors. 1. No member or director of a community development corporation shall receive any salary or other compensation for services, other than reimbursement of actual and necessary expenses incurred in the performance of his duties. No member, officer or employee of a community development corporation 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 to his knowledge planned to be included in a project. If any member, officer or employee of any community development corporation 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 thereof in writing to the community development corporation and such disclosure shall be entered upon the minutes of the community development corporation.

2. The provisions of the not-for-profit corporation law shall govern membership in community development corporations, qualification of voters, meetings and notices thereof, and selection of officers and directors.

§ 256. Mortgage loans. The New York state housing finance agency may enter into contracts for loans to community development corporations for one or more projects. No loan shall be made in an amount greater than ninety-five per centum of the project cost, plus working capital in an amount not to exceed two per centum of the project cost. Any such loan shall be secured by a first mortgage lien upon all of the real property of which the project consists and upon all fixtures and articles of personal property attached to or used in conjunction with the operation of such project. The agency may make temporary loans or advances to a community development corporation in anticipation of such loan and no such temporary loan or advance shall be deemed to constitute part of such loan unless such temporary loan or advance has been made out of the proceeds of definitive bonds sold by the agency pursuant to the provisions of section forty-six of this chapter.

§ 257. Conditions and security for loans. 1. No loan shall be made to a community development corporation for a project unless (a) the planning commission, if any, of the municipality has approved the project; (b) the local legislative body of the municipality, after a public hearing, has approved the project and has enacted or will enact regulations or appropriate restrictions adequately protecting the project against future uses likely to depreciate unduly the value of such project and has, by resolution, found that the project will aid in the replanning, reconstruction or redevelopment of an urban renewal area, as defined in article fifteen of the general municipal law, or

will provide facilities incidental or appurtenant to an urban renewal project, as defined in article fifteen of the general municipal law, and (c) the commissioner has found that:

(i) the estimated revenues of the project or the monies of the corporation will be sufficient to cover all probable costs of operation and maintenance, all fixed charges and operating reserves and depreciation reserves if any;

(ii) the plans and specifications conform to the requirements of all laws applicable thereto and assure light, air, sanitation and fire protection;

(iii) the project is in conformity with an approved urban renewal plan, as defined in article fifteen of the general municipal law.

§ 258. Transfer of real property. 1. Notwithstanding any requirement of law to the contrary or any provision of any general, special or local law, charter or ordinance, every executor, administrator, trustee, guardian or other person holding trust funds or acting in a fiduciary capacity, unless the instrument under which such fiduciary is acting expressly forbids, and the state, its subdivisions, municipalities, all other public bodies, all public officers, persons, partnerships and corporations owning or holding any real property, may grant, sell, lease or otherwise transfer any such real property or interest therein to a community development corporation and receive and hold any cash, bonds, notes, mortgages or other securities or obligations, secured or unsecured, exchanged therefor by such corporation and may execute such instruments and do such acts as may be deemed necessary or desirable by them or it and by the corporation in connection with a project or projects, and such sale, lease or transfer may be made without public auction or bidding; provided, however, that where such real property is within a municipal urban renewal area the disposition thereof shall be in accordance with the provisions of paragraph (d) of subdivision two of section five hundred seven of the general municipal law.

2. The municipality may take property by condemnation for a community development corporation pursuant to the provisions of article nine of this chapter and transfer the same to such corporation as provided in

subdivision one of this section.

§ 259. Supervision and regulation. The commissioner may from time to time make, amend and repeal rules and regulations for the supervision, examination, regulation and audit of community development corporations and for carrying into effect the provisions and purposes of this article.

§ 260. Tax exemption. The property of a community development corporation and its income and operations shall be exempt from taxation.

§ 261. Separability. If any clause, sentence, paragraph, section or part of this article shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

ARTICLE VII

MORTGAGE FACILITIES CORPORATION

- Section 300. Short title.
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305. Board of directors.
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312. Unissued securities and reorganization.

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§ 300. Short title. This article shall be known and may be cited and referred to as the "mortgage facilities corporation law".

§ 301. Policy of state and purpose of article. It is recognized that there exist in New York state certain neighborhoods, which, because of heavy in-migrations and other factors, have been characterized by over-crowding of population, extensive absentee ownership, and concentrated occupancy particularly by racial minorities. Because of the special appraisal and servicing problems peculiar to such areas the supply of available mortgage money in these areas is insufficient. It is the declared policy of the state that a medium be established, owned and financed entirely through private enterprise institutions, through which the mortgage money necessary to re-establish these neighborhoods as sound communities would be made available on a sound profit-making basis.

§ 302. Definitions. 1. The term "housing accommodation," as used in this article, shall mean any building or structure which is used or occupied, or is intended to be used or occupied, wholly or partly, as the home or residence of one or more human beings.

2. The term "improved real property," as used in this article, shall include real property upon which a housing accommodation is to be built, in whole or in part, out of the proceeds of the loan, which when completed will constitute a permanent improvement.

3. The terms "encumbered" and "unencumbered," as used in this article, shall have the same meaning as in paragraph six of subsection (a) of section one thousand four hundred four of the insurance law.

§ 303. Establishment of corporation. There is hereby created a corporation which shall be known as "The Mortgage Facilities Corporation." The principal office of the corporation shall be in the borough of Manhattan in the county of New York. Within ten days after such office is established and, within ten days after the removal of such office, the corporation shall notify the secretary of state of the street address in such borough where its principal office is located, and the secretary of state shall note such address upon his records. Except as otherwise provided in this article, the corporation shall be possessed of all the powers, privileges and immunities which now are or hereafter may be conferred on corporations with capital stock by the stock corporation law and the general corporation law or the business corporation law and for such purposes shall be deemed to have been organized under the provisions of said laws. Process in any action or proceeding against the corporation may be served upon the secretary of state, as the agent of the corporation for such purposes. Such process shall be served in the manner prescribed in section three hundred six of the business corporation law for service against a domestic business or transportation corporation, accompanied by the fee for such service as prescribed therein and the secretary of state shall forthwith send one of the copies served upon him to the corporation at its principal office. If such corporation fails to commence business by June first, nineteen hundred fifty-seven, its existence shall terminate and the provisions of this article shall become null and void. For the purposes of this section only the corporation shall be deemed to have commenced business when two and one-half per centum of the capital stock thereof shall have been paid into the treasury and ten members shall have qualified as hereinafter provided. Once having commenced business, the duration of the corporation shall be perpetual.

§ 304. Purposes, powers and operation. 1. The purpose of the corporation shall be to assist, promote, encourage and stimulate the development and rehabilitation of blighted areas by rendering financial assistance in the construction, rehabilitation or purchase of housing accommodations in blighted or deteriorating urban areas in this state by making first mortgage loans in areas designated by the corporation, such

loans to be made on a sound economic basis by the application of sound mortgage lending principles.

2. It is not the intention or the purpose of the powers herein granted to take from banking or insurance organizations any such loans or commitments as may be desired by such organizations generally in the ordinary course of their business; provided however, that the corporation need not make any specific inquiry or find as a fact that any banking or insurance organization desires to make any such loan.

3. In furtherance of the purpose set forth in subdivision one of this section, and in addition to the powers conferred on stock corporations by general laws, the corporation shall, subject to the restrictions and limitations contained in this article, have the following powers:

(a) To issue and sell for cash capital stock of the corporation.

(b) To issue and sell its debentures bearing such interest rates and having such maturities and other terms and provisions as may be determined by the board of directors of the corporation.

(c) To invest in bonds and mortgages or notes and mortgages upon improved and unencumbered real property in areas in this state designated by the board of directors of the corporation as blighted, over-crowded, or deteriorating areas, subject to the following conditions:

(i) The board of directors shall be satisfied with respect to each loan that it is economically sound.

(ii) No such loan shall be in an amount in excess of eighty per centum of the corporation's appraised value of such real property, except that such loan may exceed eighty per centum when guaranteed or insured by the federal government or any agency thereof.

(iii) Any appraisal of such property shall be based on its long-term economic value with due consideration being given, among other factors, to its physical maintenance and, in the case of income-producing properties, to its stabilized rental value after adequate vacancy allowances. Except in cases of new construction no appraisal of an income-producing property shall be undertaken by the corporation unless it has first been supplied by the loan applicant with a current rent roll and statement of income and expense for the twelve-month period

preceding the date of the loan application, certified by such loan applicant and in form and substance satisfactory to the corporation.

(iv) No loan shall be made on any existing housing accommodation unless (a) such housing accommodation is in physical condition satisfactory to the corporation or (b) the loan applicant is committed to restore such housing accommodation to satisfactory condition prior to the loan closing, or, at the discretion of the corporation, within a specified period after closing, out of the proceeds of the loan.

(v) No loan shall be made on a housing accommodation unless (a) such housing accommodation has a suitable heating system satisfactory to the corporation, or (b) the loan applicant is committed to install suitable heating facilities out of the proceeds of such loan.

(vi) Any such loan shall be for one or more of the following purposes only:

A. To finance the improvement or rehabilitation of an existing housing accommodation.

B. To consolidate, refinance or liquidate existing mortgage indebtedness on a housing accommodation.

C. To finance the bona fide purchase of a housing accommodation, provided that except in cases of loans insured or guaranteed by the federal government or any agency thereof, the purchaser of the real property which is to constitute the security for the proposed loan has paid to the seller in cash an amount equal to at least twenty per centum of the purchase price of such real property.

D. To finance the construction of new housing accommodations.

(vii) The board of directors of the corporation shall cause to be included in each mortgage the following protective provisions and restrictions (in addition to those contained in the statutory form M mortgage with lien covenant as contained in section two hundred fifty-eight of the real property law), provided that any and all of the said provisions and restrictions may be waived by the corporation where the corporation is purchasing or otherwise acquiring an already existing mortgage:

A. A provision requiring the mortgagor to obtain the prior written consent of the holder of the first mortgage to the creation of any junior liens, charges or encumbrances affecting the real property. In its sole and absolute discretion the corporation may modify or waive the inclusion of this provision in any mortgage.

B. A provision requiring the mortgagor to accumulate and maintain with the holder of the first mortgage, so long as the mortgage is held by it, a fund for the proper repair and maintenance of the mortgaged premises. The amount and type of such fund and conditions under which it shall be accumulated, applied and replenished shall be specified in the mortgage. Such fund may be applied from time to time to the repair or maintenance of the property by the mortgagor with the written consent of the holder of the first mortgage. Such fund shall be applied by the mortgagor at the direction of such holder, when such application is deemed necessary by such holder for the reasonable protection of the property. In its sole and absolute discretion the corporation may waive the inclusion of this provision in any mortgage.

C. A provision permitting the mortgagor to repay the principal amount of the loan or any part thereof at any time without penalty, except that the mortgage may, in the discretion of the board of directors, contain a provision for a prepayment penalty not exceeding two per centum of any amount repaid within three years after the closing of the loan in addition to such regular repayments without penalty as may be provided in the mortgage.

(viii) No loan shall be made by the corporation unless the real property which is to secure such loan is, or upon application of the loan proceeds will be, unencumbered, and the corporation shall have been furnished with satisfactory evidence that such real property is or upon application of the loan proceeds will be in compliance with all applicable laws, ordinances and regulations of governments, whether federal, state, county or municipal, or agencies or instrumentalities thereof, having jurisdiction.

(ix) Such other and further conditions as the board of directors in its sole and absolute discretion may deem advisable in the interest of

conducting the affairs of the corporation in accordance with sound economic and mortgage lending principles.

(x) The mortgage shall provide that violation of any of the foregoing conditions by the mortgagor shall constitute an event of default, entitling the holder of the first mortgage to accelerate maturity of the mortgage obligation.

(xi) The mortgage shall provide for maturity of the loan and amortization thereof at such rate as shall be deemed appropriate by the board of directors in accordance with sound mortgage lending practice, provided that except in cases of loans insured or guaranteed by the federal government or any agency thereof, no mortgage shall have a maturity in excess of twenty years from the date of closing.

(xii) The enumeration herein, or in any lending rules or regulations promulgated by the corporation, of conditions or criteria relating to the granting of any mortgage loan shall impose no obligation on the corporation to grant any application for a loan which fulfills such conditions or criteria. The authority of the corporation to decline any loan application for any reason whatsoever shall be absolute and unconditional.

(xiii) Nothing contained in this article shall be construed as signifying a legislative intent to define what constitutes prudent lending practice for banking, insurance or other organizations.

(d) To sell without recourse bonds and mortgages or notes and mortgages acquired pursuant to subdivision three (c) of this section, at such prices and upon such terms and conditions as the board of directors of the corporation shall determine; to service or continue to service such bonds and mortgages and to manage such properties for any of its members, provided that if the purchaser be a member, the said bond and mortgage or note and mortgage is in all respects eligible for investment by the particular member purchasing the same.

(e) To acquire, subscribe for, own, hold, sell, assign, transfer, pledge or otherwise dispose of obligations of the United States with maturities not in excess of three years.

(f) For the purpose of protecting its interests, to release any obligation to pay or guarantee the payment of principal or interest, or otherwise to waive or modify any of the terms and conditions of any bond and mortgage, and of any note and mortgage, and to extend or re-extend

any bond and mortgage, and any note and mortgage, and to accept a sum less than the principal amount thereof in the full payment and satisfaction of the same.

(g) In addition to interest rates within legal limits the corporation may impose a service charge upon the mortgagor or owner which shall not exceed two per centum of the total amount of the loan.

(h) To apply for status as an approved mortgagee under the national housing act and to act as a mortgagee under said act.

4. The corporation shall have the power to purchase, receive, hold, lease or otherwise acquire, and to sell, convey, mortgage, lease, pledge or otherwise dispose of, upon such terms and conditions as its board of directors may deem advisable, real and personal property, together with such rights and privileges as may be incidental and appurtenant thereto and the use thereof, including, but not restricted to, any real or personal property acquired by such corporation, from time to time in the satisfaction of debts or enforcement of obligations, provided that the corporation may purchase or acquire only the following real estate:

(a) Plots whereon there are or may be erected buildings suitable for the convenient transaction of the business of the corporation.

(b) Such real property as shall be conveyed to it in satisfaction of debts previously contracted in the course of its business.

(c) Such real estate as it shall purchase at sales under judgments, decrees or mortgages held by it.

(d) In lieu of instituting an action to foreclose a mortgage lien, the corporation may purchase a deed to the underlying real property.

§ 305. Board of directors. 1. All the corporate powers of such corporation shall be exercised by a board of directors consisting of thirteen persons, all of whom shall be of full age, citizens of the United States and at least seven of whom shall be residents of the state.

2. At the first annual meeting of such corporation and at each annual meeting thereafter the members shall elect ten directors whose term of office shall be one year.

Each of the members entitled to vote for directors pursuant to this subdivision two of section three hundred five of this article shall be entitled to one vote for each twenty-five thousand dollars, or major fraction thereof, it is subject to be called upon to advance to the corporation pursuant to the provisions of section three hundred seven of this article.

3. At such first and succeeding annual meetings the stockholders of such corporation shall elect three additional directors for terms of one year each.

4. If any director shall lose his citizenship, or shall cease to be a resident of the state, thereby creating a vacancy, or if a vacancy occurs in the membership of the board of directors through death, resignation or otherwise, the remaining directors shall elect a person to fill such vacancy for the unexpired term.

5. The board of directors shall elect one of its members as chairman of such board, shall adopt by-laws for such corporation, and may appoint such officers and employees as it deems advisable.

6. In addition to other matters, the by-laws of such corporation may contain specific standards and criteria by which mortgage applications will be judged and loans made in so far as such specific standards and criteria are not inconsistent with any of the provisions of this article.

§ 306. Temporary board of directors. 1. The first annual meeting of such corporation shall be held at a time and place to be fixed by the temporary board of directors which shall be as soon as reasonably possible after a minimum of two and one-half per centum of the capital stock of such corporation shall have been paid into its treasury and a minimum of ten members of such corporation shall have qualified as hereinafter provided, and such meeting shall be called in such manner as may be provided by the temporary board of directors.

2. Notwithstanding the foregoing provisions of this section, until the first annual meeting of such corporation and the election and qualifications of a board of directors as hereinabove provided, all the corporate powers of such corporation shall be exercised by a temporary board of directors consisting of thirteen persons, all of whom shall be of full age, citizens of the United States and residents of this state, and who shall be designated by the governor. Such designation shall be in writing, signed by the officer making it, and transmitted by him to the secretary of state who shall make and record in his office a copy of such designation and deliver the original to the designee, who, if he accepts such designation, shall notify the secretary of state of such fact, in writing, and thereupon his designation shall become effective and the secretary of state shall record such acceptance in his office. If any vacancy occurs in such temporary board of directors through death, resignation or otherwise, a person shall be designated to fill such vacancy by the governor. Upon the election and qualification of a board of directors pursuant to section three hundred five of this article, the temporary board of directors shall be deemed dissolved.

3. As soon as possible after the designation of the directors comprising the temporary board has become effective, the temporary board of directors shall meet, elect a chairman, cause stock certificates to be printed, appoint temporary officers and seek to enlist the support, membership and stock subscription of institutional lenders.

§ 307. Membership. 1. The members of such corporation shall consist of such banking organizations, insurance and surety companies, as may make application for membership in such corporation, and membership shall become effective upon the acceptance of such applications by the temporary board of directors or the permanent board of directors, as the case may be. Each member shall lend funds to the corporation as and when called upon by it to do so, pursuant to subdivision two of this section, but the total amount on loan by any member at any one time shall not exceed the following limits to be determined as of the date it became a member, and such amount shall thereafter be readjusted annually in the

event of any change in the base of the loan limit of such member: commercial banks, industrial banks and trust companies, one per centum of capital and surplus; private bankers, one per centum of capital; savings banks, one per centum of surplus fund; savings and loan associations, one per centum of surplus; stock insurance companies, one per centum of capital and surplus; surety and casualty companies, one per centum of capital and surplus; mutual insurance companies, one per centum of guaranty funds or of surplus, whichever is applicable; and comparable limits for other banking, lending and insurance organizations, as established by the board of directors; provided, however, that the total amount on loan by any member at any one time shall not exceed two hundred fifty thousand dollars; provided, however, that in the case of banking organizations and in the case of insurance and surety companies the superintendent of financial services may authorize a member to lend to the corporation an amount in excess of two hundred fifty thousand dollars. All loan limits shall be established at the thousand dollar nearest to the amount computed on an actual basis. All calls of funds which members are committed to lend to such corporation shall be prorated by such corporation among the members in the same proportion that the maximum loan limit of each bears to the aggregate loan limits of all members of such corporation. Upon six months' prior written notice to the board of directors, a member of such corporation may withdraw from membership, effective at the end of such six-month period and, after the effective date of such withdrawal, such member shall be free of obligations hereunder except those accrued or committed by such corporation prior to such effective date of withdrawal. Notwithstanding the provisions of any other law, general or special, the notes or other interest-bearing obligations of such corporation, issued in accordance with and by virtue of this article and the by-laws of such corporation, shall be legal investments for the banking, insurance and surety organizations who become members of such corporations, up to but in no event exceeding the loan limits established herein.

2. The board of directors of the corporation may, on thirty days' written notice to its members, make a call of all or any part of the funds which such members are committed to lend pursuant to subdivision

one of this section. The debentures or evidences of debt of the corporation issued pursuant to the provisions of this article or by-laws may contain such terms and provisions as the board of directors of the corporation shall deem advisable, including, but not limited to provisions concerning interest rates, maturities, sinking funds, redemptions and refundings.

§ 308. Capital and shares. The total number of shares which the corporation may issue is forty thousand, all without par value. The consideration for which such shares may be issued is one hundred dollars per share in cash. The capital of the corporation shall be at least equal to the consideration received by the corporation from the issuance of its shares plus such amounts as, from time to time, by resolution of the board of directors may be transferred thereto. At least two and one-half per centum of the authorized shares shall be issued and paid for before the corporation shall be authorized to transact any business other than such as relates to its organization.

§ 309. Obligations. At no time shall the total obligations of such corporation exceed twenty-five million dollars.

§ 310. Restrictions. Such corporation shall not deposit any of its funds in any banking organization unless such banking organization has been designated as a depository by a vote of the majority of all of the directors of such corporation, exclusive of any director who is an officer or director of the depository so designated. Such corporation shall not make any loans other than those set forth in section three hundred four hereof, and in no event shall the corporation make any loans, directly or indirectly, to any of its officers or to any firms in which any of its officers is an officer, director or stockholder. Such corporation shall not receive money on deposit except that money held in escrow pursuant to the provisions of subdivision three (c) (vii) B of section three hundred four hereof, or otherwise, shall not be deemed to be the receipt of money on deposit.

§ 311. Examination. At least once in each calendar year the corporation shall be examined by the superintendent of financial services for the purpose of determining the corporation's net worth and the soundness of its management and operating policies. The corporation shall not, however, be deemed to be a banking or insurance organization. The corporation shall pay the cost of each such examination. Copies of each examination report, including the findings, conclusions and recommendations of the examiners, shall be furnished to the corporation. The corporation shall furnish copies of each report, including the findings, conclusions and recommendations of the examiners, to each of the holders of its capital stock and to its members. Such corporation shall make an annual report of its condition to the governor, legislature and superintendent of financial services on or before January first of each year.

§ 312. Unissued securities and reorganization. 1. The holders of capital stock of such corporation shall not, as such, have any pre-emptive or preferential right to purchase or subscribe for any part of the unissued or new issue of capital stock of such corporation, whether now or hereafter authorized or issued, or to purchase or subscribe for any bonds or other obligations, whether or not convertible into stock of such corporation, now or hereafter authorized or issued.

2. Whenever a compromise or arrangement or any plan of reorganization of such corporation is proposed between such corporation and its creditors, members or stockholders, the supreme court, by virtue of its general equity powers, may on application of such corporation or of any creditor, member or stockholder thereof, or on the application of any receiver or receivers appointed for such corporation, order a meeting of such creditors, members or stockholders, as the case may be, as may be affected by the proposed compromise or arrangement or plan of reorganization, which shall be called in such manner as the said court directs. If, at such meeting, such compromise or arrangement or plan of reorganization is agreed to by or on behalf of the creditors, if

affected thereby, holding two-thirds in amount of the claims against such corporation, and by or on behalf of the stockholders, if affected thereby, holding the majority of capital stock, and by or on behalf of the members, if affected thereby, holding two-thirds in amount of the outstanding notes or other interest-bearing obligations of such corporation as provided for in section three hundred seven of this article, and if such agreement shall be further evidenced by the written acceptance of said creditors, stockholders and members, duly filed in the said court, such compromise or arrangement or plan of reorganization shall, if approved by the said court as just and equitable, be binding on all creditors, stockholders or members, as the case may be, who are affected thereby, and also on such corporation. All persons who become creditors, stockholders or members of such corporation shall be deemed to have become creditors, stockholders or members subject in all respects to this section, and the same shall be absolutely binding upon them. For the purposes of this subdivision only, members shall not be deemed to be creditors and shall act under this subdivision as a separate class.

§ 313. Participation. Notwithstanding any rule at common law or any provision of any general or special law or any provision in their respective charters, agreements of association, articles of organization or certificates of incorporation:

1. All banking organizations, insurance and surety companies are hereby authorized to become members of the corporation established by this article and to make loans to such corporation as provided herein;

2. A banking organization which does not become a member of the corporation established by this article shall not acquire any shares of the capital stock of such corporation;

3. Each banking organization, insurance and surety company which becomes a member of the corporation established by this article is hereby authorized to acquire, purchase, hold, sell, assign, transfer, mortgage, pledge, or otherwise dispose of any bonds, securities or other

evidences of indebtedness issued by such corporation or the shares of its capital stock, and while owners of said stock, to exercise all the rights, powers and privileges of ownership, including the right to vote thereon, all without the approval of any regulatory authority of this state; provided, however, that the amount of the capital stock of such corporation which may be acquired by any member pursuant to the authority granted herein, shall not exceed ten per centum of the loan limit of such member as defined by section three hundred seven of this article. The amount of capital stock of such corporation which any member is authorized to acquire pursuant to the authority granted herein shall be in addition to the amount of capital stock in corporations which such member may otherwise be authorized to acquire.

ARTICLE VII-A
**COMMUNITY SENIOR CITIZENS CENTERS AND
SERVICES COMPANIES**

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§ 350. Short title. This article shall be known and may be cited and referred to as the "community senior citizens centers and services

companies law."

§ 351. Policy and purposes of article. It is hereby declared that the provision of new and improved community senior citizens facilities is necessary to care for the increasing number of persons who are in need of programs and services for the aging. Such facilities should be located close to the people they serve and should supplement the programs and services provided for such persons by the office for the aging pursuant to title one of article two of the elder law.

It is hereby further declared that non-profit corporations should be created to construct, acquire, reconstruct, rehabilitate, own and operate such facilities and that provision should be made for mortgage loan participation by the New York state housing finance agency in order to ensure that the full resources of the private enterprise sector of the economy may be made available for this purpose; that there is a need for public assistance to such corporations by the granting of tax exemption; that it is the policy of the state to promote the provision of senior citizens facilities by such non-profit corporations; and that such provision is a public use and purpose.

§ 352. Definitions. As used in this article the following words and phrases shall have the following meanings unless a different meaning is plainly required by the context:

1. "Company", or "community senior citizens centers and services company". A company, duly incorporated pursuant to the provisions of the not-for-profit corporation law and this article, for the purpose of providing centers for the aging, and such facilities as may be incidental or appurtenant thereto.

2. "Project" or "community senior citizens services project". A specific work or improvement, including lands, buildings, improvements, fixtures and articles of personal property, constructed, acquired, reconstructed, rehabilitated, managed, owned or operated by a company

pursuant to this article, to provide centers for the aging, including such facilities as may be incidental or appurtenant thereto.

3. "Project cost" or "community senior citizens services project cost". The sum total of all costs incurred by a company approved by the commissioner as reasonable and necessary for carrying out all works and undertakings and providing all necessary equipment for the development of a project, less any private or federal, state or local financial assistance available for and received by the company for the payment of such project cost. These shall include but are not necessarily limited to the carrying charges during construction up to and including the occupancy date, working capital not exceeding three per centum of the estimated total cost or three per centum of the actual total final cost, whichever is larger, the cost of all necessary studies, surveys, plans and specifications, architectural, engineering, legal or other special services, the cost of acquisition of land and any improvements thereon, site preparation and development, construction, reconstruction, rehabilitation, improvement and equipment, including fixtures, equipment, and articles of personal property required for the operation of such facilities, the reasonable cost of financing incurred by the company in the course of the development of the project, up to and including the occupancy date, the fees imposed by the commissioner and by the New York state housing finance agency; other fees charged, and necessary expenses incurred in connection with the initial occupancy of the project, and the cost of such other items as the commissioner may determine to be reasonable and necessary for the development of a project, less any and all rents and other net revenues from the operation of the real property, improvements or personal property on the project site, or any part thereof, by the company on and after the date on which the contract between the company and the New York state housing finance agency was entered into and prior to the occupancy date.

4. "Occupancy date". The date defined in the document providing for a mortgage loan between a company and the New York state housing finance agency.

5. "Commissioner". The commissioner of social services of the state of

New York.

6. "Department". The department of social services of the state of New York.

§ 353. Companies; how created. Notwithstanding the provisions of any other law or requirement to the contrary, companies shall be incorporated and organized pursuant to the not-for-profit corporation law and this article.

In addition to those matters required to be set forth in the certificate of incorporation by the not-for-profit corporation law, the certificate shall state:

1. That, among the purposes for which it is formed, the company is to plan, construct, acquire, alter, reconstruct, rehabilitate, improve, own, maintain and operate one or more projects pursuant to this article.

2. The number of directors, which shall be not less than three nor more than fifteen. Directors shall be elected by the members of the company. One additional director may be designated by the commissioner. In the absence of fraud or bad faith the director appointed by the commissioner shall not be personally liable for the debts, obligations or liabilities of the company.

3. That the real property of the company shall not be sold, transferred, encumbered or assigned except as permitted by the provisions of this article.

4. That the company has been organized exclusively to serve a public purpose and that it shall be and remain subject to the supervision and control of the department pursuant to the provisions of this article and all applicable laws and regulations.

5. That all income and earnings of the company shall be used exclusively for its corporate purposes.

6. That no part of the net income or net earnings of the company shall inure to the benefit or profit of any private individual, firm or corporation.

§ 354. Consent of commissioner. Whenever any such certificate shall be presented to the secretary of state, he shall not file such certificate unless there shall accompany the same a certificate of the commissioner stating that he consents to the filing of such certificate; nor shall any amendment to the certificate of incorporation be filed unless it is accompanied by a certificate of the commissioner consenting thereto.

§ 355. Powers and limitations of a company. 1. Except as is inconsistent with the provisions of this article, a company shall have, in carrying out the purpose of this article, the powers conferred on corporations by the not-for-profit corporation law and shall be subject to the limitations contained therein.

2. Companies shall have the following additional powers:

(a) To make and execute contracts and other instruments necessary or convenient in the exercise of its powers;

(b) To acquire or contract to acquire from any persons, firm, corporation, public corporation, municipality, federal or state agency, by grant, purchase, or otherwise, leaseholds, real, personal or mixed property or any interest therein, and to sell, assign, exchange, transfer, mortgage or encumber the same;

(c) To own, hold, clear and improve, leasehold, real, personal or mixed property or any interest therein;

(d) To issue non-interest bearing debentures up to an amount representing the difference, if any, between the amount of the mortgage made by the company and the estimated project cost; and in the event the final project cost shall exceed the estimated project cost, the difference between the amount of the mortgage made by the company and such final project cost;

(e) To construct, reconstruct, rehabilitate, improve, alter, repair,

lease, manage or operate and otherwise provide community senior citizens services projects;

(f) To insure or provide for the insurance of its property or operations as required by law and also against such other risks as it may deem advisable;

(g) To limit by contract the exercise of any of its powers;

(h) To invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement in property or securities in which savings banks may legally invest funds subject to their control;

(i) To sue and be sued;

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

(k) To make and from time to time amend and repeal by-laws, rules and regulations not inconsistent with the provisions of this article;

(l) To enter into contracts with the New York state housing finance agency for mortgage loans and to pay all such fees and charges as may be imposed by such agency as a condition of such mortgage loan;

(m) To enter into contracts for the rendering of services;

(n) To receive assistance from the state, federal government, municipalities, or any person, firm or corporation by contract or otherwise; and to comply, subject to the provisions of this article, with the terms and conditions of such assistance;

(o) To do all other things necessary or convenient to carry out its powers.

3. No company shall:

(a) Acquire any real property or interest therein unless such company shall first have obtained from the commissioner a certificate that such acquisition is consistent with the purposes of this article;

(b) Issue notes, bonds, debentures, or other obligations in an aggregate amount greater than project cost;

(c) Without first having obtained the written consent of the commissioner;

(i) Construct, reconstruct, rehabilitate, improve, alter or repair any project, or enter into any contract for such purposes;

(ii) Sell, transfer, lease or encumber any real property, except that no such consent shall be necessary in any sale in foreclosure pursuant

to section three hundred sixty-three;

(iii) Enter into any contracts relating to the management or operation of senior citizens services projects;

(iv) Enter into any contracts for the payment of any salary, fee or emolument to officers or employees;

(v) Make a guaranty of payment, or pledge any or all of its assets, income or revenues to secure payment of its obligations;

(vi) Lease a project or a portion thereof to a third party for the purposes of operation, such lease to be subject to all the terms, provisions and limitations of any mortgage loan made by the New York state housing finance agency relating to such project.

§ 356. Members; officers and directors. No member or director of a company shall receive any salary or other compensation for services as such member or director, other than reimbursement of actual and necessary expenses incurred in the performance of his duties. No member, officer, or employee of a company 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 any company 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 thereof in writing to the company and such disclosure shall be entered upon the minutes of the company.

§ 357. Financing. 1. Any company formed under this article may, subject to the approval of the commissioner, borrow funds from the New York state housing finance agency and secure the repayment thereof by bond or note and mortgage which shall contain such terms and conditions as may be deemed necessary or desirable by the New York state housing finance agency or required by any agreement between the New York state housing finance agency and the holders of its notes and bonds with respect to such companies, including the right to assignment of rates

and fees 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 department.

2. The New York state housing finance agency may make a contract to make loans to companies not to exceed the total project cost. Any such loan 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 construction, acquisition, reconstruction, rehabilitation, improvement or operation of the project.

3. Any inconsistent provision of law to the contrary notwithstanding, mortgages of a company shall be exempt from the mortgage recording taxes imposed by article eleven of the tax law.

4. The provision of community centers for senior citizens and of programs and services for senior citizens is hereby declared to be a proper public and municipal purpose for which the moneys of the state and of its political subdivisions and of all public corporations may be raised and expended. The state, and each political subdivision of the state, and each public corporation of the state or a political subdivision thereof, and individuals, foundations and all other private organizations and corporations may make capital grants to any company organized pursuant to this article and such company may accept and receive the same and apply the same in payment or reduction of the project cost.

§ 358. Conditions and security for loans. No loan shall be made by the New York state housing finance agency to a company until the commissioner has approved the project and finds that:

(1) The company has complied with all of the provisions of this article and all applicable laws and regulations;

(2) There is a need for a project of the type proposed in the area to be served and that the services and facilities to be provided by the project are consistent with such need;

(3) The plans and specifications conform to the requirements of all laws and regulations applicable thereto and assure adequate light, air, sanitation and fire protection and are satisfactory to him;

(4) The estimated revenue of the project will be sufficient to cover all probable costs of operation and maintenance, of fixed charges and such reserves as may be authorized by the commissioner or required by the New York state housing finance agency;

(5) Provision has been made for the purpose of providing for the payment of the difference, if any, between the estimated project cost and the mortgage loan; and in the event the final project cost shall exceed the estimated project cost, the difference between such final project cost and the mortgage loan;

(6) Provision has been made for the filing by the company with the department and the New York state housing finance agency of such financial statements including an annual report setting forth such information as the commissioner may require; and

(7) Provision has been made for the examination by the commissioner and the New York state housing finance agency of the books and records of the company.

§ 359. Rates and fees. A company shall, with the approval of the commissioner, fix maximum rates and fees to be charged persons served by each project for the facilities and services provided by the company to such persons, the average of such rates and fees for any one project not to exceed the maximum average rates and fees determined by the commissioner before any commitments are made by the company for the construction, acquisition, reconstruction, rehabilitation or improvement of the project. The commissioner upon his own motion, or upon application by the company or lienholder may vary the amount of such rates and fees from time to time so as to secure together with all other income of the company, sufficient income to meet, within reasonable limits, all necessary payments by the said company of all expenses, including fixed charges, sinking funds and reserves.

§ 360. Transfer of real property. Notwithstanding any requirement of

law to the contrary or any provision of any general, special or local law, charter or ordinance, every executor, administrator, trustee, guardian or other person holding trust funds or acting in a fiduciary capacity, unless the instrument under which such fiduciary is acting expressly forbids, and the state, its subdivisions, municipalities, all other public bodies, all public officers, persons, partnerships and corporations owning or holding any real property, may grant, sell, lease or otherwise transfer any such real property or interest therein to a company and receive and hold any cash, exchanged therefor by such company and may execute such instruments and do such acts as may be deemed necessary or desirable by them or it and by the company in connection with a project or projects and such sale, lease or transfer may be made without public auction or bidding; provided, however, that where such real property is within an urban renewal area, the disposition thereof shall be in accordance with the provisions of paragraph (d) of subdivision two of section five hundred seven of the general municipal law.

§ 361. Supervision and regulation. 1. The department may from time to time make, alter, amend and repeal rules and regulations for the supervision, examination, regulation and audit of companies and for carrying into effect the provisions and purposes of this article, and each company shall submit an annual report of its operations to the department and the New York state housing finance agency which may examine and audit the books and records of the company at any time.

2. The department shall have power to act for and in behalf of the agency in servicing the mortgage loans of the agency, and to perform such functions and services in connection with the making, servicing and collection of such loans as shall be requested by the agency.

3. (a) The department may, with respect to any project of which the New York state housing finance agency has acquired the fee or otherwise, enter into an agreement with said agency subject to the approval of the director of the budget, for the department, as provided in paragraph (b) hereof, to operate the said project in a manner consistent with the

purposes of this article. In such event, the department shall have the power to use any available funds to pay all operating expenses and to comply with all the terms and provisions of the mortgage, as though the mortgage had not been foreclosed, and to comply with the provisions of this article.

(b) Subject to the provisions of the agreement with said agency, the department may contract with any person, firm or corporation which it deems qualified to operate and manage such project and to perform such duties and functions as it may deem necessary.

§ 362. Voluntary dissolution. At any time after the expiration of ten years after the occupancy date, a company may be voluntarily dissolved, with the consent of the commissioner, upon repayment in full of all obligations under the mortgage and payment of all obligations of the company, as approved by the commissioner.

§ 363. Foreclosures and judgments. 1. In any foreclosure action the commissioner shall be made a party defendant. He shall take all steps necessary to protect the interests of the public therein and no costs shall be awarded against him or the department. Foreclosures shall not be decreed unless the court to which application is made shall be satisfied that the interests of the lienholder or holders cannot be adequately assured except by the sale of the property. In any such proceeding, the court shall be authorized to appoint the commissioner as receiver of the property, or to grant such other and further relief as may be reasonable and proper.

2. Notwithstanding the foregoing provisions of this section, wherever it shall appear that the New York state housing finance agency shall have made a mortgage loan which is a first lien upon any such property, such New York state housing finance agency shall have all the remedies available to a mortgagee under the laws of the state of New York, free from any restrictions contained in this section, except that the commissioner shall be made a party defendant and he shall take all steps necessary to protect the interests of the public and no costs shall be

awarded against him or the department.

3. In the event of a judgment against a company in any action not pertaining to the collection of a mortgage indebtedness, there shall be no sale of any of the real property of such company except upon sixty days' written notice to the commissioner and the New York state housing finance agency. Upon receipt of such notice the commissioner and the agency shall take such steps as in their judgment may be necessary to protect the rights of all parties.

§ 364. Fees and charges. The department may by regulation establish and charge to any company such fees and charges for inspection, regulation, supervision and audit as to the department may appear just and reasonable in order to recover the costs of performing such functions.

§ 365. Separability. If any clause, sentence, paragraph or part of this article shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

ARTICLE VIII

LOANS TO OWNERS OF EXISTING MULTIPLE DWELLINGS

Section	400.	Policy and purposes of article.
	401.	Definitions.
	402.	Loans to owners.
	403.	Occupancy.
	404.	Conditions precedent to making such loans.
	405.	Rent control; tax exemption.
	406.	Rules and regulations.
	407.	Participation by certain corporations and individuals.
	408.	Minimization of displacement.

§ 400. Policy and purposes of article. It is hereby declared that there exists in municipalities in this state a seriously inadequate supply of safe and sanitary dwelling accommodations for persons and families of low income; that such shortage constitutes an emergency and a grave menace to the health, safety, morals, welfare and comfort of citizens of this state; that there exists in such municipalities a large number of multiple dwellings which are inadequate, unsafe or insanitary by reason of the absence of proper heating facilities or by reason of the necessity for elimination of conditions dangerous to human life or detrimental to health, including nuisances as defined in section three hundred nine of the multiple dwelling law, or for other rehabilitation or improvement and which can be made adequate, safe and sanitary, by the installation of proper heating facilities or by other rehabilitation, preservation or improvement or by the elimination of such conditions; that such installation, rehabilitation, preservation or improvement cannot readily be provided by the ordinary unaided operation of private enterprise for occupancy by persons or families of low income without public aid in the form of low interest loans or grants to owners of such multiple dwellings for the purpose of such installation, rehabilitation, preservation or improvement; that the installation of proper heating facilities in such multiple dwellings or other rehabilitation, preservation or improvement thereof for occupancy by persons of low income as defined in this article is a public use and a public purpose for which public money may be loaned or granted; that such conditions require the provisions hereinafter enacted; and the necessity in the public interest for the provisions hereinafter enacted is hereby declared as a matter of legislative determination.

§ 401. Definitions. As used in this article the following terms shall mean:

1. a. The term "existing multiple dwelling" shall mean any dwelling classified as a multiple dwelling pursuant to the multiple dwelling law including class A and class B multiple dwellings, and in existence on

the date upon which an application for a loan pursuant to this article is received by the agency.

b. The term "existing multiple dwelling" shall also mean any building in existence on the date upon which an application for a loan pursuant to this article is received by the agency and which is intended on such date to be converted to a class A or class B multiple dwelling.

c. The term "existing multiple dwelling" shall also mean a not-for-profit institution with sleeping accommodations exclusively for permanent residential purposes or any building in existence on the date upon which an application for a loan pursuant to this article is received by the agency which is intended to be converted to a not-for-profit institution with sleeping accommodations exclusively for permanent residential purposes.

2. The term "agency" shall mean any officer, board, commission, department, or other agency of the municipality, or the authority or any other public authority, designated by the local legislative body to carry out the functions vested in the agency under this article or delegated to the agency by the local legislative body in order to carry out the purposes and provisions of this article.

3. a. The term "persons or families of low income" shall mean "persons of low income" or "families of low income" as defined in section two of this chapter.

b. Notwithstanding the provisions of paragraph a of this subdivision, the term "persons or families of low income" shall also mean any person or family who, immediately prior to the date on which a contract for a loan with respect to an existing multiple dwelling is entered into pursuant to the provisions of this article, occupies any dwelling unit in such multiple dwelling and who continuously occupies such unit during and after completion of central heating or other rehabilitation or improvement performed pursuant to such contract provided, however, that any person or family required to remove from any such dwelling unit because of such installation, rehabilitation or improvement shall, for

the purpose of this section, be deemed to have continuously occupied such unit and shall have preference in re-entering such multiple dwelling upon completion of the aforesaid work.

4. The term "occupancy date" shall mean the date defined in the contract for a loan pursuant to this article between the owner of an existing multiple dwelling and a municipality as the date upon which such multiple dwelling is to be deemed ready for occupancy, or if such term is not defined in such contract, the date of issuance of the temporary certificate of occupancy.

5. The term "rehabilitation", in addition to any other meaning, shall include conversion of a class B multiple dwelling or a class A multiple dwelling used in whole or in part for single room occupancy to a class A multiple dwelling not used in whole or in part for single room occupancy. The term "rehabilitation" shall also include the conversion of any existing building to a class A or class B multiple dwelling.

6. The term "owner" shall mean a person having record or beneficial title in fee simple to real property or the lessee thereof under a lease having an unexpired term of at least thirty years.

§ 402. Loans to owners. 1. Notwithstanding the provisions of any general, special or local law, a municipality, by such officer or agency as determined by its local legislative body, is hereby authorized:

(a) to make or contract to make loans to the owners of existing multiple dwellings within its territorial limits, subject to the limitations in subdivision two of this section, in such amounts as may be required for the installation of proper heating facilities, the incorporation of climate resiliency improvements, or elimination of conditions dangerous to human life or detrimental to health, including nuisances as defined in section three hundred nine of the multiple dwelling law, or other rehabilitation, preservation or improvement of such multiple dwellings, and if such owner acquires the multiple dwelling for the purposes of such rehabilitation, preservation or improvement or owns the multiple dwelling subject to an outstanding

indebtedness, such loans may be made exclusively for or may include such amounts as may be required for the cost of such acquisition or for the refinancing of such outstanding indebtedness, and may make temporary loans or advances to such owners in anticipation of the permanent municipal loans for such purposes; and

(b) to make or contract to make grants to any owner described in paragraph (a) of this subdivision, on the same terms as permitted under such paragraph for a loan.

1-a. As used in this article, the term "loan" shall include any grant made by a municipality pursuant to this article, provided, however, that any provision of this article concerning the repayment or forgiveness of, or security for, a loan shall not apply to any grant made pursuant to this article.

2-a. (a) Each permanent loan shall be secured by a bond and mortgage or note and mortgage upon the multiple dwelling and the land upon which it is situated, provided that where the multiple dwelling is held in the condominium form of ownership, such loan shall be secured by a bond and mortgage or note and mortgage upon the condominium units rehabilitated or improved with such loan; where the loan is made to an owner who is a lessee, such loan shall be secured by a leasehold interest in such property.

(b) Each such bond and mortgage or note and mortgage shall be repaid over or within a period of forty years, provided that such period may be extended as the agency may determine necessary to ensure the continued affordability or economic viability of the multiple dwelling, in such manner as may be provided in such bond and mortgage or note and mortgage and contract. Such bond and mortgage or note and mortgage and the contract in connection with such permanent and temporary loans may contain such other terms and provisions not inconsistent with the provisions of this article as the local legislative body or the agency may deem necessary or desirable to secure repayment of the loan, the interest thereon and other charges in connection therewith and to carry out the purposes and provisions of this article, including, but not limited to, providing that the lien created by such bond and mortgage or note and mortgage, and, if applicable, any regulatory agreement executed

by the owner and the agency or restrictive covenant approved by such agency, may be recorded in an equal or subordinate position, or subsequently made equal or subordinate, to a lien recorded by any private lender against such multiple dwelling.

2-b. If a loan pursuant to this article is made to a non-profit company or a housing development fund company which agrees to provide housing accommodations exclusively for persons and families of low income, at least thirty percent of whom are referred to it by the municipality and have prior to their initial occupancy in such accommodations resided in emergency shelter facilities operated by or on behalf of the municipality, the agency may provide that the note and mortgage shall automatically be reduced to zero in five equal annual decrements commencing on the tenth year after the initial occupancy date, provided that such accommodations have been owned and operated in a manner consistent with an agreement with the municipality contained in such note and mortgage to provide housing for such persons.

3. The bond or note issued by the owner of such multiple dwelling and the mortgage relating thereto may authorize such owner, with the consent of the agency, to prepay the principal of the loan subject to such terms and conditions as therein provided. Such bond or note and mortgage may contain such other clauses and provisions as the agency shall require.

4. The agency may require the payment of charges by an owner of such multiple dwelling in consideration for the financing, regulation, supervision and audit of such loan. Such fees shall be paid into the treasury of the municipality requiring the charges and shall be paid and deposited in the general fund of any such municipality.

5. Whenever reference is made in this article to a municipal loan, a loan by a municipality, a loan from a municipality, a contract for a loan between a municipality and an owner, or any similar term, with respect to the territorial limits of the city of New York such terms shall be construed to refer to a loan made or to be made either by such municipality or by the New York city housing development corporation, whichever is applicable.

6. The bond and mortgage or note and mortgage issued by the owner of any such multiple dwelling may provide that the loan shall be reduced to zero commencing on the fifteenth year after the execution of the bond and mortgage or note and mortgage, provided that, as of the date of any such reduction, the multiple dwelling has been and continues to be owned and operated in a manner consistent with a regulatory agreement with the municipality. Notwithstanding such provision as contained in the bond and mortgage or note and mortgage, the loan shall be reduced to zero only if, prior to or simultaneously with delivery of such bond and mortgage or note and mortgage, the agency made a written determination that such reduction would be necessary to ensure the continued affordability or economic viability of the multiple dwelling. Such written determination shall document the basis upon which the loan was determined to be eligible for evaporation.

§ 403. Occupancy. 1. The dwelling units in any existing multiple dwelling aided by a loan pursuant to this article shall be available solely for persons or families of low income during the period in which any part of such loan remains unpaid, any exemption and abatement from taxation on the property resulting from the installations, alterations or improvements made with such loan remains in effect or for a period of at least ten years from the occupancy date, whichever is the later.

2. Any person or family in occupancy whose income precludes the inclusion of such person or family within the definition provided in paragraph a of subdivision three of section four hundred one of this article may be required to pay a rental surcharge in accordance with a schedule of surcharges to be promulgated by the agency. In determining imposition of any such surcharge, the agency shall consider factors such as the net operating income and debt service coverage ratio of the property aided by a loan pursuant to this article. Rental surcharges collected pursuant to this section shall be paid by the owner to the municipality which has granted such owner tax exemption or tax abatement pursuant to any law authorizing the granting of same, as reimbursement to such municipality therefor. In the event that such tax exemption and

tax abatement have not been granted, or in the event that a sum equal to the total amount of tax exemption and tax abatement granted to the owner has been paid to the municipality, the excess, if any, of surcharges shall be paid to the municipality in reduction of the loan.

§ 404. Conditions precedent to making such loans. 1. No such loan shall be made by a municipality to an owner of an existing multiple dwelling unless the owner of such multiple dwelling shall covenant in writing that so long as any part of such loan remains unpaid, any exemption and abatement from taxation on the property resulting from the installations, alterations or improvements made with such loan remains in effect or for a period of at least ten years from the occupancy date, whichever is the later:

(a) Each dwelling unit in such multiple dwelling shall be available solely for persons or families of low income;

(b) Preference shall be given to persons who shall have lived in such multiple dwelling at the time the contract for the loan was entered into and were required to move because of such installation, rehabilitation or improvement;

(c) No charge or rental for housing accommodations in such multiple dwelling shall be made or charged in excess of the rentals prescribed pursuant to this article;

(d) The agency may order such repairs as will preserve the health and safety of the occupants of such multiple dwelling;

(e) All persons operating or managing such multiple dwelling will comply with the provisions of this article and the rules and regulations adopted by the agency pertaining to multiple dwellings aided hereunder and will refrain from doing any acts in violation thereof;

(f) All such persons will permit the duly authorized officers, employees, agents or inspectors of the agency to enter in or upon and inspect such multiple dwelling at all reasonable hours;

(g) The agency shall have full power to investigate into and order the owner of said multiple dwelling to furnish such reports and information as the agency may require concerning the planning and construction of the installation, rehabilitation or improvement and the management and operation of said multiple dwelling. The agency shall also have full

power to audit the books of such owner with respect to such matters;
(h) The foregoing covenants shall run with the land.

2. The local legislative body of the municipality or the agency shall have power to impose additional terms and conditions precedent to making such loans.

§ 405. Rent control; tax exemption. 1. Notwithstanding the provisions of, or any regulations promulgated pursuant to, the emergency housing rent control law, the local emergency housing rent control act or local law enacted pursuant thereto: (1) housing accommodations in any multiple dwelling aided by a loan pursuant to this article shall have maximum rents prescribed in accordance with and shall be fully subject to the provisions of said laws and regulations during the life of the loan or during any period in which any exemption and abatement from taxation on the property resulting from the installations, alterations or improvements made with such loan remain in effect or for a period of at least ten years from the occupancy date, whichever is later; (2) upon payment of the loan or the expiration of the said tax exemption and tax abatement or of the said ten year period, whichever is later, housing accommodations in any such multiple dwelling shall, upon application, be decontrolled, unless immediately prior to such payment or expiration the rents of such housing accommodations would have been controlled by the provisions of said laws and regulations, other than pursuant to this article, in which event such housing accommodations shall continue subject to the provisions of said laws and regulations to the same extent and in the same manner as if this article had never applied to such accommodations; (3) should the provisions of said laws and regulations expire while any loan made pursuant to this article remains unpaid or before the expiration of the said tax exemption and tax abatement or of the said ten year period, whichever is later, then housing accommodations in multiple dwellings aided by such loans shall be subject to control by the agency to the same extent and in the same manner as they were subject to control by the temporary state housing rent commission or by the city housing rent agency created pursuant to the local emergency housing rent control act. However, the maximum rent

for any such housing accommodations shall be the rent last established by the said rent commission or by the said city housing rent agency subject to adjustment by the agency pursuant to the provisions of this article and regulations of the agency promulgated pursuant thereto and (4) should the provisions of said laws and regulations not be applicable in a municipality prior to the making of a loan pursuant to this article, then rents in housing accommodations in multiple dwellings aided by such loans shall be subject to regulation by the agency in a manner calculated to assure compliance with the policy and purposes of this article.

1-a. Notwithstanding the provisions of subdivision one of this section, and subject to the provisions of subdivision twenty of section six hundred fifty-four of this chapter, where the housing accommodations in any multiple dwelling are aided pursuant to this article by a loan made by the New York city housing development corporation, maximum rents during the life of such loan shall be prescribed by the agency and the rental rate may be varied by the agency from time to time upon application by the owner or by the New York city housing development corporation so as to secure, together with all other income from such property, sufficient income to meet within reasonable limits, all necessary payments to be made by the owner of all expenses including fixed charges, sinking funds, reserves and dividends.

* 1-b. Notwithstanding the provisions of subdivision one of this section, where the housing accommodations in any multiple dwelling are aided by a loan pursuant to this article made by the municipality on or after September first, nineteen hundred eighty-four, and provided that such housing accommodations were vacant at the time of the making of the loan, maximum rents during the life of such loan shall be prescribed by the agency and the rental rate may be varied by the agency from time to time upon application by the owner or by the agency so as to secure, together with all other income from such property, sufficient income to meet within reasonable limits, all necessary payments to be made by the owner of all expenses, including fixed charges, sinking funds, reserves and dividends.

* NB Effective until July 1, 2027

* 1-b. Notwithstanding the provisions of subdivision one of this

section, where the housing accommodations in any multiple dwelling are aided by a loan pursuant to this article made by the municipality on or after September first, nineteen hundred eighty-four, and provided that such housing accommodations were vacant at the time of the making of the loan, maximum rents during the life of such loan shall be prescribed by the agency and the rental rate may be varied by the agency from time to time upon application by the owner or by the agency so as to secure, together with all other income from such property, sufficient income to meet within reasonable limits, all necessary payments to be made by the owner of all expenses, including fixed charges, sinking funds, reserves and dividends.

* NB Effective July 1, 2027

* 1-c. Except with respect to dwelling accommodations subject to subdivision one-a or one-b of this section, notwithstanding the provisions of subdivision one of this section or any regulation promulgated pursuant to the emergency housing rent control law, the local emergency housing rent control act, the emergency tenant protection act of nineteen seventy-four, or any local law enacted pursuant thereto, upon completion of the rehabilitation of a multiple dwelling which is aided by a loan pursuant to this article made by the municipality on or after September first, nineteen hundred eighty-six, the agency shall establish the initial rent for each rental dwelling unit within the multiple dwelling. All dwelling units within the multiple dwelling subsequent to establishment of initial rents by the agency shall be subject to the rent stabilization law of nineteen hundred sixty-nine. The occupant in possession of such a dwelling unit when it is made subject to the rent stabilization law of nineteen hundred sixty-nine shall be offered a choice of a one or two year lease at the initial rents established by the agency notwithstanding any contrary provisions of, or regulations adopted pursuant to, the rent stabilization law of nineteen hundred sixty-nine and the emergency tenant protection act of nineteen seventy-four. The agency shall cause all tenants in occupancy of each dwelling unit affected by the provisions of this section to be notified of and have an opportunity to comment on the contemplated rehabilitation. Such notification shall advise such tenants of the approximate expected rent increase and the subsequent availability of a one or two year lease. Such notification

and opportunity to comment shall be provided before the rehabilitation and again after the construction is completed and before the establishment of the initial rents.

* NB Expires July 1, 2027

2. The municipality may, by local law, provide for exemption from taxation of any increase in valuation resulting from the installation, alterations or improvements performed with the aid of such loans or for abatement of taxation on such property, including the land, or for both such exemption and abatement, to the same extent, for the same period, and under the same terms and conditions as such exemption or abatement, or both, may be provided by local law enacted under the terms of any currently effective statute authorizing the granting of tax exemption or tax abatement, or both, in aid of the rehabilitation, alteration or improvement of multiple dwellings or the elimination of unhealthful or dangerous conditions therein. Notwithstanding any contrary provisions of any general, special or local law, a property aided by a loan pursuant to this article shall not be ineligible for tax exemption or tax abatement or both, as provided by local law enacted pursuant to statute, solely because such property is not subject to control of rents under the emergency housing rent control law or local law enacted pursuant to the local emergency housing rent control act, but such tax exemption and tax abatement shall terminate if and when such property is subject to control of rents neither under the emergency housing rent control law, local law enacted pursuant to the local emergency housing rent control act or this article.

§ 406. Rules and regulations. An agency may promulgate supplementary rules and regulations to carry out the provisions of this article, not inconsistent with the provisions of this article.

§ 407. Participation by certain corporations and individuals. 1. One or more banking institutions, foundations, labor unions, employers' associations, veterans' organizations, insurance companies, trustees, fiduciaries or any combination of the foregoing, shall have the power to

participate and invest, singly or jointly, with a municipality or the New York city housing development corporation in a bond or note and single participating mortgage, or in separate bonds or notes and mortgages pursuant to and in accordance with the provisions of this article. As used in this section, the terms "trustees" and "fiduciaries" shall include any fiduciary or fiduciaries holding funds for investment.

2. Banking institutions and insurance companies may exercise such power on such conditions as may be prescribed or authorized by the superintendent of financial services.

3. Where one or more banking institutions, foundations, labor unions, employers' associations, veterans' organizations, insurance companies, trustees or fiduciaries participates and invests with a municipality or the New York city housing development corporation as provided in subdivision one, the interest of each need not be equal as to priority of lien, interest rate, time or rate of amortization or otherwise.

4. Where a municipality joins with one or more corporations organizations or individuals of the kind hereinabove mentioned in making a loan secured by a single participating mortgage or by separate mortgages, the municipality may make provision, either in the mortgage or mortgages or by separate agreement, for the performance of such services as are generally performed by a banking institution or insurance company which itself owns and holds a mortgage or by a trustee under a trust mortgage. The agency is hereby authorized to act as trustee or to consent to the appointment of a banking institution to act in such capacity.

*** § 408. Minimization of displacement.** The agency shall use its best efforts to ensure that activities carried out pursuant to this article are structured so as to minimize the likelihood of any involuntary physical or economic displacement of tenants who reside in multiple dwellings which are the subject of such activities, other than temporarily, as a direct result of rehabilitation work which is performed in such multiple dwelling in which case suitable temporary

relocation arrangements shall be provided.

* NB Expires July 1, 2027

ARTICLE VIII-A

SMALL LOANS TO OWNERS OF MULTIPLE DWELLINGS TO REMOVE SUBSTANDARD OR INSANITARY CONDITIONS

- Section 450. Policy and purposes of article.
451. Definitions.
452. Loans to owners.
453. Conditions precedent to making such loans.
454. Servicing of municipal loans by banking institutions.
455. Rules and regulations.
456. Minimization of displacement.
457. Records.

§ 450. Policy and purposes of article. It is hereby declared that there exists in municipalities in this state a seriously inadequate supply of safe and sanitary dwelling accommodations; that such shortage constitutes an emergency and a grave menace to the health, safety, morals, welfare and comfort of citizens of this state; that existing conditions of deterioration of housing marked by noncompliance with the multiple dwelling law or local housing codes threaten a further decrease in such supply; that rehabilitation and improvement of dwellings to prolong the useful life of such dwellings may be necessary to arrest such conditions of deterioration; that the elimination of such conditions by rehabilitation or other improvement cannot readily be provided by the ordinary unaided operation of private enterprise without public aid in the form of low interest loans or grants to owners of such multiple dwellings; that such rehabilitation or other improvement of such dwellings to bring them into conformance with the multiple dwelling law and local housing codes is a public use, a public purpose and a city purpose for which public money may be loaned or granted by a municipality and for which indebtedness may be contracted by a municipality; that such conditions require the provisions hereinafter enacted, and the necessity in the public interest for the provisions

hereinafter enacted is hereby declared as a matter of legislative determination.

§ 451. Definitions. As used in this article the following terms shall mean:

1. "Existing multiple dwelling." Any dwelling classified as a multiple dwelling pursuant to the multiple dwelling law and in existence on the date upon which an application for a loan pursuant to this article is received by the municipality. For purposes of this article an existing multiple dwelling shall be deemed to include any garden-type maisonette dwelling project consisting of a series of dwelling units which together and in their aggregate were arranged or designed to provide three or more apartments and are provided as a group collectively with all essential services such as, but not limited to, water supply, house sewers and heat, and which are in existence and operated as a unit under single ownership on the date upon which an application for a loan pursuant to this article is received by the municipality, notwithstanding that certificates of occupancy were issued for portions thereof as private dwellings.

2. "Occupancy by persons of low income." Occupancy by "persons of low income" or "families of low income," as such terms are defined in section two of this chapter.

3. "Owner." An individual, partnership, corporation or other entity, including a non-profit company, a mutual company, or a housing development fund company, which holds record or beneficial title in fee simple to the multiple dwelling and the real property upon which it is situate or the lessee thereof under a lease the unexpired term of which shall be not less than the term of the loan to be made under this article.

4. "Federal grant funds." Any grants received from the United States of America for community development activities or for the rehabilitation or conservation of multiple dwellings.

§ 452. Loans to owners. 1. Notwithstanding the provisions of any general, special or local law, a municipality is hereby authorized:

(a) to make or contract to make loans to the owners of existing multiple dwellings within its territorial limits, subject to the limitations in subdivision two of this section, for the elimination of any substandard or insanitary condition or conditions in violation of the multiple dwelling law or local housing code, for the incorporation of climate resiliency improvements or for such replacement and rehabilitation of the heating, plumbing, electrical and related systems or other improvements as shall be reasonably necessary to prolong the useful life of such dwellings, and may make temporary loans to such owners in anticipation of the permanent municipal loans for such purposes; and

(b) to make or contract to make grants to any owner described in paragraph (a) of this subdivision, on the same terms as permitted under such paragraph for a loan.

1-a. As used in this article, the term "loan" shall include any grant made by a municipality pursuant to this article, provided, however, that provisions of this article concerning the repayment or forgiveness of, or security for, a loan shall not apply to any grant made pursuant to this article.

2. Each loan shall be evidenced by a note executed by the owner of the existing multiple dwelling. The supervising agency in its discretion may require one or more of the shareholders of a corporate owner to co-sign such note or to otherwise guarantee or pledge security for the repayment of the loan. Each such note shall be repaid within a period of forty years, provided that such period may be extended as the supervising agency may determine necessary to ensure the continued affordability or economic viability of the existing multiple dwelling. The repayment shall be made in such manner as may be provided in such note and contract, if any, in connection with such loan and may authorize such owner, with the consent of the supervising agency, to prepay the principal of the loan subject to such terms and conditions as therein

provided. Such note and contract may contain such other terms and provisions not inconsistent with the provisions of this article as the local legislative body or supervising agency may deem necessary or desirable to secure repayment of the loan, the interest thereon and other charges in connection therewith and to carry out the purposes and provisions of this article, including but not limited to provisions ensuring availability of rents for such repayment and provisions permitting the lien created by such note and mortgage, and, if applicable, a regulatory agreement executed by such owner and supervising agency, be recorded in an equal and subordinate position, or subsequently made equal or subordinate, to a lien recorded by any private lender against such multiple dwelling.

3. The supervising agency in its discretion may require that the owner execute a financing statement for real property improvement to be in such form as the agency shall specify and to contain the following information: the name and mailing address of the owner, the address of the real property, a statement that a loan has been made by the municipality under this article, the amount and duration thereof and the applicable interest rate. Said financing statement shall be filed without charge in the office for recording mortgages of real property and from the date of such filing the municipality shall have a lien against said real property for the amount advanced or so much thereof as remains unpaid and interest thereon. If a financing statement is filed as herein provided, the rights and remedies of the municipality and the priority of its lien shall be the same as those of a holder of a lien for the materials furnished or labor performed in the improvement of real property pursuant to articles two and three of the lien law, except that the lien shall be valid for one year after the maturity date of the final installment payable under said note and thereafter as provided in section seventeen of the lien law. Upon payment of all sums advanced by the municipality and interest thereon and upon demand of the then record owner of the real property, the agency shall deliver to him a copy of the financing statement with an endorsement thereon that the lien is satisfied; upon filing of such copy in the office where the financing statement was filed and upon payment of the proper fee therefor, the lien of such financing statement shall be discharged.

4. The supervising agency may require the owner to execute a mortgage as security for a loan in lieu of a financing statement as provided in the foregoing subsection three. Such mortgage shall contain such terms and provisions not inconsistent with the provisions of this article as the supervising agency shall deem necessary or desirable to secure repayment of the loan under this article.

5. The supervising agency may require the payment of charges by the owner of such existing multiple dwelling in consideration for the financing, regulation, supervision and audit of such loan. Such charges shall be paid into the treasury of the municipality requiring the charges and shall be paid and deposited in the general fund of any such municipality.

6. In the case of a loan made pursuant to this article, the supervising agency may pay any liens and charges the priority of which is superior to its mortgage and may pay such other expenses as may be appropriate to protect its loan or to protect the lien of the mortgage relating thereto, provided that such expenditures shall not exceed the total amount of such loan.

* 7. Notwithstanding the provisions of, or any regulation promulgated pursuant to, the emergency housing rent control law, the local emergency housing rent control act, the emergency tenant protection act of nineteen seventy-four, or any local law enacted pursuant thereto, upon completion of the rehabilitation of a multiple dwelling which is aided by a loan made pursuant to this article, the supervising agency, may as an alternative to permissible rental adjustments under such laws and regulations, adjust the rent for each rental dwelling unit within the multiple dwelling. The initial rental adjustment, if set by the supervising agency, shall be established based solely on the debt service attributable to the loan, provided, that the supervising agency may establish rental adjustments less than such debt service, provided further that the supervising agency may establish greater rental adjustments for vacant dwelling units than for occupied dwelling units. The supervising agency shall cause all tenants in occupancy of each dwelling unit affected by the provisions of this subdivision to be

notified of and have an opportunity to comment on contemplated rehabilitation. Such notification shall advise such tenants of the approximate expected rent increase. Such notification and opportunity to comment shall be provided before the rehabilitation and again after the construction is completed and before the establishment of the rental adjustment.

* NB Expires July 1, 2027

* 8. Notwithstanding the provisions of, or any regulation promulgated pursuant to, the emergency housing rent control law, the local emergency housing rent control act, the emergency tenant protection act of nineteen seventy-four, or any local law enacted pursuant thereto, upon completion of the rehabilitation of a class B multiple dwelling, class A multiple dwelling used for single room occupancy purposes, lodging house or a substantially vacant building intended to be used after rehabilitation for single room occupancy purposes and which is aided by a loan pursuant to this article made by the municipality on or after September first, nineteen hundred eighty-five, the agency shall establish the initial rent for each rental dwelling unit within the multiple dwelling. All dwelling units within the multiple dwelling subsequent to establishment of initial rents by the agency shall be subject to the rent stabilization law of nineteen hundred sixty-nine. The occupant in possession of such a dwelling unit when it is made subject to the rent stabilization law of nineteen hundred sixty-nine shall be offered a choice of a one or two year lease at the initial rents established by the agency notwithstanding any contrary provisions of, or regulations adopted pursuant to, the rent stabilization law of nineteen hundred sixty-nine and the emergency tenant protection act of nineteen seventy-four. The agency shall cause all tenants in occupancy of each dwelling unit affected by the provisions of this subdivision to be notified of and have an opportunity to comment on the contemplated rehabilitation. Such notification shall advise such tenants of the approximate expected rent increase and the subsequent availability of a one or two year lease. Such notification and opportunity to comment shall be provided before the rehabilitation and again after the construction is completed and before the establishment of the initial rents.

* NB Expires July 1, 2027

9. The note or note and contract issued by the owner of any such multiple dwelling to secure such loan may provide that the loan shall be reduced to zero commencing on the fifteenth year after the execution of the note or note and contract, provided that, as of the date of such reduction, the multiple dwelling has been and continues to be owned and operated in a manner consistent with a regulatory agreement with the municipality. Notwithstanding such provision as contained in the note or note and contract, the loan shall be reduced to zero only if, prior to or simultaneously with delivery of such note or note and contract, the agency made a written determination that such reduction would be necessary to ensure the continued affordability or economic viability of the multiple dwelling. Such written determination shall document the basis upon which the loan was determined to be eligible for evaporation.

§ 453. Conditions precedent to making such loans. No such loan shall be made by a municipality to an owner of an existing multiple dwelling unless the owner of such multiple dwelling shall covenant in writing that so long as any part of such loan shall remain unpaid or for a period of at least ten years from the date of the loan, whichever is later:

1. Each dwelling unit in such multiple dwelling shall be available solely for occupancy by persons of low income;

2. No person who lives in such multiple dwelling at the time the loan is made shall be required to move because of the rehabilitation or improvement financed thereby, except that a temporary relocation may be required in connection with such rehabilitation or improvement;

3. All persons operating or managing such multiple dwelling will permit the duly authorized officers, employees, agents or inspectors of the municipality to enter in or upon and inspect such multiple dwelling at all reasonable hours;

4. The municipality by such duly authorized representatives as

aforesaid shall have full power to investigate into and order the owner of such multiple dwelling to furnish such reports and information as it may require concerning such rehabilitation or improvement and shall have full power to audit the books of said owner with respect to such matters; and

5. The owner will submit to the supervising agency annually a statement of the income and expenses of such multiple dwelling, in such form as shall be approved by such agency.

§ 454. Servicing of municipal loans by banking institutions. The municipality is authorized to make provision, either in the loan agreement or by separate agreement, for the performance by one or more banking institutions of such services as are generally performed by any such bank itself owning and holding such a loan and as may be approved by the superintendent of financial services, for which services a bank may make and collect such service charges as the superintendent shall prescribe or approve.

§ 455. Rules and regulations. The supervising agency may promulgate supplementary rules and regulations to carry out the provisions of this article, not inconsistent with the provisions of this article.

*** § 456. Minimization of displacement.** The supervising agency shall use its best efforts to ensure that activities carried out pursuant to subdivisions seven and eight of section four hundred fifty-two of this article are structured so as to minimize the likelihood of any involuntary economic displacement of tenants who reside in multiple dwellings which are the subject of such activities. However, if temporary physical displacement is required as a direct result of rehabilitation work which is performed in such multiple dwelling receiving a loan pursuant to this article suitable temporary relocation arrangements shall be provided.

* NB Expires July 1, 2027

* **§ 457. Records.** The supervising agency shall take reasonable steps to determine and maintain a record of tenants economically displaced by virtue of the exercise of powers granted pursuant to subdivisions seven and eight of section four hundred fifty-two of this article.

* NB Expires July 1, 2027

ARTICLE VIII-B

LOANS TO OWNERS OF ONE TO FOUR UNIT PRIVATE AND MULTIPLE DWELLINGS

Section 470. Policy and purposes of article.

471. Definitions.

472. Loans to owners.

473. Conditions precedent to making such loans.

474. Servicing of loans by banking institutions and loan servicing companies.

475. Interest reduction subsidies.

476. Mortgage recording tax exemption.

477. Rules and regulations.

478. Source of funds.

§ 470. Policy and purposes of article. It is hereby declared and found that there exists in municipalities within the state substandard and unsanitary areas and neighborhoods containing deteriorated one to four unit private and multiple dwellings, and that the rehabilitation or preservation of such dwellings is necessary in order to aid in the prevention and elimination of slums and blight in such areas and neighborhoods.

It further is found that there exists in such municipalities a seriously inadequate supply of safe and sanitary one to four unit private and multiple dwellings, particularly for persons of low and moderate income, that existing non-compliance with local housing codes and with the multiple dwelling law and the multiple residence law threatens to decrease such supply, and that the rehabilitation,

preservation and improvement of such dwellings is necessary to arrest such conditions of deterioration.

It further is found that the elimination of such conditions by rehabilitation or other improvements in one to four unit private and multiple dwellings cannot be readily provided without public aid in the form of low interest loans or grants to owners of such one to four unit dwellings.

The rehabilitation, preservation or other improvement of such private and multiple dwellings is hereby declared a public purpose and a municipal purpose for which public monies may be loaned or granted.

In order, further, to promote the preservation and rehabilitation of such dwellings, it is hereby declared that additional provisions should be made to provide public monies for interest reduction subsidies for private loans made by private investors for such rehabilitation.

The necessity in the public interest for the provisions of this article is hereby declared as a matter of legislative determination.

§ 471. Definitions. 1. "Agency" shall mean any agency or instrumentality of a municipality that is created by legislation and designated by the chief executive to act on behalf of the municipality with regard to the provisions of this article.

2. "Banking organization" shall mean any corporation, association or organization organized under the banking laws of New York state or the United States which is authorized to transact business in this state.

3. "Existing multiple dwelling" shall mean any dwelling classified as a multiple dwelling pursuant to the multiple dwelling law or the multiple residence law and in existence on the date upon which an application for a loan pursuant to this article is received by the agency.

4. "Existing private dwelling" shall mean any dwelling classified as a private dwelling pursuant to the multiple dwelling law or the multiple residence law and in existence on the date upon which an application for a loan pursuant to this article is received by the agency.

5. "Federal grant funds" shall mean any grants received from the federal government for community development activities or for the rehabilitation or conservation of private or multiple dwellings.

6. "Low and moderate income persons" shall mean persons and families who cannot afford to improve their homes by relying upon the ordinary unaided operation of private enterprise.

7. "Municipality" shall mean any city, town or village.

8. "Owner" shall mean an individual or individuals, a partnership, a corporation or other entity, including but not limited to, a trust, a joint tenancy, tenancy in common or tenancy by the entirety holding record or beneficial title in fee simple to an existing private or multiple dwelling and the real property upon which it is situated, or the lessee thereof under a lease having an unexpired term of at least thirty years. "Owner" shall be deemed to also include a cooperative corporation or a condominium association.

9. Reserved.

10. "Private investor" shall mean one or more banking organizations, foundations, public benefit corporations, labor unions, credit unions, employers' associations, veterans' organizations, colleges, universities, educational institutions, child care institutions, hospitals, medical research institutes, insurance companies, trustees or fiduciaries, trustees of pension and retirement funds and systems, corporations, partnerships, individuals or other entities or any combination of the foregoing, and shall include the United States of America and any of its agencies and departments.

11. "Rehabilitation" shall mean the installation, replacement, or

repair of heating, plumbing, electrical and related systems or the elimination of conditions dangerous to human life or detrimental to health, including nuisances as defined in local housing or health codes or as defined in section three hundred nine of the multiple dwelling law, or in section three hundred five of the multiple residence law, or other rehabilitation or general property and energy conservation improvements.

12. "State grant funds" shall mean any grants received from the state or any public benefit corporation for community development activities or for the rehabilitation or conservation of private or multiple dwellings.

§ 472. Loans to owners. 1. Notwithstanding the provisions of any general, special or local law, a municipality, acting through an agency, is authorized:

(a) to make, or contract to make, loans to owners of one to four unit existing private or multiple dwellings within its territorial limits, subject to the limitation of subdivisions two through seven of this section, in such amounts as shall be required for the rehabilitation, improvement or acquisition of such dwellings provided, that any such rehabilitation or improvement may include climate resiliency improvements. Such loans may also be made exclusively for or include the refinancing of the outstanding indebtedness of such dwellings, and the municipality may make temporary loans or advances to such owners in anticipation of permanent loans for such purposes; and

(b) to make or contract to make grants to any owner described in paragraph (a) of this subdivision, on the same terms as permitted under such paragraph for a loan.

1-a. As used in this article, the term "loan" shall include any grant made by a municipality pursuant to this article, provided, however, that provisions of this article concerning the repayment or forgiveness of, or security for, a loan shall not apply to any grant made pursuant to this article.

2. Each loan shall be evidenced by a note executed by the owner of the existing dwelling. Repayment of each such note shall be within a period of forty years, provided that such period may be extended as the agency may determine necessary to ensure the continued affordability or economic viability of the existing dwelling. The repayment shall be made in such manner as may be provided in such note and contract, if any, in connection with such loan, and may authorize such owner, with the consent of the agency, to prepay the principal of the loan subject to such terms and conditions as therein provided. In order to make any such loan affordable to the owner, the agency may provide in such note and contract that all of the outstanding principal of said loan may be self-liquidated over a period of not less than fifteen years of continuous compliance by the owner with a regulatory agreement or other restrictive covenant with or approved by the agency and upon the satisfaction of any additional conditions specified therein. Such note and contract may contain such other terms and provisions not inconsistent with the provisions of this article as the agency may deem necessary or desirable to secure repayment of the loan, the interest thereon, if any, and other charges in connection therewith, and to carry out the purposes and provisions of this article, including, but not limited to, providing that the lien created by the note and mortgage, and, if applicable, any regulatory agreement executed by such owner and agency, or restrictive covenant approved by such agency, may be recorded in an equal or subordinate position, or subsequently made equal or subordinate, to a lien recorded by any private lender against such existing dwelling.

3. The agency in its discretion may require that the owner execute, acknowledge and deliver a uniform commercial code financing statement for the real property improvement to be in such form as the agency shall specify and in accordance with the requirements of section 9--502 of the uniform commercial code of the state of New York. Said financing statement shall be filed or recorded without charge in accordance with the provisions of paragraph one of subsection (a) of section 9--501 of the uniform commercial code, and from the date of such filing the municipality shall have a lien against said real property improvement for the amount advanced or so much thereof as remains unpaid together

with the interest thereon. Upon payment of all sums advanced by the municipality and interest thereon, and upon demand of the then record owner of the real property, the agency shall deliver a copy of the financing statement with an endorsement thereon that the lien is satisfied. Upon filing of such copy in the office where the financing statement was filed and upon payment of the proper fee therefor, the lien of such financing statement shall be discharged.

4. The agency may require the owner to execute a mortgage as security for a loan in lieu of or in addition to a financing statement as provided in subdivision three of this section. Such mortgage shall contain such terms and provisions not inconsistent with the provisions of this article as the agency shall deem necessary or desirable to secure repayment of the loan.

5. Loans may be made with respect to a one to four unit private or multiple dwelling encumbered by mortgages, provided no mortgage is in default, except if such default shall be remedied by the proposed rehabilitation or improvement.

6. The agency may require the payment of charges by the owner of such existing private or multiple dwelling in consideration for the financing, regulation, supervision and audit of such loan. Such charges shall be paid into the treasury of the municipality requiring the charges and shall be paid and deposited in the general fund of any such municipality.

7. In making a loan under this article, an agency shall have the power to participate in a loan made by any private investor. The agency may enter into an agreement with a private investor to deposit funds with such private investor to cover the agency's participation in loans to owners of one to four unit existing private and multiple dwellings with such funds advanced by such private investor to owners of existing dwellings. The portion of the loan funded by the agency may be equal to or subordinate in lien to the portion of the loan funded by the private investor and the note and contract may contain such terms with respect to interest rate, if any, and time of payment of principal and interest

as determined by the agency. The agency may make provision, either in the mortgage or mortgages or by separate agreement, for the performance by the private investor of such services as are generally performed by a banking institution which itself holds a mortgage, including, without limitation, construction loan advances, construction supervision, initiation of foreclosure proceedings, procurement of insurance, and all other matters in connection with the financing, supervision, regulation and audit of any such loan. In order to make the loan affordable to the owner, the agency may provide an interest reduction subsidy pursuant to section four hundred seventy-five of this article, or may provide that all or part of the agency's portion of the outstanding principal of any such participation loan may be self-liquidated over a period of not less than fifteen years of continuous compliance by the owner with a regulatory agreement or other restrictive covenant with or approved by the agency and upon the satisfaction of any additional conditions specified therein.

§ 473. Conditions precedent to making such loans. 1. No such loan shall be made to an owner of an existing private or multiple dwelling unless the owner of such private or multiple dwelling shall covenant in writing that so long as any part of such loan shall remain unpaid or any requirement imposed as a condition for making such loan that survives the repayment of such loan, including, but not limited to, in a regulatory agreement executed by such owner and the agency or a restrictive covenant approved by such agency, remains in effect: (i) the owner or managing agent or operator of such dwelling shall permit the duly authorized officers, employees, agents or inspectors of the agency to enter in or upon and inspect such private or multiple dwelling at all reasonable hours; (ii) the agency by such duly authorized representatives as aforesaid shall have full power to investigate into and order the owner of such dwelling to furnish such reports and information as it may require concerning such rehabilitation or improvement and shall have full power to audit the books of said owner with respect to such matters; and (iii) if the property to be rehabilitated is a multiple dwelling, the owner will submit to the agency annually a statement of income and expenses of such dwelling, in

such form as shall be approved by the agency.

2. A municipality shall neither make nor participate in a loan to an owner of an existing private or multiple dwelling pursuant to this article unless the agency finds that (i) the area in which such dwelling is situated is a blighted, deteriorated or deteriorating area or has a blighting influence on the surrounding area, or is in danger of becoming a slum or a blighted area because of the existence of substandard, unsanitary, deteriorating or deteriorated conditions, an aged housing stock, or other factors indicating an inability of the private sector to cause such rehabilitation to be made; or (ii) the owner of such private or multiple dwelling is a person or family of low income.

3. The agency shall have the power to impose additional terms and conditions precedent to make such loans.

§ 474. Servicing of loans by banking institutions and loan servicing companies. 1. The agency is authorized to make provision in the note and loan agreement or by separate agreement for the performance by one or more banking institutions of such services as are generally performed by any such bank itself owning and holding such a loan and as may be approved by the superintendent of financial services for which services a bank may make and collect such service charges as the superintendent shall prescribe or approve.

2. The agency is authorized to make provision in the note and loan agreement or by separate agreement for the servicing of such loans by a loan servicing company or other qualified entity, as determined by the agency, and such services may include, but not be limited to, the collection of the debt services on such loans and the establishment, administration, and distribution of an escrow account for the payment of the owner's real estate taxes, sewer and water rents and fire insurance.

§ 475. Interest reduction subsidies. Notwithstanding the provisions of any general, special or local law, a municipality, acting through an

agency, is authorized to provide, or contract to provide, interest reduction subsidies for loans made by private investors to owners of one to four unit existing private or multiple dwellings within its territorial limits, if such owners would have been eligible under the provisions of this article for a loan made by the municipality pursuant to this article.

§ 476. Mortgage recording tax exemption. Notwithstanding any inconsistent provision of law, mortgages to secure a loan made pursuant to the provisions of this article shall be exempt from the mortgage recording taxes imposed by article eleven of the tax law.

§ 477. Rules and regulations. The agency may promulgate rules and regulations to carry out the provisions of this article.

§ 478. Source of funds. A municipality may utilize federal grant funds, state grant funds or any municipal funds to make loans and to provide interest reduction subsidies pursuant to this article.

ARTICLE IX

ACQUISITION OF PROPERTY

Section 500. Acquisition of real property.

501. Proceedings to acquire.

502. Condemnation of excess property.

503. Sale or lease of municipal lands to a housing company.

504. Re-entry of lands sold or leased.

507. Condemnation certificate of commissioner.

508. Notice of public hearing.

§ 500. Acquisition of real property. Real property may be acquired by a housing company, a limited-profit housing company or by a municipality for a housing company or a limited-profit housing company, by gift,

grant, devise, purchase, condemnation or otherwise.

§ 501. Proceedings to acquire. 1. A housing company or a limited-profit housing company electing to acquire through a municipality, may petition the municipality to institute proceedings under any applicable general, special or local law, to acquire property described in the petition for a project. The resolution granting the petition shall set forth the amount to be paid by the housing company or limited-profit housing company to the municipality for such property or in lieu thereof that the housing company or limited-profit housing company shall pay to the municipality all sums expended or required to be expended by the municipality in the acquisition thereof, and the time of payment and manner of securing payment thereof, and may require that the municipality shall receive, before proceeding with the acquisition of such property, such assurances as to payment or reimbursement by the housing company or limited-profit housing company or otherwise as the municipality may deem advisable. Upon the passage of a resolution by the local legislative body of the municipality granting the petition, the housing company or limited-profit housing company shall cause two copies of surveys or maps of the property described in the petition to be made, one of which shall be filed in the office of the housing company or limited-profit housing company, one in the office of the corporation counsel or chief law officer of the municipality. The filing of such copies of surveys or maps shall be conclusive evidence of the acceptance by the housing company or limited-profit housing company of the terms and conditions of such resolution. The municipality may proceed in accordance with the provisions of the eminent domain procedure law. When title to the property shall have vested in the municipality, it shall convey the same to the housing company or limited-profit housing company upon payment by the housing company or limited-profit housing company of the sums and the giving of the security required by the resolution granting the petition. As soon as title shall have vested in the municipality, the housing company or limited-profit housing company may, upon the authorization of the mayor, enter upon the property taken, take over and dispose of existing improvements, and carry out the terms of the project with respect thereto. Whenever in connection with

acquisition proceedings, requirement is made in any applicable general, special or local law for the performance of an act by a department or officer of the municipality, it shall be regarded for the purposes of this section as compliance therewith if with the approval of the mayor such act is performed by the housing company or limited-profit housing company or by persons specially designated by it.

2. In any proceedings for the assessment of compensation and damages for property taken or to be taken by condemnation by or for a housing company or limited-profit housing company, the following provisions shall be applicable:

(a) Evidence of the price and other terms upon any sale or the rent received or reserved, whichever is less, and other terms upon any option, lease or tenancy relating to any of the property taken or to be taken or to any similar property in the vicinity when the option, sale or lease was given, occurred or the tenancy existed, within a reasonable time of the trial, shall be admissible on direct examination. At any stage of the proceeding, the court or tribunal may require such prior notice to be given of an intention to introduce evidence as to the sale, option, leasing or tenancy of property other than the property directly involved in the proceeding and of particulars relating thereto as it may deem necessary to prevent surprise.

(b) The deposition of any person, whether or not a party, may be taken in the manner provided by article thirty-one of the civil practice law and rules, and the provisions of this section. Such deposition may be taken upon any question or issue in the proceeding, including the facts as to any sale, option, lease or tenancy admissible in evidence pursuant to this subdivision. The deposition may be taken at the instance of the housing company or limited-profit housing company, the municipality or of any owner or at the direction of the court, at any time during the pendency of the action or proceeding. At least five days' notice, or if service is through the mails, at least eight days' notice, shall be given of the taking of the testimony, if on the part of an owner, to the housing company or limited-profit housing company and to all other owners who have appeared in the proceeding; if by the housing company or limited-profit housing company or a municipality, to all owners who have appeared in the proceeding.

(c) Any time during the pendency of such action or proceedings, a housing company or limited-profit housing company, municipality or an owner may apply to the court for an order directing an owner or the housing company or limited-profit housing company or the municipality, as the case may be, to show cause why further proceedings should not be expedited, and the court may upon such application make an order requiring that the hearings proceed and that any other steps be taken with all possible expedition.

(d) For the purposes of this article, the award of compensation shall not be increased by reason of any increase in the value of the property caused by the clearance, reconstruction or proposed clearance or reconstruction for the purposes of this chapter of the property or of the area in which the property is situated. No allowance shall be made for improvements begun on property after notice to the owner of such property of the institution of the proceedings to condemn such property.

(e) Evidence shall be admissible bearing upon the insanitary, unsafe or substandard condition of the premises, or the illegal use thereof, or the enhancement of rentals from such illegal use, and such evidence may be considered in fixing the compensation to be paid, notwithstanding that no steps to remedy or abate such conditions have been taken by the department or officers having jurisdiction. If a violation order is on file against the premises in any such department, it shall constitute prima facie evidence of the existence of the condition specified in such order.

(f) If any of the property included within the project is devoted to a public use, it may nevertheless be acquired provided that no property belonging to the municipality or to any government may be acquired without its consent, and no property belonging to a public utility corporation may be acquired without the approval of the commission or other officer or tribunal having regulatory power over such corporation.

(g) Upon the trial, evidence of the price and other terms upon a sale or assignment or of a contract for the sale or assignment of a mortgage, award, proposed award, transfer of a tax lien or lien of a judgment relating to property taken, shall be relevant, material and competent, upon the issue of value or damage and shall be admissible on direct examination.

(h) Upon the trial a statement, affidavit, deposition, report,

transcript of testimony in an action or proceeding, or appraisal made or given by any owner or prior owner of the premises taken, or by any person on his behalf, to any court, governmental bureau, department or agency respecting the value of the property for tax purposes, shall be relevant, material and competent upon the issue of value or damage and shall be admissible on direct examination.

(i) The term "owner," as used in this section, shall include a person having an estate, interest or easement in the property to be acquired or a lien, charge or encumbrance thereon.

3. The term "housing company", as used in this section, shall include a housing development fund company organized pursuant to the provisions of article eleven of this chapter.

§ 502. Condemnation of excess property. A municipality may take private property for a limited-profit housing company by condemnation for the purpose of providing low rent housing for families of low income, or for the clearance, replanning, reconstruction and rehabilitation of areas, or for both of such purposes, and for recreational and other facilities incidental or appurtenant thereto, but in excess of that required for public use after such purposes shall have been accomplished. A municipality or a limited-profit housing company may improve and utilize such excess property wholly or partly for any other public purpose, or may lease or sell such excess property with restrictions to preserve and protect the project or projects. Proceedings to acquire such excess property may be brought by the municipality for a limited-profit housing company in the same manner as for the real property required for the project and may be included in the proceedings for the acquisition of real property required for the project.

§ 503. Sale or lease of municipal lands to a housing company. 1. The local legislative body of a municipality, by resolution, may determine that real property of the municipality, specified and described in such resolution is not required for use by the municipality and may authorize

the municipality to sell or lease such real property to a housing company.

2. Notwithstanding the provisions of any general, special or local law or ordinance, such sale or lease may be made without appraisal, public notice or public bidding for such price or rental and upon such terms (and, in case of a lease, for such term not exceeding fifty years with a right to one renewal term of thirty years) as may be agreed upon between the municipality and the housing company.

3. Before any sale or lease to a housing company shall be authorized, a public hearing shall be held by the local legislative body to consider the proposed sale or lease.

4. Notice of such hearing shall be published at least ten days before the date set for the hearing in such publication and in such manner as may be designated by the local legislative body.

5. The deed or lease of such property shall be executed in the same manner as a deed or lease by the municipality for other real property and shall contain appropriate conditions and provisions to enable the municipality to re-enter the property in the event of a violation by the housing company of any of the provisions of this chapter relating to such company or of the conditions or provisions of such deed or lease.

6. A housing company purchasing or leasing land from a municipality, shall not, without the written approval of the municipality, use such land for any purpose except in connection with a project approved under this chapter. The deed shall contain a condition that the company will devote the land granted only for the purposes of a project, subject to the restrictions of this chapter for breach of which the municipality shall have the right to re-enter and repossess itself of the land.

§ 504. Re-entry of lands sold or leased. 1. After the expiration of one year from the sale or lease of real property by the municipality to a housing company, the municipality shall have the right of re-entry in

the manner hereinafter provided. Such right of re-entry may, where the property has been sold, be exercised at any time prior to twenty years after such sale, or where the property has been leased, at any time prior to the termination of the lease. The local legislative body may by resolution determine to re-enter the real property of any housing company which has purchased or leased property from the municipality.

2. A certified copy of such resolution shall be filed in the office of the county clerk or register in which the deed or lease of such property is recorded, and shall be served upon the housing company and also upon all obligees, mortgagees or holders of liens upon the real property or upon any interest therein. Upon the filing of such resolution all indebtedness of the housing company shall become immediately due and payable.

3. The municipality shall, within ninety days after the filing of the resolution to re-enter, or as soon thereafter as may be feasible, pay to the company a sum which, together with the assets of such company, shall be sufficient to discharge all the indebtedness of the company, pay the reasonable expenses of liquidation and dissolution and return to the holders of stock and debentures then outstanding, the par value thereof plus interest at the rate of six per centum per annum and any accrued and unpaid dividends or interest on such outstanding stock and debentures.

4. Upon the making of such payment the housing company shall deliver to the municipality proper instruments evidencing the cancellation of the indebtedness and the surrender of the rights of the company and thereupon the repossession by the municipality shall be complete.

5. In the event of a foreclosure of a mortgage or other lien held by any other person, bodies, institutions, associations, or corporations specified in section eighty-one the right of re-entry by the municipality shall terminate upon the entry of a judgment of foreclosure and sale.

§ 507. Condemnation certificate of commissioner. The power of condemnation shall not be exercised by a housing company, except with the authorization of such action by the commissioner, which authorization shall be in the form of a certificate declaring that the acquisition of the property is necessary for the construction of a project and that the acquisition is in the public interest and necessary for the public use. Such certificate shall be issued only after a public hearing. The certificate shall state the nature of the interest to be acquired.

§ 508. Notice of public hearing. The hearing shall be held at a time and place appointed by the commissioner who shall give notice of such hearing by publication in a newspaper, designated by him, published or circulated in the municipality or county wherein the property is located, at least ten days prior to such hearing. Where a municipality publishes an official daily publication, notice of hearing shall be published only in such official publication. A duly certified copy of such certificate shall be conclusive evidence as to the matters lawfully certified therein in any proceeding to acquire property, or any part thereof, set forth in such certificate.

ARTICLE 10

SALE OR LEASE OF PROJECTS

- Section 550. Application of article.
- 551. Definitions.
 - 552. Sale or lease of projects.
 - 553. Conditions precedent to sale or lease.
 - 554. Provisions of lease.
 - 555. Financial structure.
 - 556. Tax exemptions.
 - 557. Supervision of certain housing companies.
 - 558. Subsidies.
 - 559. Savings clause.
 - 560. Laws repealed.

§ 550. Application of article. This article shall apply only to federal, state or municipal projects purchased or leased from municipalities or housing authorities by housing companies. Except as otherwise expressly provided in this article, the terms and provisions of this chapter and other applicable laws shall apply to projects sold or leased to housing companies and to housing companies acquiring such projects.

§ 551. Definitions. As used in this article, the following terms shall mean and include:

1. "Cost of acquisition." In the case of a project purchased from an authority or municipality, the cost of acquisition shall include the purchase price, costs incidental to the transfer of title, and the estimated cost, if any, of necessary alterations and repairs to be performed within six months after transfer of title to the housing company. Such cost of acquisition shall, in the case of a limited dividend or state-aided limited-profit housing company, be determined and certified by the commissioner; in the case of a municipally-aided housing company, it shall be determined and certified by the supervising agency.

In the case of a project leased from a municipality or authority, the cost of acquisition shall be the value of the lease to the company, as determined and certified by the commissioner in the case of a limited dividend or state-aided limited-profit housing company, or by the supervising agency, in the case of a municipally-aided limited-profit housing company.

2. "Housing company." A limited dividend or limited profit housing company organized pursuant to the provisions of article four or article two of this chapter.

3. "Project." A specific work or improvement, including lands, buildings and improvements acquired, owned, constructed, managed or

operated by an authority or a municipality to provide dwelling accommodations for persons of low income.

§ 552. Sale or lease of projects. 1. An authority or a municipality may grant, sell, lease or convey a project, or part thereof, either prior to, at the date of, or subsequent to the physical completion thereof, to a housing company, without public bidding, public sale or public offering, and a housing company may accept, purchase, lease or otherwise acquire such project or part thereof upon such terms and conditions as may be agreed upon by such authority or municipality and such housing company, and provided that such sale or lease and the terms and conditions thereof shall be subject (a) in the case of a federally-aided project, to the approval of the federal government; (b) in the case of a state-aided project, to the approval of the commissioner; or (c) in the case of municipally-aided project, to the approval of the supervising agency and the local legislative body. In the event of a grant, sale, lease or conveyance of a project prior to the physical completion thereof, the authority or municipality may agree to complete construction and development of such project.

2. The purchase price to be paid on or prior to the date of transfer of title, or upon the physical completion of the project, shall not be less than the amount required by the municipality or authority to pay and retire, or to make provision for the payment and retirement of, all bonds, notes and other obligations issued by the municipality or authority to finance the project cost.

3. An authority or a municipality which has granted, sold, leased or conveyed a project or part thereof to a housing company may reenter all or part of such project in the manner provided in section five hundred four of this chapter.

4. The sale or lease of a project to a housing company may be conditioned on the inclusion in the certificate of incorporation of such housing company of a provision that no dividends or interest be paid on all or any issues of stock or debentures.

5. The parties to any lease or conveyance effecting the transfer of a publicly-assisted project to a housing company, executed prior to the effective date hereof, may amend such lease or conveyance in accordance with the provisions of this article.

§ 553. Conditions precedent to sale or lease. No such grant, sale, lease or conveyance under this article shall be made unless (1) the authority or municipality, after a public hearing on ten days published notice, and with the approval of the government providing the financial assistance, shall find that such transfer is in the best public interest, (2) adequate provision will be made for tenant relocation, and (3) adequate provision will be made for the payment or retirement of all bonds, notes and other obligations issued by the municipality or authority to finance the project cost.

§ 554. Provisions of lease. 1. Every lease of a project or a part thereof to a housing company:

(a) shall provide that all improvements shall be the property of the lessor;

(b) may require that provision be made for the retirement and surrender of all outstanding shares and debentures upon the termination of the lease;

(c) may reserve such easements or other rights in connection with the property as may be deemed necessary or desirable for the future planning and development of the municipality and the extension of public facilities therein;

(d) shall contain a provision authorizing the lessor to designate a director of the housing company; and

(e) may contain such other provisions as are not inconsistent with the provisions of this chapter.

2. Such lease shall not impose upon the lessor any liability or obligations in connection with or arising out of the financing, construction, reconstruction, alteration, management or operation of a

project, but such lease shall contain such provisions as may be necessary to protect the interests of the authority or municipality.

§ 555. Financial structure. 1. (a) The entire amount to be paid in cash or property by the stockholders and income debenture holders of a housing company acquiring fee title to a project shall be equivalent to at least twenty per centum of the cost of acquisition of such project as certified by the commissioner in the case of companies organized pursuant to the provisions of article four of this chapter, or at least ten per centum of the cost of acquisition in the case of companies organized pursuant to the provisions of article two of this chapter, as certified by the commissioner or supervising agency, as the case may be.

(b) The entire amount to be paid in cash or property by the stockholders and income debenture holders of a housing company acquiring a project by lease shall be determined by the commissioner or supervising agency, as the case may be. In the event a state-aided project shall be acquired by a municipally-aided company by lease, the approval of the commissioner shall be required in addition to the approval of the supervising agency.

2. The provisions of subdivision one hereof shall not be applicable to any housing company organized pursuant to article four of this chapter if such company shall receive a loan from the federal government or any instrumentality thereof, or if any mortgage or mortgage bonds insured by the federal housing administration are used in financing the project, or the acquisition thereof, in whole or in part. In such case the equity required shall be the difference between the amount of such loan or mortgage and the cost of acquisition.

§ 556. Tax exemptions. Notwithstanding the provisions of section fifty-two, subdivisions three and four of the public housing law, or of sections thirty-three or ninety-three of this chapter, the real property in a project sold or leased as provided in this article, when the transfer thereunder becomes effective, shall be exempt from local and municipal taxes, other than assessments for local improvements, only to

such extent as may be granted by the local legislative body of any municipality in which such project is located; provided, however, that any company to which such project is so sold or leased shall pay, with respect to each such project, local and municipal taxes in amounts not less than the sum or sums which the authority would be obligated to pay to the municipality had it not sold or leased the project to such company. The tax exemption shall operate and continue (1) so long as capital loans of the company to which such project shall have been sold or leased are outstanding, or in case of lease, so long as obligations of the municipality or authority to the government granting financial assistance to the municipality or authority with respect to the project so leased shall continue and (2) until and unless the project shall be repossessed by the authority or municipality. Any project that received a tax exemption under this section may, upon the expiration of the tax exemption period, be granted an additional tax exemption period of up to fifty years, or until such time as the project is no longer operated under the restrictions and for the purposes set forth in this article, whichever is sooner.

§ 557. Supervision of certain housing companies. The provisions of section thirteen of this chapter requiring the approval by the commissioner of housing of the persons incorporating a limited-profit housing company, and the provisions of section fourteen of this chapter requiring the consent of the commissioner of housing to the filing of a certificate of incorporation of a limited-profit housing company in the office of the secretary of state and amendments thereof, shall not apply to a municipally-aided housing company organized for the purpose of purchasing or leasing a federally-aided project or municipally-aided project from a municipality or housing authority. The deed or lease shall, in such cases, make provision for the supervision of such companies by one or more state, federal or municipal agencies.

§ 558. Subsidies. 1. The obligation of the state to pay periodic subsidies to an authority or municipality for a project which has been leased or sold to a housing company, and the obligation of a

municipality to make subsidies in at least an equal amount, as required by section seventy-three of the public housing law, shall cease as of the last day of the fiscal year next after the effective date of the grant, sale, lease or conveyance.

2. In the event that an authority or municipality which has granted, sold, leased or conveyed a project to a housing company, for any reason or in any way resumes possession of such project, the obligations of the state and municipality to pay subsidies, as provided by the terms of section seventy-three of the public housing law, shall be deemed restored as of the first day of the fiscal year next prior to the date of such resumption of possession of such project.

§ 559. Savings clause. 1. The repeal of laws as specified in section five hundred sixty of this article, or amendment of any law as provided by this act, shall not affect or impair the validity of any action taken by any public official under the law in effect immediately prior to the time this article shall take effect nor affect or impair any contract or remedy or any act done or right accruing, accrued or acquired, or any penalty, forfeiture or punishment under or by virtue of the laws so repealed and in existence prior to the time when this article takes effect, but the same may be asserted, enforced or prosecuted, and for such purposes all of the laws specified in section five hundred sixty are hereby continued in full force and effect.

2. This article or anything herein contained shall not affect or abate any actions, proceedings, civil or criminal, pending at the time when this article takes effect, brought by, for or against the state, any municipality, authority, limited dividend or limited-profit housing company, under or in pursuance of the provisions of the laws repealed or amended by this article or act; but all such actions or proceedings may be continued, prosecuted, conducted and completed.

3. If any clause, sentence, paragraph, section or part of this article shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder

thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

4. The provisions of this article shall be construed liberally so as to facilitate the purposes of this article.

§ 560. Laws repealed. Subdivision four of section thirty-seven of the public housing law, as added by chapter nine hundred fifty-nine of the laws of nineteen hundred sixty, and section one hundred thirty-two of such law, as amended by chapter one hundred forty-eight of the laws of nineteen hundred forty, and section one hundred thirty-three of such law are hereby repealed.

ARTICLE XI

HOUSING DEVELOPMENT FUND COMPANIES

- Section 570. Short title.
571. Statement of legislative findings and purposes.
572. Definitions.
573. Incorporation and organization of housing development fund companies.
574. Establishment of fund.
- 574-a. Municipal housing development fund.
575. Advances; conditions; repayment.
576. Regulatory agreements.
- 576-a. Acquisition and disposition of real property by municipality.
- 576-b. Special provisions with respect to state urban development corporation projects.
- 576-c. Loans to housing development companies by a municipality.
- 576-d. Master servicing agreement.
- 576-e. Municipal housing assistance fund.
577. Tax exemptions.
- 577-a. Adjusting fair rental equalization for the elderly.

- 577-b. Payment of arrears for certain taxes.
- 578. Advisory and educational services.
- 579. Rules and regulations.
- 580. Examination by comptroller.
- 581. Inconsistent provisions in other laws superseded.
- 582. Separability clause.

§ 570. Short title. This article shall be known and may be cited and referred to as the "housing development fund companies law".

§ 571. Statement of legislative findings and purposes. The legislature hereby finds and declares that there continues to exist in the state a seriously inadequate supply of safe and sanitary dwelling accommodations within the financial reach of families and persons of low income. This condition is contrary to the public interest and threatens the health, safety, welfare, comfort and security of the people of the state.

The legislature further finds and declares that the ordinary operations of private enterprise cannot provide an adequate supply of safe and sanitary dwelling accommodations at rentals which families and persons of low income can afford.

The legislature further finds that eleemosynary institutions, settlement houses, fraternal and labor organizations, foundations and other non-profit associations are desirous of organizing companies to build or rehabilitate housing for low income families; that in order for such organizations to build or rehabilitate housing, such organizations need and can effectively utilize development funds to procure government aided or other permanent financing therefor.

The legislature further finds that such development funds and the provision of technical assistance in the organization and management of housing development fund companies will maximize federal funds and credits which may be available for the provision of housing for low income residents of the state.

It is the purpose of this act to provide temporary financial and technical assistance to enable such companies to participate more effectively in existing municipal, state and federal assistance programs and to make more effective use of other sources of financing which may be available for housing of persons and families of low income.

It is further the purpose of this article to coordinate activities aided under existing municipal, state and federal programs with other public and private actions in order to provide the most effective and economical concentration of federal, state, local, and private efforts to increase the supply of housing accommodations for persons of low income, and thereby improve the quality of life for all the people of the state.

It is further the purpose of this article to provide assistance for existing not-for-profit housing companies by providing advances from the housing development fund to facilitate the rehabilitation or construction of housing for low income families.

It is further the purpose of this article to provide assistance for the improvement of housing for farmworkers by providing advances to local loan administrators to make loans to agricultural producers for the purpose of constructing or improving non-conforming farmworker housing in order to comply with state regulations relating to such housing.

§ 572. Definitions. As used in this article, the following terms shall mean and include:

1. "Commissioner." The commissioner of housing and community renewal of the state of New York.

2. "Comptroller." The comptroller of the state of New York in the context of the housing development fund established by section five hundred seventy-four of this article, or the comptroller or chief fiscal

officer of a municipality in the context of the municipal housing development fund established pursuant to section five hundred seventy-four-a of this article, as the case may be.

3. "Development cost." The cost approved by the commissioner or the supervising agency, as the case may be, as appropriate expenditures which may be incurred prior to commitment and initial advance of the proceeds of a mortgage, including but not limited to: (a) payments for options to purchase properties on the proposed housing project site, deposits on contracts of purchase, or, with prior approval of the commissioner or the supervising agency, as the case may be, payments for the purchase of such properties; (b) legal and organizational expenses, including payment of attorneys' fees, project manager and clerical staff salaries, office rent and other incidental expenses; (c) payment of fees for preliminary feasibility studies, advances for planning, engineering and architectural work; (d) expenses for tenant or home ownership surveys and market analyses; (e) necessary application and other fees; (f) bridge loans which shall mean such interim financing as may be necessary for the development of residential properties and which shall be repaid out of equity which may include proceeds from the syndication of the federal low income housing tax credit as established pursuant to the federal internal revenue code; and (g) such other expenses incurred by the housing development fund company or housing corporation as the commissioner or the supervising agency, as the case may be, may deem appropriate to effectuate the purposes of this article.

4. "Division." The division of housing and community renewal in the executive department of the state of New York.

5. "Federally-aided mortgage." A mortgage made or insured by the federal government or any agency or instrumentality thereof, or a mortgage loan entered into in conjunction with a housing assistance payments contract in connection with new construction or substantial rehabilitation pursuant to section eight of the United States Housing Act of 1937, as amended.

6. "Fund." The housing development fund created by section five

hundred seventy-four of this article, or a municipal housing development fund established pursuant to section five hundred seventy-four-a of this article, as the case may be.

7. "Gross project cost." The sum total of all reasonable and necessary costs incurred by a housing development fund company for carrying out all works and undertakings for the development of a housing project. These shall include but not necessarily be limited to the cost of all necessary studies, surveys, plans and specifications, architectural, engineering, legal or other special services, financing, acquisition, demolition, construction, equipment, and site development of new and rehabilitated buildings, rehabilitation, reconstruction, repair or remodeling of existing buildings, and the cost of tenant placement and tenant relocation services in connection with a project.

8. "Housing project." A specific work or improvement undertaken by a housing development fund company to provide dwelling accommodations, including the acquisition, construction and/or rehabilitation of lands, buildings and improvements, and such commercial, social, recreational, communal or other non-housing facilities as may be incidental or appurtenant thereto.

8-a. "State urban development corporation project." A project acquired, owned, constructed, managed or operated by a housing development fund company which is a subsidiary of the New York state urban development corporation, as the term "subsidiary" is defined in the New York state urban development corporation act.

8-b. "Farmworker housing project." A specific work or improvement that is undertaken by one or more agricultural producers for the construction or improvement of dwelling accommodations for farmworkers who are not family members of the agricultural producers. For the purposes of this section only, an "agricultural producer" shall mean a person or entity which owns or operates land eligible for an agricultural assessment pursuant to section three hundred five or section three hundred six of the agriculture and markets law and which produces food by the tillage of the soil, or raises, sheers, feeds or manages animals or other

dairying processes.

9. "Housing development fund company." A company incorporated and organized pursuant to section five hundred seventy-three of this chapter.

10. "Local legislative body." In a city, the board of aldermen, common council, commission, or other board or body now or hereafter vested with jurisdiction to enact ordinances or local laws, except that if there be, in a city of one million population or more, a board of estimate, the term shall mean only such board of estimate; in a town, the town board; in a village, the board or trustees; in a county, the board of supervisors.

11. "State-aided mortgage." A loan made by the state of New York or any agency or instrumentality thereof.

12. "Taxing jurisdiction." Any municipal corporation or district corporation, including any school district or any special district, having the power to levy or collect taxes and benefit assessments upon real property, or in whose behalf such taxes or benefit assessments may be levied or collected.

13. "Municipally-aided Mortgage." A loan made by a municipality pursuant to the provisions of article two of this chapter to a mutual company as defined in section twelve of this chapter or to a non-profit company incorporated pursuant to the provisions of the not-for-profit corporation law and article two of this chapter, or a loan made by a municipality pursuant to the provisions of article eight of this chapter to a mutual company as defined in section twelve of this chapter or to a not-for-profit corporation incorporated pursuant to the provisions of the not-for-profit corporation law and this article or a temporary construction loan or advance or a permanent loan that the supervising agency certifies is made pursuant to the provisions of article fifteen of this chapter to a mutual company as defined in section twelve of this chapter or to a not-for-profit corporation incorporated pursuant to the provisions of the not-for-profit corporation law and this article.

14. "Supervising Agency." The comptroller in a municipality having a comptroller; in a municipality having no comptroller, the chief fiscal officer of such municipality; except that in the city of New York it shall be the department of housing preservation and development.

15. "Housing corporation." A not-for-profit or charitable corporation which has as one of its primary purposes the improvement of housing for persons of low income, or a wholly owned subsidiary of such corporation or organization.

16. "Local loan administrator." A farm credit bureau or member of the farm credit system or a banking institution with a demonstrated ability to provide financial assistance and service to agricultural producers that have entered into a master servicing agreement prescribed pursuant to section five hundred seventy-six-d of this chapter.

§ 573. Incorporation and organization of non-profit housing corporations. 1. A housing development fund company shall be incorporated pursuant to the provisions of this article and the provisions of either (a) the business corporations law, (b) the not-for-profit corporation law, or (c) the not-for-profit corporation law and article two of this chapter.

2. The term "housing development fund corporation" or "housing development fund company" shall be included as a part of the corporate name as set forth in the certificate of incorporation.

3. The certificate of incorporation of any such corporation shall, in addition to any other requirements of law, provide:

a. that the company has been organized exclusively to develop a housing project for persons of low income;

b. that all income and earnings of the corporation shall be used exclusively for corporate purposes, and that no part of the net income

or net earnings of the corporation shall inure to the benefit or profit of any private individual, firm, corporation or association;

c. that if the corporation receives a temporary loan or advance from the housing development fund or a municipal housing development fund, as established by or pursuant to article eleven of the private housing finance law, it shall be authorized to enter into an agreement with the commissioner of housing and community renewal of the state of New York or the supervising agency, as the case may be, providing for regulation with respect to rents, profits, dividends and disposition of property or franchises;

d. that if the corporation receives a temporary loan or advance from the housing development fund or a municipal housing development fund, as established by or pursuant to article eleven of the private housing finance law, the commissioner of housing and community renewal of the state of New York or the supervising agency, as the case may be, shall have the power, if, in his or its discretion, he or it determines either that any such temporary loan or advance is in jeopardy of not being repaid, or that the proposed housing project for which such temporary loan or advance was made is in jeopardy of not being constructed, to appoint to the board of directors of such corporation a number of new directors, which number shall be sufficient to constitute a majority of such board, notwithstanding any other provision of such certificate of incorporation or of any other provision of law.

4. The certificate of incorporation of any such corporation organized pursuant to the business corporation law and this article shall, in addition, provide that each housing project of such corporation shall be operated exclusively for the benefit of the persons or families who are entitled to occupancy in such housing project by reason of ownership of shares in such corporation, and that such corporation may issue shares for home owners purchase notes if the purchase transaction has received the written endorsement of the commissioner in accordance with supplementary rules and regulations of the commissioner made therefor and if at least two hundred dollars in money or property is received by such corporation toward the issuance of such shares.

5. The secretary of state shall not file the certificate of incorporation of any such corporation or any amendment thereto unless the consent or approval of the commissioner or the supervising agency, as the case may be, is affixed thereon or attached thereto. Consent to the filing of such certificate of incorporation shall be based upon findings by the commissioner or supervising agency as to the character and competence of the sponsor.

§ 574. Establishment of fund. 1. There is hereby created and established in the division of housing and community renewal a revolving fund to be known as the "housing development fund."

2. There shall be paid into such housing development fund (a) any moneys appropriated and made available by the state for the purposes of such fund, (b) notwithstanding the provisions of the state finance law or any other provision of law, any moneys which the division of housing and community renewal shall receive in repayment of advances made from such fund, and (c) any other moneys which may be made available to the division of housing and community renewal for the purpose of such fund from any other source or sources.

2-a. All moneys paid into the fund from repayments of loans authorized by section five hundred seventy-six-d of this article shall continue to be made available for the purpose of providing loans pursuant to such section.

3. Any moneys held in such housing development fund not required for immediate disbursement may be invested, at the discretion of the commissioner, in obligations of the state or the United States government or obligations the principal and interest of which are guaranteed by the state or the United States government. Any income or interest earned by, or increment to, such housing development fund shall be added to the moneys held in such fund for the purposes herein provided.

§ 574-a. Municipal housing development fund. 1. A municipality may create and establish a revolving fund to be known as the "municipal housing development fund." Such a revolving fund shall be created and established in the supervising agency.

2. There shall be paid into such municipal housing development fund (a) any moneys appropriated and made available by the municipality for the purposes of such fund, (b) notwithstanding the provisions of the local finance law or any other provision of law, any moneys received in repayment of advances made from such fund, and (c) any other moneys which may be available for the purpose of such fund from any other source or sources.

3. Any moneys held in such municipal housing development fund not required for immediate disbursement may be invested, at the discretion of the supervising agency, in obligations of the state or the United States government or obligations the principal and interest of which are guaranteed by the state or the United States government. Any income or interest earned by, or increment to, such municipal housing development fund shall be added to the moneys held in such fund for the purposes herein provided.

§ 575. Advances; conditions; repayment. 1. The commissioner of housing and community renewal is hereby authorized to use the moneys held in the housing development fund to make non-interest bearing advances to housing development fund companies, and housing corporations in accordance with the provisions of this article. Such moneys shall be paid out of such fund, after audit by and upon the warrant of the comptroller, on vouchers approved by the commissioner.

1-a. The supervising agency is hereby authorized to use the moneys held in the municipal housing development fund or other funds appropriated by the municipality to make non-interest bearing advances to housing development fund companies in accordance with the provisions of this article and the applicable law of the municipality.

2. No such advances shall be made with respect to a housing project unless the commissioner or the supervising agency, as the case may be, (a) finds (1) that the housing development fund company, or housing corporation proposes to finance the project in whole or in part by a federally-aided, state-aided or municipally-aided mortgage or (2) that the project, if otherwise financed, will provide housing for persons or families of low income, as defined in this chapter, and is otherwise consistent with the purposes of this article; (b) finds that the project site is suitable, there is a need for this housing type proposed in the area to be served and the project is feasible; and (c) reasonably anticipates that financing will be obtained and makes a finding to that effect.

3. No such advances may be made to a housing corporation unless it enters into an agreement with the commissioner to be regulated with respect to rents, profits, dividends and disposition of its property or franchises. No such advances may be made to a housing development fund company unless it enters into an agreement in accordance with the provisions of section five hundred seventy-six of this article.

4. The proceeds of such advance may be used only to defray the development costs of such project.

5. Each such advance shall either (i) be consolidated with the lien of a municipally-aided mortgage, or (ii) be repaid in full by the housing development fund company, or housing corporation to the division of housing and community renewal or to the supervising agency as directed in paragraph (b) of subdivision two of section five hundred seventy-four-a of this article, as the case may be. Such repayment shall be made concurrent with receipt by the housing development fund company or its successor in interest, or housing corporation of the proceeds of its mortgage or construction loan, unless the commissioner or the supervising agency, as the case may be, shall extend the period for the repayment of such advances. In no event shall the time of repayment be extended later than the date of final advance of funds pursuant to such mortgage financing.

6. If the commissioner or the supervising agency, as the case may be, in his or its discretion shall, at any time, determine that permanent financing for the housing project may not be obtained, then and in that event all advances made to the housing development fund company, or housing corporation pursuant to this article shall become due and payable upon the demand of the commissioner or the supervising agency, as the case may be.

§ 576. Regulatory agreements. 1. Every housing development fund company as a condition precedent to receiving an advance pursuant to this article, shall enter into an agreement with the commissioner or with the supervising agency, as the case may be, to be regulated as follows:

a. Maximum rentals shall be fixed by the commissioner or the supervising agency, as the case may be, based upon the final gross project cost, at an amount sufficient to pay the necessary costs of the project.

b. Dwellings in any such project shall be available for persons or families whose probable aggregate annual income does not exceed six times the rental (including the value or cost to them of heat, light, water and cooking fuel) of the dwellings to be furnished such persons or families, except that in the case of persons or families with three or more dependents, such ratio shall not exceed seven to one. For purposes of this paragraph, tenants in a housing project of a housing development fund company organized under the provisions of the business corporations law and this article shall have added to their total annual carrying charges an amount equal to six per centum of the original investment of such person or family in the equity obligations of such housing company.

c. Profits shall be used for capital improvements or to reduce rentals.

d. Ordinary dividends may not be declared. Capital dividends may be

declared only with the consent of the commissioner or the supervising agency, as the case may be.

e. The property or franchises of the corporation may not be disposed of without the consent of the commissioner or the supervising agency, as the case may be, nor may the corporation be dissolved unless payment in full is made of remaining balances of principal and interest due and unpaid on any mortgage or mortgages, of any advances made from the fund pursuant to this article and of any and all expenses incurred in effecting such dissolution.

f. The commissioner or the supervising agency, as the case may be, shall have power, in his or its discretion, if he or it determines that any advance pursuant to this article is in jeopardy of not being repaid, or that the proposed housing project for which such advance was made is in jeopardy of not being constructed, to appoint to the board of directors of the corporation a number of new directors, which number shall be sufficient to constitute a majority of such board. Directors so appointed need not be stockholders or members or meet other qualifications which may be prescribed by the certificate of incorporation or by-laws. In the absence of fraud or bad faith directors so appointed shall not be personally liable for the debts, obligations or liabilities of the corporation.

2. A regulatory agreement pursuant to this section shall be terminated upon repayment in full of any and all advances made pursuant to this article provided that such termination shall not take place until (a) assumption of the regulation of the project by the commissioner, in the case of a state-aided mortgage, or by the supervising agency, in the case of a municipally-aided mortgage or by the appropriate federal authorities in the case of a federally-aided mortgage or (b) if the project is not to be financed with a state-aided, municipally-aided or federally-aided mortgage, the expiration of any exemption of the real property of the project from local and municipal taxes.

3. The commissioner or supervising agency may require a housing development fund company receiving advances under this article to

execute a financing statement for real property improvement. The financing statement shall be in such form as the commissioner or supervising agency shall prescribe and shall include the name and address of the housing development fund company and of the agency making the advances, the location of the project, with a description sufficient to identify the property, including street address, if any, and a statement that funds have or will be advanced to the company pursuant to this article and the maximum amount of such advances, together with such other information as the form shall specify. The financing statement shall be filed in the office in which a mechanic's lien affecting the property would be filed, which office shall accept it for filing without fee and docket it in the manner of such lien. From the date of such filing the state or municipality, as the case may be, shall have a lien for the total of advances under this article made and not repaid. The provisions of articles two and three of the lien law shall govern such lien, except that it shall be valid for a period of three years from the date of filing, unless extended as provided in section seventeen of the lien law. Upon repayment of the advances, the commissioner or supervising agency shall deliver to the housing development fund company a copy of the financing statement with an endorsement thereon that the lien is satisfied. Upon filing of such copy, without payment of fee, in the office in which the financing statement was filed, the lien shall be discharged.

§ 576-a. Acquisition and disposition of real property by municipality.

1. Real property may be acquired by a municipality for a housing development fund company by gift, grant, devise, purchase, condemnation pursuant to the provisions of article nine of this chapter, or otherwise.

2. Notwithstanding any other provision of general, special or local law, charter or ordinance, a municipality may sell, lease or otherwise dispose of real property to a housing development fund company without public auction or sealed bids, provided that notice of such sale, lease or other disposition is published and a hearing is held before the local legislative body not less than ten days after such publication.

3. In any case where a municipality shall acquire real property for or convey real property to a housing development fund company under the provisions of this section, the deed or lease of the property to the housing development fund company shall contain appropriate provisions restricting the disposition of the property by the housing development fund company, through provisions for a reversion of the property conditioned on its continued use for purposes of housing, provisions requiring the approval of the municipality to any sale, transfer, exchange, assignment or lease, or otherwise.

§ 576-b. Special provisions with respect to state urban development corporation projects. Any state urban development corporation project shall comply with the requirements of local laws, ordinances, codes, charters or regulations applicable to the construction, reconstruction, rehabilitation, alteration or improvement of such project, except where the state urban development corporation, in its discretion, finds such compliance not feasible or practicable, in which event such project shall comply with the requirements of the state building construction code, formulated by the state building code council pursuant to article eighteen of the executive law, applicable to such construction, reconstruction, rehabilitation, alteration or improvement. No county, city, town or village shall have power to modify or change the drawings, plans or specifications for the construction, reconstruction, rehabilitation, or improvement of any such project or the construction, plumbing, heating, lighting or other mechanical branch of work necessary to complete the work in question, nor to require that any person, firm or corporation employed on any such work shall perform any such work in any other or different manner than that provided by such plans and specifications, nor to require that any such person, firm or corporation obtain any other or additional authority, approval, permit or certificate from such county, city, town or village as a condition of doing such work, nor shall any condition whatever be imposed by any such county, city, town or village in relation to the work being done, and the doing of any such work by any person, firm or corporation in accordance with the terms of such drawings, plans, specifications or

contracts shall not subject said person, firm or corporation to any liability or penalty, civil or criminal, other than as may be stated in such contracts or incidental to the proper enforcement thereof; nor shall any county, city, town or village have power to require that any subsidiary of the New York state urban development corporation, or any lessee therefrom or successor in interest thereto, obtain any other or additional authority, approval, permit, certificate or certificate of occupancy from such county, city, town or village as a condition of owning, using, maintaining, operating or occupying any project acquired, constructed, reconstructed, rehabilitated or improved by any such subsidiary of the New York state urban development corporation.

*** § 576-c. Loans to housing development companies by a municipality.**

1. In addition to the powers granted to municipalities pursuant to this article, a municipality, acting by its supervising agency, may make loans for the purposes of acquisition, rehabilitation or construction of dwelling accommodations to a non-profit housing development fund company, a wholly-owned subsidiary of such company, a partnership the controlling interest of which is held by such company and which has agreed to limit profits or rate of return of investors in accordance with a formula established or approved by the company, or a private developer which has agreed to limit profits or rate of return of investors in accordance with a formula established or approved by the company, which agrees to provide housing accommodations exclusively for persons and families of low income, at least thirty percent of whom are referred to it by a municipality and have prior to their initial occupancy in such accommodations resided in emergency shelter facilities operated by or on behalf of the municipality or who are otherwise in need of emergency shelter as determined by the municipality, providing, however, that in the case of a building acquired by such a company, subsidiary, partnership, or developer the obligation to provide housing accommodations for such persons shall be applicable only to dwelling accommodations which are or become vacant after the date of acquisition. Such loans may be made for such period of time and pursuant to such terms and conditions as may be required by the municipality, including, but not limited to, terms and conditions providing that the lien created

by the note and mortgage, and, if applicable, any regulatory agreement executed by the owner and such municipality or restrictive covenant approved by a supervising agency, may be recorded in an equal or subordinate position, or subsequently made equal or subordinate, to a lien recorded by any private lender against the dwelling aided by the loan made pursuant to this article, and the supervising agency of such municipality may provide that the amount of the note and mortgage shall automatically be reduced to zero in five equal decrements commencing on the tenth year after the initial occupancy date, provided that, as of the date of such reduction, such accommodations have been and continue to be owned and operated in a manner consistent with an agreement with the municipality contained in such note and mortgage to provide housing for such persons. Notwithstanding such provision as contained in the note and mortgage, the loan shall be reduced to zero only if, prior to or simultaneously with delivery of such note and mortgage, the supervising agency made a written determination that such reduction would be necessary to ensure the continued affordability or economic viability of such housing project. Such written determination shall document the basis upon which the loan was determined to be eligible for evaporation.

2. Notwithstanding the provisions of, or any regulation promulgated pursuant to, the emergency housing rent control law, the local emergency housing rent control act, the emergency tenant protection act of nineteen seventy-four, or any local law enacted pursuant thereto, upon completion of the rehabilitation of any building used primarily for residential purposes, in a jurisdiction in which rents are regulated pursuant to any of the above laws and which is aided by a loan pursuant to this section made by the municipality, the supervising agency shall establish the initial rent for each rental dwelling unit within the building. All dwelling units within the building subsequent to establishment of initial rents by the supervising agency shall be subject to either the rent stabilization law of nineteen hundred sixty-nine or the emergency tenant protection act of nineteen seventy-four, or both, if applicable to the locality. The tenants in occupancy of such a dwelling unit regulated pursuant to any of the above laws shall be offered a choice of a one or two year lease at the initial

rents established by the supervising agency notwithstanding any contrary provisions of, or regulations adopted pursuant to, the rent stabilization law of nineteen hundred sixty-nine and the emergency tenant protection act of nineteen seventy-four. The supervising agency shall cause all tenants in occupancy of each dwelling unit affected by the provisions of this subdivision to be notified of and have an opportunity to comment on the contemplated rehabilitation. Such notification shall advise such tenants of the approximate expected rent increase and the subsequent availability of a one or two year lease. Such notification and opportunity to comment shall be provided before the rehabilitation and again after the construction is completed and before the establishment of the initial rents.

3. The supervising agency shall use its best efforts to ensure that activities carried out pursuant to this article are structured so as to minimize the likelihood of any involuntary economic displacement of tenants who reside in multiple dwellings which are the subject of such activities. However, if temporary physical displacement is required as a direct result of rehabilitation work which is performed in such multiple dwelling receiving a loan pursuant to this article, suitable temporary relocation arrangements shall be provided.

* NB Effective until July 1, 2027

* § 576-c. Loans to housing development companies by a municipality. In addition to the powers granted to municipalities pursuant to this article, a municipality, acting by its supervising agency, may make loans for the purposes of acquisition, rehabilitation or construction of dwelling accommodations to a non-profit housing development fund company, a wholly-owned subsidiary of such company, a partnership the controlling interest of which is held by such company and which has agreed to limit profits or rate of return of investors in accordance with a formula established or approved by the company, or a private developer which has agreed to limit profits or rate of return of investors in accordance with a formula established or approved by the company, which agrees to provide housing accommodations exclusively for persons and families of low income, at least thirty percent of whom are referred to it by a municipality and have prior to their initial occupancy in such accommodations resided in emergency shelter facilities

operated by or on behalf of the municipality or who are otherwise in need of emergency shelter as determined by the municipality, providing, however, that in the case of a building acquired by such a company, subsidiary, partnership, or developer the obligation to provide housing accommodations for such persons shall be applicable only to dwelling accommodations which are or become vacant after the date of acquisition. Such loans may be made for such period of time and pursuant to such terms and conditions as may be required by the municipality, including, but not limited to, terms and conditions providing that the lien created by the note and mortgage, and, as applicable, any regulatory agreement executed by the owner and such municipality, may be recorded in an equal or subordinate position, or subsequently made equal or subordinate, to the lien recorded by any private lender against the dwelling aided by the loan made pursuant to this article, and the supervising agency of such municipality may provide that the amount of the note and mortgage shall automatically be reduced to zero in five equal decrements commencing on the tenth year after the initial occupancy date, provided that, as of the date of such reduction, such accommodations have been and continue to be owned and operated in a manner consistent with an agreement with the municipality contained in such note and mortgage to provide housing for such persons. Notwithstanding such provision as contained in the note and mortgage, the loan shall be reduced to zero only if, prior to or simultaneously with delivery of such note and mortgage, the supervising agency made a written determination that such reduction would be necessary to ensure the continued affordability or economic viability of such housing project. Such written determination shall document the basis upon which the loan was determined to be eligible for evaporation.

* NB Effective July 1, 2027

§ 576-d. Master servicing agreement. 1. The commissioner is hereby authorized to use the monies held in the housing development fund to make advances to a local loan administrator that has entered into a written master servicing agreement prescribed by the commissioner pursuant to subdivision two of this section.

2. The commissioner, in consultation with the comptroller, shall prescribe a master servicing agreement to be executed by the commissioner and local loan administrators. Such agreement shall provide that: (a) any advances made to a local loan administrator shall be used solely for the purpose of providing loans to agricultural producers for undertaking farmworker housing projects; (b) the total amount of loans made to any single agricultural producer shall not exceed two hundred thousand dollars per annum; (c) the term of any loan shall not exceed ten years and equal payments of principal payable no less frequently than annually shall be required to be made on such loan during the term such loan is outstanding which payments will liquidate the entire principal balance of the loan over its term; (d) the local loan administrator is required to pay to the commissioner for deposit into the housing development fund all repayments including interest, if any, received from any agricultural producers on account of such loan, except for that portion permitted to be retained by the local loan administrator as a fee pursuant to the master servicing agreement. The master servicing agreement shall also set forth: (i) the form of any note and security agreement to be executed by the agricultural producer in connection with any loan, which shall include a provision that use of the loan to provide housing for a family member of the borrower or its principals shall constitute a default under the loan and security agreement; (ii) the rate of interest, if any, to be charged on any loan; (iii) the amount of any fee to be retained by the local loan administrator for servicing any loan; (iv) the form of application required to be completed by an agricultural producer for any loan; (v) the form of requisition and certification to be required from a local loan administrator to obtain an advance of funds from the commissioner; (vi) any other conditions to be imposed upon an agricultural producer as a condition of receiving a loan; (vii) the responsibilities to be performed by the local loan administrator in connection with reviewing, approving and servicing the loan and the circumstances under which the commissioner may terminate a master servicing agreement; (viii) conditions necessary to insure prompt closing on loans for which funds are advanced, including payment of interest of funds from the time advanced until utilized; and (ix) such other requirements as the commissioner may from time to time establish by rules and regulations

consistent with the purposes of this section.

3. (a) The commissioner shall, subject to the availability of funds as appropriated by the legislature, advance from the housing development fund to a local loan administrator the amount of funds requested in any requisition within fifteen business days after receipt of all of the following: a completed requisition for an advance of funds; copies of any applications and any supporting documentation to which such requisition pertains; and a certification from the local loan administrator with respect to such requisition in addition to any other representation and statement required by the commissioner. The certification from the local loan administrator shall state that: (i) the loan administrator has performed its responsibilities in connection with review and approval of applications to which such requisition pertains, (ii) to the best of the local loan administrator's knowledge the loans, to which the advances pertain, comply with the master servicing agreement and the provisions of this section, and (iii) the borrowers have demonstrated their ability to make the repayments required under the loan. In the event that funds are not available or the commissioner determines that the requisition, application or certification is defective, it shall so notify the local loan administrator within fifteen business days after receipt of the requisition.

(b) The commissioner shall establish criteria for prioritizing loan applications in the event that the requisitions submitted to the commissioner by one or more local loan administrators exceed the amount then available for the purposes of this section. Such criteria shall give a priority to housing for farmworkers and take into account: (i) whether the farmworker housing project to which the application pertains is for the purpose of bringing non-conforming accommodations in compliance with the provisions of the state sanitary code or the state fire prevention and building code; (ii) whether the farmworker housing project to which the application pertains is the most cost effective approach to enable the agricultural producer to construct or rehabilitate dwelling accommodations for farmworkers; (iii) whether the agricultural producer making application lacks the financial resources to undertake the farmworker housing project without obtaining a loan

pursuant to this section; and (iv) such other factors as the commissioner deems relevant. In applying the criteria to be utilized for prioritizing loans, the commissioner shall be entitled to rely on the information contained in the copies of the applications submitted with the requisition.

§ 576-e. Municipal housing assistance fund. 1. A municipality may create and establish a fund to be known as the "municipal housing assistance fund". Such a fund shall be created and established in the supervising agency.

2. There may be paid into such municipal housing assistance fund (a) any moneys appropriated and made available by the municipality for the purposes of such fund, (b) notwithstanding the provisions of the local finance law or any other provisions of law, any moneys received in repayment of loans from such fund, and (c) any other moneys which may be available for the purpose of such fund from any other source or sources.

3. The purpose of such fund shall be to make loans to housing development fund companies which have agreed to acquire residential properties by deed from the commissioner of finance of a municipality and to operate and manage such properties in accordance with a regulatory agreement with the municipality until the properties are transferred to a new owner approved by the municipality.

4. The supervising agency may make loans from the fund to enable such housing development fund companies to pay development costs and any other expenses incurred by the housing development fund company and approved by the supervising agency.

5. Any housing development fund company which receives a loan pursuant to this section shall execute a note and regulatory agreement. The note may provide that it shall be reduced to zero over a period of continued compliance with either the regulatory agreement required pursuant to this section or such other regulatory agreement as the supervising agency shall require. The loan shall be reduced to zero only if prior to

or simultaneously with delivery of such note, the supervising agency has made a written determination that such reduction would be necessary to ensure the continued affordability or economic viability of the project. Such written determination shall document the basis upon which the loan was determined eligible for evaporation.

6. A regulatory agreement pursuant to this section may terminate upon such terms and conditions as provided by the supervising agency.

7. A housing development fund company which receives a loan pursuant to this section shall provide in its certificate of incorporation that the supervising agency shall have the power if in its discretion it determines that the company has defaulted in its obligations to the municipality to appoint to the board of such corporation a number of new directors which number shall be sufficient to constitute a majority of the board, notwithstanding any other provisions of such certificate or of any other provision of law.

§ 577. Tax exemptions. 1. (a) The local legislative body of any municipality in which a project of a housing development fund company is or is to be located may exempt the real property in such project from local and municipal taxes including school taxes, other than assessments for local improvements, to the extent of all or part of the value of the property included in the completed project. The tax exemption shall operate and continue for such period as may be provided by such local legislative body, but in no event for a period of more than forty years, commencing in each instance from the date on which the benefits of such exemption first became available and effective.

(b) Where a municipality acts on behalf of another taxing jurisdiction in assessing real property for the purpose of taxation, or in levying taxes therefor, the action of the local legislative body of such municipality in granting such tax exemption shall have the effect of exempting the real property in such project from local and municipal taxes including school taxes, other than assessments for local improvements, levied by or in behalf of both such taxing jurisdictions.

(c) The local legislative body of any municipality may grant an

exemption under paragraph (a) of this subdivision to the real property of a project of any entity to which it is authorized to make a loan pursuant to section five hundred seventy-six-c of this article.

(d) In a city having a population of one million or more, within one hundred twenty days following receipt of a written submission from the supervising agency requesting a tax exemption pursuant to paragraph (a) of this subdivision for the real property containing the project of a housing development fund company, the local legislative body shall approve or disapprove by resolution the requested tax exemption. If the local legislative body fails to take such action within one hundred twenty days following receipt of such written submission from such supervising agency, then the tax exemption requested by the supervising agency shall be deemed approved pursuant to paragraph (a) of this subdivision.

2. Any inconsistent provision of law to the contrary notwithstanding, mortgages of a housing development fund company shall be exempt from the mortgage recording taxes imposed by article eleven of the tax law.

2-a. Notwithstanding any inconsistent provision of law to the contrary, a project of a housing development fund company incorporated pursuant to the not-for-profit corporation law and this article shall be exempt from the sales and compensating use taxes imposed pursuant to article twenty-eight or twenty-nine of the tax law, provided that such housing development fund company has entered into a regulatory agreement with respect to the provision of affordable housing with the commissioner, a state agency or authority as defined in this chapter, the New York city department of housing preservation and development, or the New York city housing development corporation, and such tax exemption shall continue only so long as such agreement is in force and effect.

3. (a) Notwithstanding the provisions of subdivision one hereof, the real property of a state urban development corporation project acquired, owned, constructed, managed or operated by a company incorporated pursuant to the not-for-profit corporation law and this article shall be entitled to all the benefits provided by section four hundred twenty-two

of the real property tax law. The real property of a state urban development corporation project, other than a state urban development corporation project acquired, owned, constructed, managed or operated by a company incorporated pursuant to the not-for-profit corporation law and this article, shall be exempt from all local and municipal taxes, other than assessments for local improvements, to the extent of the value of the property included in such project as represents an increase over the assessed valuation of the real property, both land and improvements, acquired for the project on the date of its acquisition by the housing development fund company. The tax exemption shall operate and continue so long as the mortgage loans of such housing development fund company are outstanding, but in no event for a period of more than forty years, commencing in each instance from the date when such housing development fund company first acquired such property. If a state urban development corporation project qualifying for tax exemption pursuant to this subdivision is sold, with the approval of the commissioner, to another housing development fund company, such successor company shall be entitled to all the benefits of this subdivision.

(b) In the event a state urban development corporation project is not subject to a state-aided, federally-aided or municipally-aided mortgage, as defined herein, it shall receive the tax exemption granted under paragraph (a) of this subdivision only if it has entered into a regulatory agreement with the commissioner pursuant to section five hundred seventy-six of this article, and such tax exemption shall continue only so long as such agreement is in force and effect.

§ 577-a. Adjusting fair rental equalization for the elderly. (a) For the purpose of enabling lower income elderly persons to continue in occupancy without paying rentals in excess of a fair proportion of their income, any municipality having a population of less than one million is authorized to make and to contract to make periodic payments to a housing development fund company in an amount not exceeding the difference between the rent or carrying charges for the dwellings occupied by such lower income persons and one-third of their net probable aggregate annual income, where such rent or carrying charges exceed such one-third of income; provided that the aggregate amount of

periodic payments to be made in accordance with contracts entered into by the municipality during any fiscal year thereof pursuant to this section, subdivision nine of section thirty-one, subdivision seven of section eighty-five-a, and section one hundred twenty-six of this chapter shall not exceed the aggregate amount of all real property taxes paid or payable during such fiscal year by all companies organized pursuant to this article, article II, article IV, and article V of this chapter and the aggregate estimated receipts of all such companies in such fiscal year from rental surcharges collected or to be collected pursuant to this chapter.

(b) Such payments shall be made only where over-income tenants are required to pay surcharges to the municipality.

(c) Such payments shall be made only on account of a person or family in occupancy where the head of the household is sixty-two years of age or older and is not a recipient of public assistance pursuant to the social services law, and where the net probable aggregate annual income of the person or family in occupancy does not exceed six thousand five hundred dollars a year. Notwithstanding the provisions of subdivision twenty-nine of section two of this chapter, net probable aggregate annual income as used in this subdivision shall mean the annual income of family members from all sources after deduction of federal, state and city income taxes; provided that any municipality may provide that increases in benefits under the social security act which take effect after such person or family has assumed occupancy shall not be taken into account.

(d) A company having a contract with the municipality pursuant to this subdivision may not collect from persons or families in occupancy on whose account such payments are made any rentals in excess of the amounts specified in such contract.

§ 577-b. Payment of arrears for certain taxes. 1. The term eligible property as used in this section shall mean a multiple dwelling located in a city with a population of one million or more and owned by a company established pursuant to this article which:

(a) is controlled by and provides housing accommodations to its resident shareholders or members or agrees, on terms approved by the

supervising agency, to offer to the residents of the multiple dwelling the opportunity to acquire ownership and control of the company; and

(b) on January first, two thousand two, had outstanding municipal real estate taxes relating to any period prior to January first, two thousand one.

2. (a) The supervising agency may offer to each company that owns an eligible property an opportunity to enter into a regulatory agreement pursuant to which the obligation to pay arrears of real estate taxes attributable to such property, including interest and penalties if any, shall be dealt with as provided in such agreement.

(b) The regulatory agreement shall include the following provisions:

(1) a term of thirty years;

(2) that the suspension of the obligation to pay arrears shall continue provided that the company complies with the terms of the regulatory agreement;

(3) that all suspended arrears including interest and penalties shall be forgiven provided that the company complies with the regulatory agreement for an initial period of ten years;

(4) that portions of the suspended arrears may be forgiven during the initial ten year period pursuant to a schedule established in the regulatory agreement;

(5) that any suspended obligations which have not been forgiven may be reinstated if the company fails to comply with the regulatory agreement;

(6) that all new municipal charges must be paid in a timely fashion;

(7) that the supervising agency shall be authorized to assume control of the company if the company fails to comply with the agreement;

(8) that the company must comply with customary financial and other reporting requirements; and

(9) that the company shall be required to increase maintenance charges or impose assessments to insure that the company can provide for its obligations.

(c) The regulatory agreement shall also include terms to address the following matters as well as any other issues that the supervising agency deems appropriate:

(1) establishment of a structured reserve fund;

(2) restrictions to insure sales and rentals only to low income

individuals and families;

(3) establishment of a transfer fee payable to the company's reserve fund upon the sale of any units;

(4) restrictions on subletting;

(5) primary residence requirements; and

(6) certification of annual elections.

(d) The regulatory agreement may contain such alterations to the terms of the original disposition as the supervisory agency deems necessary.

§ 578. Advisory and educational services. The commissioner and the supervising agency are each hereby authorized to provide to housing development fund companies such advisory, consultative, training and educational services as will assist them to become eligible borrowers in accordance with the provisions of this article. Such advisory and educational services may include but are not necessarily limited to technical and professional planning assistance, the preparation and promulgation of organizational, planning and development outlines and guides, consultation services, training courses, seminars and lectures, the preparation and dissemination of newsletters and other printed materials, and the services of field representatives. The commissioner and the supervising agency are each also authorized to provide advisory, consultative, technical, training and educational services to housing development fund companies in the management of such projects and to residents thereof, including but not limited to home management and such other training and advisory services as may be necessary for the efficient and harmonious management of the project.

§ 579. Rules and regulations. The commissioner and the supervising agency shall each have power to make rules and regulations to carry out their respective powers and duties pursuant to this article and to effectuate the purposes thereof.

§ 580. Examination by comptroller. 1. The comptroller, or his legally authorized representative, is hereby authorized and empowered from time

to time to examine the books and accounts of the division relating to the housing development fund, and from time to time, not less than once every five years, to examine the books and accounts of each housing development fund company which received or is to receive aid from such fund pursuant to this article, including its receipts, disbursements, contracts, leases, loans, and any other moneys relating to its financial operation, and from time to time, to examine the books and accounts of any local loan administrator which has received advances from such fund pursuant to this article, but only insofar as those books and accounts relate to such advances and to the local loan administrator's compliance with the master servicing agreement entered into pursuant to section five hundred seventy-six-d of this article.

2. The comptroller of a municipality or, in the case of a municipality having no comptroller, the chief fiscal officer of such municipality, is hereby authorized and empowered from time to time to examine the books and accounts relating to the municipal housing development fund, and the supervising agency is hereby authorized and empowered from time to time, not less than once every five years, to examine the books and accounts of each housing development fund company which received or is to receive aid from such fund, including its receipts, disbursements, contracts, leases, loans, and any other moneys relating to its financial operation.

§ 581. Inconsistent provisions in other laws superseded. Insofar as the provisions of this article are inconsistent with the provisions of any other law, general, special or local, the provisions of this article shall be controlling.

§ 582. Separability clause. If any clause, sentence, paragraph, section or part of this article shall be adjudged by any court of competent jurisdiction to be invalid such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

ARTICLE XIII
MISCELLANEOUS

- Section 600. Construction.
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§ 600. Construction. This chapter shall be construed liberally to effectuate the purposes hereof, and the enumeration of specific powers in this chapter shall not operate to restrict the meaning of any general grant of power contained in this chapter or to exclude other powers comprehended in such general grant.

§ 601. Separability clause. If any clause, sentence, paragraph, section or part of this chapter shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect,

impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 602. Prohibition against discrimination. For all the purposes of this chapter, no person shall, because of race, creed, color or national origin, be subjected to any discrimination.

§ 603. Pending actions or proceedings. This chapter or anything therein contained shall not affect or abate any actions, proceedings, civil or criminal, pending at the time when this chapter shall take effect, brought by, for or against the state, the state division of housing, any municipality, limited-profit housing company, the New York state housing finance agency, limited-dividend housing corporation, redevelopment company, urban redevelopment corporation or mortgage facilities corporation, under or in pursuance of the provisions of the laws repealed by this chapter; but all such actions or proceedings may be continued, prosecuted, conducted and completed as if such laws were not repealed but continued to be fully effective.

§ 604. Saving clause. 1. The repeal of the laws as specified in section six hundred five and any other provisions of this chapter, shall not affect or impair any contract or remedy, or any act done or any right accruing, accrued or acquired, taxes, tax obligations, or exemptions from taxation, the validity of or rights as to taxes collected or proceeds thereof or the validity as to any acts done or rights or exemptions accruing, accrued or acquired under any tax laws, general, local or special, or any penalty, forfeiture or punishment under or by virtue of the laws so repealed and in existence prior to the time when this chapter or any section thereof takes effect, but the same may be asserted, enforced, prosecuted or inflicted and for such purposes all of the laws specified in section six hundred five are hereby continued in full force and effect.

2. An act of the legislature of the years nineteen hundred sixty-one or sixty-two which, in form, amends or repeals or purports to amend or repeal any provision or provisions of articles seven, nine, ten, twelve or twelve-a, of the public housing law, chapter eight hundred forty-five of the laws of nineteen hundred forty-two, chapter eight hundred ninety-two of the laws of nineteen hundred forty-one or chapter five hundred sixty-four of the laws of nineteen hundred fifty-six, as in force immediately prior to March first, nineteen hundred sixty-two, shall be deemed and construed as an amendment or repeal, as the case may be, of the corresponding provision or provisions of such article, section or law, as contained in this chapter.

3. An act of the legislature of the years nineteen hundred sixty-one or sixty-two which adds, or purports to add a new section, subdivision or other provision of law to articles seven, nine, ten, twelve or twelve-a of the public housing law, chapter eight hundred forty-five of the laws of nineteen hundred forty-two, chapter eight hundred ninety-two of the laws of nineteen hundred forty-one, or chapter five hundred sixty-four of the laws of nineteen hundred fifty-six, as in force immediately prior to March first, nineteen hundred sixty-two, shall be deemed and construed as having been added to this chapter and shall be given full effect according to its context as if the same had been added expressly and in terms to this chapter and shall be deemed and construed to have been inserted in this chapter in the appropriate position in regard to and as modifying the effect of the corresponding provision or provisions of this chapter.

4. Reference in any act of the legislature of the years nineteen hundred sixty-one or sixty-two to articles seven, nine, ten, twelve or twelve-a of the public housing law, chapter eight hundred forty-five of the laws of nineteen hundred forty-two, chapter eight hundred ninety-two of the laws of nineteen hundred forty-one or chapter five hundred sixty-four of the laws of nineteen hundred fifty-six, or any provision or provisions thereof, as in force immediately prior to March first, nineteen hundred sixty-two, shall be deemed and construed to refer to the corresponding article, section or other provision of this chapter

and shall be given full effect according to its terms as though specifically referring to such corresponding article, section or other provision of this chapter.

§ 605. Laws repealed. Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is hereby repealed, except as provided in sections ninety-six and six hundred four.

SCHEDULE OF LAWS REPEALED

Public Housing	Article 1	Subdivision 14-a of section 3
Law	Article 7	Sections 129, 130, 131, 134, 135
	Article 9	All
Laws of	Chapter	Section
1941	892	All
1942	845	All
1943	234	All
1946	673	All
1947	840	All
1951	190	All
1955	407	All except section 2
1956	564	All
1956	832	All
1956	877	All
1957	218	All
1957	334	All
1957	608	All
1957	750	All
1957	971	All
1957	973	Sections 1, 2, 3 and 4
1958	364	All
1958	505	Sections 1 and 2
1958	656	All
1958	904	All
1958	957	Section 1
1959	486	All
1959	675	Sections 1, 2, 3 and 4
1959	727	All

1960	116	Sections 1 and 2
1960	359	Sections 4, 5 and 6
1960	669	All
1960	670	Sections 1, 2 and 3
1960	671	All except section 3
1960	694	All
1960	892	Section 3
1960	959	Section 2
1960	990	All

§ 606. Extension of the time for payment and suspension of payment of real estate tax liens. 1. As used in this section the term abandoned multiple dwelling shall mean a class A or class B multiple dwelling containing in the aggregate not less than three dwelling units, at least eighty percent of the occupied dwelling units of which are occupied by persons or families of low income as defined in subdivision ten of section twelve of this chapter and which the supervising agency shall find has been abandoned by the owner or owners thereof. Any such finding shall be based on one or more of the following conditions:

(a) Failure to make any payments in respect of real estate taxes on said multiple dwelling for twelve months or more, and a continuing failure to maintain essential services, or failure to remove violations of the local housing maintenance code or other statutes applicable to multiple dwellings, where, as a result of either such failure the multiple dwelling has become dangerous to the life, health and safety of its occupants; or

(b) Failure to make any payments in respect of real estate taxes on said multiple dwelling for twelve months or more and failure to attempt to collect rent from a majority of the tenants in lawful occupancy of dwelling units in such multiple dwelling for a period of three consecutive months or more; or

(c) The entry of a judgment in favor of the petitioning tenants in a proceeding instituted pursuant to article seven-A of the real property actions and proceedings law, and the failure by the owner or other respondent to secure the removal of the administrator appointed pursuant to such judgment within ninety days after his appointment and

qualification; or

(d) The entry or filing of an order appointing a receiver pursuant to section three hundred nine of the multiple dwelling law or any other law authorizing the appointment of a municipality or any agency or official thereof as receiver of a multiple dwelling, and the failure by the owner or other party entitled thereto to secure the removal or discharge of such receiver within ninety days thereafter.

2. Whenever a housing project (i) of a housing development fund company organized pursuant to the provisions of article eleven of this chapter, (ii) of a company organized pursuant to the provisions of article two, four or five of this chapter, (iii) of a company or owner aided by article three, eight, twelve, fourteen or fifteen of this chapter, or (iv) is to be financed by a mortgage made or insured by the federal government or any agency or instrumentality thereof or a mortgage loan entered into in conjunction with a housing assistance payments contract in connection with new construction or substantial rehabilitation pursuant to section eight of the United States Housing Act of 1937, as amended, is premised upon the acquisition, ownership, rehabilitation and management of an abandoned multiple dwelling, as said term is defined in subdivision one of this section, the supervising agency may, subject to the requirements of subdivision four of this section, enter into an agreement with such housing company or owner, which agreement shall provide for one or more of the following with respect to accrued real estate tax liens and municipal charges arising by operation of law upon the properties upon which such abandoned multiple dwelling is located:

(a) The extension of the time for the payment of all or part of accrued real estate tax liens and municipal charges arising by operation of law by spreading the payment thereof over a period or periods of time to commence presently or at some future time, but in no event beyond forty years from the date of such agreement;

(b) The elimination of interest and penalties on all or part of the unpaid real estate tax liens and municipal charges arising by operation of law;

(c) The suspension of the payment of all or a part of accrued real estate tax liens and municipal charges arising by operation of law for a

period not to exceed forty years from the date of such agreement;

(d) The elimination of all or part of accrued real estate tax liens and municipal charges arising by operation of law provided that in consideration of such elimination the municipality may require the housing company to convey to it by deed an indefeasibly vested interest in the real property of the project, the value of which shall be set forth in such agreement but shall in no event be less than the amount of real estate tax liens and municipal charges arising by operation of law eliminated, to take effect as provided therein but not later than forty years from the date thereof.

3. No such agreement for the extension or suspension of payment or elimination of accrued real estate tax liens and municipal charges arising by operation of law shall be entered into until the supervising agency shall first have made written findings supported by satisfactory evidence that:

(a) The project is an abandoned multiple dwelling, as defined in subdivision one of this section, and the owner who so abandoned such dwelling has no direct or indirect interest or participation in the project; and

(b) The housing company has available or has a reasonable expectation of obtaining from public or private sources, or both, adequate financing to acquire and rehabilitate the property; and

(c) The housing company possesses or has given satisfactory evidence of its ability and intention to employ adequate competent personnel capable of rehabilitating, supervising the rehabilitation and managing and operating the property in accordance with the standards and conditions prescribed by this section and by the supervising agency; and

(d) The proposed rehabilitation will effectuate the removal of all housing and other violations of record against the property as well as all incipient violations disclosed by inspections of the supervising agency and other agencies of the municipality charged with enforcement of applicable statutes and ordinances prescribing standards of construction and housing maintenance and will result in the removal of all unsafe and unsanitary conditions; and

(e) The proposed rehabilitation will not require the removal of or relocation of any residential tenants in occupancy, other than

temporarily, during the period of construction, in which case suitable arrangements have been made for such temporary relocation; and

(f) In order for the housing company to acquire the property and to rehabilitate, operate and maintain the same as provided herein, accrued real estate tax liens and municipal charges arising by operation of law affecting the property must be extended, suspended or eliminated, in whole or in part, as provided in subdivision two of this section, which finding shall set forth the exact amount of accrued real estate tax liens and municipal charges arising by operation of law and set forth full details as to the extension, suspension and elimination thereof required in order for the rents or carrying charges to be fixed and established by the supervising agency or as otherwise provided pursuant to the provisions of article two, three, four, five, eight, eleven, twelve, fourteen or fifteen of this chapter, or in connection with a mortgage made or insured by the federal government or any agency or instrumentality thereof or a mortgage loan entered into in conjunction with a housing assistance payments contract in connection with new construction or substantial rehabilitation pursuant to section eight of the United States Housing Act of 1937, as amended, whichever may be applicable, and shall further contain the calculations and assumptions upon which such finding is based and shall state that the projected rents or carrying charges are as high as the present occupants can reasonably afford, and as can reasonably be charged and collected for comparable housing accommodations in the immediate vicinity of the abandoned multiple dwelling; and

(g) The abandoned multiple dwelling is located in a deteriorated or deteriorating neighborhood or one imminently threatened with deterioration, and that unless the project is carried out, the property will become unsafe and unfit for continued human habitation in the near future, and that by reason of its present and probable future condition, the property is exerting or will in the near future, exert a deleterious influence upon the block in which it is located and upon the blocks, neighborhood and area immediately surrounding and adjacent thereto.

4. The agreement, with respect to a housing development fund company, shall contain all of the provisions required by section five hundred seventy-six of this chapter, and with regard to any housing company,

including such housing development fund company, shall contain such other provisions as may be approved by the local legislative body.

5. (a) An agreement authorized by subdivisions two and four of this section shall be submitted by the supervising agency to the local legislative body of the municipality in which the project is to be located, which body may determine to extend, suspend and/or eliminate the payment of all or any part of the accrued real estate tax liens and municipal charges arising by operation of law on the real property in such project, but in no event beyond the limitations set forth in subdivision two of this section. The extension, suspension or elimination of real estate tax liens and municipal charges arising by operation of law may include all accrued local and municipal taxes, including assessments, water and sewer rents and sewer charges and special ad valorem levies and all emergency repair levies but shall not include any taxes or municipal charges accruing in respect of any parcel for any period commencing after a date fixed by the local legislative body, such date being not later than the projected date of substantial completion of the rehabilitation of the building situated on such parcel.

(b) Where the municipality acts on behalf of another taxing jurisdiction in assessing real property for the purpose of taxation, or in levying taxes therefor, the determination of the local legislative body in granting such extension, suspension or elimination shall have the effect of extending, suspending or eliminating the accrued real estate tax liens against the real property in such project to the extent and subject to the provisions of paragraph (a) of this subdivision.

§ 607. Rent regulation of multiple dwellings rehabilitated with a loan granted pursuant to section three hundred twelve of the housing act of nineteen hundred sixty-four. 1. In cities with a population of one million or more, upon completion of rehabilitation of a class A multiple dwelling, which is aided by a loan made pursuant to section three hundred twelve of the housing act of nineteen hundred sixty-four, the agency shall establish the initial rent for each rental dwelling unit within the rehabilitated or converted multiple dwelling notwithstanding

the provisions of, or any regulation promulgated pursuant to, the emergency housing rent control law, the local emergency housing rent control act, the emergency tenant protection act of nineteen seventy-four, the local rent stabilization law or any local law enacted pursuant thereto. After the agency has set the initial rents, all rental dwelling units within such rehabilitated or converted multiple dwellings shall become subject to the rent stabilization law of nineteen hundred sixty-nine.

2. The occupant in possession of such a dwelling unit when the multiple dwelling is made subject to the rent stabilization law of nineteen hundred sixty-nine shall be offered a choice of a one or two year lease at the initial rents established by the agency notwithstanding any contrary provisions of, or regulations adopted pursuant to, the rent stabilization law of nineteen hundred sixty-nine and the emergency tenant protection act of nineteen seventy-four.

3. Prior to establishing initial rents the agency shall cause all tenants in occupancy of such multiple dwelling to be notified of, and have an opportunity to comment on, the contemplated rehabilitation. Such notification shall advise such tenants of the approximate expected rent increase and the subsequent availability of a one or two year lease. Such notification and opportunity to comment shall be provided before the rehabilitation and again after the construction is complete and before the establishment of the initial rents.

4. For the purposes of this section, "multiple dwelling" shall include any class A multiple dwelling having three or more units, and shall include multiple family garden-type maisonette dwelling complexes under single ownership having common facilities such as a sewer line, water main and heating plant notwithstanding the fact that certificates of occupancy were issued for portions thereof as one or two family dwellings.

5. For the purposes of this section, the meaning of the terms "agency", "conversion", "non-residential property" and "rehabilitation" shall be the meaning provided pursuant to section eight hundred one of

this chapter.

6. The agency may promulgate supplementary rules and regulations to carry out the provisions of this section, not inconsistent with the provisions of this section.

§ 608. Rent regulation of rehabilitated multiple dwellings aided by certain federal housing assistance programs. 1. In cities with a population of one million or more, upon completion of rehabilitation of a class A multiple dwelling which is aided by a mortgage loan entered into in conjunction with a housing assistance payments contract in connection with moderate rehabilitation pursuant to section eight of the United States housing act of 1937, as amended, the agency shall establish the initial rent for each rental dwelling unit within the rehabilitated or converted multiple dwelling notwithstanding the provisions of, or any regulation promulgated pursuant to, the emergency housing rent control law, the local emergency housing rent control act, the emergency tenant protection act of nineteen seventy-four, the local rent stabilization law or any local law enacted pursuant thereto. After the agency has set the initial rents, all rental dwelling units within such rehabilitated or converted multiple dwellings shall become subject to the rent stabilization law of nineteen hundred sixty-nine.

2. The occupant in possession of such a dwelling unit when the multiple dwelling is made subject to the rent stabilization law of nineteen hundred sixty-nine shall be offered a choice of a one or two year lease at the initial rents established by the agency notwithstanding any contrary provisions of, or regulations adopted pursuant to, the rent stabilization law of nineteen hundred sixty-nine, and the emergency tenant protection act of nineteen seventy-four.

3. Prior to establishing initial rents the agency shall cause all tenants in occupancy of such multiple dwelling to be notified of, and have an opportunity to comment on, the contemplated rehabilitation. Such notification shall advise such tenants of the approximate expected rent increase and the subsequent availability of a one or two year lease.

Such notification and opportunity to comment shall be provided before the rehabilitation and again after the construction is complete and before the establishment of the initial rents.

4. For the purposes of this section, "multiple dwelling" shall include any class A multiple dwelling having three or more units, and shall include multiple family garden-type maisonette dwelling complexes under single ownership having common facilities such as a sewer line, water main and heating plant notwithstanding the fact that certificates of occupancy were issued for portions thereof as one or two family dwellings.

5. For the purposes of this section, the meaning of the terms "agency", "conversion", "non-residential property" and "rehabilitation" shall be the meaning provided pursuant to section eight hundred one of this chapter.

6. The agency may promulgate supplementary rules and regulations to carry out the provisions of this section, not inconsistent with the provisions of this section.

*** § 608-a. Rent regulation of rehabilitated multiple dwellings acquired and reconveyed by the federal government.** 1. For the purposes of this section:

(a) "Agency" shall mean a department of housing preservation and development in a city having a population of one million or more.

(b) "Eligible property" shall mean real property located in a city having a population of one million or more that has been: (i) acquired by the federal government as the result of the foreclosure of a mortgage loan insured by the federal government, and (ii) conveyed by the federal government to an owner approved by the agency for the purpose of undertaking an eligible rehabilitation project.

(c) "Eligible multiple dwelling" shall mean a multiple dwelling located on eligible property that has been the subject of an eligible rehabilitation project.

(d) "Eligible rehabilitation project" shall mean the rehabilitation of

an eligible multiple dwelling in accordance with an agreement between the owner of the eligible property and the federal government.

2. Notwithstanding the provision of, or any regulation promulgated pursuant to, the emergency housing rent control law, the local emergency housing rent control act, the emergency tenant protection act of nineteen seventy-four, and/or any local law enacted pursuant thereto, upon completion of an eligible rehabilitation project, the agency may establish the initial rent for each dwelling unit within the eligible multiple dwelling. All dwelling units within such building subsequent to establishment of initial rents by the agency shall be subject to the emergency housing rent control law, the local emergency housing rent control act, the emergency tenant protection act of nineteen seventy-four, and/or any local law enacted pursuant thereto, if applicable in the municipality in which such building is located, but only if such laws and/or acts would otherwise apply to such dwelling units; provided, however, that substantial rehabilitation work performed in the course of an eligible rehabilitation project shall not cause such laws and/or acts to cease to apply to such dwelling units. The tenants in occupancy of such dwelling units in such a building that are regulated pursuant to such laws and/or acts shall be offered a choice of a one-year or two-year lease at the initial rent established by the agency, notwithstanding any contrary provisions of, or regulations adopted pursuant to, such laws and/or acts. The agency shall cause all tenants in occupancy of each dwelling unit affected by this subdivision to be notified of and have an opportunity to comment upon the contemplated rehabilitation. Such notification shall advise such tenants of the approximate expected rent increase and the subsequent availability of a one-year or two-year lease. Such notification and opportunity to comment shall be provided prior to commencement of the rehabilitation and again after its completion before establishment of the initial rents.

3. The supervising agency shall use its best efforts to ensure that activities carried out pursuant to this section are structured so as to minimize the likelihood of any involuntary economic displacement of tenants who reside in multiple dwellings which are the subject of such

activities. However, if temporary physical displacement is required as a direct result of rehabilitation work which is performed in the course of the eligible rehabilitation project, suitable temporary relocation arrangements shall be provided.

* NB Repealed June 30, 2027

§ 609. This act shall take effect March first, nineteen hundred sixty-two.

§ 610. Rental assistance and legal regulated rents. 1. (a)

Notwithstanding the emergency tenant protection act of nineteen seventy-four or the rent stabilization law of nineteen hundred sixty-nine, any regulation promulgated pursuant to such act or law, or any other provision of law, where a housing accommodation is subject to a regulatory agreement with a state or municipal agency or public benefit corporation, or a political subdivision of the state, and where a federal, state, or local program provides rental assistance for such housing accommodation, such state or municipal agency or public benefit corporation, or political subdivision of the state, may allow in such regulatory agreement the owner of such housing accommodation to charge and collect a rent for such housing accommodation that (i) does not exceed the maximum payment standard or contract rent that the rental assistance program may provide for such housing accommodation, but (ii) does exceed the legal regulated rent for the housing accommodation.

(b) If any such rental assistance ends upon the vacancy of the housing accommodation, the owner of such housing accommodation shall thereafter charge and collect a rent for such housing accommodation that does not exceed the lesser of (i) the previously established legal regulated rent for such housing accommodation, as adjusted by the most recent applicable guidelines increases approved by a rent guidelines board established pursuant to the emergency tenant protection act of nineteen seventy-four and any other increases authorized by law, regardless of when the previously established legal regulated rent was last charged, and (ii) any lower rent that is required by such regulatory agreement.

(c) If any such rental assistance ends during a tenancy, including,

but not limited to, upon the renewal of a lease, the owner of such housing accommodation shall thereafter charge and collect a rent for such housing accommodation that does not exceed the lesser of (i) the previously established legal regulated rent for such housing accommodation, as adjusted by the most recent applicable guidelines increases approved by a rent guidelines board established pursuant to the emergency tenant protection act of nineteen seventy-four and any other increases authorized by law, regardless of when the previously established legal regulated rent was last charged, (ii) any rent charged to and paid by the tenant immediately prior to the commencement of the rental assistance that was less than the legal regulated rent for such housing accommodation, as adjusted by such most recent applicable guidelines increases and any other increases authorized by law, and (iii) any lower rent that is required by such regulatory agreement.

2. Any rent charged pursuant to subdivision one of this section in excess of the legal regulated rent for a housing accommodation shall not be registered as the legal regulated rent pursuant to the emergency tenant protection act of nineteen seventy-four or the rent stabilization law of nineteen hundred sixty-nine. The owner of such housing accommodation shall continue to register the legal regulated rent and any preferential rent calculated according to applicable guidelines increases applied to the previously established legal regulated rent or preferential rent, respectively, and separately register the actual rent charged to the tenant pursuant to subdivision one of this section.

3. Where the owner of a housing accommodation charges and collects a rent that exceeds the legal regulated rent for such housing accommodation pursuant to subdivision one of this section, such owner shall provide every tenant of such housing accommodation with a notice, attached to the initial lease and all renewal leases, advising the tenant in plain language that if such tenant ceases to receive the rental assistance described in subdivision one of this section for any reason, the rent for such housing accommodation shall be the legal regulated rent, or any lower rent as required by subdivision one of this section. The owner shall disclose any applicable regulatory agreement and the applicability of this section in any legal proceeding brought

against a tenant whose rent is governed by this section.

4. An owner of a housing accommodation who fails to adjust a rent upon the termination of any such rental assistance as required by subdivision one of this section shall refund to the tenant the amount of the overcharge and be liable for treble damages. The tenant shall have the right to recover such overcharges and damages from the date of their accrual, notwithstanding any statute of limitations set forth in the emergency tenant protection act of nineteen seventy-four or the rent stabilization law of nineteen hundred sixty-nine. The tenant may raise such an overcharge as a claim or defense in any court of appropriate jurisdiction, or in a proceeding at the division of housing and community renewal, pursuant to the emergency tenant protection act of nineteen seventy-four or the rent stabilization law of nineteen hundred sixty-nine.

5. Where a regulatory agreement allows an owner of a housing accommodation to charge and collect a rent for the housing accommodation that exceeds the legal regulated rent for such housing accommodation in accordance with subdivision one of this section, the state or municipal agency or public benefit corporation, or political subdivision of the state, that has executed the regulatory agreement shall audit such owner's records at least once every three years to verify that such owner is complying with the provisions of this section.

§ 611. Rent stabilization and regulatory agreements. 1.

Notwithstanding any other provision of law, including the provisions of, or any regulation promulgated pursuant to, the emergency tenant protection act of nineteen seventy-four or the rent stabilization law of nineteen hundred sixty-nine, the state division of housing and community renewal, when supervising housing accommodations under provisions of law other than the emergency tenant protection act of nineteen seventy-four or the rent stabilization law of nineteen hundred sixty-nine, the New York city department of housing preservation and development, the New York state urban development corporation, the New York state housing finance agency, the New York state housing trust fund, and the New York

city housing development corporation, or such other state or municipal agency, political subdivision, public benefit corporation, or instrumentality as the state division of housing and community renewal shall identify, may, by agreement with an owner of a multiple dwelling, subject any housing accommodation in such multiple dwelling to the emergency tenant protection act of nineteen seventy-four or the rent stabilization law of nineteen hundred sixty-nine, or both, if applicable to the municipality. The requirements of such agreement shall supplement any requirements imposed on such housing accommodation pursuant to any other provisions of law.

2. Any agreement between a state or municipal agency, political subdivision, public benefit corporation, or instrumentality described in subdivision one of this section and an owner of a multiple dwelling that contains provisions that are consistent with subdivision one of this section and that is in effect as of the effective date of this section is and will remain valid and enforceable.

§ 612. Compliance monitoring. 1. Any supervising agency and any corporate governmental agency that constitutes a public benefit corporation created pursuant to this chapter shall have the power to: (a) subpoena, require the attendance of and examine and take testimony under oath of such persons as it deems necessary to monitor, and enforce compliance with, a note, mortgage, other financing agreement, regulatory agreement, deed, land disposition agreement, or restrictive covenant with or approved by such agency or corporation and entered into in connection with an action taken pursuant to this chapter, the general municipal law, the real property tax law, or the New York city zoning resolution; and (b) subpoena and require the production of books, accounts, papers, documents and other evidence related to such monitoring and enforcement.

2. Any person who has been issued a subpoena, or any other requirement to testify or produce books and records, pursuant to subdivision one of this section, shall be required to comply with such subpoena or other requirement within a reasonable period of time established by the

supervising agency or public benefit corporation that issued such subpoena. Each day in which a person fails to comply with such subpoena, or with any other such requirement to testify or produce books and records, shall constitute a separate violation of this section. The civil penalty for each such violation shall be not more than two hundred fifty dollars, provided that such penalty shall not apply to any period during which such subpoena or other requirement to testify or produce books and records is the subject of a pending judicial proceeding commenced prior to the expiration of the period of time established by such supervising agency or public benefit corporation for compliance with such subpoena or other requirement to testify or produce books and records.

3. Any such supervising agency or public benefit corporation may promulgate rules and regulations to carry out the provisions of this section.

§ 613. Charges. A municipality, or a supervising agency thereunder, may require the payment of charges by an owner in consideration for financing, regulation, supervision and audit of loans and grants made pursuant to the provisions of this chapter. Such charges shall be paid into the treasury of the municipality requiring the charges and shall be paid and deposited in the general fund of any such municipality.

§ 614. Servicing loans. An agency may make provision in a note and loan agreement or by separate agreement for the performance of loan or grant servicing functions, including, but not limited to, functions related to lending or providing a grant for construction, as may generally be performed by an institutional lender. Such agency may act in such capacity or appoint or consent to the appointment of a financial institution or other qualified entity, as determined by such agency, to act in such capacity on behalf of such agency. Such agency may pay a reasonable and customary fee to such financial institution or other qualified entity appointed by such agency, or to whose appointment such agency provided consent, for the performance of such loan or grant

servicing functions.

ARTICLE XII

NEW YORK CITY HOUSING DEVELOPMENT CORPORATION

- Section 650. Short title.
651. Statement of legislative findings and purpose.
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- 654-a. Subsidiaries; how created.
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§ 650. Short title. This article shall be known and may be cited as the "New York city housing development corporation act."

§ 651. Statement of legislative findings and purpose. 1. There continues to exist in the city of New York a seriously inadequate supply of safe and sanitary dwelling accommodations within the financial reach of families and persons of low income. The ordinary operations of private enterprise cannot provide an adequate supply of such accommodations at rentals and carrying charges which families and persons of low income can afford. In order to encourage the investment of private capital and provide such dwelling accommodations, provision should be made for mortgage loans at low interest rates to housing companies which, subject to regulation as to rents, profits, dividends and disposition of their property, supply multiple dwelling accommodations, and other facilities incidental or appurtenant thereto, to such families and persons. For that purpose there should be created a corporate governmental agency, to be known as the "New York city housing development corporation," which, through the issuance of its bonds, notes or other obligations to the private investing public, may attract a broad base of investment by the greatest number of the general public and obtain the funds necessary to make or finance the making of such mortgage loans.

2. There also exists in the city of New York a large number of multiple dwellings which are inadequate, unsafe or insanitary and which can be made adequate, safe and sanitary by rehabilitation or other improvement. Such rehabilitation or improvement cannot readily be provided by the ordinary operations of private enterprise without public aid in the form of low interest loans to the owners of such multiple dwellings. In order to encourage the investment of private capital in such rehabilitation and improvement, the agency should also be empowered, through the issuance of its bonds, notes or other obligations to the private investing public, to obtain the funds necessary to make or finance the making of such low interest loans.

The necessity in the public interest for the provisions hereinafter enacted is hereby declared as a matter of legislative determination.

§ 652. Definitions. As used or referred to in this article, unless a different meaning clearly appears from the context:

1. "Corporation" shall mean the corporate governmental agency created by section six hundred fifty-three of this article.

2. "State" shall mean the state of New York.

3. "City" shall mean the city of New York.

4. "Mayor" shall mean the mayor of the city of New York

5. "Comptroller" shall mean the comptroller of the city of New York.

6. "Commissioner of finance" shall mean the commissioner of finance of the city of New York.

7. "Director of management and budget" shall mean the director of management and budget of the city of New York.

8. "Department of housing preservation and development" shall mean the department of housing preservation and development of the city of New York.

9. "Bonds" and "notes" shall mean revenue bonds and notes respectively, issued by the corporation pursuant to this article.

10. "Revenues" shall mean the fees and charges made or received by the corporation, and all or any part of the moneys received in payment of mortgage loans and interest thereon, including prepayments and other moneys received or to be received.

11. "Operating expenses" shall mean all costs of administering the corporation, including but not limited to salaries and wages, expenses of administering staff functions, fees of professional consultants, legal fees, charges incurred for servicing of mortgage loans, money

management, office rents, utility charges, costs of supplies, furnishings, equipment, machinery and apparatus, maintenance and repair of property and other expenses incurred in connection with the foregoing.

12. "Maximum capital reserve fund requirement" shall mean, as of any particular date of computation, an amount of money equal to the greatest of the respective amounts, for the then current or any future fiscal year of the corporation, of annual debt service of the corporation, such annual debt service for any fiscal year being the amount of money equal to the aggregate of (a) all interest payable during such fiscal year on all bonds of the corporation secured by the capital reserve fund or funds for which such requirement is to be determined, other than bonds issued pursuant to subdivision two of section six hundred fifty-six of this article, outstanding on said date of computation, plus (b) the principal amount of all bonds of the corporation secured by the capital reserve fund or funds for which such requirement is to be determined, other than bonds issued pursuant to subdivision two of section six hundred fifty-six of this article outstanding on said date of computation which matures during such fiscal year, plus (c) the amount of all annual sinking fund payments payable during such fiscal year with respect to any bonds of the corporation secured by the capital reserve fund or funds for which such requirement is to be determined, other than bonds issued pursuant to subdivision two of section six hundred fifty-six of this article, outstanding on said date of computation.

13. "Annual sinking fund payment" shall mean the amount of money specified in the resolution authorizing term bonds as payable into a sinking fund during a particular fiscal year for the retirement of term bonds which mature after such fiscal year, but shall not include any amount payable by reason only of the maturity of a bond.

* 14. "Lending institution" shall mean any bank or trust company or savings bank, or any corporation, association or other entity which is owned or controlled by any one or more such bank or trust company or savings bank, or any savings and loan association, credit union, federal national mortgage association approved mortgage banker, national banking association, federal savings and loan association, federal savings bank,

public pension fund, pension fund with assets over fifty million dollars, insurance company, federal credit union or other financial institution or governmental agency of the United States which customarily makes, purchases, holds, insures or services residential mortgages.

* NB Effective until July 23, 2027

* 14. "Lending institution" shall mean any bank or trust company or savings bank, or any corporation, association or other entity which is owned or controlled by any one or more such bank or trust company or savings bank, or any savings and loan association, industrial bank, credit union, federal national mortgage association approved mortgage banker, national banking association, federal savings and loan association, pension fund, insurance company, federal credit union or other financial institution or governmental agency of the United States which customarily makes, purchases, holds or services residential mortgages.

* NB Effective July 23, 2027

§ 653. New York city housing development corporation. 1. There is hereby created the "New York city housing development corporation". The corporation shall be a corporate governmental agency, perpetual in duration, and shall constitute a public benefit corporation. It shall consist of seven members as follows: the commissioner of the department of housing preservation and development, who shall serve as chairperson, the commissioner of finance, the director of management and budget, two public members to be appointed by the mayor and two public members to be appointed by the governor. The public members first appointed by the mayor or the governor, as may be the case, shall serve for terms ending two and four years respectively from January first next succeeding the date of their appointment. Their successors shall serve for terms of four years each. Members shall continue in office until their successors have been appointed and qualified. The mayor or the governor shall fill any vacancy which may occur by reason of death, resignation or otherwise in a manner consistent with the original appointment. A public member may be removed by the mayor or the governor, whichever appointed such member, for cause, but not without an opportunity to be heard in person

or by counsel, in such member's defense, upon not less than ten days' notice.

2. (a) The members, officers and employees of the corporation shall be subject to the conflicts of interest provisions of chapter sixty-eight of the New York city charter and the rules promulgated thereunder by the New York city conflicts of interest board. Such members, officers and employees shall not be subject to the provisions of article eighteen of the general municipal law or the provisions of sections seventy-three, seventy-three-a and seventy-four of the public officers law.

(b) The members, officers and employees of the corporation shall be subject to the provisions of section 12-110 of the administrative code of the city of New York pertaining to the filing of annual disclosure reports with the New York city conflicts of interest board, and for such purpose the members shall be deemed to be compensated members of the corporation.

(c) Notwithstanding any inconsistent provisions of this or any other general, special or local law, no officer or employee of the state, or of any civil division thereof, or of any public corporation, as defined in the general construction law, shall be deemed to have forfeited or shall forfeit such person's office or employment or any benefits provided under the retirement and social security law or under any public retirement system maintained by the state or by the civil divisions thereof by reason of such person's acceptance of membership on or by virtue of such person being an officer, employee or agent of the corporation. A member shall not receive a salary or other compensation for services rendered pursuant to this article but shall be entitled to reimbursement for such member's actual and necessary expenses incurred in the performance of such services. The members may engage in private employment or in a profession or business, unless otherwise prohibited from doing so by virtue of holding another public office, subject to the provisions of chapter sixty-eight of the New York city charter and the rules promulgated thereunder by the New York city conflicts of interest board.

3. The powers of the corporation shall be vested in and exercised by no less than four of the members thereof then in office. The corporation

may delegate to one or more of its members, officers, agents or employees such powers and duties as it may deem proper.

4. The corporation and its corporate existence shall continue until terminated by law; provided, however, that no such law shall take effect so long as the corporation shall have notes, bonds, or other obligations outstanding. Upon termination of the existence of the corporation all of its rights and properties shall pass to and be vested in the city.

§ 654. Powers of the corporation. Except as otherwise limited by this article, the corporation shall have power:

1. To sue and be sued;
2. To have a seal and alter the same at pleasure;
3. To make and alter by-laws for its organization and internal management and, subject to agreements with noteholders or bondholders, to make rules and regulations governing the use of its property and facilities;
4. To make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this article;
5. To acquire, hold and dispose of real and/or personal property for its corporate purposes;
6. To appoint officers, agents and employees, prescribe their duties and qualifications and fix their compensation, subject to the provisions of the civil service law and the rules of the civil service commission of the city;
7. Subject to the provisions of any contract with noteholders and bondholders, to make mortgage loans, to participate with the city or with one or more organizations mentioned in section fifteen of this

chapter in making mortgage loans and to undertake commitments to make any such mortgage loans to housing companies, including any subsidiary of the corporation, on the same terms and otherwise in accordance with the provisions of article two of this chapter governing loans by a municipality;

* 7-a. Subject to the provisions of any contract with noteholders and bondholders, to make mortgage loans, to participate with the city or with one or more organizations set forth in section one hundred eleven-a of this chapter in making mortgage loans and to undertake commitments to make any such mortgage loans to redevelopment companies organized under article five of this chapter;

* NB (Effective until ruling by Internal Revenue Service)

* 7-a. Subject to the provisions of any contract with noteholders and bondholders, to make mortgage loans, to participate with the city or with one or more organizations set forth in sections eighty-one and one hundred eleven-a of this chapter in making mortgage loans and to undertake commitments to make any such mortgage loans to limited-dividend housing companies organized under article four of this chapter and to redevelopment companies organized under article five of this chapter. Such mortgage loans may be made to limited-dividend and redevelopment companies for such purposes as may be approved by the corporation including, but not limited to, the refinancing of the existing mortgage indebtedness of such companies, to provide funds for the replacement, improvement and rehabilitation of the properties owned by said companies, to provide funds for all costs incurred by such companies relating to the refinancing of the existing mortgage indebtedness including amounts required to establish escrow accounts, reserves and working capital as determined by the corporation and for such other purposes as are permitted by articles four and five of this chapter; provided, however, such purposes must be approved by the Federal Internal Revenue Service for application of the tax exemption for housing bonds. Such mortgage loans may be made by the corporation without any requirement that all or any portion of the loan be used to create new or rehabilitated housing facilities. In furtherance of its powers pursuant to this subdivision and, subject to the provisions of any contract with noteholders and bondholders, the corporation may acquire and contract to acquire, by assignment or otherwise, any

mortgage securing a loan and any related bond or note made by a limited-dividend housing company or a redevelopment company and may modify or satisfy such mortgage and accept or make a new mortgage or mortgages and execute such other instruments as the corporation deems to be necessary or proper.

* NB (Effective pending ruling by Internal Revenue Service)

8. Subject to the provisions of any contract with noteholders and bondholders, to make mortgage loans including participation and investment with the city or with one or more corporations, organizations or individuals of the kind mentioned in section four hundred seven of this chapter in making mortgage loans and to undertake commitments to make mortgage loans to owners of existing multiple dwellings, including any subsidiary of the corporation, on the same terms and otherwise in accordance with the provisions of article eight of this chapter, except that such loans shall in all cases be secured by a first lien;

8-a. Subject to the provisions of any contract with noteholders or bondholders, to participate with the city or one or more private investors as defined in section eight hundred one of this chapter or with the city and one or more such private investors in making loans in accordance with the provisions of article fifteen of this chapter.

9. Subject to the provisions of any contract with noteholders and bondholders, to sell, at public or private sale, any mortgage or other obligation securing a mortgage loan made by the corporation;

10. Subject to the provisions of any contract with noteholders and bondholders, in connection with the making of mortgage loans and commitments therefor, to make and collect such fees and charges, including but not limited to reimbursement of all costs of financing by the corporation, service charges and insurance premiums, as the corporation shall determine to be reasonable;

11. Subject to the provisions of any contract with noteholders and bondholders, to consent to the modification, with respect to rate of interest, time of payment of any installment of principal or interest,

security, or any other term, of any mortgage, mortgage loan, mortgage loan commitment, contract or agreement of any kind to which the corporation is a party;

12. To foreclose any mortgage in default or 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; and in such event the corporation may complete, administer, pay the principal of and interest on any obligations incurred in connection with such property, dispose of, and otherwise deal with, such property, in such manner as may be necessary or desirable to protect the interests of the corporation therein;

12-a. To create subsidiaries, as provided in section six hundred fifty-four-a of this chapter.

13. To borrow money and to issue negotiable notes or bonds or other obligations and to fund or refund the same, and to provide for the rights of the holders of its obligations;

14. To invest any funds held in reserves or sinking funds, or any funds not required for immediate use or disbursement, at the discretion of the corporation, in obligations of the city, state or federal government, obligations the principal and interest of which are guaranteed by the city, state or federal government, obligations of agencies of the federal government which may from time to time be legally purchased by savings banks of the state as investments of funds belonging to them or in their control and be approved by the comptroller, obligations in which the comptroller of the state of New York is authorized to invest pursuant to section ninety-eight of the state finance law, obligations of the New York city municipal water finance authority, participation certificates of the federal home loan mortgage corporation or mortgage-backed securities of the federal national mortgage association.

15. Subject to the provisions of any contract with noteholders and

bondholders and subject to the provisions of section six hundred fifty-five of this article, to purchase notes or bonds of the corporation;

16. To procure insurance against any loss in connection with its property and other assets including mortgages and mortgage loans in such amounts and from such insurers as it deems desirable;

17. To engage the services of consultants on a contract basis for rendering professional and technical assistance and advice; and where the corporation shall join with one or more organizations mentioned in section fifteen, one hundred eleven-a or four hundred seven of this chapter in making mortgage loans, to make provision, either in the mortgage or mortgages or by separate agreement, for the performance of such services as are generally performed by a banking organization or insurance company which itself owns and holds a mortgage or by a trustee under a trust mortgage, and to consent to the appointment of a banking organization to act in such capacity;

18. To contract for and to accept any gifts or grants or loans of funds or property or fees for administering any federal rental subsidy contract or financial or other aid in any form, including but not limited to mortgage insurance, 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 article, with the terms and conditions thereof;

19. As security for the payment of the principal of and interest on any bonds so issued and any agreements made in connection therewith, to pledge all or any part of its revenues;

20. Notwithstanding the provisions of this chapter or of any other law, general, special or local, whenever the corporation shall find that the maximum rentals charged tenants of the dwellings in any project financed by the corporation in whole or in part shall not be sufficient, together with all other income of the mortgagor, to meet within

reasonable limits all necessary payments to be made by the mortgagor of all expenses including fixed charges, sinking funds, reserves and dividends, to request the mortgagor to make application to vary the rental rate for such dwellings so as to secure sufficient income, and upon failure of the mortgagor to take such action within thirty days after receipt of written request from the corporation to do so, to request the supervising agency to take action upon such agency's own motion so to vary such rental rate, and upon failure of the supervising agency either upon application by the mortgagor or upon its own motion so to vary such rental rate within sixty days after receipt of written request from the corporation to do so, to vary such rental rate by action of the corporation;

21. Subject to the provisions of any contract with noteholders and bondholders, to acquire and to contract to acquire, by assignment or otherwise, or to take as collateral security, any mortgage securing a loan, including any construction loan, and any note or bond evidencing indebtedness thereon, made by the city of New York in accordance with the provisions of article two of this chapter and any contract or arrangement, including any subsidy contract or arrangement, related to such mortgage, and the receipts to be derived from any of the foregoing, and to assume and fulfill and contract to assume and fulfill the obligations of the mortgagee or lender thereunder, and to reassign and to contract to reassign to the city of New York any such mortgage, note, bond, contract or arrangement and the receipts to be derived therefrom.

22. Subject to the provisions of any contract with noteholders and bondholders, to assign or pledge any mortgage, bond, note, contract, security, or arrangement and the receipts to be derived from any of the foregoing, acquired pursuant to this section;

22-a. Subject to the provisions of any contract with noteholders and bondholders, to acquire and to contract to acquire, by assignment or otherwise, any mortgage securing a loan, including any construction loan, and any note or bond evidencing indebtedness thereon, made by the city of New York in accordance with the provisions of article two of this chapter and any contract or arrangement, including any subsidy

contract or arrangement, related to such mortgage, and to modify or to satisfy such mortgage and accept or make a new mortgage or mortgages and other instruments, including mortgages to secure residual indebtedness and instruments to evidence residual receipts obligations as defined in section twelve of this law and to enter into amended subsidy contracts, and (i) to hold or to sell, assign or otherwise dispose of such mortgage or mortgages, including those made in substitution thereof and any related instruments, contracts and arrangements, or to issue obligations secured by such mortgage or mortgages, and pay to the city of New York the proceeds of such sale, assignment or other disposition of such mortgages and the proceeds from the issuance of such obligations, less legal and other fees, costs and expenses and other amounts paid or incurred by the corporation, including discounts, costs incurred by the corporation related to the sale of such mortgages or to a sale, if any, of its obligations, fees payable to other governmental units, the cost incurred by the corporation under an agreement with the federal government pursuant to subdivision twenty-two-b of this section, amounts required to establish escrow accounts or reserves for the issuance of mortgage insurance, the cost of satisfying such minimum property standards or of installing such life safety devices as may be required by the federal government which standards or devices are in addition to any requirement imposed by the city of New York as mortgagee, amounts loaned to the mortgagor to establish such escrow accounts or reserves or to satisfy such minimum property standards or to install such life safety devices, closing and other costs related to obtaining mortgage insurance from the federal government such other costs as the federal government may from time to time impose, any amounts not previously advanced under mortgages modified or satisfied under this subdivision as determined by the supervising agency, and an amount not to exceed twenty million dollars at any one time, which shall be held in a revolving account for a period not to exceed eighteen months from the time of the first deposit therein, to pay any or all of the costs, fees and expenses and other amounts attributable to issuing obligations secured by such mortgage or mortgages, or to making and insuring mortgages pursuant to this subdivision, and any balance remaining in such revolving account shall be paid to the city of New York no later than eighteen months after the time of the first deposit therein, and (ii) to assign or

reassign any such mortgage or mortgages, instruments and related contract or arrangement to the city of New York. If the corporation sells any such mortgages for an amount in excess of the principal amount thereof at the time of such sale, or if the corporation issues obligations secured by any such mortgages and the yield on such mortgages is greater than the yield on such obligations (the yield on such mortgages and obligations having been calculated in accordance with section one hundred three of the internal revenue code of the United States and regulations thereunder), the corporation shall pay to the city of New York such premium and any such differential, but only to the extent such differential is not paid to or for the benefit of the holders of such obligations; and such premium and differential, to the extent so paid to such city, shall be used and credited by the city of New York in accordance with subdivision four-b of section twenty-three-a of this chapter as if such city had sold such mortgages or issued such obligations pursuant to section twenty-three-a of this chapter. The corporation shall not modify or satisfy a mortgage pursuant to this subdivision unless such modification or satisfaction is first approved by the supervising agency.

22-b. To contract with the federal government for the sharing of any claim paid by the federal government on account of any insurance of a mortgage, provided that the corporation's share of any such claim shall not exceed fifty percent of the insurance benefits paid by the federal government, and further provided that the corporation's share of such claims under any such contract shall not exceed five percent of the outstanding principal amount of all mortgage loans of the corporation insured by the federal government and included within such contract.

23. To make loans secured by mortgages insured or coinsured by the federal government to the owners of multiple dwellings in such amounts as may be required for the rehabilitation of such multiple dwellings or, if such owner acquires the multiple dwelling for the purpose of such rehabilitation or owns the multiple dwelling subject to an outstanding indebtedness, in such amounts as may be required for the cost of such acquisition or for the refinancing of such outstanding indebtedness, but in no event in such amounts as would exceed the mortgage limits imposed

by the federal government, and to regulate or restrict such owner as to rents or sales, charges, capital structure, rate of return and method of operation and to make loans secured by mortgages insured or coinsured by the federal government to the owners of projects in such amounts as may be required for the acquisition, construction or improvement of such projects, but in no event in such amounts as would exceed the mortgage limits imposed by the federal government, or ninety percent of the actual cost of such acquisition, construction or improvement, whichever is less, and to regulate or restrict such owner as to rents or sales, charges, capital structure, rate of return and method of operation. The owner may, with the approval of the corporation, fix maximum rentals to be charged tenants of the dwellings in any multiple dwelling or project aided by a loan pursuant to this subdivision. The corporation, upon its own motion, or upon application by the owner or by the federal government, may vary such rental rate from time to time so as to secure, together with all other income of the multiple dwelling, sufficient income for it to meet within reasonable limits all necessary payments to be made by the owner of all expenses; provided that no variation in a rental rate shall be effective unless approved by the federal government. The corporation or the department of housing preservation and development shall notify occupants of the multiple dwelling, if there be any, of the contemplated rehabilitation and shall advise them of the expected rental increase to result therefrom, and a representative of the corporation or the department of housing preservation and development shall meet or offer to meet at least once with the occupants. The corporation shall promulgate such rules and regulations with respect to multiple dwellings and projects financed pursuant to this subdivision and the owners of such multiple dwellings and projects as may be necessary to carry out the provisions of this subdivision, provided that such rules and regulations shall contain provisions as to income limitations relating to admission into occupancy of the dwelling units of such projects to the same effect as are contained in section thirty-one of this chapter and for the dwelling units of such other multiple dwellings to the same effect as are contained in subdivision three of section four hundred one of this chapter. As used in this subdivision, the term "multiple dwelling" shall include an existing building or structure which is to be converted into

a class A multiple dwelling.

23-a. Subject to the provisions of any contract with noteholders and bondholders, (i) to make and contract for the making of mortgage loans for the construction or rehabilitation of projects which the New York city housing authority has agreed to purchase on a turnkey basis in accordance with a federally assisted program for the production of public housing as authorized by the United States housing act of nineteen hundred thirty-seven as amended to the date of enactment of this subdivision of this section, upon the completion of such construction or rehabilitation, and (ii) to make and to contract for the making of loans to, or to purchase loans from, banking or other lending institutions for the purpose of financing such construction or rehabilitation.

23-b. In order to increase the availability of safe and sanitary dwelling accommodations within the financial reach of families and persons of low income, to acquire and to contract to acquire, by assignment or otherwise, or to take as collateral security, any federally guaranteed security evidencing indebtedness on a mortgage securing a loan, including any construction loan, and the receipts to be derived therefrom and to assign or reassign and to contract to assign or reassign any such security and the receipts to be derived therefrom, subject in each case, to the provisions of any contract with noteholders and bondholders;

* 23-c. (1) Subject to the provisions of any contract with noteholders and bondholders (a) to make and contract for the making of loans for the acquisition, construction or rehabilitation of housing accommodations containing five or more dwelling units (i) for the purpose of providing housing accommodations for occupancy by persons and families for whom the ordinary operations of private enterprise cannot provide an adequate supply of safe, sanitary and affordable housing accommodations or (ii) for units located in an area designated as blighted pursuant to article fifteen or sixteen of the general municipal law, or as certified by the New York city department of housing preservation and development as being located in an area which is blighted, and (b) to make and to contract for the making of loans to or to purchase loans from lending

institutions for the purpose of financing mortgage loans for such acquisition, construction or rehabilitation, and (c) to establish such regulatory requirements with regard to such housing accommodations as may be deemed appropriate by the corporation to achieve the objectives of this article, and articles fifteen and sixteen of the general municipal law notwithstanding any other provisions of this chapter to the contrary. Any notes and bonds issued pursuant to this subdivision shall not be secured by any capital reserve fund established pursuant to section six hundred fifty-six of this article.

(2) With regard to any loan made pursuant to this subdivision and notwithstanding the provisions of, or any regulation promulgated pursuant to, the emergency housing rent control law, the local emergency housing rent control act, or local law enacted pursuant thereto, the rent stabilization law of nineteen hundred sixty-nine, or the emergency tenant protection act of nineteen seventy-four, the owner of a project otherwise subject to any such law or act, with the approval of the agency, shall establish the initial rent for each dwelling unit within the project. The corporation shall notify occupants of the project, if any, of any such proposed rental establishment and offer to meet at least once with the occupants prior to its approval.

(3) The powers granted by this subdivision may be exercised only if (a) obligations of the corporation have been issued to fund the loan made or purchased by the corporation and such obligations have received an investment grade rating from a recognized rating agency; (b) the loan made or purchased by the corporation is fully secured as to principal and interest by insurance or a commitment to insure by the state of New York mortgage agency or New York city residential mortgage insurance corporation or by the general credit of a bank, national bank, trust company, savings bank, savings and loan association, insurance company, governmental agency of the United States, or any combination thereof; or (c) obligations of the corporation are purchased by a bank, national bank, trust company, savings bank, savings and loan association, insurance company, governmental agency of the United States, which for purposes of this subdivision, include the federal home loan mortgage corporation, the federal national mortgage association, the governmental national mortgage association, and any successor of the foregoing, or any wholly-owned subsidiary or combination thereof.

* NB Repealed July 23, 2027

23-d. 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 corporation.

23-e. Subject to the provisions of any contract with noteholders and bondholders, to refinance or acquire mortgage loans made for multiple dwellings by private lenders pursuant to article eight-A or fifteen of this chapter; provided that the corporation shall not be permitted pursuant to this subdivision to acquire a mortgage loan, unless such acquisition is in connection with a refinancing of the property for which such mortgage loan was made.

23-f. To service mortgage loans made by private or governmental lenders for multiple dwellings, provided that each such mortgage loan shall have been made either (i) pursuant to this chapter, or (ii) in conjunction with another mortgage loan made by the city of New York.

23-g. Subject to the provisions of any contract with noteholders and bondholders, to acquire mortgage loans made by the city of New York pursuant to article eight-A of this chapter or section ninety-nine-h or article sixteen of the general municipal law or to acquire a participation interest in such mortgage loans.

23-h. Subject to the provisions of any contract with noteholders and bondholders and relating to the purpose of providing housing accommodations for occupancy by persons and families for whom the ordinary operations of private enterprise cannot provide an adequate supply of safe, sanitary and affordable housing accommodations or for units located in an area designated as blighted pursuant to article fifteen or sixteen of the general municipal law, or as certified by the New York city department of housing preservation and development as being located in an area that is blighted, the corporation is hereby

authorized to carry out, by loans or guaranties, the following purposes:

(i) to preserve, repair, renovate, upgrade, improve, modernize, rehabilitate or otherwise prolong the useful life of dwelling accommodations;

(ii) to construct dwelling accommodations and undertake site preparation related thereto;

(iii) to restore abandoned, vacant or occupied city or privately-owned dwelling accommodations to habitable condition;

(iv) to assist in the acquisition of buildings that contain or are expected to contain dwelling accommodations; and

(v) to facilitate the disposition of city-owned buildings that contain or are expected to contain dwelling accommodations.

24. To contract with any of its subsidiary corporations to render such services as such subsidiary corporation may request, including, but not limited to, the use of the premises, personnel and personal property of the corporation, and to provide for reimbursement to the corporation from such subsidiary corporation for any expenses necessarily incurred by the corporation in carrying out the terms of any such contract.

25. To do any and all things necessary or convenient to carry out its purposes and exercise the powers expressly given and granted in this article.

§ 654-a. Subsidiaries; how created. 1. The corporation by resolution may direct any of its members, officers or employees to organize a subsidiary corporation whenever, in the sole discretion of the corporation, it has become necessary to acquire a project in the case of sale under foreclosure or in lieu of foreclosure and it is beneficial to effectuate the purpose of this chapter for the subsidiary to hold title to the project.

2. Each such subsidiary corporation shall be wholly owned by the corporation and shall be organized pursuant to the business corporation law, the not-for-profit corporation law or article two or article eleven of this chapter.

3. The corporation may transfer to any subsidiary corporation any money, real or personal or mixed property or may convey to it any project in order to carry out the purposes of this article. Each such subsidiary corporation shall have all the privileges, immunities, tax exemptions and other exemptions of the corporation to the extent the same are not inconsistent with the statute or statutes pursuant to which such subsidiary was incorporated. Except as may be inconsistent with the provisions of this article, such subsidiary, if organized pursuant to article two or article eleven of this chapter, shall have all the rights and powers granted to housing companies by this chapter and by any other statute pursuant to which such subsidiary corporation was organized.

4. No member or officer of the corporation shall receive any additional compensation, either direct or indirect, other than reimbursement for actual and necessary expenses incurred in the performance of such person's duties, by reason of such person's serving as a member, director, trustee or officer of any subsidiary corporation.

§ 654-b. Housing assistance corporation. 1. There is hereby established a public benefit corporation known as the "housing assistance corporation" as a subsidiary corporation of the corporation.

2. Such subsidiary corporation may (a) receive monies from the corporation, the state, any public benefit corporation, the city, the federal government or any other source for the purpose of assisting rental developments to maintain rentals affordable to low and moderate income persons for whom the ordinary operation of private enterprise cannot supply safe, sanitary and affordable housing accommodations, (b) transfer, lend, pledge or assign monies (i) to any rental development in order to assist such development in maintaining rents affordable to such low and moderate income tenants or (ii) in order to assist the corporation in financing such developments, and (c) enter into such agreements with the owners of such developments as it may deem appropriate to further the objectives of this article. Such subsidiary corporation shall have all the privileges, immunities, tax exemptions

and other exemptions of the corporation to the extent the same are not inconsistent with this article.

3. The membership of such subsidiary corporation shall consist of the commissioner of the department of housing preservation and development, who shall serve as chairperson, and two public members appointed by and who serve at the pleasure of the mayor. The powers of the subsidiary corporation shall be vested in and exercised by no less than two of the members thereto then in office. The subsidiary corporation may delegate to one or more of its members, or its officers, agents and employees, such duties and powers as it may deem proper.

4. No officer or member of the corporation shall receive any additional compensation, either direct or indirect, other than reimbursement for actual and necessary expenses incurred in the performance of such person's duties, by reason of such person's serving as a member or officer of such subsidiary corporation.

5. The corporation may transfer to such subsidiary corporation any real, personal or mixed property in order to carry out the purposes of this section.

6. The subsidiary corporation shall have the power to:

- (a) sue and be sued;
- (b) have a seal and alter the same at pleasure;
- (c) make and alter by-laws for its organization and internal management and make rules and regulations governing the use of its property and facilities;
- (d) make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this section;
- (e) acquire, hold and dispose of real or personal property for its corporate purposes;
- (f) engage the services of private consultants on a contract basis for rendering professional and technical assistance and advice;
- (g) procure insurance against any loss in connection with its activities, properties and other assets in such amount and from such

insurers as it deems desirable;

(h) appoint officers, agents and employees, prescribe their duties and qualifications and fix their compensation subject to the provisions of the civil service law and the rules of the civil service commission of the city;

(i) invest any funds, or other monies under its custody and control in the same manner as the corporation; and

(j) to do any and all things necessary or convenient to carry out its purposes and exercise the powers expressly given and granted in this section.

7. The subsidiary corporation and its corporate existence shall continue until terminated by law. Upon termination of the existence of the subsidiary corporation all of its rights and properties shall pass to and be vested in the city. No such termination shall take effect as long as obligations of the subsidiary corporation remain outstanding.

8. The city and the corporation shall have the power to transfer to such subsidiary corporation agents, employees and facilities of the city or corporation to enable it to fulfill the purposes of this section.

§ 654-c. Housing New York corporation. 1. Definitions. As used in this section, unless a different meaning clearly appears from the context:

(a) "Housing New York program" shall mean the housing New York program established pursuant to section four of the housing New York program act.

(b) "City" shall mean the city of New York, its agencies and instrumentalities (other than the housing New York corporation) and the New York city housing development corporation.

(c) "Residential housing facilities" shall mean one or more works or improvements containing one or more residential dwelling units, including, but not limited to, single room occupancy units, and including the real and personal property acquired, owned, constructed, equipped, improved, enlarged, rehabilitated or renovated to provide such accommodations and such incidental and appurtenant commercial, social, recreational or communal facilities, to be located without the Battery

Park project area, as defined in the Battery Park city authority act, and within the city.

(d) "Excess revenues" shall mean all revenues from the Battery Park project area, as defined in the Battery Park city authority act, in excess of those needed (i) to satisfy bond and note covenants (other than as they relate to bonds and notes issued pursuant to this section and section one thousand nine hundred seventy-four-c of the public authorities law) including those covenants which require that the Battery Park city authority maintain its revenues and reserve funds in an amount necessary to permit it to discharge its debt service obligations, (ii) to fulfill its legal and financial commitments, and (iii) to pay its operating and maintenance expenses.

2. There is hereby established a public benefit corporation known as the "housing New York corporation" as a subsidiary corporation of the corporation solely for the purpose of borrowing money and granting such moneys to the city for the purposes and in accordance with the provisions of the housing New York program.

3. It is hereby found and declared that the legislature, pursuant to the housing New York program act, has established a housing New York program under which the city will cause the acquisition, construction, equipping, improving, rehabilitation and renovation of dwelling accommodations within the city of New York for persons and families for whom the ordinary operations of private enterprise cannot supply such accommodations; that such program is necessary in order to increase the presently inadequate supply of dwelling accommodations in such city for such persons and families; that such program shall require a substantial commitment of funds from public sources; and that the need for such moneys necessitates that the subsidiary corporation created by this section be granted the powers and be made subject to the requirements of this section. The legislature therefore finds that such subsidiary corporation, subject to the terms and conditions specified herein, should be given the power to borrow funds and grant such moneys to the city of New York, and any agency or instrumentality thereof (other than such subsidiary corporation) or the corporation for use by such entity in the housing New York program; that the financing of residential

housing facilities in accordance with the housing New York program is a public purpose for which moneys may be granted, and exemptions from taxation on the income of bonds or notes of such subsidiary corporation and on such subsidiary corporation's income and property granted, as specified herein; and that the powers and duties of such subsidiary corporation as recited in this section are necessary and proper for achieving the ends herein recited. Therefore such subsidiary corporation is hereby authorized and empowered:

(a) to borrow money by issuing bonds and notes for the purposes of (i) granting such moneys to the city to finance the acquisition, construction, equipping, improvement, enlargement, rehabilitation and renovation of residential housing facilities for the purposes and in accordance with the provisions of the housing New York program and (ii) refunding any bonds or notes of such subsidiary corporation issued pursuant to this section;

(b) to grant moneys to the city for the purpose of financing the acquisition, construction, equipping, improvement, enlargement, rehabilitation and renovation of residential housing facilities for the purposes and in accordance with the provisions of the housing New York program and to enter into any agreement specifying terms and conditions with respect thereto;

(c) subject to the provisions of any contract with the holders of any of its bonds or notes, to pledge any revenues or assets of such subsidiary corporation, including, but not limited to, any excess revenues of the Battery Park city authority as shall be payable to such subsidiary corporation pursuant to an agreement between the Battery Park city authority and such subsidiary corporation as such subsidiary corporation shall deem necessary, to secure any bonds or notes issued or any agreements entered into pursuant to this section; (d) to procure insurance, letters of credit or other credit enhancements with respect to its bonds or notes issued pursuant to this section and to pay the premiums and fees therefor;

(e) to adopt, amend or rescind rules and regulations appropriate to carry out its corporate purposes and to establish such requirements and enter into such agreements to achieve the objectives of this section; and

(f) to exercise any and all other powers authorized by this section

and not inconsistent with the provisions of this section.

4. In addition to the foregoing, such subsidiary corporation may:

(a) receive moneys from the corporation, the Battery Park city authority, any other public benefit corporation, the federal government or any other source for the purpose of paying its obligations issued pursuant to this section in order to provide residential housing facilities to low and moderate income persons for whom the ordinary operation of private enterprise cannot supply safe, sanitary and affordable housing accommodations,

(b) enter into agreements with the Battery Park city authority or any other entity for the purpose of receiving moneys as described in paragraph (a) of this subdivision, and

(c) transfer, lend, pledge or assign moneys to a trustee, fiduciary or similar entity for the purpose of securing obligations as referenced in paragraph (a) of this subdivision.

5. The membership of such subsidiary corporation shall consist of seven members, five of whom shall be members of the corporation (other than members thereof appointed by the governor) and two of whom shall be appointed by the governor. Neither of the two members appointed by the governor shall be members or officers of the Battery Park city authority or any subsidiary corporation organized pursuant to section nineteen hundred seventy-four-a of the public authorities law. The two members first appointed by the governor shall serve for terms of two and four years respectively from January first next succeeding the date of their appointment. Their successors shall serve for terms of four years each. The governor shall fill any vacancy which may occur by reason of death, resignation or otherwise of a member appointed by the governor in a manner consistent with the original appointment. A member appointed by the governor (i) shall continue in office until such member's successor has been appointed and qualified and (ii) may be removed by the governor for cause, but not without an opportunity to be heard in person or by counsel, in such member's defense, upon not less than ten days' notice. The commissioner of the department of housing preservation and development shall serve as chairperson of the subsidiary corporation. The powers of the subsidiary corporation shall be vested in and

exercised by no less than four of the members thereof then in office. The subsidiary corporation may delegate to one or more of its members, or its officers, agents and employees, such duties and powers as it may deem proper.

6. Notwithstanding any inconsistent provisions of this or any other general, special or local law, no officer or employee of the city or the state, or of any public corporation, as defined in the general construction law, shall be deemed to have forfeited or shall forfeit such person's office or employment by reason of such person's acceptance of membership on or by virtue of such person's being an officer, employee or agent of the subsidiary corporation. No officer or member of the corporation shall receive any additional salary or other compensation, either direct or indirect, other than reimbursement for actual and necessary expenses incurred in the performance of such person's duties, by reason of such person's serving as a member or officer of such subsidiary corporation.

7. The corporation may transfer to such subsidiary corporation any real, personal or mixed property in order to carry out the purposes of this section.

8. The subsidiary corporation also shall have the power to:

- (a) sue and be sued;
- (b) have a seal and alter the same at pleasure;
- (c) make and alter by-laws for its organization and internal management and make rules and regulations governing the use of its property and facilities;
- (d) make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this section;
- (e) acquire, hold and dispose of real or personal property for its corporate purposes;
- (f) engage the services of private consultants on a contract basis for rendering professional and technical assistance and advice;
- (g) procure insurance against any loss in connection with its activities, properties and assets in such amount and from such insurers

as it deems desirable;

(h) appoint officers, agents and employees, prescribe their duties and qualifications and fix their compensation subject to the provisions of the civil service law and the rules of the civil service commission of the city;

(i) invest any funds, or other moneys under its custody and control in the same manner as the corporation; and

(j) to do any and all things necessary or convenient to carry out its purposes and exercise the powers expressly given and granted in this section.

9. The subsidiary corporation and its corporate existence shall continue until terminated by law; provided, however, that no such termination shall take effect as long as obligations of the subsidiary corporation remain outstanding, unless adequate provision has been made for the payment thereof in the documents securing the same. Upon termination of the existence of the subsidiary corporation all of its rights and properties shall pass to and be vested in the city of New York.

10. The city and the corporation shall have the power to transfer to such subsidiary corporation, agents, employees and facilities of the city or corporation to enable it to fulfill the purposes of this section.

11. (a) Subject to the provisions of this section, the subsidiary corporation shall have power and is hereby authorized to issue from time to time its notes and bonds in such principal amount as the subsidiary corporation shall determine to be necessary to provide sufficient funds for achieving its corporate purposes, including the providing of moneys to the city, the payment of interest on notes and bonds of the subsidiary corporation, the establishment of reserves to secure such notes and bonds, and the payment of all expenses of the subsidiary corporation incident thereto.

(b) The subsidiary corporation shall have the power, from time to time, to issue (i) notes to renew notes and (ii) bonds to pay notes, including the interest thereon and, whenever it deems refunding

expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and to issue bonds partly to refund bonds then outstanding and partly for any of its corporate purposes. The refunding bonds may be exchanged for the bonds to be refunded or sold and the proceeds applied to the purchase, redemption or payment of such bonds.

(c) Except as may otherwise be expressly provided by the subsidiary corporation, every issue of its notes and bonds shall be general obligations of the subsidiary corporation payable out of any revenues of such corporation, subject only to any agreements with the holders of particular notes or bonds pledging any particular revenues.

(d) The notes and bonds shall be authorized by resolution or resolutions of the subsidiary corporation, shall bear such date or dates and shall mature at such time or times as such resolution or resolutions may provide, except that no note or any renewal thereof shall mature more than nine years after the date of issue of the original note and no bond shall mature more than fifty years from the date of its issue. No refunding bonds shall mature later than fifty years from the date of original issuance of the bonds being refunded. The bonds may be issued as serial bonds payable in annual installments or as term bonds or as a combination thereof. The notes and bonds shall bear interest at such rate or rates, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption as such resolution or resolutions may provide. The notes and bonds may be sold by the subsidiary corporation at public or private sale, at such price or prices as the subsidiary corporation shall determine; provided, however, that the subsidiary corporation shall consult with the comptroller of the city of New York as to the timing of any sale; and provided further that no notes or bonds of the subsidiary corporation may be sold at a private sale unless such sale and the terms thereof have been approved in writing by (a) such comptroller, where such sale is not to such comptroller, or (b) the director of the budget of the city of New York, where such sale is to such comptroller.

(e) Any resolution or resolutions authorizing any notes or bonds or any issue thereof may contain provisions, which shall be a part of the

contract or contracts with the holders thereof, as to:

(i) pledging all or any part of the revenues to secure the payment of the notes or bonds or of any issue thereof, subject to such agreements with noteholders or bondholders as may then exist; (ii) pledging all or any part of the assets of the subsidiary corporation to secure the payment of the notes or bonds or of any issue of notes or bonds, subject to such agreements with noteholders or bondholders as may then exist;

(iii) the setting aside of reserves or sinking funds and the regulation and disposition thereof;

(iv) limitations on the purpose to which the proceeds of sale of notes or bonds may be applied and pledging such proceeds to secure the payment of the notes or bonds or of any issue thereof;

(v) limitations on the issuance of additional notes or bonds; the terms upon which additional notes or bonds may be issued and secured; and the refunding of outstanding or other notes or bonds;

(vi) the procedure, if any, by which the terms of any contract with noteholders or bondholders may be amended or abrogated, the amount of notes or bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(vii) limitations on the amount of moneys to be expended by the subsidiary corporation for operating expenses of the subsidiary corporation;

(viii) vesting in a trustee or trustees such property, rights, powers and duties in trust as the subsidiary corporation may determine, which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to this section and limiting or abrogating the right of the bondholders to appoint a trustee under this section or limiting the rights, powers and duties of such trustee;

(ix) the acts or omissions to act which shall constitute a default in the obligations and duties of the subsidiary corporation to the holders of the notes or bonds and providing for the rights and remedies of the holders of the notes or bonds in the event of such default, including the right to appointment of a receiver; providing, however, that such rights and remedies shall not be inconsistent with the general laws of the state and the other provisions of this section; and

(x) any other matters, of like or different character, which in any way affect the security or protection of the holders of the notes or

bonds.

(f) Any pledge made by the subsidiary corporation shall be valid and binding from the time when the pledge is made; the revenues or property so pledged and thereafter received by the subsidiary corporation shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the subsidiary corporation, irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

(g) Neither the members of the subsidiary corporation nor any other person executing such notes or bonds shall be subject to any personal liability or accountability by reason of the issuance thereof.

(h) The subsidiary corporation, subject to such agreements with noteholders or bondholders as may then exist, shall have power out of any funds available therefor, to purchase notes or bonds of the subsidiary corporation which shall thereupon be cancelled.

(i) In the discretion of the subsidiary corporation, the bonds may be secured by a trust indenture by and between the subsidiary corporation and a corporate trustee, which may be any trust company or bank having the powers of a trust company in the state. Such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the subsidiary corporation in relation to the exercise of its corporate powers and the custody, safeguarding and application of all moneys. The subsidiary corporation may provide by such trust indenture for the payment of the proceeds of the bonds and the revenues to the trustee under such trust indenture or other depository, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. If the bonds shall be secured by a trust indenture, the bondholders shall have no authority to appoint a separate trustee to represent them.

(j) Whether or not the notes and bonds are of such form and character as to be negotiable instruments under the terms of the uniform commercial code, the notes and bonds are hereby made negotiable

instruments within the meaning of and for all the purposes of the uniform commercial code, subject only to the provisions of the notes and bonds for registration.

12. No moneys may be borrowed by issuing bonds or notes to finance residential housing facilities pursuant to this section unless such subsidiary corporation has entered into an agreement or agreements with the mayor on behalf of the city and with the Battery Park city authority, which provide, in addition to any other terms and conditions, that:

(a) such residential housing facilities are to provide dwelling accommodations which are to be occupied by persons and families for whom the ordinary operations of private enterprise cannot provide an adequate supply of safe, sanitary and affordable housing accommodations;

(b) unless otherwise specifically provided by law, neither the state nor the authority are to have any responsibility as to the financing of such residential housing facilities and neither the state, the authority nor the subsidiary corporation are to have any responsibility as to the operation, maintenance, repair or use of such facilities;

(c) the city shall use the moneys granted to it pursuant to this section to finance residential housing facilities in accordance with the provisions of the housing New York program and shall comply with the terms and conditions of the housing New York program act and this section; and

(d) the timing, amount, maturity schedule and all other terms and conditions of any issuance of bonds or notes by the subsidiary corporation pursuant to this section, will provide for the Battery Park city authority's requirements as to the development, management or operation of the project and the effect of such terms and conditions on the availability of excess revenues and the pledge or assignment thereof.

13. Commencing on or before January thirty-first, nineteen hundred eighty-seven, and on or before January thirty-first of each year thereafter during which the city utilizes moneys which are provided to it pursuant to this section, such subsidiary corporation shall, for the prior and current calendar year, submit a report to the governor, the

temporary president of the senate, the speaker of the assembly, the minority leader of the senate, the minority leader of the assembly, the mayor and the comptroller, which shall include, but not be limited to, the total principal amount of bonds and notes which have been and are expected to be issued pursuant to this section and a copy of any agreement and any amendments thereto among such subsidiary corporation, the Battery Park city authority and the city pursuant to subdivision twelve of this section. Such report may be a part of any other report that such subsidiary corporation is required to make.

14. For the purposes of financing the acquisition, construction, equipping, improvement, enlargement, rehabilitation and renovation of residential housing facilities pursuant to this section, such subsidiary corporation may borrow money by issuing bonds or notes in an aggregate principal amount not exceeding four hundred million dollars plus a principal amount of bonds or notes issued (i) to fund any related debt service reserve fund, (ii) to provide capitalized interest, and (iii) to provide fees and other charges and expenses, including underwriters' discount, related to the issuance of such bonds or notes and the maintenance of such reserves, all as determined by such subsidiary corporation, excluding bonds or notes issued to refund outstanding bonds or notes issued pursuant to this section. Any bonds or notes of such subsidiary corporation shall not be or be deemed to be obligations of the corporation or subject to or included in any authorization of or limitation on indebtedness of the corporation.

In computing the total principal amount of bonds or notes that may at any time be issued for any purpose under this section, the amount of the outstanding bonds or notes that constitutes interest under the United States Internal Revenue Code of nineteen hundred fifty-four, as amended to the effective date of this section, shall be excluded.

15. The state does hereby pledge to and agree with the holders of any bonds or notes issued under this section that the state will not limit or alter the rights hereby vested in such subsidiary corporation or the Battery Park city authority to fulfill the terms of any agreements made with or for the benefit of the said holders thereof, or in any way

impair the rights and remedies of such holders until such bonds or notes, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. Such subsidiary corporation is authorized to include this pledge and agreement of the state in any agreement with the holders of such bonds or notes.

16. The bonds or notes of such subsidiary corporation shall not be a debt of either the state of New York, the city of New York, the Battery Park city authority or the corporation, and neither the state, the city of New York, such authority nor the corporation shall be liable thereon, nor shall they be payable out of any funds other than those of such subsidiary corporation; and such bonds or notes shall contain on the face thereof a statement to such effect.

17. The subsidiary corporation established pursuant to this section shall have all the privileges, immunities, tax exemptions and other exemptions of the corporation to the extent the same are not inconsistent with this section.

§ 654-d. Residential mortgage insurance corporation. 1. Definitions. As used in this section, the following words and terms shall have the following meanings unless the context shall indicate another or different meaning or intent:

(a) "Cash equivalent". A letter of credit, insurance policy, surety, guarantee, indemnity or other security arrangement.

(b) "Financial institution". (i) Any bank, trust company, national bank, state or federal savings bank, state or federal savings and loan association, or state or federal credit union, insurance company, pension fund or retirement system of any corporation, association, any other entity which is owned or controlled by any one or more of the above, provided such bank, trust company, national bank, state or federal savings bank, state or federal savings and loan association, or state or federal credit union, insurance company, pension fund or retirement system of any corporation or association, and, if an entity

which is owned by one or more of the above, such entity, is supervised by or responsible to any agency of the federal government, the state, any department thereof or the governing body of any city, town or village of the state, or (ii) any other entity approved by the subsidiary corporation, or (iii) any one or more of the above when lawfully acting as a trustee or otherwise in a fiduciary capacity. The term "financial institution" shall also include the New York state housing finance agency, the New York state medical care facilities finance agency, the state of New York mortgage agency, the New York state urban development corporation, the corporation, the New York city department of housing preservation and development, the community preservation corporation, any governmental agency of the United States which customarily makes, purchases or holds residential mortgages and any person who is approved as a mortgage lender by the federal housing administration for purposes of insurance issued by such administration or licensed by the state of New York as a mortgage banker.

(c) "Housing accommodation". Any existing building, structure, unit thereof (including an owner-occupied unit in a condominium and a lessee-occupied dwelling unit in which the lessee retains a proprietary lease with respect to such dwelling unit and has an allocable ownership interest in a cooperative housing corporation) or unimproved real property, which is used or occupied, or is intended to be used or occupied as the home or residence of one or more persons, a portion of which may also be used for commercial and other community facilities ancillary to such residence provided that, in the case of any housing accommodation consisting of more than six dwelling units, the floor area of above-ground commercial facilities shall not exceed one-quarter of the above-ground floor area of such housing accommodation (inclusive of such commercial facilities).

(d) "Housing insurance contracts". All contracts entered into by the subsidiary corporation to insure mortgages pursuant to this section, but not including (i) any contracts to insure mortgages entered into by the predecessor corporation which are imposed upon and assumed by the subsidiary corporation pursuant to paragraph (d) of subdivision two of this section, or (ii) any contracts to insure mortgages entered into by the subsidiary corporation with respect to which a commitment to insure was issued by the predecessor corporation.

(e) "Housing insurance fund". The housing insurance fund as established pursuant to subdivision twelve of this section.

(f) "Housing insurance fund requirement". As of any particular date of computation, an amount equal to the aggregate of (i) one hundred per centum of the insured amounts due and payable by the subsidiary corporation pursuant to housing insurance contracts, plus (ii) twenty per centum of the insured amounts under housing insurance contracts other than insured amounts which are due and payable pursuant to (i) above, plus (iii) twenty per centum of the amounts to be insured under housing insurance contracts pursuant to the subsidiary corporation's commitments to insure.

(g) "Mortgage". A first mortgage on real property located within the city of New York, securing a preservation loan or a rehabilitation loan, with a term not to exceed forty years, on real estate, held in fee simple or on a leasehold under a lease having a period of years to run at the time a mortgage is insured under this section of at least twenty per centum greater duration than the remaining term of such mortgage; the term "first mortgage" means such first liens as are commonly given to secure advances on, or the unpaid purchase price of, real estate under the laws of the state, together with the credit instruments, if any, secured thereby.

(h) "Mortgage insurance contracts". All contracts to insure mortgages entered into by the predecessor corporation that are imposed upon and assumed by the subsidiary corporation pursuant to paragraph (d) of subdivision two of this section and all contracts to insure mortgages entered into by the subsidiary corporation with respect to which a commitment to insure was issued by the predecessor corporation.

(i) "Mortgage insurance fund". The mortgage insurance fund as established pursuant to subdivision twelve of this section.

(j) "Mortgage insurance fund requirement". As of any particular date of computation, an amount equal to the aggregate of (i) one hundred per centum of the insured amounts due and payable by the subsidiary corporation pursuant to mortgage insurance contracts, plus (ii) an amount equal to the greater of (A) seven million five hundred thousand dollars or (B) twenty per centum of the insured amounts under mortgage insurance contracts other than insured amounts which are due and payable under subparagraph (i) of this paragraph, plus (iii) twenty per centum

of the amounts to be insured under the predecessor corporation's commitments to insure; provided, however, that notwithstanding the foregoing, at no time shall the mortgage insurance fund requirement exceed the aggregate of (1) insured amounts due and payable by the subsidiary corporation pursuant to mortgage insurance contracts, plus (2) one hundred per centum of the insured amounts under mortgage insurance contracts other than insured amounts which are due and payable under clause (1) of this paragraph, plus (3) one hundred per centum of the amounts to be insured under the predecessor corporation's commitments to insure.

(k) "Mortgagee". The mortgage lender under a mortgage insured by the predecessor corporation or insured pursuant to subdivision ten of this section, and its successors and assigns.

(l) "Mortgage loan". A mortgage loan secured by a mortgage.

(m) "Mortgagor". The original borrower under a mortgage loan insured by the predecessor corporation or insured pursuant to subdivision ten of this section, and its successors and assigns.

(n) "Multi-family housing accommodation". A housing accommodation with five or more dwelling units.

(o) "Operating expenses". All costs of administering the subsidiary corporation, including, but not limited to, salaries and wages, expenses of administering staff functions, fees of professional consultants, legal fees, charges incurred for servicing of mortgage loans, money management fees, office rents, utility charges, costs of supplies, furnishings, equipment, machinery and apparatus, maintenance and repair of property, payment to the corporation for services rendered, amounts due and owing under contracts validly entered into by the predecessor corporation or the subsidiary corporation, other than mortgage insurance contracts and housing insurance contracts, respectively, and other expenses incurred in connection with any of the foregoing.

(p) "Other real property". Any building, structure or unimproved property which is used or occupied, or is intended to be used or occupied, primarily for emergency, transitional or shelter housing, a portion of which may also be used for commercial and other community facilities ancillary to such use provided that, the floor area of above-ground commercial facilities shall not exceed one-quarter of the above-ground floor area of such other real property (inclusive of such

commercial facilities).

(q) "Predecessor corporation". The New York city rehabilitation mortgage insurance corporation created by section one of chapter nine hundred twenty-four of the laws of nineteen hundred seventy-three, being, prior to repeal, article fourteen of the private housing finance law.

(r) "Preservation loan". A mortgage loan extended by a financial institution with a term not to exceed forty years for the purposes of refinancing existing indebtedness secured by one or more mortgages on a housing accommodation or other real property located within the city of New York and/or financing the acquisition of a housing accommodation or other real property located within the city of New York and which otherwise complies with the conditions established pursuant to subdivision ten of this section.

(s) "Rehabilitation". Repairs, alterations or improvements of a housing accommodation or other real property designed to raise the housing standards therein or, in the case of other real property, designed to provide needed improvements therein. Rehabilitation shall also include the construction of a housing accommodation or other real property.

(t) "Rehabilitation loan". A mortgage loan extended by a financial institution with a term not to exceed forty years which may include the refinancing of existing indebtedness, if any, secured by one or more mortgages on the housing accommodation or other real property to be rehabilitated, or financing the acquisition of the housing accommodation or other real property to be rehabilitated, which housing accommodation or other real property shall be located within the city of New York and which otherwise complies with the conditions established pursuant to subdivision ten of this section, provided, however, that a sum equal to at least twenty-five percent of the amount of the mortgage loan shall be used for the cost of rehabilitation of, or construction of improvements on, a housing accommodation or other real property.

2. New York city residential mortgage insurance corporation. (a) There is hereby established a public benefit corporation known as the "New York city residential mortgage insurance corporation" as a subsidiary corporation of the corporation. The purpose of such subsidiary

corporation shall be to insure mortgage loans in order to promote the preservation of neighborhoods which are blighted, are becoming blighted or may become blighted, to discourage disinvestment and encourage the investment of mortgage capital in such neighborhoods and to provide safe, sanitary and affordable housing accommodations to persons and families for whom the ordinary operations of private enterprise cannot supply such accommodations.

(b) The subsidiary corporation shall be the successor to the predecessor corporation.

(c) All property and rights of the predecessor corporation (other than moneys of the predecessor corporation) are hereby passed to and vested in the subsidiary corporation, subject, however, to all outstanding contracts of insurance, commitments to insure mortgages, and all outstanding obligations of the predecessor corporation. All moneys of the predecessor corporation (including, but not limited to, amounts held in the mortgage insurance fund established pursuant to section seven hundred nine of this chapter, prior to said section being repealed) and all moneys held in the remic premium reserve fund established pursuant to said section seven hundred nine shall be transferred to the city; provided that as a condition to said transfer, a like amount of money shall be transferred from the corporation to the subsidiary corporation to be deposited into the mortgage insurance fund, the housing insurance fund and the remic premium reserve fund (all established pursuant to subdivision twelve of this section) in such amounts as shall be determined by the subsidiary corporation, subject to the provisions of paragraph (a) of subdivision twelve of this section.

(d) All debts, liabilities, obligations, contracts, agreements, and covenants of the predecessor corporation (including, but not limited to, contracts of insurance and commitments to insure mortgages) are hereby imposed upon and shall be assumed by the subsidiary corporation. All persons having claims under any contracts of insurance or commitments to insure mortgages entered into with the predecessor corporation may enforce those claims against the subsidiary corporation in the same manner as they might have against the predecessor corporation, and the rights and remedies of such persons shall not be limited or restricted in any manner by this section. The foregoing notwithstanding, the debts, liabilities, obligations, contracts, agreements and covenants of the

predecessor corporation shall not be imposed upon the corporation. All persons having claims under any contracts of insurance or commitments to insure mortgages entered into with the predecessor corporation shall have no right to enforce those claims in any manner against the corporation.

(e) In continuing the functions and carrying out the contracts, obligations and duties of the predecessor corporation, the subsidiary corporation is hereby authorized to act in its own name or in the name of the predecessor corporation as may be convenient or advisable.

(f) All regulations of the predecessor corporation shall continue to be in effect as the regulations of the subsidiary corporation until amended, supplemented or rescinded by the subsidiary corporation in accordance with law.

3. Assistance; privileges. (a) The subsidiary corporation may receive moneys from the corporation, the state, any public benefit corporation, the city, the federal government or any other source for public purposes set forth in this section.

(b) The subsidiary corporation may contract for and 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, including the city and the corporation, or from any other source, public or private, and to comply, subject to the provisions of this section, with the terms and conditions thereof.

(c) The city and the corporation are each hereby authorized to, but neither is required to, make gifts, grants or loans of funds or property or financial or other aid in any form to the subsidiary corporation and to enter into any contracts or other agreements with the subsidiary corporation, on such terms and conditions as the city or the corporation, as applicable, and the subsidiary corporation may agree upon, all in furtherance of the public purposes set forth in this section.

(d) All domestic corporations or associations organized for the purpose of carrying on business in this state, public benefit corporations, public employee pension funds and any other persons, corporations or associations are hereby authorized to make contributions

to the subsidiary corporation.

(e) The subsidiary corporation shall have all the privileges, immunities, tax exemptions and other exemptions of the corporation to the extent the same are not inconsistent with this section.

4. Membership. The membership of such subsidiary corporation shall consist of nine members, seven of whom shall be members of the corporation and two of whom shall be appointed by the mayor. The members who are not members of the corporation shall serve for terms ending two and four years respectively from January first next succeeding the date of their appointment. The successors of the members who are not members of the corporation shall serve for terms of four years each. A member who is not a member of the corporation shall continue in office until his or her successor has been appointed and qualified. With respect to any member who is not a member of the corporation, the mayor shall fill any vacancy which may occur by reason of death, resignation or otherwise for the remaining unexpired term of such member. A member who is not a member of the corporation may be removed by the mayor for cause, but not without an opportunity to be heard in person or by counsel, in such member's defense, upon not less than ten days' notice. The powers of the subsidiary corporation shall be vested in and exercised by no less than five of the members thereof then in office. The subsidiary corporation may delegate to one or more of its members, or its officers, agents and employees, such duties and powers as it may deem proper. The commissioner of the department of housing preservation and development shall serve as chairperson of the subsidiary corporation. The president of the corporation shall serve as president of the subsidiary corporation.

5. Compensation. Notwithstanding any inconsistent provisions of this or any other general, special or local law, no officer or employee of the corporation, the city or the state, or of any public corporation, as defined in the general construction law, shall be deemed to have forfeited or shall forfeit such person's office or employment or any benefits provided under the retirement and social security law or under any public retirement system maintained by the state or by the civil divisions thereof by reason of such person's acceptance of membership on

or by virtue of such person's being an officer, employee or agent of the subsidiary corporation. The members may engage in private employment or in a profession or business, unless otherwise prohibited from doing so by virtue of holding another public office, subject to the provisions of article eighteen of the general municipal law. For the purposes of such article eighteen, the subsidiary corporation shall be a "municipality" and a member shall be a "municipal officer". No member of the subsidiary corporation shall receive additional compensation, either direct or indirect, other than reimbursement for actual and necessary expenses incurred in the performance of such person's duties, by reason of such person serving as a member of the subsidiary corporation.

6. Transfer of resources. The city and the corporation shall have the power to, but shall not be obligated to, transfer to the subsidiary corporation such agents, employees and facilities, including any real and/or personal property, in order to carry out the purposes of this section.

7. Termination. The subsidiary corporation and its corporate existence shall continue until terminated by law; provided, however, that no such law shall take effect so long as the subsidiary corporation shall have contracts to insure mortgages (including mortgage insurance contracts and housing insurance contracts), commitments to insure, notes, bonds, or other obligations outstanding, unless adequate provision has been made for the payment thereof. Upon termination of the existence of the subsidiary corporation all of its rights and properties shall pass to and be vested in the corporation.

8. Powers. The subsidiary corporation shall have the power:

- (a) To sue and be sued;
- (b) To have a seal and alter the same at pleasure;
- (c) To make and alter by-laws for its organization;
- (d) To adopt, amend or rescind rules and regulations appropriate to carry out its corporate purposes, including rules and regulations governing the use of its property and facilities and to establish such requirements and enter into such agreements to achieve the objectives of this section;

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

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

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

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

(i) To invest any funds, or other moneys under its custody and control in the same manner as the corporation;

(j) To establish and levy fees and charges in connection with the processing of applications for mortgage insurance and fix premium charges for mortgage insurance;

(k) To enter into commitments to insure mortgages and contracts of insurance and enter into any additional agreements as the subsidiary corporation deems appropriate to further the objectives of this section;

(l) To fulfill its obligations and enforce its rights under any contract of insurance, or commitment to insure so furnished as provided in this section and such rules and regulations as may be adopted by the subsidiary corporation;

(m) To pay, pursue to final collection, compromise, waive or release any right, title, claim, lien or demand, however acquired, including any equity or right of redemption;

(n) To foreclose any mortgage in default or 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 otherwise to acquire or take possession of any such property;

(o) To deal with, hold, administer, manage, rent, repair, insure or sell, lease or otherwise dispose of any property conveyed to or acquired by the subsidiary corporation and to enter into agreements with the state, the city, or any person, firm, entity, partnership or corporation, either public or private, with regard thereto;

(p) To procure insurance against any loss in connection with its property and other assets and to procure reinsurance in connection with its obligations, all in such amounts and from such insurers as it deems

necessary or desirable;

(q) To consent to the modification, with respect to rate of interest, time of payment of any installment of principal or interest, security or any other term, of any mortgage, mortgage loan, contract or agreement of any kind which the subsidiary corporation has insured or to which the subsidiary corporation is a party;

(r) To sell, at public or private sale, any mortgage, mortgage participation or other obligation held by the subsidiary corporation;

(s) To procure cash equivalents for deposit in its funds;

(t) To enter into co-insurance agreements with any entity authorized by law to provide mortgage insurance with respect to property located within the city of New York, including, but not limited to the state of New York mortgage agency and the United States department of housing and urban development;

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

9. Classification of housing accommodations. The subsidiary corporation may classify housing accommodations within the city and approve any of such classes as eligible for insurance pursuant to this section and enact separate guidelines dealing with the provision and extent of such insurance.

10. Insurance of mortgage loans. (a) The subsidiary corporation is authorized, subject to the provisions of this section, to make commitments to insure and to contract to insure mortgage loans eligible for insurance hereunder.

(b) The subsidiary corporation shall limit its insurance on a rehabilitation or preservation loan to an amount not in excess of fifty per centum of the outstanding principal indebtedness, provided, however, that the subsidiary corporation may insure an amount not in excess of seventy-five per centum of the outstanding principal indebtedness of a rehabilitation loan if it shall find that the extent of rehabilitation is sufficient to justify such additional insurance, provided further, however, that the subsidiary corporation may insure an amount not to exceed the full outstanding principal indebtedness of a rehabilitation

or preservation loan when such mortgage loan has been made by a public benefit corporation of the state of New York which public benefit corporation has issued or will issue bonds or notes, some or all of the proceeds of which bonds or notes were used or will be used to make such mortgage loan, or when the mortgage loan has been made by a public employee pension fund. The foregoing notwithstanding, the sum of the percentage of any mortgage loan insured by the subsidiary corporation and the percentage of such loan insured or to be insured by any other party shall not exceed one hundred per centum of the outstanding principal indebtedness of such mortgage loan.

(c) The subsidiary corporation shall not issue a commitment to insure or a housing insurance contract unless upon the issuance thereof amounts on deposit in the housing insurance fund will at least equal the housing insurance fund requirement.

(d) Except for mortgage insurance contracts and except as otherwise provided in paragraph (e) of this subdivision, the subsidiary corporation shall not issue a commitment to insure nor shall it insure any mortgage loan unless it shall first find (i) that the property which is the security for such mortgage loan is located in a neighborhood within the city of New York characterized by a deficiency of available mortgage financing; (ii) that such deficiency has caused or threatens to cause undermaintained and deteriorating housing accommodations and substandard and unsanitary neighborhoods; (iii) that the granting of such mortgage loan will aid in the preservation or rehabilitation of the neighborhood in which such property is located; (iv) that, if the property which is the security for such mortgage loan is other real property, the granting of such mortgage loan will assist in preventing the deterioration of residential housing in the neighborhood in which such property is located; and (v) that the property which is the security for such loan meets such other requirements as the subsidiary corporation may from time to time establish by guidelines adopted by the subsidiary corporation. Any such determination by the subsidiary corporation shall be conclusive and final and shall not be subject to review of any kind or nature or in any manner whatsoever and shall not give rise to any liability on the part of the subsidiary corporation.

(e) The subsidiary corporation may issue a commitment to insure and may insure any mortgage loans, notwithstanding the criteria set forth in

subparagraph (i), (ii), (iii) or (iv) of paragraph (d) of this subdivision provided that it shall find the property which is the security for such mortgage loan or mortgage loans is either: (i) located within the city of New York in an empire zone designated pursuant to article eighteen-B of the general municipal law, or (ii) will provide safe, sanitary and affordable housing for persons and families for whom the ordinary operations of private enterprise cannot supply such housing, or (iii) the entity providing the mortgage financing was or is created by local, state or federal legislation and certifies to the subsidiary corporation that the housing accommodations or other real property are located within the city of New York and meet the program criteria applicable to such entity. In addition, the subsidiary corporation may enter into any mortgage insurance contract, notwithstanding the criteria set forth in subparagraph (i), (ii), (iii) or (iv) of paragraph (d) of this subdivision provided that with respect to such mortgage insurance contract, a commitment to insure shall have been previously issued by the predecessor corporation.

(f) The subsidiary corporation may issue a commitment to insure and may insure an existing mortgage loan, when an application for such mortgage insurance has been submitted prior to the making of such mortgage loan, and significant circumstances beyond the reasonable control of the mortgagor and mortgagee necessitate the making of the mortgage loan prior to the issuance of the commitment to insure and when it is determined by the subsidiary corporation that such mortgage loan would not have been made except for the reasonable expectation that the subsidiary corporation would insure the mortgage loan.

(g) To be eligible for insurance under this section, a mortgage loan shall be a preservation loan and/or a rehabilitation loan and (i) bear interest, exclusive of premium charges fixed by the subsidiary corporation, at a rate not in excess of the rate of interest authorized by law and not in excess of a maximum rate of interest established by the subsidiary corporation from time to time. In making its determination of appropriate maximum interest rate, the subsidiary corporation shall take into account the rates of interest prevalent in the mortgage market, current data on secondary market yields and discount and/or premium levels; (ii) unless the subsidiary corporation in its sole discretion shall otherwise determine, provide for

substantially equal and constant periodic payments of principal and interest in amounts sufficient to pay all interest and effect full repayment of principal within the term of the mortgage loan; (iii) contain terms with respect to the prepayment, insurance, repairs, alterations, payment of taxes, special assessments, service charges, default reserves, delinquency charges, foreclosure proceedings, additional and secondary liens, and such other matters as the subsidiary corporation may in its discretion prescribe; (iv) be accompanied by certificates, issued by such officers of the mortgagee, independent appraisers or other persons as the subsidiary corporation may require, certifying that: (A) where appropriate, the annual income to be derived from the property equals not less than one hundred five per centum of the annual charges and expenses, including provision for reserves, satisfactory to the subsidiary corporation, for the amortization of subordinate mortgage loans over the remaining terms of such mortgage loans regardless of whether the terms of such subordinate mortgage loans include scheduled amortization of principal; (B) the remaining useful life of the property is greater than the term of the mortgage; and (C) the housing accommodation or other real property does not contain any substantial violations of the housing maintenance code or the multiple dwelling law, except that in the case of a mortgage loan made to the owner of a housing accommodation or other real property containing any such violations, the subsidiary corporation may insure or commit to insure such mortgage loan if the mortgagee and the owner have submitted a plan, satisfactory to the subsidiary corporation to eliminate such violations; and (v) satisfy such additional terms and conditions as the subsidiary corporation may prescribe.

(h) In addition to the conditions set forth in paragraphs (d) through (g) in this subdivision, the subsidiary corporation shall not insure nor issue a commitment to insure any rehabilitation loan unless it shall find (i) that rehabilitation is necessary to upgrade the property, (ii) that rehabilitation will not necessitate more than a minimum amount of relocation of the residents of any housing accommodation and (iii) that the rehabilitation undertaken with the proceeds of the rehabilitation loan has been completed.

(i) A financial institution may request insurance by written application to the subsidiary corporation in such form and manner,

together with such information and documents, as the subsidiary corporation may prescribe. No application shall be complete unless and until the financial institution has paid such processing fees and other charges as the subsidiary corporation may impose in connection therewith. The subsidiary corporation shall signify its acceptance of such application for insurance by issuance of a commitment to insure or a contract of insurance.

(j) The subsidiary corporation shall not issue a commitment to insure a mortgage loan extended by the corporation unless such commitment to insure is approved by at least two members of a committee composed of the chairperson of the subsidiary corporation and the members of the subsidiary corporation who are not members of the corporation.

11. Payment of insurance. The subsidiary corporation shall establish procedures to be followed by a mortgagee in the event of a default under the terms of any mortgage insured by the subsidiary corporation, provided, however, any modification to such procedures (other than to cure any ambiguity, defect or omission) shall apply only to mortgages for which commitments have been issued after the effective date of such modification. The subsidiary corporation may establish prerequisites for payment of an insurance claim, including, but not limited to, requiring the mortgagee to take such actions with respect to the property securing the defaulted mortgage as may be specified by the subsidiary corporation to be satisfactory evidence of a continuing default, including but not limited to the following actions: (i) becoming lawfully the mortgagee in possession thereof; (ii) causing a receiver to be appointed of such property; (iii) obtaining voluntary conveyance of the mortgagor's right and title to such property; or (iv) obtaining by foreclosure clear and unencumbered title to such property, all in such manner as the subsidiary corporation may require. Following submission of a valid claim, the subsidiary corporation shall pay an amount which shall not exceed the lesser of: (A) the then outstanding principal amount of the mortgage multiplied by the per centum of such outstanding amount insured by the subsidiary corporation plus that per centum of the mortgagee's cost arising from the default, inclusive of public liens and delinquent and unpaid interest, all as the subsidiary corporation may from time to time allow, which per centum shall not exceed the per centum of the

outstanding principal indebtedness insured by the subsidiary corporation or (B) the insured amount of the mortgage loan at the date of execution of the contract of insurance or its latest amendment, if any, except that the subsidiary corporation shall pay the greater of the two amounts on claims by a public employee pension fund or by a public benefit corporation from mortgage loans financed by the sale of notes or bonds issued by said corporation and such amount payable may, if so provided in the contract of insurance, include accrued interest to the date of redemption for such bonds or notes and any cost associated with such redemption, provided that no more than the actual loss suffered by such public benefit corporation or public employee pension fund shall be paid. Such payment may be made by the subsidiary corporation in a lump sum, or in partial payments made within such period of time, not in excess of two years, as may be agreed to between the subsidiary corporation and the mortgagee, all in accordance with procedures to be established by the subsidiary corporation. The subsidiary corporation shall have the power to bid for and purchase the property securing the defaulted mortgage at any foreclosure or other sale of such property, or to otherwise acquire or take possession of such property in accordance with other provisions of law. In the event of any such purchase, acquisition, or taking of possession, the subsidiary corporation shall have the power to complete, administer, sell, dispose of, and otherwise deal with such property, in such manner as may be necessary or desirable to protect the interests of the subsidiary corporation.

12. Mortgage insurance fund, housing insurance fund and remic premium reserve fund. (a) The subsidiary corporation shall create and establish a fund to be known as the "mortgage insurance fund" which shall be used as a revolving fund for carrying out the provisions of this section with respect to mortgage insurance contracts and shall, upon its creation, pay into such fund moneys made available to the subsidiary corporation from the corporation in an amount equal to the mortgage insurance fund requirement as of such date for the purpose of such fund, and shall thereafter, pay into such fund, upon receipt, (i) such portion of mortgage insurance contract premium payments in an amount equal to the amount necessary to be transferred to the mortgage insurance fund in order that the amount on deposit therein be equal to the mortgage

insurance fund requirement (or such lesser amount as may be available); (ii) such portion of the proceeds received by the subsidiary corporation in connection with the exercise of such subsidiary corporation's rights under any mortgage insurance contract in an amount equal to the amount necessary to be transferred to the mortgage insurance fund in order that the amount on deposit therein be equal to the mortgage insurance fund requirement (or such lesser amount as may be available); (iii) any moneys appropriated, paid or otherwise made available by the city or the corporation for the purpose of such fund; and (iv) any other moneys which may be made available to the subsidiary corporation for the purpose of such fund from any other source. All moneys held in the mortgage insurance fund, except as hereinafter provided, shall be used, as required, solely for the payment of the subsidiary corporation's liabilities arising from mortgage insurance contracts; provided, however, that moneys in such fund shall not be withdrawn therefrom at any time in such amount as would reduce the amount of such fund to less than the mortgage insurance fund requirement, except for the purposes of paying such liabilities, as the same become due and for the payment of which other moneys of the subsidiary corporation are not available. Any income or interest earned by, or increment to, the mortgage insurance fund due to the investment thereof or any amount in excess of the mortgage insurance fund requirement shall be transferred at least annually by the subsidiary corporation to the remic premium reserve fund or, at the written direction of the chairperson, to such other funds or accounts of the subsidiary corporation to the extent it does not reduce the amount of the mortgage insurance fund below the mortgage insurance fund requirement.

(b) The subsidiary corporation shall create and establish a fund to be known as the "housing insurance fund" which shall be used as a revolving fund for carrying out the provisions of this section with respect to housing insurance contracts and shall, upon its creation, pay into such fund any moneys or cash equivalents made available to the subsidiary corporation from the corporation for the purpose of such fund, and shall thereafter, pay into such fund, upon receipt, (i) such portion of housing insurance contract premium payments in an amount equal to the amount necessary to be transferred to the housing insurance fund in order that the amount on deposit therein be equal to the housing

insurance fund requirement (or such lesser amount as may be available); (ii) such portion of the proceeds received by the subsidiary corporation in connection with the exercise of such subsidiary corporation's rights under any housing insurance contract in an amount equal to the amount necessary to be transferred to the housing insurance fund in order that the amount on deposit therein be equal to the housing insurance fund requirement (or such lesser amount as may be available); (iii) any moneys or cash equivalents appropriated, paid or otherwise made available by the city, the federal government or the corporation for the purpose of such fund; and (iv) any other moneys or cash equivalents which may be made available to the subsidiary corporation for the purpose of such fund from any other source. All moneys or cash equivalents held in the housing insurance fund, except as hereinafter provided, shall be used, as required, solely for the payment of the subsidiary corporation's liabilities arising from housing insurance contracts; provided, however, that moneys or cash equivalents in such fund shall not be withdrawn therefrom at any time in such amount as would reduce the amount of such fund to less than the housing insurance fund requirement, except for the purpose of paying such liabilities, as the same become due and for the payment of which other moneys of the subsidiary corporation are not available. Any income or interest earned by, or increment to, the housing insurance fund due to the investment thereof or any amount in excess of the housing insurance fund requirement shall be transferred at least annually by the subsidiary corporation to the remic premium reserve fund or at the written direction of the chairperson, to such other funds or accounts of the subsidiary corporation to the extent it does not reduce the amount of the housing insurance fund below the housing insurance fund requirement.

(c) The subsidiary corporation shall create and establish such accounts within the housing insurance fund as may be necessary or desirable for its corporate purposes.

(d) The subsidiary corporation shall create and establish a fund to be known as the "remic premium reserve fund" for the purpose of providing for payment of the subsidiary corporation's liabilities arising from its operations, its mortgage insurance contracts and its housing insurance contracts and shall, upon its creation, pay into such fund moneys or cash equivalents made available to the subsidiary corporation from the

corporation for the purpose of such fund, and shall thereafter, pay into such fund, upon receipt, (i) the balance of the premium payments, if any, received by the subsidiary corporation with respect to mortgage insurance contracts and housing insurance contracts after making the deposits described in subparagraph (i) of paragraph (a) and subparagraph (i) of paragraph (b) respectively, of this subdivision; (ii) the balance of any proceeds received by the subsidiary corporation in connection with the exercise of such subsidiary corporation's rights under any mortgage insurance contract or housing insurance contract after making the deposits described in subparagraph (ii) of paragraph (a) and subparagraph (ii) of paragraph (b) respectively of this subdivision; (iii) any moneys or cash equivalents appropriated, paid or otherwise made available by the city, the federal government or the corporation for the purpose of such fund; and (iv) any other moneys or cash equivalents which may be made available to the subsidiary corporation for the purpose of such fund from any other source.

(e) The subsidiary corporation shall create and establish such accounts within the remic premium reserve fund as may be necessary for its corporate purposes.

(f) Except as otherwise provided in this section, all moneys received by the subsidiary corporation shall be deposited in the remic premium reserve fund.

(g) If the remic premium reserve fund is funded in whole or in part with cash, the moneys in such fund shall be deposited in one or more banks or trust companies designated, in manner provided by law, as depositories of the funds of the subsidiary corporation. The subsidiary corporation may invest any moneys in such fund in the same manner as moneys of the corporation may be invested, provided that such obligations shall be payable within such time as the proceeds may be needed to meet expenditures estimated to be incurred by the subsidiary corporation. Any interest earned or capital gain realized on the money so deposited or invested shall accrue to and become part of such fund. The separate identity of such fund shall be maintained whether its assets consist of cash or investments or both.

(h) The subsidiary corporation shall transfer from the remic premium reserve fund such moneys as the subsidiary corporation, by its chairperson, shall certify are required for the subsidiary corporation

to pay its operating expenses, to pay any liabilities arising from the subsidiary corporation's mortgage insurance contracts and housing insurance contracts, and to restore the mortgage insurance fund and the housing insurance fund to the mortgage insurance fund requirement and housing insurance fund requirement, respectively.

(i) The subsidiary corporation shall keep a separate account for the remic premium reserve fund. Such account shall show (i) the date and amount of each sum paid into the fund, (ii) the interest earned by the fund, (iii) the capital gains or losses resulting from the sale of investments of the fund, (iv) the interest or capital gains which have accrued to the fund, (v) the amount and date of each withdrawal from the fund, and (vi) the assets of the fund indicating the cash balance therein and a schedule of the amounts invested.

(j) In computing the amount of the mortgage insurance fund, the housing insurance fund and the remic premium reserve fund for the purposes of this section, securities in which all or a portion of such funds shall be invested shall be valued at par, if purchased at par, or if purchased at other than par, at amortized value. Amortized value, when used with respect to securities purchased at a premium above or a discount below par or if purchased at par, or if purchased at other than par, shall mean the value as of any given date obtained by dividing the total premiums or discount at which such securities were purchased by the number of interest payments remaining to maturity on such securities after such purchase and by multiplying the amount so calculated by the number of interest payment dates having passed since the date of such purchase; and (i) in the case of securities purchased at a premium by deducting the product thus obtained from the purchase price, and (ii) in the case of securities purchased at a discount by adding the product thus obtained to the purchase price.

(k) The subsidiary corporation shall create and establish such other fund or funds as may be necessary or desirable for its corporate purposes.

13. Charges and fees. (a) The subsidiary corporation shall fix a premium charge for its insurance of mortgages pursuant to this section which shall not be less than the minimum amount nor more than the maximum amount that the state of New York mortgage agency is permitted

to charge pursuant to applicable provisions of law.

(b) The subsidiary corporation may establish and levy such other charges and fees in connection with applications for mortgage insurance and insurance commitments as it may deem appropriate and necessary.

(c) Such premium charges and other charges shall be payable by the mortgagor in cash in such manner as may be prescribed by the subsidiary corporation.

(d) Such premium charges and other charges and fees shall not be deemed to be interest for the purposes of section 5-501 of the general obligations law.

14. Assistance by the corporation. The corporation is hereby authorized to perform such functions and services in connection with any lawful corporate purpose of the subsidiary corporation as shall be requested by the subsidiary corporation. The subsidiary corporation shall pay to the corporation from any moneys of the subsidiary corporation available for such purposes such amounts as are necessary to pay the corporation for the services rendered by the corporation pursuant to this section.

15. Assistance by the department of housing preservation and development. The commissioner of housing preservation and development and the department of housing preservation and development are hereby authorized to perform such functions and services in connection with any lawful corporate purpose of the subsidiary corporation as shall be requested by the subsidiary corporation. The subsidiary corporation shall pay to the department of housing preservation and development from any moneys of the subsidiary corporation available for such purposes such amounts as are necessary to reimburse the department of housing preservation and development for the services provided pursuant to this section.

16. Annual report. The subsidiary corporation shall submit to the mayor, the comptroller, the director of management and budget and the corporation within ninety days after the end of its fiscal year, a complete and detailed report setting forth: (i) its operations and accomplishments; (ii) its receipts and expenditures during such fiscal

year in accordance with the categories or classifications established by the subsidiary corporation for its operating and capital outlay purposes; and (iii) its assets and liabilities at the end of its fiscal year, including a schedule of mortgages which have been insured during such year, the status of the mortgage insurance fund, housing insurance fund and other reserve or special funds established by the subsidiary corporation.

17. Moneys of the subsidiary corporation. (a) All moneys of the subsidiary corporation, except as otherwise authorized or provided in this section, shall be deposited as soon as practicable in a separate account or accounts in banks or trust companies organized under the laws of the state or national banking association, in each case doing business in the city. The moneys in such accounts shall be paid out on checks signed by such officer or employee of the subsidiary corporation as the subsidiary corporation shall authorize. All deposits of such moneys shall, if required by the subsidiary corporation, be secured by obligations of the United States or of the state or of the city of a market value equal at all times to the amount of the deposit and all banks and trust companies are authorized to give such security for such deposits.

(b) The subsidiary corporation shall prescribe a system of accounts.

(c) The comptroller, or the comptroller's legally authorized representative, is hereby authorized and empowered from time to time to examine the books and accounts of the subsidiary corporation including its receipts, disbursements, contracts, reserve funds, sinking funds, investments, and any other matters relating to its financial standing. Such an examination shall be conducted by the comptroller at least once in every five years; the comptroller is authorized, however, to accept from the subsidiary corporation, in lieu of such an examination, an external examination of its books and accounts made at the request of the subsidiary corporation.

(d) The subsidiary corporation shall submit to the mayor, the comptroller and the corporation within thirty days of the receipt thereof by the subsidiary corporation a copy of the report of every external examination of the books and accounts of the subsidiary corporation other than copies of the reports of such examinations made

by the comptroller.

18. Rentals. Notwithstanding the provisions of, or any regulation promulgated pursuant to, the emergency housing rent control law, the local emergency housing rent control act or local law enacted pursuant thereto, all dwelling units in a multiple dwelling the rehabilitation of which commenced after July first, nineteen hundred seventy-seven and which is financed by a mortgage loan insured by the subsidiary corporation (including, but not limited to, mortgage loans insured pursuant to mortgage insurance contracts and housing insurance contracts), except for dwelling units occupied by reason of ownership of stock in a cooperative and except for dwelling units that constitute condominiums, shall be subject to the rent stabilization law of nineteen hundred sixty-nine, beginning immediately after initial rents, as established under applicable provisions of this chapter, section four hundred twenty-one-a of the real property tax law, section four hundred eighty-nine of the real property tax law and/or subparagraph (m) of paragraph one of subdivision g of section 26-405 of the administrative code of the city of New York for such dwelling units to become effective on the basis of such rehabilitation, provided that any occupant in possession of a dwelling unit that first becomes subject to the rent stabilization law of nineteen hundred sixty-nine pursuant to this section shall be offered a two-year lease notwithstanding any contrary provisions of, or regulations adopted pursuant to, such rent stabilization law, at the initial rent established for such dwelling unit and provided further that such dwelling units, other than those dwelling units, the initial rents of which are established under subparagraph (m) of paragraph one of subdivision g of section 26-405 of the administrative code of the city of New York, shall remain subject to the rent stabilization law in accordance with the provisions of this chapter, section four hundred twenty-one-a of the real property tax law and/or section four hundred eighty-nine of the real property tax law as the case may be. Except to the extent to which dwelling units, which are controlled under other provisions of law, become subject to the rent stabilization law of nineteen hundred sixty-nine pursuant to the preceding sentence, no dwelling unit shall become subject to the rent stabilization law solely by reason of insurance of a mortgage loan by

the subsidiary corporation.

19. Employees of the subsidiary corporation. (a) Notwithstanding any inconsistent provisions of this section, the appointment and promotion of all employees of and for the subsidiary corporation shall be made in accordance with the provisions of the civil service law under the jurisdiction of the city civil service commission and the compensation for such employees shall be fixed by the subsidiary corporation.

(b) The city, the corporation and the predecessor corporation shall have the power to provide for the transfer to the subsidiary corporation of agents, employees and facilities of the city, the corporation or the predecessor corporation, as the case may be, to enable the subsidiary corporation to fulfill its corporate purposes. Employees of the city, the corporation or the predecessor corporation to be transferred to the subsidiary corporation pursuant to this section shall be eligible for such transfer and appointment to offices and positions of the subsidiary corporation without further examination, and all such employees who have been appointed to positions in city service in accordance with the provisions of the civil service law under the rules of the city civil service commission shall have the same status with respect thereto in the service of the subsidiary corporation as they had in city service. Employees who are members or beneficiaries of any existing pension or retirement system shall continue to have such rights, privileges, obligations or status with respect to such system or systems as are prescribed by law on the date this section takes effect, and all such employees who have been appointed to positions in city service in accordance with the provisions of the civil service law under the rules of the city civil service commission shall have the same status with respect thereto in the service of the corporation as they had in city service.

20. Subsidiaries; how created. (a) The subsidiary corporation by resolution may direct any of its members, officers or employees to organize a subsidiary of the subsidiary corporation whenever, in the sole discretion of the subsidiary corporation, it has become necessary to acquire one or more housing accommodations or other real property in the case of sale under foreclosure or in lieu of foreclosure and it is

beneficial to effectuate the purpose of this chapter for the subsidiary of the subsidiary corporation to hold title to such housing accommodations or other real property.

(b) Each such subsidiary of the subsidiary corporation shall be wholly owned by the subsidiary corporation and shall be organized pursuant to the business corporation law, the not-for-profit corporation law or article two or article eleven of this chapter.

(c) The subsidiary corporation may transfer to any subsidiary of the subsidiary corporation any money, real and/or personal property or may convey to it any housing accommodation or other real property in order to carry out the purposes of this article. Each such subsidiary of the subsidiary corporation shall have all the privileges, immunities, tax exemptions and other exemptions of the subsidiary corporation to the extent the same are not inconsistent with the statute or statutes pursuant to which such subsidiary of the subsidiary corporation was incorporated. Except as may be inconsistent with the provisions of this article, such subsidiary, if organized pursuant to article two or article eleven of this chapter, shall have all the rights and powers granted to housing companies by this chapter and by any other statute pursuant to which such subsidiary of the subsidiary corporation was organized.

(d) No member or officer of the subsidiary corporation shall receive any additional compensation, either direct or indirect, other than reimbursement for actual and necessary expenses incurred in the performance of such person's duties, by reason of such person serving as a member, director, trustee or officer of any subsidiary of the subsidiary corporation.

§ 655. Notes and bonds of the corporation. 1. (a) Subject to the provisions of section six hundred fifty-six of this article, the corporation shall have power and is hereby authorized to issue from time to time its negotiable notes and bonds in conformity with applicable provisions of the uniform commercial code in such principal amount as the corporation shall determine to be necessary to provide sufficient funds for achieving its corporate purposes, including the making of mortgage loans, the payment of interest on notes and bonds of the

corporation, the establishment of reserves to secure such notes and bonds, and the payment of all operating expenses of the corporation incident to or necessary or convenient to carry out its corporate purposes and powers.

(b) The corporation shall have the power, from time to time, to issue (i) notes to renew notes and (ii) bonds to pay notes, including the interest thereon and, whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and to issue bonds partly to refund bonds then outstanding and partly for any of its corporate purposes. The refunding bonds may be exchanged for the bonds to be refunded or sold and the proceeds applied to the purchase, redemption or payment of such bonds.

(c) Except as may otherwise be expressly provided by the corporation, every issue of its notes and bonds shall be general obligations of the corporation payable out of any revenues of the corporation, subject only to any agreements with the holders of particular notes or bonds pledging any particular revenues.

2. The notes and bonds shall be authorized by resolution or resolutions of the corporation, shall bear such date or dates and shall mature at such time or times as such resolution or resolutions may provide, except that no note or any renewal thereof shall mature more than five years, and in the case of any note or any renewal thereof issued for the purposes of making mortgage loans shall mature more than nine years, after the date of issue of the original note and no bond shall mature more than fifty years from the date of its issue. The bonds may be issued as serial bonds payable in annual installments or as term bonds or as a combination thereof. The notes and bonds shall bear interest at such rate or rates, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption as such resolution or resolutions may provide. The notes and bonds may be sold by the corporation at public or private sale, at such price or prices as the corporation shall determine; provided, however, that the corporation shall consult with the comptroller as to the timing of any sale; and provided further that no notes or bonds of the corporation may be sold

at a private sale unless such sale and the terms thereof have been approved in writing by (a) the comptroller, where such sale is not to the comptroller, or (b) the director of the budget, where such sale is to the comptroller.

3. Any resolution or resolutions authorizing any notes or bonds or any issue thereof may contain provisions, which shall be a part of the contract or contracts with the holders thereof, as to:

(a) pledging all or any part of the revenues to secure the payment of the notes or bonds or of any issue thereof, subject to such agreements with noteholders or bondholders as may then exist;

(b) pledging all or any part of the assets of the corporation, including mortgages and obligations securing the same, to secure the payment of the notes or bonds or of any issue of notes or bonds, subject to such agreements with noteholders or bondholders as may then exist;

(c) the use and disposition of the gross income from mortgages owned by the corporation and payment of principal of mortgages owned by the corporation;

(d) the setting aside of reserves or sinking funds and the regulation and disposition thereof;

(e) limitations on the purpose to which the proceeds of sale of notes or bonds may be applied and pledging such proceeds to secure the payment of the notes or bonds or of any issue thereof;

(f) limitations on the issuance of additional notes or bonds; the terms upon which additional notes or bonds may be issued and secured; and the refunding of outstanding or other notes or bonds;

(g) the procedure, if any, by which the terms of any contract with noteholders or bondholders may be amended or abrogated, the amount of notes or bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(h) limitations on the amount of moneys to be expended by the corporation for operating expenses of the corporation;

(i) vesting in a trustee or trustees such property, rights, powers and duties in trust as the corporation may determine, which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to this article, and limiting or abrogating the right of the bondholders to appoint a trustee under this article or

limiting the rights, powers and duties of such trustee;

(j) the acts or omissions to act which shall constitute a default in the obligations and duties of the corporation to the holders of the notes or bonds and providing for the rights and remedies of the holders of the notes or bonds in the event of such default, including the right to appointment of a receiver; providing, however, that such rights and remedies shall not be inconsistent with the general laws of the state and the other provisions of this article;

(k) any other matters, of like or different character, which in any way affect the security or protection of the holders of the notes or bonds.

3-a. Any resolution or resolutions authorizing any notes or bonds or any issue thereof shall contain provisions, which shall be a part of the contract or contracts with the holders thereof, ensuring that no mortgage loan shall be made by the corporation from the proceeds of such notes or bonds or issue thereof unless the estimated revenues from the mortgaged property, including any subsidies, shall be sufficient in amount to secure repayment of the loan and the interest thereon and to pay all other necessary expenses of the mortgagor relating to such property.

4. Any pledge made by the corporation shall be valid and binding from the time when the pledge is made; the revenues or property so pledged and thereafter received by the corporation shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the corporation, irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

5. Neither the members of the corporation nor any other person executing such notes or bonds shall be subject to any personal liability or accountability by reason of the issuance thereof.

6. The corporation, subject to such agreements with noteholders or

bondholders as may then exist, shall have power out of any funds available therefor, to purchase notes or bonds of the corporation, which shall thereupon be cancelled, at a price not exceeding

(a) if the notes or bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date thereon, or

(b) if the notes or bonds 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 plus accrued interest to such date.

7. In the discretion of the corporation, the bonds may be secured by a trust indenture by and between the corporation and a corporate trustee, which may be any trust company or bank having the powers of a trust company in the state. Such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the corporation in relation to the exercise of its corporate powers and the custody, safeguarding and application of all moneys. The corporation may provide by such trust indenture for the payment of the proceeds of the bonds and the revenues to the trustee under such trust indenture or other depository, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out such trust indenture may be treated as a part of the operating expenses of the corporation. If the bonds shall be secured by a trust indenture, the bondholders shall have no authority to appoint a separate trustee to represent them.

8. Whether or not the notes and bonds are of such form and character as to be negotiable instruments under the terms of the uniform commercial code, the notes and bonds are hereby made negotiable instruments within the meaning of and for all the purposes of the uniform commercial code, subject only to the provisions of the notes and bonds for registration.

§ 655-a. Authorization of contracts for taxation by the United States of interest on obligations guaranteed thereby. The corporation is hereby authorized and empowered, from time to time and at any time to enter into a contract or contracts with the United States, acting through any department, officer, agency, or instrumentality thereof, (a) pursuant to which the United States (i), unconditionally guarantees the payment, when due, of the interest on, and the principal of, bonds, notes, or other obligations issued or to be issued by the corporation or (ii) pays a portion of the interest payable on such bonds, notes, or other obligations issued or to be issued by the corporation and (b) in consideration of which the corporation covenants and consents that the interest on such bonds, notes, or other obligations shall be includible under the internal revenue code of nineteen hundred fifty-four or any subsequent corresponding internal revenue law of the United States in the gross income of the holder or holders of such bonds, notes, or other obligations 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 holder or holders thereof under said internal revenue code or any such subsequent law. The corporation is hereby further authorized and empowered to include in such bonds, notes, or other obligations and any documents related thereto such reference to, or summary of, the contract or contracts as shall be satisfactory to such department, officer, agency, or instrumentality of the United States. The powers herein conferred shall be in addition to the powers conferred by any other law and such powers shall not be subject to the limitations or restrictions of any other law, but nothing contained herein or in any such contract or contracts shall be construed to covenant or consent, or to authorize any covenant or consent, to the application of any other provision of any other law, federal or state, to the corporation or to such bonds, notes, or other obligations, or to the elimination or modification in any way of any other exemption (including without limitation exemption from taxation under section six hundred sixty-three of this article), privilege, or immunity thereof.

§ 656. Reserve funds and appropriations. 1. a. The corporation shall create and establish special funds (herein referred to as capital

reserve funds) and shall pay into such a capital reserve fund (1) any moneys appropriated and made available by the state or city for the purpose of such fund, (2) any proceeds of sale of notes or bonds, to the extent provided in the resolution or resolutions of the corporation authorizing the issuance thereof, and (3) any other moneys which may be made available to the corporation for the purpose of such fund from any other source or sources. All moneys held in a capital reserve fund, except as hereinafter provided, shall be used, as required, solely for the payment of the principal of bonds as the same mature or the annual sinking fund payments, the purchase or redemption of bonds, the payment of interest on bonds or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity; provided, however, that moneys in such fund shall not be withdrawn therefrom at any time in such amount as would reduce the amount of such fund to less than the maximum capital reserve fund requirement, except for the purposes of paying interest on bonds, principal of bonds and annual sinking fund payments, as the same become due and for the payment of which other moneys of the corporation are not available. Any income or interest earned by, or increment to, a capital reserve fund due to the investment thereof or any amount in excess of the maximum capital reserve fund requirement may be transferred by the corporation to other funds or accounts of the corporation to the extent it does not reduce the amount of such capital reserve fund below the maximum capital reserve fund requirement.

b. The corporation shall not issue bonds at any time if upon issuance the amount in the capital reserve fund will be less than the maximum capital reserve fund requirement, unless the corporation, at the time of issuance of such bonds, shall deposit in such fund from the proceeds of the bonds so to be issued, or otherwise, an amount which, together with the amount then in such fund, will not be less than the maximum capital reserve fund requirement.

c. No bonds or notes of the corporation shall be issued if upon such issuance the aggregate principal amount of bonds and notes of the corporation then outstanding exceeds the lesser of twenty-two billion dollars or such amount as would cause the maximum capital reserve fund

requirement to exceed eighty-five million dollars; provided that, in determining such aggregate principal amounts there shall be deducted: (i) all sums then available for the payment of such bonds or notes either at maturity or through the operation of a sinking fund; (ii) the aggregate principal amount of outstanding bonds issued: (a) to refund notes; and (b) to refund bonds, theretofore issued and then outstanding; and (iii) the aggregate principal amount of outstanding notes issued to renew notes theretofore issued and then outstanding. The provisions of the prior sentence notwithstanding, the corporation shall not issue bonds if such issuance shall cause the maximum reserve fund requirement to exceed thirty million dollars unless prior to such issuance the senate and assembly shall have adopted a concurrent resolution passed by the votes of a majority of all the members elected to each such house and, subsequent thereto, the governor shall evidence in writing the governor's agreement with such resolution to the chairperson of the corporation, which resolution shall be in full force and effect on the date of issuance of the bonds, permitting the maximum capital reserve fund requirement to equal or exceed the amount of the maximum capital reserve fund requirement which would be effective upon the issuance of the bonds in question, but in no event shall the maximum capital reserve fund requirement exceed eighty-five million dollars.

d. In computing the amount of a capital reserve fund for the purposes of this section, securities in which all or a portion of such fund shall be invested shall be valued at par if purchased at par or if purchased at other than par, at amortized value. Amortized value, when used with respect to securities purchased at a premium above or a discount below par, shall mean the value as of any given date obtained by dividing the total premium or discount at which such securities were purchased by the number of interest payments remaining to maturity on such securities after such purchase and by multiplying the amount so calculated by the number of interest payment dates having passed since the date of such purchase; and (i) in the case of securities purchased at a premium by deducting the product thus obtained from the purchase price, and (ii) in the case of securities purchased at a discount by adding the product thus obtained to the purchase price.

e. To assure the continued operation and solvency of the corporation for the carrying out of its corporate purposes, provision is made in paragraph a of this subdivision for the accumulation in each capital reserve fund of an amount equal to the maximum capital reserve fund requirement. In order further to assure such maintenance of each capital reserve fund, there shall be paid by the city to the corporation for deposit in each capital reserve fund on or before the first day of April, in each year, such amount, if any, needed for the purpose of restoring each such capital reserve fund to the maximum capital reserve fund requirement for such fund, as shall be certified by the chairperson of the corporation to the mayor and the director of management and budget on or before the first day of December next preceding; provided that any such amount shall have been first appropriated by or on behalf of the city for such purpose or shall have been otherwise made available from the proceeds of notes or bonds of the city authorized and issued pursuant to the local finance law for such purpose, which is hereby determined to be a specific object or purpose having a period of probable usefulness of five years. In the event of the failure or inability of the city to pay over to the corporation, in full, on or before such first day of April the amount so certified the chairperson of the corporation shall forthwith certify to the comptroller of the state of New York the amount remaining unpaid and thereupon the state comptroller shall pay to the corporation, out of the first moneys available for the next succeeding payments of (i) state aid apportioned to the city of New York as per capita aid for the support of local government pursuant to section fifty-four of the state finance law or (ii) such other aid or assistance payable by the state to the city and not otherwise allocated as shall supersede or supplement such state per capita aid, including federal moneys apportioned to the city by the state, such amount remaining unpaid, after giving written notice to the director of management and budget of each amount to be paid out of such state aid, until the amount in each such capital reserve fund is restored to the maximum capital reserve fund requirement thereof; provided, however, that prior to the issuance of any notes or bonds of the corporation pursuant to this article the city shall have enacted a local law authorizing payments from such sources into such a fund so long as any notes or bonds of the corporation shall be outstanding and

unpaid, and provided further that moneys, if any, payable to the city university construction fund pursuant to the provisions of the city university construction fund act shall be paid, in full, to such fund, prior to any payments therefrom to the corporation. Any amount so paid over to the corporation shall be deducted from the corresponding apportionment of such per capita state aid otherwise payable to the city of New York, and shall not obligate the state to make nor entitle the city to receive any additional apportionment or payment of per capita state aid. All amounts paid over to the corporation as provided in this paragraph, including amounts paid by the state comptroller out of payments of such state aid, shall constitute and be accounted for as non-interest bearing loans by the city to the corporation and, subject, subordinate and junior to the rights of the holders of any notes or bonds of the corporation theretofore or thereafter issued, shall be repaid to the city from (i) moneys in such capital reserve fund in excess of the maximum capital reserve fund requirement thereof or (ii) any moneys of the corporation not required for any other of its corporate purposes.

f. In the event the chairperson of the corporation shall certify to the mayor and director of management and budget or to the state comptroller any amount necessary to restore a capital reserve fund to the maximum capital reserve fund requirement thereof pursuant to subdivision e of this section, the chairperson shall simultaneously deliver to such persons a statement of the cause or causes of such capital reserve fund deficiency and the measures to be taken by the corporation or the department of housing preservation and development to insure repayment of any loans made by the city to the corporation, including amounts paid by the state comptroller out of payments of state aid, for the purpose of restoring such capital reserve fund to the maximum capital reserve fund requirement thereof and to prevent the recurrence of any such deficiency.

2. Notwithstanding the provisions of subdivision one hereof, the corporation may issue bonds for any of its corporate purposes, without making any deposit in a capital reserve fund and the provisions of subdivision one of section six hundred fifty-six of this article shall

not apply to such bonds and the principal of and interest on such bonds shall not be payable from or secured by any capital reserve fund.

3. The corporation shall create and establish such other fund or funds as may be necessary or desirable for its corporate purposes.

§ 657. Agreement with the state. The state does hereby pledge to and agree with the holders of any notes or bonds issued under this article that the state will not limit or alter the rights hereby vested in the corporation to fulfill the terms of any agreements made with the said holders thereof, or in any way impair the rights and remedies of such holders until such notes and bonds, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The corporation is authorized to include this pledge and agreement of the state in any agreement with the holders of such notes or bonds.

§ 658. State and city not liable on notes and bonds. The notes, bonds or other obligations of the corporation shall not be a debt of either the state of New York or of the city of New York, and neither the state nor the city shall be liable thereon, nor shall they be payable out of any funds other than those of the corporation; and such notes and bonds shall contain on the face thereof a statement to such effect.

§ 659. City's right to require redemption of bonds. Notwithstanding and in addition to any provisions for the redemption of bonds which may be contained in any contract with the holders of the bonds, the city may, upon furnishing sufficient funds therefor, require the corporation to redeem, prior to maturity, as a whole, any issue of bonds on any interest payment date not less than twenty years after the date of the bonds of such issue at one hundred five per centum of their face value and accrued interest or at such lower redemption price as may be provided in the bonds in case of the redemption thereof as a whole on

the redemption date. Notice of such redemption shall be published in at least two newspapers published and circulating in the city of New York at least twice, the first publication to be at least thirty days before the date of redemption.

§ 660. Remedies of noteholders and bondholders. 1. In the event that the corporation shall default in the payment of principal of or interest on any issue of notes or bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the corporation shall fail or refuse to comply with the provisions of this article, or shall default in any agreement made with the holders of any issue of notes or bonds, the holders of twenty-five per centum in aggregate principal amount of the notes or bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county of New York and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such notes or bonds for the purposes herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such notes or bonds then outstanding shall, in such trustee's own name:

(a) by suit, action or proceeding in accordance with the civil practice law and rules, enforce all rights of the noteholders or bondholders, including the right to require the corporation to carry out any agreement with such holders and to perform its duties under this article;

(b) bring suit upon such notes or bonds;

(c) by action or suit, require the corporation to account as if it were the trustee of an express trust for the holders of such notes or bonds;

(d) by action or suit, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such notes or bonds;

(e) declare all such notes or bonds due and payable, and if all defaults shall be made good, then, with the consent of the holders of twenty-five per centum of the principal amount of such notes or bonds

then outstanding, annul such declaration and its consequences.

3. The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of such noteholders or bondholders. The venue of any such suit, action or proceeding shall be laid in the county of New York.

4. Before declaring the principal of notes or bonds due and payable, the trustee shall first give thirty days' notice in writing to the corporation.

§ 661. Assistance to the corporation. The state or city may make grants of money or property to the corporation for the purpose of enabling it to carry out its corporate purposes and for the exercise of its powers, including, but not limited to, deposits to the reserve funds. This section shall not be construed to limit any other power the state or city may have to make such grants to the corporation.

§ 662. Notes and bonds as legal investments. The notes and bonds of the corporation are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or in other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them. The notes and bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of the state and all municipalities and public corporations for any purpose for which the deposit of bonds or other obligations of the state is now or may hereafter be authorized.

§ 663. Exemption from taxation. 1. The property of the corporation and its income and operations shall be exempt from taxation.

2. It is hereby determined that the creation of the corporation is in all respects for the benefit of the people of the state and for the improvement of their health, safety, welfare, comfort and security, and that said purposes are public purposes and that the corporation will be performing an essential governmental function in the exercise of the powers conferred upon it by this article. The state covenants with the purchasers and all subsequent holders and transferees of notes and bonds issued by the corporation, in consideration of the acceptance of and payment for the notes and bonds, that the notes and bonds of the corporation issued pursuant to this article and the income therefrom and all its fees, charges, gifts, grants, revenues, receipts, and other moneys received or to be received, pledged to pay or secure the payment of such notes or bonds shall at all times be free from taxation, except for estate and gift taxes and taxes on transfers. The corporation is authorized to include this covenant of the state in any agreement with the holders of such notes or bonds.

§ 664. Employees of the corporation. 1. Notwithstanding any inconsistent provisions of this act, the appointment and promotion of all employees of and for the corporation shall be made in accordance with the provisions of the civil service law and the rules of the city civil service commission and the compensation for such employees shall be fixed by the corporation.

2. The city and the corporation shall have the power to provide for the transfer to the corporation of agents, employees and facilities of the city to enable the corporation to fulfill its corporate purposes. Employees of the city to be transferred to the corporation pursuant to this article shall be eligible for such use in offices and positions of the corporation without further examination, and all such employees who have been appointed to positions in city service in accordance with the

provisions of the civil service law under the rules of the city civil service commission shall have the same status with respect thereto in the service of the corporation as they had in city service. Employees who are members or beneficiaries of any existing pension or retirement system shall continue to have such rights, privileges, obligations or status with respect to such system or systems as are prescribed by law on the date this article takes effect, and all such employees who have been appointed to positions in city service in accordance with the provisions of the civil service law under the rules of the city civil service commission shall have the same status with respect thereto in the service of the corporation as they had in city service.

3. The predecessor corporation, as defined in subdivision one of section six hundred fifty-four-d of this article and the corporation shall have the power to provide for the transfer to the corporation of agents, employees and facilities of the predecessor corporation to enable the corporation to assist the subsidiary corporation in fulfilling its corporate purposes. Employees of the predecessor corporation to be transferred to the corporation pursuant to this article shall be eligible for such use in offices and positions of the corporation without further examination, and all such employees who have been appointed to positions in predecessor corporation service in accordance with the provisions of the civil service law under the rules of the city civil service commission shall have the same status with respect thereto in the service of the corporation as they had in predecessor corporation service. Employees who are members or beneficiaries of any existing pension or retirement system shall continue to have such rights, privileges, obligations or status with respect to such system or systems as are prescribed by law on the date this subdivision takes effect, and all such employees who have been appointed to positions in predecessor corporation service in accordance with the provisions of the civil service law under the rules of the city civil service commission shall have the same status with respect thereto in the service of the corporation as they had in predecessor corporation service.

§ 665. Assistance by department of housing preservation and development. The commissioner of housing preservation and development and the department of housing preservation and development are hereby designated to act for and in behalf of the corporation in servicing mortgage loans of the corporation, and shall perform such functions and services in connection with the making, servicing and collection of such loans as shall be requested by the corporation. The corporation shall pay to the department of housing preservation and development from any moneys of the corporation available for such purposes such amounts as are necessary to reimburse the department of housing preservation and development for the reasonable cost of the services performed by the commissioner of housing preservation and development and by the department of housing preservation and development pursuant to this section.

§ 666. Moneys of the corporation. 1. All moneys of the corporation, except as otherwise authorized or provided in this article, shall be deposited as soon as practicable in a separate account or accounts in banks or trust companies organized under the laws of the state or national banking association doing business in the city. The moneys in such accounts shall be paid out on checks signed by such officer or employee of the corporation as the corporation shall authorize. All deposits of such moneys shall, if required by the corporation, be secured by obligations of the United States or of the state or of the city of a market value equal at all times to the amount of the deposit and all banks and trust companies are authorized to give such security for such deposits.

Notwithstanding the provisions of this section, the corporation shall have power to contract with the holders of any of its notes or bonds as to the custody, collection, securing, investment and payment of any moneys of the corporation and of any moneys held in trust or otherwise for the payment of notes or bonds, and to carry out such contract. Moneys held in trust or otherwise for the payment of notes or bonds or in any way to secure notes or bonds and deposits of such moneys may be secured in the same manner as moneys of the corporation, and all banks

and trust companies are authorized to give such security for such deposits.

2. Subject to the provisions of any contract with noteholders and bondholders and the approval of the comptroller, the corporation shall prescribe a system of accounts.

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

4. The corporation shall submit to the mayor and the comptroller within thirty days of the receipt thereof by the corporation a copy of the report of every external examination of the books and accounts of the corporation other than copies of the reports of such examinations made by the comptroller.

§ 667. Actions. 1. Except in an action for wrongful death, in any case founded upon tort a notice of claim shall be required as a condition precedent to the commencement of an action or special proceeding against the corporation, any of its subsidiary corporations, or any officer, appointee or employee thereof, and the provisions of section fifty-e of the general municipal law shall govern the giving of such notice. An action for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of the public authorities law. Any other action against the corporation, any of its subsidiary corporations, or any other officer, appointee or employee thereof for damages for injuries to real or personal property, or for the destruction thereof, or for personal injuries, alleged to have been sustained, shall not be commenced more

than one year and ninety days after the cause of action therefor shall have accrued.

2. Except as may otherwise be expressly provided by the corporation, the corporation shall not be liable for any debts, liabilities, obligations, agreements, contracts or covenants of any of its subsidiary corporations. No action or special proceeding of any kind may be brought against the corporation by any person having claims against or contracts with any of its subsidiary corporations (including any predecessor corporation of any of its subsidiary corporations) if the corporation was not a party to the matter giving rise to such claims or contracts.

§ 668. Annual report. The corporation shall submit to the mayor, the comptroller and the director of management and budget within ninety days after the end of its fiscal year, a complete and detailed report setting forth: (1) its operations and accomplishments; (2) its receipts and expenditures during such fiscal year in accordance with the categories or classifications established by the corporation for its operating and capital outlay purposes, including a listing of all private consultants engaged by the corporation on a contract basis and a statement of the total amount paid to each such private consultant; (3) its assets and liabilities at the end of its fiscal year, including a schedule of its mortgage loans and commitments and the status of reserve, special or other funds; and (4) a schedule of its notes and bonds outstanding at the end of its fiscal year, together with a statement of the amounts redeemed and incurred during such fiscal year.

§ 669. Article not affected if in part unconstitutional. If any section, subdivision, paragraph, sentence, clause or provision of this article shall be unconstitutional or ineffective, in whole or in part, to the extent that it is not unconstitutional or ineffective it shall be valid and effective and no other section, subdivision, paragraph, sentence, clause or provision shall on account thereof be deemed invalid or ineffective.

§ 670. Inconsistent provisions in other laws superseded. Insofar as the provisions of this article are inconsistent with the provisions of any other law, general, special or local, the provisions of this article shall be controlling.

ARTICLE XV
**PARTICIPATION LOANS TO OWNERS OF
MULTIPLE DWELLINGS BY PRIVATE INVESTORS AND
MUNICIPALITIES UTILIZING FEDERAL GRANT FUNDS**

Section 800. Policy and purposes of article.

801. Definitions.

801-a. Application to certain garden-type maisonette dwelling projects.

802. Participation loans to owners.

803. Conditions precedent to making such loans.

804. Rentals.

805. Participation of New York city housing development corporation.

806. Regulations.

§ 800. Policy and purposes of article. It is hereby declared and found that there exists in municipalities in this state substandard and insanitary areas and neighborhoods characterized by undermaintained and deteriorating housing accommodations and under-utilized non-residential buildings and under-utilized vacant land. It is further found that there exists in such municipalities a diminishing and seriously inadequate supply of safe and sanitary dwelling accommodations, particularly for persons of low income; that the loss of housing accommodations is caused by the inability of the ordinary unaided operations of private enterprise to make loans for rehabilitation or construction purposes or for conversion which accelerates the process of deterioration and abandonment, turning active and viable neighborhoods into slums and blighted areas; and that the prevention of deterioration and loss through abandonment can only be achieved by the elimination of

conditions which are unsafe or detrimental to health, the replacement of antiquated heating, plumbing, and electrical systems and, where necessary, the overall rehabilitation of certain housing accommodations, the construction of new housing accommodations on vacant land and the conversion of under-utilized non-residential property to residential use, and that the unavailability of funds for the conversion of under-utilized property to residential use, for the preservation and rehabilitation of housing accommodations and for the construction of new housing accommodations on vacant land constitutes a threat to the health, safety and well-being of the persons who occupy them and denies to others the possibility of living in safe and sanitary housing accommodations.

In order to promote the preservation and rehabilitation of such housing accommodations, the creation of new housing accommodations by the conversion of under-utilized non-residential property into multiple dwellings and the construction of new housing accommodations on vacant land in such areas and to encourage the investment of private capital in such areas, provision should be made for a municipality to attract private investment for such purposes by utilizing funds, which are available from the federal government through specific or discretionary grants, or are available from other financing sources, for joint participation loans with private investors, or loans or grants by the municipality, to effect the required construction, rehabilitation or conversion.

The necessity in the public interest for the provisions hereinafter enacted is hereby declared as a matter of legislative determination.

§ 801. Definitions. As used in this article the following terms shall have the following meanings unless a different meaning clearly appears from the context:

1. "Agency" shall mean the office or agency of a municipality authorized to administer the expenditure of grants from the United States of America to assist community development activities and

programs for the construction, rehabilitation or conservation of multiple dwellings and housing accommodations or for the conversion of under-utilized non-residential property into multiple dwellings or, in the absence of such an office or agency, the comptroller or chief fiscal officer of such municipality; except that in the city of New York it shall be the department of housing preservation and development or any successor thereto and shall include, except for purposes of section eight hundred four of this article, the New York city housing development corporation with respect to any participation in a loan by such corporation pursuant to section eight hundred five of this article.

1-a. "Construction" shall mean the construction of new multiple dwellings upon vacant land.

2. "Conversion" shall mean the conversion of under-utilized non-residential property into a multiple dwelling.

3. "Federal grant funds" shall mean any grants received from the United States of America for community development activities or for the construction, rehabilitation or conservation of multiple dwellings or for the conversion of under-utilized non-residential property into multiple dwellings.

4. "Non-residential property" shall mean any property which is not a multiple dwelling, and which is intended to be converted into a multiple dwelling, and which is under-utilized for commercial, industrial or other non-residential purposes.

5. "Owner" shall mean an individual, partnership, corporation or other entity, including a non-profit company, a mutual company, or a housing development fund company, which holds record or beneficial title in fee simple to the existing multiple dwelling to be rehabilitated or the non-residential property to be converted into a multiple dwelling and the real property upon which it is situate or to vacant land upon which the new multiple dwelling is to be constructed, or is the lessee of any such real property having an unexpired term of at least thirty years.

5-a. "Participation loan" and the municipality's "participation" in, "portion" of, or "investment" in a loan, or words of similar meaning, shall mean any loan or grant made by the municipality or the New York city housing development corporation pursuant to this article either with or without a private investor, provided, however, that provisions of this article concerning the repayment or forgiveness of, or security for, a loan shall not apply to any grant made pursuant to this article.

6. "Private investor" shall mean one or more banking organizations, foundations, labor unions, credit unions, employers' associations, veterans' organizations, colleges, universities, educational institutions, child care institutions, hospitals, medical research institutes, insurance companies, trustees or fiduciaries, trustees of pension and retirement funds and systems, corporations, partnerships, individuals or other entities or any combination of the foregoing, and shall include the United States of America and the state of New York and any agency, office or public benefit corporation thereof. As used in this subdivision, the terms "trustees" and "fiduciaries" shall include any fiduciary or fiduciaries holding funds for investment, and the term "banking organizations" shall have the same meaning as in subdivision eleven of section two of the banking law.

7. "Rehabilitation" shall mean the installation, replacement or repair of heating, plumbing, electrical and related systems, or elimination of conditions dangerous to human life or detrimental to health, including nuisances as defined in section three hundred nine of the multiple dwelling law, or other rehabilitation or improvement of existing multiple dwellings.

8. "Value" shall mean the "as is" value of the existing multiple dwelling, or in the case of non-residential property to be converted into a multiple dwelling, the "as is" value of such non-residential property, and the land upon which it is situate prior to rehabilitation or conversion or, in the case of the construction of a new multiple dwelling, the "as is" value of the vacant land prior to such construction plus the total of all costs of such rehabilitation, conversion or construction, including, but not limited to, the costs of

any or all undertakings necessary for the planning, financing, tenant relocation, acquisition, satisfaction of tax liens and other municipal liens and encumbrances, construction, equipment and development in connection therewith.

9. "State grant funds" shall mean any grants received from the state or any public benefit corporation for community development activities for the construction, rehabilitation or conservation of multiple dwellings.

§ 801-a. Application to certain garden-type maisonette dwelling projects. For purposes of this article an existing multiple dwelling shall be deemed to include any garden-type maisonette dwelling project consisting of a series of dwelling units which together and in their aggregate were arranged or designed to provide three or more apartments and are provided as a group collectively with all essential services such as, but not limited to, water supply, house sewers and heat, and which are in existence and operated as a unit under single ownership on the date upon which an application for a loan pursuant to this article is received by the municipality, notwithstanding that certificates of occupancy were issued for portions thereof as private dwellings.

§ 802. Participation loans to owners. 1. (a) Notwithstanding the provisions of any general, special or local law, one or more private investors and a municipality, acting through its agency, shall have the power to participate and invest in making loans to the owners of existing multiple dwellings or to the owners of non-residential property or to the owners of vacant land subject to the limitations of subdivisions two through seven of this section, in such amounts as shall be required for (i) the rehabilitation of such existing multiple dwellings or for the conversion of such non-residential property or for the construction of new multiple dwellings on such vacant land, provided that such rehabilitation, conversion or construction may include climate resiliency improvements, and if any such owner acquires the existing multiple dwelling or the non-residential property or the vacant land for

the purpose of such rehabilitation, conversion or construction or owns the existing multiple dwelling or the non-residential property or the vacant land subject to an outstanding indebtedness, such loans may be made exclusively for or may include such amounts as may be required for the cost of such acquisition or for the refinancing of such outstanding indebtedness, (ii) providing site improvements located on the property on which such existing multiple dwellings are located or on such non-residential property or vacant land or in a public right-of-way, incidental or appurtenant to such rehabilitation, conversion or construction, including, but not limited to, water and sewer facilities, sidewalks, landscaping, parks and open space, social, recreational, communal and other non-residential facilities and the outfitting thereof, the curing of problems caused by abnormal site conditions, excavation and construction of footings and foundations and other improvements associated with the provision of infrastructure for housing accommodations, or (iii) providing for other costs of developing housing accommodations, and such private investors and a municipality may jointly participate or invest in the making of temporary loans or advances to such owners in anticipation of the permanent participation loans for such purposes.

(b) Notwithstanding the provisions of any general, special or local law, and in addition to the power to make or contract to make participation loans granted by paragraph (a) of this subdivision, the municipality, acting through its agency, and the New York city housing development corporation shall each have the power to make or contract to make loans or grants to any owner described in paragraph (a) of this subdivision without the participation of a private investor, on the same terms as permitted under such paragraph for a participation loan.

2. A municipality may utilize federal grant funds or state grant funds or any municipal funds to finance its participation or investment in a loan pursuant to this article. This subdivision shall not apply to any participation in a loan by the New York city housing development corporation pursuant to section eight hundred five of this article.

3. Each participation loan shall be secured by a bond or note and single participating mortgage or by separate bonds or notes and

mortgages upon the existing multiple dwelling or the non-residential property and the land upon which it is situated or, in the case of the construction of a new multiple dwelling, upon the vacant land and the multiple dwelling to be constructed, or, in the case of a multiple dwelling held in the condominium form of ownership, a note and mortgage upon the condominium units rehabilitated with such participation loan, provided that a participation loan to an owner who is a lessee shall be secured by a leasehold interest in such property, and provided, further, that each such loan shall be made upon such terms and conditions as may be approved by the agency, including but not limited to, provisions that (a) priority may be given to the payment of the principal of and interest on that portion of the mortgage indebtedness attributable to participation in the loan by one or more private investors, (b) the interest of the municipality created as a result of making such a mortgage loan may be subordinated to the interest that one or more of such private investors may have upon such participation, (c) the interest of each upon such participation need not be of equal priority as to lien nor be equal as to interest rate, time or rate of amortization of principal or time of payment of interest, or otherwise, (d) the bond or note and mortgage may provide that the municipality's portion of a participation loan made to an owner shall be reduced to zero commencing in the fifteenth year after the execution of the bond or note and mortgage, provided that, as of the date of any such reduction, such multiple dwelling has been and continues to be owned and operated in a manner consistent with a regulatory agreement with the municipality. Notwithstanding such provision as contained in the bond or note and mortgage, the municipality's portion of the loan shall be reduced to zero only if, prior to or simultaneously with delivery of such bond or note and mortgage, the agency made a written determination that such reduction would be necessary to ensure the continued affordability or economic viability of the multiple dwelling. Such written determination shall document the basis upon which the loan was determined to be eligible for evaporation.

4. Each such bond or note and mortgage or bonds or notes and mortgages shall be repaid over or within a period of forty years, provided that such period may be extended as the agency may determine necessary to

ensure the continued affordability or economic viability of the multiple dwelling, in such manner as may be provided in such bond or note and mortgage or bonds or notes and mortgages. Such bond or note and mortgage or bonds or notes and mortgages and any contract in connection with such permanent and temporary loans may contain such other terms and provisions not inconsistent with the provisions of this article as the local legislative body or the agency may deem necessary or desirable to secure repayment of the loan, the interest thereon and other charges in connection therewith and to carry out the purposes and provisions of this article.

5. The bond or note or the bonds or notes issued by the owner and the mortgage or mortgages relating thereto may authorize such owner, with the consent of the agency and the private investor, to prepay the principal of the loan subject to such terms and conditions as therein provided. Such bond or note and mortgage or bonds or notes and mortgages may contain such other clauses and provisions as the agency shall require.

6. Where a municipality joins with one or more private investors in making a participation loan secured by a single participating mortgage or by separate mortgages, the agency may make provision, either in the mortgage or mortgages or by separate agreement, for the performances of such services as are generally performed by a banking institution or insurance company which itself owns and holds a mortgage or by a trustee under a trust mortgage and for the imposition of reasonable fees for financing, regulation, supervision and audit of such multiple dwelling. The agency is hereby authorized to act as trustee or to consent to the appointment of a banking institution or any subsidiary thereof to act in such capacity and to provide such services as are generally performed by any such bank itself or its subsidiary owning and holding such a mortgage.

7. Banking organizations and insurance companies may exercise such power only to the extent and on such conditions as may be authorized by the state superintendent of financial services.

8. Notwithstanding the provisions of any other law, a savings bank may invest to an amount not exceeding ninety per centum of the value of any real property when jointly participating or investing in a loan pursuant to the provisions of this article or not exceeding ninety-five per centum of the value of any real property when jointly participating or investing in a loan pursuant to the provisions of article fourteen of this chapter.

§ 803. Conditions precedent to making such loans. A municipality shall not participate in a loan pursuant to this article unless the agency finds that the area in which the existing multiple dwelling, non-residential property or vacant land is situated is a blighted, deteriorated or deteriorating area, or has a blighting influence on the surrounding area, or is in danger of becoming a slum or a blighted area because of the existence of substandard, insanitary, deteriorating or deteriorated conditions, an aged housing stock, or under-utilized non-residential property, or other factors indicating an inability of the private sector unaided to cause such rehabilitation, conversion or construction to be made and unless the agency has notified occupants of the existing multiple dwelling of the contemplated rehabilitation and has advised them of the expected rental increase to result therefrom and a representative of the agency has met or has offered to meet at least once with the occupants.

§ 804. Rentals. Notwithstanding the provisions of, or any regulation promulgated pursuant to, the emergency housing rent control law, the local emergency housing rent control act or local law enacted pursuant thereto, upon completion of the rehabilitation of an existing multiple dwelling, the construction of a new multiple dwelling or the conversion of non-residential property into a multiple dwelling aided by a participation loan made pursuant to this article, the agency shall establish the initial rent for each dwelling unit within the rehabilitated, newly constructed or converted multiple dwelling. Where the city of New York or the New York city housing development corporation has participated or invested in a loan pursuant to this

article, all dwelling units within the multiple dwelling subsequent to the establishment of initial rents by the agency shall be subject to the rent stabilization law of nineteen hundred sixty-nine provided, that the occupant in possession of a dwelling unit when the multiple dwelling is made subject to the rent stabilization law of nineteen hundred sixty-nine shall be offered a two year lease notwithstanding any contrary provisions of, or regulations adopted pursuant to, the rent stabilization law of nineteen hundred sixty-nine at such initial rent set for such dwelling unit by the agency.

§ 805. Participation of New York city housing development corporation.

The New York city housing development corporation may participate with one or more private investors or with the city of New York or with both in making a loan pursuant to the provisions of this article. Where such corporation participates in making such a loan, the term municipality as used in this article shall include such corporation with respect to such participation.

§ 806. Regulations. The agency may promulgate supplementary rules and regulations to carry out the provisions of this article.

ARTICLE XVI

NEIGHBORHOOD PRESERVATION COMPANIES

Section 901. Declaration of legislative findings.

902. Definitions.

903. Contracts with neighborhood preservation companies.

904. Payments to neighborhood preservation companies for neighborhood preservation activities.

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- 909. Annual report.
- 910. Merged company savings fund.

§ 901. Declaration of legislative findings. The legislature hereby finds and declares that there has developed in recent years, in various municipalities of the state, a growth of community-based not-for-profit organizations, originating for the most part within and organized by residents of neighborhoods which are characterized by a predominance of residents of low income and a residential housing stock which is largely old, deteriorating and substandard.

The legislature further finds that the involvement of the residents of various municipalities of the state in neighborhood preservation activities in their respective neighborhoods, through the media of locally-based, not-for-profit organizations responsive to the needs of the residents, is in the public interest and may be expected to produce increased renovation and rehabilitation of existing but deteriorating housing accommodations, improvement in housing code enforcement and the correction, removal and repair of substandard housing and housing conditions dangerous to life, safety or health. Such involvement in neighborhood preservation activities may also be expected to produce reduced abandonment of housing, which the legislature finds to be increasing in many neighborhoods of the state and to be continuing to cause shortages of housing accommodations for persons and families of low income and the relocation of such families from neighborhoods to which they have developed strong emotional as well as economic attachments.

The legislature further finds that many municipalities throughout the state are now receiving or will receive monies under federal programs, that such funds may be used and applied by such municipalities for the neighborhood preservation activities referred to in this article and that an efficient and effective use of such funds and the public interest will be promoted by the active involvement of various

not-for-profit organizations.

The legislature further finds that numerous not-for-profit organizations which have arisen throughout the state are heavily dependent upon voluntary services of neighborhood residents; that such organizations are dependent in part for operating funds upon fees generated by the management of housing accommodations; that such organizations are dependent for the remainder of their operating funds, to a significant extent, upon gifts and grants from private individuals, corporations and foundations; that such financial assistance is inherently uncertain and covers expenses only over short periods of time, thereby causing such organizations to be inadequately financed, unable to plan any long range housing activities and unable to attract, employ or contract with needed experts and technicians for assistance to implementing neighborhood preservation programs; and that it is a proper and necessary public purpose and activity of the state to assure the adequate funding of not-for-profit organizations which are active in neighborhood preservation activities.

The necessity in the public interest for the provisions hereinafter enacted is hereby declared as a matter of legislative determination.

§ 902. Definitions. As used in this article, the following words and phrases shall have the following meanings:

1. "Commissioner" shall mean the commissioner of the state division of housing and community renewal.
2. "Division" shall mean the state division of housing and community renewal.
3. "Municipality" shall mean any city, town or village within the state.
4. "Neighborhood preservation company" shall mean a corporation organized under the provisions of the not-for-profit corporation law

which has been engaged primarily in one or more of the neighborhood preservation activities specified in subdivision five of this section.

5. "Neighborhood preservation activities" shall mean activities engaged in by a neighborhood preservation company within a geographically defined neighborhood of a municipality, provided, however, that the division may fund a neighborhood preservation company to engage in such activities in unserved and underserved areas of the municipality lying outside of its initially designated neighborhood area, that are designed (a) to construct, maintain, preserve, repair, renovate, upgrade, improve, modernize, rehabilitate or otherwise prolong the useful life and to manage and coordinate the rehabilitation of residential dwelling accommodations within such neighborhood, to restore abandoned and vacant as well as occupied housing accommodations to habitable condition; to demolish structurally unsound or unsafe or otherwise unsightly or unhealthy structures which no longer serve or can economically be made to serve a useful purpose consistent with stabilizing or improving a neighborhood; to seal and maintain vacant but structurally sound structures which are capable of being rehabilitated at a future time and used for housing purposes; to acquire, where appropriate, buildings which contain housing accommodations; to facilitate the disposition of buildings containing housing accommodations to individual occupants thereof or to cooperative groups whose members shall be occupants thereof; to assist owners, occupants and tenants of housing accommodations to obtain improvements in the physical conditions thereof and in the maintenance and management thereof; to administer landlord training classes; and to manage housing accommodations as agents for the owners thereof or administrators or receivers appointed or designated pursuant to any law of the state; and (b) to accomplish similar purposes and meet similar needs with respect to retail and service establishments within such neighborhoods when carried out in connection with and incidental to a program of housing related activities.

6. "Persons of low income" shall mean individuals and families whose annual incomes do not exceed ninety per cent of the median annual income for all residents of the municipality within which they reside.

7. "Merged company" shall mean a neighborhood preservation company maintaining a contract pursuant to section nine hundred three of this article that has undergone a merger with one or more other neighborhood preservation companies, which is also maintaining a contract pursuant to section nine hundred three of this article, that has led the merged companies to reduce the number of contracts being maintained with the division pursuant to section nine hundred three of this article to a total of one.

8. "Unmerged company" shall mean a neighborhood preservation company that is not a merged company.

§ 903. Contracts with neighborhood preservation companies. 1. The commissioner may enter into contracts with neighborhood preservation companies for the performance of neighborhood preservation activities. Such contracts shall be entered into, however, only after appropriate findings by the commissioner and shall be subject to the limitations hereinafter set forth.

2. Prior to entering into a contract with a neighborhood preservation company, the commissioner shall have made a finding that the neighborhood in which the activities are proposed to be conducted contains a significant amount of deteriorating or substandard housing which is not being adequately repaired, renovated, upgraded, modernized or rehabilitated under existing programs so as to provide sound housing at costs which the residents of such neighborhoods can afford; that the neighborhood preservation company which proposes to contract with the commissioner is a bona fide organization which shall have been in existence either as a corporation or as an unincorporated, organized group and performing significant neighborhood preservation activities for at least one full year prior to entering into any contract with the commissioner and which shall have demonstrated by its immediate past and current activities that it has the ability to preserve, repair, maintain, renovate, rehabilitate, manage or operate housing accommodations or to engage in other neighborhood preservation

activities in such neighborhood; that the neighborhood preservation activities which are to be performed pursuant to the proposed contract are needed by the neighborhood; and that the neighborhood preservation company possesses or will acquire or gain access to the requisite staff, office facilities within such neighborhood, equipment and expertise to enable it to perform the activities which it proposes to undertake pursuant to such contract; provided, however, that merged companies' office facilities may be located outside such neighborhood if they are located in a municipality wholly contained within the merged companies' neighborhood, and provided further, however, that it shall not be a bar to the commissioner's contracting with a neighborhood preservation company that one or more organizations, whether pursuant to contract with the commissioner or not, are conducting neighborhood preservation activities wholly or partially within the same neighborhood.

3. In determining to enter into a contract with a neighborhood preservation company pursuant to this article, the commissioner shall investigate, to the extent which he shall deem necessary or appropriate, and determine;

(a) that the geographic boundaries proposed by the applicant for such a contract define a recognized or established neighborhood or area within the municipality;

(b) that the demographic and other relevant data pertaining to such neighborhood indicate that the neighborhood has sustained physical deterioration, decay, neglect or disinvestment, that a substantial proportion of the residential population that the neighborhood preservation company proposes to assist through its activities is of low income and that such neighborhood is in need of active intervention to effect its preservation, stabilization or improvement;

(c) that the activities proposed to be conducted by the neighborhood preservation company are reasonably calculated to have a positive effect on the preservation, stabilization or improvement of the neighborhood;

(d) that the neighborhood preservation company's officers, directors and members are fairly representative of the residents and other legitimate interests of the neighborhood, that they will carry out such a contract in a responsible manner and that at least thirty-three percent of the directors of the neighborhood preservation company are

residents of the neighborhood;

(f) that the fees received or proposed to be received by the neighborhood preservation company from the management of housing accommodations are fair and reasonable;

(g) that the plan submitted by the neighborhood preservation company demonstrates that such company will, to the extent possible, give priority when hiring new employees to residents of the neighborhood who are either unemployed or not fully employed;

(h) that the neighborhood preservation company has a plan to facilitate, to the maximum extent feasible, the disposition of any buildings containing housing accommodations owned by the company to individual occupants thereof or to cooperative groups whose members shall be occupants thereof; and

(i) that the interests of occupants of any buildings containing housing accommodations owned by the neighborhood preservation company are adequately represented.

4. Contracts entered into hereunder with neighborhood preservation companies shall be limited in duration to periods of one year, but may thereafter be renewed, extended or succeeded by new contracts from year to year in the discretion of the commissioner; they shall define with particularity the neighborhood or portion thereof within which the neighborhood preservation activities shall be performed; they shall specify the nature of the neighborhood preservation activities which shall be performed including the approximate number of buildings, residential dwelling units and local retail and service establishments which shall be affected; they shall locate and describe, with as much particularity as is reasonably possible, the buildings with respect to which such activities shall be performed during the contract term; and they shall specify the number of persons, salaries or rates of compensation and a description of duties of those who shall be engaged by the neighborhood preservation company to perform the activities embraced by the contract together with a schedule of other anticipated expenses.

5. Prior to renewing or extending a contract or entering a succeeding contract with a neighborhood preservation company the division shall

determine that:

(a) the company shall have substantially completed the neighborhood preservation activities specified in the contract to be renewed, extended, or succeeded;

(b) the company shall have received the sums, services, and funds specified in subdivision four of section nine hundred four of this article; and

(c) the activities carried out by the company pursuant to its contract shall have had a significant impact on the community's needs as specified in the contract.

6. Prior to terminating, not renewing or not extending a contract the division shall:

(a) determine that the company is in violation of the terms and conditions of the contract or that funds provided pursuant to the contract are being expended in a manner not consistent with the terms of the contract or the provisions of this article; or

(b) determine that necessary and appropriate technical assistance has been provided without significant improvement in the activities of the company; and

(c) provide the company with written notice, at least forty-five days in advance, of its intent to terminate, not renew or not extend the contract and provide the company with an opportunity to appear and be heard before the division with respect to the reasons for such proposed termination, non-renewal or non-extension. At the same time that a company is notified of the division's intent to terminate, not renew or not extend the contract, the division shall likewise inform the senate and assembly members who represent areas within such company's geographic boundaries.

7. The division shall establish, for renewal of contracts, a procedure which provides the company with at least forty-five days notice of the company's obligations and rights in that process, informs the company of the amount of the renewal contract, and facilitates the timely execution of the contract and disbursement of funds.

8. The division may temporarily withhold payments and may elect not to

renew or extend a contract or enter a succeeding contract with any neighborhood preservation company if the company is not in compliance with its contract, has without good cause failed to submit documentation required under its contract or requested by the division to make the determinations required under subdivision five of this section or has not satisfied any other conditions consistent with this article for renewing or extending a contract or entering a succeeding contract.

§ 904. Payments to neighborhood preservation companies for neighborhood preservation activities. 1. Each contract entered into with a neighborhood preservation company shall provide for payment to the neighborhood preservation company for neighborhood preservation activities to be performed by it.

2. Payment to neighborhood preservation companies pursuant to this article shall be restricted to sums required for the payment of salaries and wages to employees of such companies who are engaged in rendering neighborhood preservation activities, fees to consultants and professionals retained by them for planning and performing such activities and other costs and expenses directly related to such employees, consultants and professionals.

3. In no event shall any contract or payment be made, nor shall any payments be used, to defray the costs of the construction, repair, renovation, rehabilitation, operation, demolition, clearance or sealing of any building or other structure, except that such funds may be used for planning any such activity and for renovating, repairing, furnishing, equipping and operating an office facility to be used in connection with the conduct of neighborhood preservation activities by the neighborhood preservation company. Payments shall be made by the division to the neighborhood preservation company, not less frequently than semi-annually, at or prior to the commencement of each such time period, to compensate such company for the neighborhood preservation activities which it shall undertake to perform provided, that with respect to contracts entered into on or after June thirtieth, nineteen hundred ninety-seven the first such payment shall be made by the

division beginning on or after July first of the fiscal year for which an appropriation in support of such payment was made and provided further that the final such payment to the neighborhood preservation company shall be made no later than March thirty-first of such fiscal year, unless such payment has been withheld pursuant to subdivision eight of section nine hundred three of this article.

4. In negotiating each contract, the division shall consider and take into account any and all other sums available or anticipated to be made available to the neighborhood preservation company from any and all sources which may be used to defray the costs of the neighborhood preservation activities set forth in the contract, including, without limitation, fees generated by the management of housing accommodations, contributions from private foundations, corporations, firms and individuals and funds received under grants and contracts pursuant to any program or programs operated or administered by any governmental agency or instrumentality and shall make a determination that the sums available or anticipated to be made available for the neighborhood preservation company from such other sources, together with the value of services to be rendered for the benefit of the neighborhood preservation company for which payment is not required to be made by such company, amount to at least thirty-three and one-third percent of the amount of such contract.

5. When disbursing funds for contracts with neighborhood preservation companies, pursuant to section nine hundred three of this article, the division shall use the following criteria, formulas and tables to determine the distribution of funds:

(a)(i) The total unmerged company funding shall equal the current number of unmerged company contracts multiplied by the per group award.

(ii) The unmerged company funding shall equal the per group award.

(iii) The merged company funding shall equal the funding modification multiplied by the per group award.

(b) Merged company funding shall be determined on an individual basis for each neighborhood preservation company. The following tables show the funding modification to be used:

(i) In the case of two companies merging, the following table shall be

used:

Years since merger	Funding modification
1	200%
2	190%
3	180%
4	170%
5	160%
6	150%

(ii) In the case of three companies merging, the following table shall be used:

Years since merger	Funding modification
1	300%
2	290%
3	280%
4	270%
5	260%
6	250%
7	240%
8	230%
9	220%
10	210%
11	200%

(iii) In the case of four or more companies merging, the following table shall be used:

Years since merger	Funding modification
1	400%
2	390%
3	380%
4	370%
5	360%
6	350%
7	340%
8	330%
9	320%

10	310%
11	300%
12	290%
13	280%
14	270%
15	260%
16	250%

(c) If a neighborhood preservation company that has undergone a merger continues to renew their contract beyond the timeframes listed in the above tables, it shall have its funding determined using the last funding modification listed.

(d) The merged company savings shall be determined on an individual basis for each merged company. It shall be calculated by subtracting the amount of such company's merged company funding from the amount the merged companies would have received if they had maintained separate contracts.

(e) The per group award shall equal the total funding available minus the amount for the contract with the neighborhood preservation coalition, which shall equal the total unmerged company funding plus the sum of the merged company funding plus the sum of the merged company savings.

§ 905. Periodic review of contract performance; renegotiation and termination of contract. 1. The division shall, by regulation as hereinafter provided, provide for formal evaluation of the performance of a company to determine its progress in achieving the objectives outlined in the annual neighborhood preservation plan contained in its contract with the division. Such evaluation shall include a review of the efforts of the company to execute each of the components of its plan and a consultation between the company and the division regarding the findings of the division relative to performance. The division shall provide or cause to be provided technical assistance determined to be necessary by the division to improve the ability of the company to execute each of the components of its plan. Such evaluation and determination of the need for technical assistance shall consider the financial and staff resources of the company for the period evaluated

and any special considerations which may have had an impact on performance during the period.

2. If the division determines that a company has not made sufficient progress toward achieving the objectives of its annual neighborhood preservation plan the division shall conduct a site visit to review these findings and, if warranted, shall place the company on probation.

3. The division shall terminate or not renew or not extend a contract in accordance with provisions of subdivision six of section nine hundred three of this article if the commissioner determines that the performance of a company is not sufficient to merit continued participation in the program.

4. Notwithstanding the foregoing, the commissioner may terminate any contract upon a finding of substantial non-compliance or other substantial breach of the contract.

§ 906. Technical services and assistance to neighborhood preservation companies. 1. The division is hereby authorized to render to neighborhood preservation companies such technical services and assistance as it may possess or as may be available to it to enable such companies to comply with the intent and provisions of this article. The division is further authorized to take all steps necessary to encourage the formation, organization and growth of new neighborhood preservation companies. The division may also, from funds appropriated for the purposes of this article, contract with municipal and other public agencies and with private persons, firms and corporations for the provision of such technical services and assistance which may include: preparation and submission of proposals for entering into contracts with the commissioner; preparation and submission of reports required under such contracts or regulations issued by the commissioner; internal organization and management of the neighborhood preservation companies; recruitment and training of personnel of the neighborhood preservation companies; preparation of plans and projects, negotiation of agreements and compliance with requirements of programs in which neighborhood

preservation companies may become engaged in the course of their neighborhood preservation activities; and other technical advice or assistance relating to the performance or rendition of neighborhood preservation activities.

2. The affordable housing corporation, the housing trust fund corporation or their designee as the case may be, shall provide an incentive grant to each company that is awarded a contract pursuant to article eighteen or nineteen of this chapter. Such incentive grant shall consist of the payment of an additional sum of money equal to three percent of the amount payable to such company pursuant to each contract provided, however, that such payment shall not be counted against the per dwelling unit total imposed by subdivision one of section eleven hundred two of this chapter or the per dwelling unit limitation imposed by subdivision one of section eleven hundred twelve of this chapter, and provided further that such additional amount shall not exceed forty thousand dollars per contract. Such incentive grant shall be utilized either for purposes consistent with the provisions of this article or for the cost of neighborhood preservation activities related to such contract and shall not be subject to the limitation on the amount of funds which may be received by companies contained in subdivision four of section nine hundred three of this article. Such incentive grant shall be added to and considered a payment under the contract for purposes of allocating funds to any single municipality.

§ 907. Rules and regulations to be promulgated by the commissioner. The commissioner shall issue and promulgate rules and regulations for the administration of this article, which rules and regulations shall include provisions concerning requirements as to eligibility for contracting with the commissioner; the form of applications for contracts; supervision and evaluation of neighborhood preservation companies including standards and performance criteria for continued, increased or decreased funding to insure the companies meet the objectives of this article and the objectives outlined in their neighborhood preservation plans; reporting, budgeting and record keeping requirements; provisions for renegotiation, modification, termination,

extension and renewal of contracts, which provisions shall include the bases for funding increases from the preceding contract including, but not be limited to, performance which exceeds minimum performance criteria and provisions for probationary periods where appropriate; provisions for technical services and assistance to neighborhood preservation companies within the limits of available funding; protection of the interests of tenants in buildings owned or managed by neighborhood preservation companies; and such other matters not inconsistent with the purposes and provisions of this article as the commissioner shall deem necessary, proper or appropriate. Such rules and regulations shall prohibit any neighborhood preservation company receiving funds under contracts entered into pursuant to this article (i) from engaging in any activities promoting any political candidate or party or (ii) from expending any such funds in activities the purpose of which is to influence legislation.

§ 908. Applicability of other laws to neighborhood preservation companies. Nothing contained in this article shall be deemed or construed to prevent or deny to any neighborhood preservation company the opportunity to qualify as a developer, sponsor, owner or other participant in accordance with the provisions of any article of this chapter, or pursuant to any other law of the state or to deny to any such company the privileges or immunities of any other provisions of this chapter or other law, nor shall any neighborhood preservation company be precluded from organizing or causing to be organized or from acquiring any other corporation for the purpose of conducting or carrying out any project, program or service authorized by any law of the state.

§ 909. Annual report. The commissioner shall, on or before December thirty-first in each year submit a report to the legislature on the implementation of this article. Such report shall include, but not be limited to, for each company receiving payments under this article: a description of such company's contract amount and cumulative total; the specific neighborhood preservation activities performed by such company;

the findings required by the commissioner under subdivision two of section nine hundred three of this article; the amounts of monies received by the company from sources other than payments made pursuant to this article; the value of services rendered for the benefit of the company for which payment is not required to be made; and such other information as the commissioner deems appropriate.

§ 910. Merged company savings fund. The division shall create a fund to hold and shall transfer all funds determined to be merged company savings pursuant to paragraph (d) of subdivision five of section nine hundred four of this article into such fund. The division shall use such funds, as available, for entering into new contracts, pursuant to section nine hundred three of this article, with neighborhood preservation companies located in areas of the state that are currently unserved by a neighborhood preservation company.

ARTICLE XVI-A

URBAN INITIATIVES

Section 920. Statement of legislative findings and purpose.

921. Definitions.

922. Urban initiative contracts.

923. General and administrative provisions.

924. Transfer of authority, administration and appropriations.

§ 920. Statement of legislative findings and purpose. The legislature hereby finds and declares that there exists in New York state a serious need for the restoration and improvement of housing, local commercial areas and public facilities in distressed urban neighborhoods and that the state should encourage the revitalization of such neighborhoods; that not-for-profit community-based organizations and charitable organizations that have a direct interest in improving the health, safety and economic viability of a distressed urban neighborhood can play a crucial role in such revitalization; the legislature therefore finds that a program should be established to fund not-for-profit

community-based organizations and charitable organizations to improve distressed urban neighborhoods by preserving existing housing units, generating new housing units, upgrading commercial and retail areas, and by creating innovative approaches to neighborhood and community revitalization which improve cultural and community facilities and spirit.

§ 921. Definitions. As used in this article:

1. "Commissioner" shall mean the commissioner of the state division of housing and community renewal.

2. "Division" shall mean the division of housing and community renewal.

3. "Eligible applicant" shall mean a not-for-profit corporation or charitable organization, organized for a period of one or more years, which is either incorporated under the not-for-profit corporation law (or such law together with any other applicable law) or, if unincorporated, is not organized for the private profit or benefit of its members and has been engaged primarily in community preservation activities.

4. "Municipality" shall mean any unit of local government within the state with a population of more than twenty thousand persons.

5. "Neighborhood" shall mean an area within the municipality identified by recognized or established boundaries consistent with a determination of neighborhood eligibility under article sixteen of this chapter.

6. "Urban initiatives projects" or "projects" shall mean a specific work or series of works for the revitalization and improvement of a neighborhood through creation, preservation or improvement of residential housing units; preservation or improvement of local commercial facilities and public facilities or other aspects of the area

environment which include as part of its project the creation, preservation or improvement of residential housing units.

7. "Persons of low income" shall mean those persons and families whose incomes do not exceed eighty percent of the median income for the metropolitan statistical area in which a project is located.

8. "Corporation" shall mean the housing trust fund corporation established in section forty-five-a of this chapter.

9. "Division urban initiatives program" shall mean the program heretofore administered by the division pursuant to appropriations and reappropriations for the purposes of urban initiatives programs.

§ 922. Urban initiative contracts. 1. Within the limit of funds available in the urban initiative program, the corporation is hereby authorized to enter into contracts with eligible applicants to provide state financial assistance for the project costs attributable to urban initiatives projects within neighborhoods. The state financial assistance shall be either in the form of payments, grants or loans, as the corporation shall determine. No more than fifty percent of the total amount appropriated pursuant to this article in any fiscal year shall be allocated to urban initiatives projects located within any single municipality.

2. The total state payment pursuant to any one contract shall not exceed two hundred thousand dollars and the contract shall provide for completion of the project within a reasonable period, as specified therein which shall not in any event exceed two years from its commencement. Up to ten percent of the project cost may be used for the eligible applicant's operating expenses including expenses related to organization operating support and administration of the contract.

3. The corporation shall require that, in order to receive funds pursuant to this article, the eligible applicant must submit an operating plan which shall include but not be limited to project

feasibility, leveraging, impact on the community, group capability, and affirmative action and minority business participation. Such plan shall be submitted pursuant to a request for proposals issued by the corporation.

4. The eligible applicant which proposes to contract with the corporation shall be a bona fide organization or a successor organization with appropriate experience in community revitalization activities and shall demonstrate by its immediate past and current activities that it has, or shows that it can acquire, the capability and expertise to successfully complete the proposed project. The eligible applicant's officers, directors and members must be representative of the residents and other legitimate interests of the neighborhood.

5. Occupant selection procedures shall be established which provide that any lawful occupants who live in a project prior to rehabilitation shall not be displaced as a result of such rehabilitation, other than temporarily, in which case suitable relocation arrangements shall be provided, and that any additional occupants who move into a project are persons of low income. Preference in selection of such additional occupants (i) shall be given to persons or families with the lowest incomes possible, given the income requirements of the project; and (ii) shall also be given to persons or families whose current housing fails to meet basic standards of health and safety and who have little prospect of improving the condition of their housing except by residing in a project receiving payments, grants or loans under this article.

6. For any application for such a contract under this article, the corporation shall provide the applicant with a list of conditions that must be met prior to entering into a contract pursuant to this article. Within fifteen working days of receipt by the corporation of all documents in satisfaction of the list, the corporation shall notify the applicant of the sufficiency or insufficiency of the documents. After satisfaction by the applicant of all conditions required by the corporation prior to entering into a contract the corporation shall enter into the contract within forty-five working days of satisfaction of such conditions.

§ 923. General and administrative provisions. 1. The corporation shall issue and promulgate rules and regulations for the administration of this article. The rules and regulations shall include provisions concerning the eligibility of applicants for payments, grants and loans under this article; funding criteria and the funding determination process; supervision and evaluation of contracting applicants; reporting, budgeting and record-keeping requirements; provisions for modification and termination of contracts; and such other matters not inconsistent with the purposes and provisions of this article as the corporation shall deem necessary or appropriate.

2. The corporation shall provide for the review, at periodic intervals, of the performance of the not-for-profit corporations and charitable organizations receiving financial assistance pursuant to this article. Such review shall, among other things, be for the purposes of ascertaining conformity to contractual provisions, the financial integrity and efficiency of the organizations and the evaluation of the project.

§ 924. Transfer of authority, administration and appropriations. 1. On and after the effective date of this article, all obligations of the division with respect to the division urban initiatives program shall become the obligations of the corporation and the corporation shall be responsible for the administration of the division urban initiatives program. The division shall provide for the orderly transfer of all matters, records and things relating to such program to the corporation.

2. Notwithstanding the provisions of any general or special law, the director of the budget is authorized to transfer to the corporation funds otherwise appropriated or reappropriated for the purposes of the division urban initiatives program from the division of housing and community renewal.

3. All rules, regulations, acts, determinations and decisions of the

division or the commissioner with respect to the administration of the division urban initiatives program in force on the effective date of this section shall continue in force and effect as rules, regulations, acts, determinations and decisions of the corporation until duly modified or rescinded by the corporation.

ARTICLE XVII

HOUSING AND COMMUNITY PRESERVATION IN RURAL AREAS

Section 1001. Legislative findings and statement of policy.

1002. Definitions.

1003. Contracts with not-for-profit corporations for housing preservation and community renewal activities.

1004. Payments pursuant to contracts.

1005. Enforcement of standards for contract performance.

1006. Technical services and assistance to corporations and rural areas.

1007. Rules and regulations.

1008. Relationship to other laws.

1009. Annual report.

1010. Rural aging services.

1011. Merged company savings fund.

§ 1001. Legislative findings and statement of policy. The legislature hereby finds and declares that there exist in certain rural areas of the state significant unmet housing needs of persons and families of low or moderate income, numerous housing units which are deteriorating or in need of rehabilitation or improvement, and related factors demonstrating a need for increased attention to housing preservation and community revitalization in such areas. Meeting the housing and community renewal needs of rural areas entails special problems arising from the dispersal of population over wide areas, the existence of substandard areas in the form of small, often isolated, pockets of poverty rather than massive concentrations, the extremely limited resources of the small units of local government involved, and other characteristics of these areas.

Locally based not-for-profit organizations can play a crucial role in housing preservation and community revitalization. The public policy of support for such organizations embodied in article sixteen of this chapter, and the legislative findings set forth in such article, are hereby reaffirmed. The legislature further finds and determines that the needs of rural areas and of existing and potential not-for-profit organizations serving such areas will be best met by a program of support for such organizations and their activities similar to that in article sixteen of this chapter but recognizing the distinctive characteristics of such areas. It is the purpose of this article to establish such a program within the division of housing and community renewal.

It is further declared to be the public policy of the state that all programs of housing and community assistance administered by the division of housing and community renewal or other agencies should be carried out with due regard for the special conditions in and needs of the rural areas of the state.

§ 1002. Definitions. As used in this article, the following terms shall have the following meanings:

1. "Commissioner" shall mean the commissioner of the state division of housing and community renewal.
2. "Division" shall mean the state division of housing and community renewal.
3. "Rural area of the state" shall mean cities, towns and villages having a population of less than twenty-five thousand.
4. "Region" shall mean those portions of the rural area of the state, as specified in the contract entered into pursuant to this article, within which housing and community renewal activities funded in part pursuant to this article are to be carried out.

5. "Housing preservation and community renewal activities" include (a) the new construction or the acquisition, maintenance, preservation, repair, rehabilitation or other improvement of vacant or occupied housing accommodations; demolition or sealing of vacant structures where necessary or appropriate; disposition of housing accommodations to present or potential occupants or co-operative organizations; training or other forms of assistance to occupants of housing accommodations; administration of landlord training classes; and management of housing accommodations as agent for the owners, receivers, administrators or municipalities; (b) activities, similar to those specified in paragraph (a) of this subdivision, aimed at accomplishing similar purposes and meeting similar needs with respect to retail and service establishments within a region when carried out in connection with and incidental to a program of housing related activities.

6. "Persons of low income" shall mean individuals and families whose annual incomes do not exceed ninety per cent of the median annual income for all residents of the region within which they reside or a larger area encompassing such region for which median annual income can be determined.

7. "Merged corporation" shall mean a not-for-profit corporation maintaining a contract pursuant to section one thousand three of this article that has undergone a merger with one or more other not-for-profit corporation, which is also maintaining a contract pursuant to section one thousand three of this article, that has led the merged corporations to reduce the number of contracts being maintained with the division pursuant to section one thousand three of this article to a total of one.

8. "Unmerged corporation" shall mean a not-for-profit corporation that is not a merged corporation.

§ 1003. Contracts with not-for-profit corporations for housing preservation and community renewal activities. 1. The commissioner may enter into contracts with corporations incorporated pursuant to the

not-for-profit corporation law (or such law together with any other applicable law) for the performance of housing preservation and community renewal activities within a region, subject to the provisions of this article.

2. Prior to entering into a contract with a corporation, the commissioner shall have made a finding that the region in which the activities are proposed to be conducted contains a significant amount of deteriorating or substandard housing which is not being adequately repaired, renovated, upgraded, modernized or rehabilitated under existing programs so as to provide sound housing at costs which the residents of such region can afford; that the corporation which proposes to contract with the commissioner is a bona fide organization which shall have been in existence either as a corporation or as an unincorporated, organized group and performing significant housing preservation and community renewal activities for at least one full year prior to entering into any contract with the commissioner and which shall have demonstrated by its immediate past and current activities that it has the ability to preserve, repair, maintain, renovate, rehabilitate, manage or operate housing accommodations or to engage in other housing preservation and community renewal activities in such region; that the housing preservation and community renewal activities which are to be performed pursuant to the proposed contract are needed by the region; and that the corporation possesses or will acquire or gain access to the requisite staff, office facilities with direct access to such region, equipment and expertise to enable it to perform the activities which it proposes to undertake pursuant to such contract; provided, however, that merged corporations' office facilities may be located outside such region if they are located in a municipality wholly contained within the merged corporations' region, and provided further, however, that it shall not be a bar to the commissioner's contracting with a corporation that one or more other organizations, are conducting housing preservation and community renewal activities wholly or partially within the same region whether or not pursuant to contract with the commissioner.

3. The commissioner may enter into a contract pursuant to this section

only if he determines:

(a) that the region proposed to be served by the applicant is an appropriate portion of the rural area of the state for the performance of activities pursuant to this article by a corporation;

(b) that such region contains significant unmet housing needs of persons of low income, that a substantial portion of its population consists of such persons, and that the housing stock in the region, because of its age, deterioration, or other factors, requires improvement in order to preserve the communities within the region;

(c) that the particular activities to be performed by the corporation will meet one or more needs of the region and are reasonably calculated to have a positive effect on regional preservation, stabilization or improvement;

(d) that the corporation's officers, directors and members are fairly representative of the residents and other legitimate interests of the region, that they may be expected to carry out the contract in a responsible manner, and that a majority of the directors of the corporation are residents of the region;

(f) that any fees received or proposed to be received by the corporation in connection with its activities pursuant to the contract are fair and reasonable;

(g) that the corporation will, to the extent possible, give preference in hiring to residents of the region who are unemployed or underemployed;

(h) that the corporation will, to the maximum extent feasible, dispose of residential buildings owned or to be acquired by it to the occupants thereof or to cooperative groups whose members shall be occupants thereof; and

(i) that due consideration will be given to the interests of occupants of properties owned or to be acquired by the corporation.

4. Contracts pursuant to this section shall be for a period of no more than one year, but may be renewed or extended from year to year; they shall define with particularity the region or portion thereof within which the housing preservation and community renewal activities shall be performed; they shall specify the nature of the housing preservation and community renewal activities which shall be performed including the

approximate number of buildings, residential dwelling units and local retail and service establishments which shall be affected; they shall locate and describe, with as much particularity as is reasonably possible, the buildings with respect to which such activities shall be performed during the contract term; and they shall specify the number of persons, salaries or rates of compensation and a description of duties of those who shall be engaged by the corporation to perform the activities embraced by the contract together with a schedule of other anticipated expenses.

5. Prior to renewing or extending a contract or entering a succeeding contract with a corporation the division shall determine that:

(a) the corporation shall have substantially completed the housing preservation and community renewal activities specified in the contract to be renewed, extended, or succeeded;

(b) the corporation shall have received the sums, services, and funds specified in subdivision four of section one thousand four of this article; and

(c) the activities carried out by the corporation pursuant to its contract shall have had a significant impact on the community's needs as specified in the contract.

6. Prior to terminating, not renewing or not extending a contract the division shall:

(a) determine that the corporation is in violation of the terms and conditions of the contract or that funds provided pursuant to the contract are being expended in a manner not consistent with the terms of the contract or the provisions of this article; or

(b) determine that necessary and appropriate technical assistance has been provided without significant improvement in the activities of the corporation; and

(c) provide the corporation with written notice, at least forty-five days in advance, of its intent to terminate, not renew or not extend the contract and provide the corporation with an opportunity to appear and be heard before the division with respect to the reasons for such proposed termination, non-renewal or non-extension. At the same time that the corporation is notified of the division's intent to terminate,

not renew or not extend the contract, the division shall likewise inform the senate and assembly members who represent areas within such corporation's geographic boundaries.

7. The division shall establish, for renewal of contracts, a procedure which provides the corporation with at least forty-five days notice of the corporation's obligations and rights in that process, informs the corporation of the amount of the renewal contract, and facilitates the timely execution of the contract and disbursement of funds.

8. The division may temporarily withhold payments and may elect not to renew or extend a contract or enter a succeeding contract with any not-for-profit corporation if the corporation is not in compliance with its contract, has without good cause failed to submit documentation required under contract or requested by the division to make the determinations required under subdivision five of this section or has not satisfied any other conditions consistent with this article for renewing or extending a contract or entering a succeeding contract.

§ 1004. Payments pursuant to contracts. 1. Each contract entered into pursuant to this article shall provide for payment to the corporation for the housing preservation and community renewal activities to be performed by it.

2. Payments pursuant to this section shall be restricted to sums required for the compensation of persons employed by, and consultants retained by, the corporation for the performance of the activities covered by the contract and other costs and expenses directly related to such employees and consultants.

3. No part of any such payment shall be used to defray in whole or in part the cost of acquisition, improvement, rehabilitation, operation or demolition of any building or other structure, but this provision shall not prohibit the use of such funds for planning any such activity or for the expenses of providing office and related facilities for the corporation for use in carrying out its activities pursuant to the

contract. Payments shall be made by the division to the corporation at such periods, not less frequently than semi-annually, as shall be provided in the contract. Such payments shall be made at or prior to the commencement of each such time period, to compensate the corporation for the activities which are to be carried out during such time period provided, that with respect to contracts entered into on or after June thirtieth, nineteen hundred ninety-seven the first such payment shall be made by the division beginning on or after July first of the fiscal year for which an appropriation in support of such payment was made and provided further that the final such payment to the corporation shall be made no later than March thirty-first of such fiscal year, unless such payment has been withheld pursuant to subdivision eight of section one thousand three of this article.

4. In negotiating each contract, the division shall consider and take into account any and all other sums available or anticipated to be made available to the corporation from any and all sources which may be used to defray the costs of the housing preservation and community renewal activities set forth in the contract, including, without limitation, fees generated by the management of housing accommodations, contributions from private foundations, corporations, firms and individuals and funds received under grants and contracts pursuant to any program or programs operated or administered by any governmental agency or instrumentality and shall make a determination that the sums available or anticipated to be made available for the corporation from such other sources, together with the value of services to be rendered for the benefit of the corporation for which payment is not required to be made by such corporation, amount to at least thirty-three and one-third percent of the amount of such contract.

5. When disbursing funds for contracts with not-for-profit corporations, pursuant to section one thousand three of this article, the division shall use the following criteria, formulas and tables to determine the distribution of funds:

(a) (i) The total unmerged corporation funding shall equal the current number of unmerged corporation contracts multiplied by the per group award.

(ii) The unmerged corporation funding shall equal the per group award.

(iii) The merged corporation funding shall equal the funding modification multiplied by the per group award.

(b) Merged corporation funding shall be determined on an individual basis for each not-for-profit corporation. The following tables show the funding modification to be used:

(i) In the case of two not-for-profit corporations merging, the following table shall be used:

Years since merger	Funding modification
1	200%
2	190%
3	180%
4	170%
5	160%
6	150%

(ii) In the case of three not-for-profit corporations merging, the following table shall be used:

Years since merger	Funding modification
1	300%
2	290%
3	280%
4	270%
5	260%
6	250%
7	240%
8	230%
9	220%
10	210%
11	200%

(iii) In the case of four or more not-for-profit corporations merging, the following table shall be used:

Years since merger	Funding modification
1	400%
2	390%

3	380%
4	370%
5	360%
6	350%
7	340%
8	330%
9	320%
10	310%
11	300%
12	290%
13	280%
14	270%
15	260%
16	250%

(c) If a not-for-profit corporation that has undergone a merger continues to renew their contract beyond the timeframes listed in the above tables, it shall have its funding determined using the last funding modification listed.

(d) The merged corporation savings shall be determined on an individual basis for each merged corporation. It shall be calculated by subtracting the amount of such corporation's merged corporation funding from the amount the merged corporations would have received if they had maintained separate contracts.

(e) The per group award shall equal the total funding available minus the amount for the contract with the rural preservation coalition which shall equal the total unmerged company funding plus the sum of the merged company funding.

§ 1005. Enforcement of standards for contract performance. 1. The division shall by regulation provide for formal evaluation of the performance of a corporation to determine its progress in achieving the objectives outlined in the annual housing preservation and community renewal plan contained in its contract with the division. Such evaluation shall include a review of the efforts of the corporation to execute each of the components of its plan and a consultation between the corporation and the division regarding the findings of the division

relative to performance. The division shall provide or cause to be provided technical assistance determined to be necessary by the division to improve the ability of the corporation to execute each of the components of its plan. Such evaluation and determination of the need for technical assistance shall consider the financial and staff resources of the corporation for the period evaluated and any special considerations which may have had an impact on performance during the period.

2. If the division determines that a corporation has not made sufficient progress toward achieving the objectives of its annual housing preservation and community renewal plan the division shall conduct a site visit to review these findings and, if warranted, shall place the corporation on probation.

3. The division shall terminate or not renew or not extend a contract in accordance with provisions of subdivision seven of section one thousand three of this article if the commissioner determines that the performance of a corporation is not sufficient to merit continued participation in the program.

4. Notwithstanding the foregoing, the commissioner may terminate any contract upon a finding of substantial non-compliance or other substantial breach of the contract.

§ 1006. Technical services and assistance to corporations and rural areas. 1. In accordance with the policy of this article, the division shall encourage the creation, development and strengthening of new not-for-profit corporations to perform housing preservation and community renewal activities in the rural areas of the state, and is authorized to take all steps necessary to that end. The division shall provide technical services and assistance to not-for-profit corporations seeking to serve the housing or community renewal needs of rural areas, to better enable such corporations to meet the requirements of, and obtain funding under this article or any other program of governmental assistance, federal, state or local, to carry out their present and

proposed activities, and otherwise to further the purposes and policy of this article. Such services and assistance may be provided through the division's own personnel and facilities, through contractual services, or otherwise.

2. The affordable housing corporation or the housing trust fund corporation, as the case may be, shall provide an incentive grant to each corporation that is awarded a contract pursuant to article eighteen or nineteen of this chapter. Such incentive grants shall consist of the payment of an additional sum of money equal to three percent of the amount payable to such corporation pursuant to each contract provided, however, that such payment shall not be counted against the per dwelling unit total imposed by subdivision one of section eleven hundred two of this chapter or the per dwelling unit limitation imposed by subdivision one of section eleven hundred twelve of this chapter, and provided further that such additional amount shall not exceed forty thousand dollars per contract. Such incentive grant shall be utilized either for purposes consistent with the provisions of this article or for the cost of housing preservation and community renewal activities related to such contract and shall not be subject to the limitation on the amount of funds which may be received by corporations contained in subdivision four of section one thousand three of this article. Such incentive grant shall be added to and considered a payment under the contract for purposes of allocating funds to any single municipality.

§ 1007. Rules and regulations. The commissioner shall issue rules and regulations for the administration of this article. Such rules and regulations shall include provisions concerning requirements as to eligibility for contracting with the commissioner; the form of applications for contracts; supervision and evaluation of corporations which contract with the commissioner including standards and performance criteria for continued, increased or decreased funding to insure the corporations meet the objectives of this article and the objectives outlined in their housing preservation and community renewal plans; reporting, budgeting and record keeping requirements; provisions for renegotiation, modification, termination, extension and renewal of

contracts, which provisions shall include the bases for funding increases from the preceding contract including, but not be limited to, performance which exceeds minimum performance criteria and provisions for probationary periods where appropriate; provisions for technical services and assistance to such corporations within the limits of available funding; protection of the interests of tenants in buildings owned or managed by such corporations; and may include any provisions, not inconsistent with the provisions of this article or other applicable law, which the commissioner deems necessary or appropriate to carry out the policy and purposes of this article. Such rules and regulations shall prohibit any corporation receiving funds under contracts entered into pursuant to this article (i) from engaging in any activities promoting any political candidate or party or (ii) from expending any such funds in activities the purpose of which is to influence legislation.

§ 1008. Relationship to other laws. Nothing in this article shall be deemed to deny or limit the right of any corporation to seek or receive assistance under, or otherwise participate in, any other program pursuant to this chapter, or any other governmental program relating to housing or community renewal. Nothing in this article shall be deemed to deny or limit the right of any corporation to carry out any program or service through a subsidiary corporation or other instrumentality.

§ 1009. Annual report. The commissioner shall, on or before December thirty-first in each year submit a report to the legislature on the implementation of this article. Such report shall include, but not be limited to, for each company receiving payments under this article: a description of such company's contract amount and cumulative total; the specific housing and community preservation activities in rural areas performed by such company; the findings required by the commissioner under subdivision two of section one thousand three of this article; the amounts of monies received by the company from sources other than payments made pursuant to this article; the value of services rendered for the benefit of the company for which payment is not required to be

made; and such other information as the commissioner deems appropriate.

§ 1010. Rural aging services. Housing preservation and community renewal activities which are otherwise eligible under subdivision five of section one thousand two of this article, but which are or have been funded under the rural aging services program operated jointly by the division and the state office for the aging, shall not be subject to the limitation on the amount of funds which may be received by corporations contained in subdivision four of section one thousand three of this article. All provisions otherwise applicable to funds received under section one thousand three of this article shall also apply to funds received under this section.

§ 1011. Merged company savings fund. The division shall create a fund to hold and shall transfer all funds determined to be merged corporation savings pursuant to paragraph (d) of subdivision five of section one thousand four of this article into such fund. The division shall use such funds, as available, for entering into new contracts, pursuant to section one thousand three of this article, with not-for-profit corporations located in areas of the state that are currently unserved by a not-for-profit corporation that is maintaining a contract pursuant to section one thousand three of this article.

ARTICLE XVII-A

RENTAL ASSISTANCE PROGRAM FOR RURAL AREAS

Section 1020. Legislative findings and statement of policy.

1021. Definitions.

1023. Rural housing assistance contracts.

1024. Payments pursuant to contracts.

1025. Administrative provisions.

§ 1020. Legislative findings and statement of policy. The legislature hereby finds that in certain rural areas of the state significant

numbers of low income residents are unable to obtain decent housing. The normal operation of the private market has not addressed their needs.

The elderly and families are especially affected by the lack of housing in rural areas. Elderly persons are frequently forced to choose between continuing to live in homes which have become too large to care for and use well or leaving their communities to live elsewhere. Families, particularly those just beginning, are often faced with either substandard, unsafe housing, living with relatives in overcrowded conditions, or leaving their communities. The ensuing social and economic disruption has profoundly adverse effects on the rural communities as well as the residents.

Numerous housing programs have been initiated by the federal government to provide housing for those of low income. For the most part, these programs have worked best in areas of high population density, thus effectively, although unintentionally, failing to fulfill their intent in rural areas.

The legislature further finds that locally based housing providers can effectively serve the needs of low and moderate income persons in rural areas. Their efforts have been severely limited, however, by the contemporary high cost of financing, inflation and massive retrenchment in federal housing assistance programs.

The legislature further finds it to be in the best interests of the people of New York state to assist local housing providers in meeting the needs of low income occupants in rural areas by supplementing federal assistance programs with a program of state rental assistance payments similar to the federal Farmer's Home Administration Program.

§ 1021. Definitions. As used in this article, any term defined in article seventeen of this chapter shall have the same meaning herein as set forth therein and the following terms shall have the following meanings:

1. "Federal assistance" means assistance from the Farmer's Home Administration pursuant to title five of the United States Housing Act of 1949.

2. "Eligible sponsor" means either a corporation organized pursuant to the not-for-profit corporation law, a public housing authority as defined pursuant to subdivision two of section three of the public housing law, or an eligible borrower as defined in Title V of the United States Housing Act of 1949.

3. "Eligible project" means a housing project located in a rural area which is to be owned or operated by an eligible sponsor and which has received (or which the sponsor has demonstrated to the satisfaction of the commissioner will receive) federal assistance.

§ 1023. Rural housing assistance contracts. 1. The commissioner may enter into contracts with eligible sponsors for the provision, in eligible projects, of housing for persons of low income. Such contracts shall provide for the payment by the division to the sponsor of periodic rental assistance payments with respect to the housing accommodations occupied by such persons.

2. Such contracts may, subject to the availability of moneys in the rural housing assistance fund, commit the division to make such payments for a period of up to five years from the date of completion of the eligible project. Any such contract shall provide that the sponsor shall not withdraw the project, or any units therein, from the program during such period except for good cause as provided therein. Notwithstanding any provision of this chapter, all contracts shall terminate after five years or when the actual dollar amount as stipulated in the contract has been expended, whichever is sooner. For any application for such a contract under this article, the division shall provide the applicant with a list of conditions that must be met prior to entering into a contract pursuant to this article. Within fifteen working days of receipt by the division of all documents in satisfaction of the list, the division shall notify the applicant of the sufficiency or

insufficiency of the documents. After satisfaction by the applicant of all conditions required by the division prior to entering into a contract the division shall enter into the contract within forty-five working days of satisfaction of such conditions.

§ 1024. Payments pursuant to contracts. 1. Payments shall be made monthly or on such other periodic basis as may be provided in the contract. Each such payment shall equal, for each unit in the project covered by the contract, the difference between the project rent established pursuant to subdivision two of this section and the tenant rent payment established pursuant to subdivision three of this section.

2. The project rent shall be: (a) in the case of a housing company regulated by the state pursuant to this chapter, the current maximum lawful rent for the unit; (b) in the case of a housing company regulated by a municipality pursuant to this chapter, the current maximum lawful rent for the unit, subject to such additional limitations and conditions as the commissioner may prescribe by contract; or (c) in the case of any other sponsor, the rent established or approved by the commissioner as prescribed in the contract.

3. The tenant rent payment shall be an amount computed pursuant to the regulations of the commissioner, which regulations shall prescribe a formula substantially similar to that currently provided pursuant to title five of the United States Housing Act of 1949, as amended.

§ 1025. Administrative provisions. 1. The commissioner shall provide, by regulations, for the administration of the provisions of this article. Such regulations shall include, but need not be limited to, provisions for operation of the project by the sponsor in a manner consistent with the intent of this article.

2. Every contract entered into pursuant to this article shall obligate the sponsor not to charge or collect from any tenant of a unit covered by such contract a rent higher than the tenant rent payment established

pursuant to section one thousand twenty-four of this article.

3. Rental assistance payments pursuant to this article may be pledged by the sponsor in connection with the financing or refinancing of a project, subject to any conditions prescribed in the housing assistance contract, but no such pledge shall create any obligation or liability on the part of the state or any agency or instrumentality thereof other than that prescribed in the contract.

4. Nothing in this article shall prevent any sponsor from seeking or accepting any other form of governmental subsidy or assistance, but any contract pursuant to this article shall provide for appropriate adjustments in the rental assistance payments to reflect such other subsidy or assistance.

ARTICLE XVII-B

RURAL AREA REVITALIZATION PROJECTS

Section 1051. Legislative findings and statement of policy.

1052. Definitions.

1053. Contracts for rural area revitalization projects.

1054. Administration of contracts.

1055. Rules and regulations.

1057. Transfer of authority, administration and appropriations.

§ 1051. Legislative findings and statement of policy. The legislature hereby finds and declares that there exists in many portions of the rural areas of the state substantial needs for revitalization and improvement of housing and of local commercial and service facilities, and for related community renewal activities. The findings set forth in article seventeen of this chapter, with respect to the special needs and problems of such areas and the significant potential role of locally based not-for-profit organizations in helping to meet such needs, are hereby reaffirmed. The legislature hereby determines that, in addition to the program of state support to help meet the administrative expenses of such organizations under article seventeen, a further public need

exists for state funding of a portion of the costs of specific revitalization projects carried out by such groups and similar local organizations. It is the purpose of this article to encourage community preservation and improvement in the rural area of the state by establishing a program of such funding.

§ 1052. Definitions. As used in this article:

(a) all terms defined in article seventeen of this chapter shall have the same meanings herein as specified therein; and

(b) the following terms shall have the following meanings:

(1) "rural area revitalization project" means a specific work or series of works for the revitalization and improvement of a region of the rural area of the state through creation, preservation or improvement of housing resources; creation, preservation or improvement of local commercial facilities; restoration or improvement of public facilities or other aspects of the area environment; related community preservation or renewal activities; or any combination of the above.

(2) "qualified applicant" means a not-for-profit corporation under contract pursuant to article seventeen of this chapter or any other locally based organization which is either incorporated under the not-for-profit corporation law (or such law together with any other applicable law) or, if unincorporated, is not organized for the private profit or benefit of its members.

(3) "Corporation" means the housing trust fund corporation established in section forty-five-a of this chapter.

§ 1053. Contracts for rural area revitalization projects. 1. The corporation may, in the name of the state, enter into contracts with qualified applicants for the performance of rural area revitalization projects.

2. The corporation may enter into a contract pursuant to this section only if he determines that:

(a) the region to be served is a portion of the rural area of the state which is in need of revitalization and can benefit from a program

carried out by one or more locally based groups.

(b) the applicant organization, or any predecessor organization, has had appropriate experience in community preservation activities; that it has, or shows that it can acquire, the capability and expertise to undertake successfully the proposed project; and that it is managed and directed by persons representative of the region within which it operates.

(c) the project or projects, alone or in combination with other proposed activities of the applicant or others, will be likely to contribute in a significant way towards the revitalization and general community renewal of the region.

3. Each contract pursuant to this section shall provide for payment by the corporation for the activities to be carried out pursuant to the contract. Such payment shall be based on the projected costs of such activities and the other sources of funding which may be available to the applicant (including, if applicable, funding pursuant to article seventeen of this chapter) from any source. Up to ten percent of the program or project cost may be used for the qualified applicant's operating expenses including expenses related to organization operating support and administration of the contract. The total state payment pursuant to any one contract shall not exceed two hundred thousand dollars.

4. The contract shall provide for completion of the project within a reasonable period, as specified therein, which shall not in any event exceed two years from its commencement.

5. For any application for such a contract under this article, the corporation shall provide the applicant with a list of conditions that must be met prior to entering into a contract pursuant to this article. Within fifteen working days of receipt by the corporation of all documents in satisfaction of the list, the corporation shall notify the applicant of the sufficiency or insufficiency of the documents. After satisfaction by the applicant of all conditions required by the corporation prior to entering into a contract the corporation shall enter into the contract within forty-five working days of satisfaction

of such conditions.

§ 1054. Administration of contracts. 1. A contract pursuant to this article may provide for such periodic payments as may be appropriate.

2. The corporation shall periodically review the performance of each contractor pursuant to this article. Such reviews shall include evaluation of the quality of the activities performed, the conformity thereof to contract provisions and the financial integrity and efficiency of the contractor.

3. Each contract pursuant to this article shall provide that:

- (a) it may be modified and renegotiated from time to time; and
- (b) it may be terminated by the corporation upon a finding of substantial noncompliance or other breach of its terms by the contractor.

§ 1055. Rules and regulations. The corporation may provide, by regulation, for the administration of the rural area revitalization program. Such regulations may contain any provisions, not inconsistent with this article as may be necessary or appropriate to carry out the policy and intent of this article.

§ 1057. Transfer of authority, administration and appropriations. 1. On and after the effective date of this section, all obligations of the division with respect to rural area revitalization projects shall become the obligations of the corporation and the corporation shall be responsible for the administration of all rural area revitalization projects. The division shall provide for the orderly transfer of all matters, records and things relating to rural revitalization projects to the corporation.

2. Notwithstanding the provisions of any general or special law, the director of the budget is authorized to transfer to the corporation

funds otherwise appropriated or reappropriated for the purposes of rural area revitalization projects to the division of housing and community renewal.

3. All rules, regulations, acts, determinations and decisions of the division or the commissioner thereof with respect to the administration of rural area revitalization projects in force on the effective date of this section shall continue in force and effect as rules, regulations, acts, determinations and decisions of the corporation until duly modified or rescinded by the corporation.

ARTICLE XVIII

LOW INCOME HOUSING TRUST FUND PROGRAM

- Section 1100. Statement of legislative findings and purpose.
1101. Definitions.
1102. Cooperative or condominium, homesteading and rental contracts.
1103. General and administrative provisions.

§ 1100. Statement of legislative findings and purpose. The legislature hereby finds and declares that there is a serious shortage of decent affordable housing in the state for persons of low income; that the cost of providing such housing without public participation and assistance is prohibitively high; that there exists throughout the state a significant number of dwellings which are deteriorated and are vacant or underutilized; that the existence of such properties creates a serious threat to the health and safety of persons who live in or near them, limits the availability of decent affordable housing to others, contributes to the blight and deterioration of neighborhoods, and drains municipal resources and expenditures; that the rehabilitation of these properties would stem the deterioration of neighborhoods and promote the preservation and creation of safe and sanitary low income housing; that the potential exists to make such housing available to persons of low income through projects carried out by eligible applicants to rehabilitate these dwelling accommodations, bring these accommodations

into compliance with all applicable laws and regulations and remove all hazardous and immediately hazardous code conditions; that the purposes of this article should also be served by providing for new construction of housing for persons of low income in areas in which rehabilitation opportunities are limited or where new construction would prove to be more effective; that the carrying out of such projects serves a significant public purpose and may appropriately be performed by eligible applicants; that payment for such services, tax exemptions and other public participation in such projects would bring down the cost of such housing and make it affordable to persons of low income; and that it is the policy of the state to preserve and create such housing and to provide for the aid, care, and support of the needy. The legislature therefore finds that a program should be established to provide monies for the rehabilitation and construction of these properties by eligible applicants to promote the preservation and creation of affordable housing for persons of low income.

It is intended that any payments, grants or loans provided to municipalities through this program not substitute for funds which such municipalities would have spent in the absence of this program and that such payments, grants and loans will enable such municipalities to expand their commitment to increase the supply of affordable low income housing to levels greater than would have been possible without this program.

§ 1101. Definitions. For the purposes of this article:

1. "Commissioner" shall mean the commissioner of the state division of housing and community renewal.
2. "Corporation" shall mean the housing trust fund corporation established by section forty-five-a of this chapter.
3. "Rehabilitation" shall mean all work necessary to bring a residential property into compliance with all applicable laws and regulations including but not limited to the installation, replacement

or repair of heating, plumbing, electrical and related systems and the elimination of all hazardous and immediately hazardous violations in the structure in accordance with state and local laws and regulations of state and local agencies. Rehabilitation may also include reconstruction or work to improve the habitability or prolong the useful life of the residential property.

4. "Cooperative project" or "condominium project" shall mean any vacant residential or nonresidential property, or any portion thereof, or any distressed residential property, which, subsequent to conversion or rehabilitation under this article, will be owned as a cooperative or a condominium or new residential construction to be owned as a cooperative or a condominium.

5. "Homesteading project" shall mean any vacant residential or nonresidential property, or any portion thereof, or any distressed residential property, or any new residential construction which, subsequent to construction, conversion or rehabilitation under this article, will contain less than five dwelling units, have at least one owner occupant and not be owned as a cooperative or a condominium.

6. "Rental project" shall mean any vacant residential or nonresidential property, or any portion thereof, or any distressed residential property, or any new residential construction which, subsequent to construction, conversion or rehabilitation under this article, will be owned and operated as rental residential property.

7. "Eligible applicant" shall mean a person of low income, a housing development fund company incorporated pursuant to article eleven of this chapter, a not-for-profit corporation or charitable organization which has as one of its primary purposes the improvement of housing for persons of low income, a wholly-owned subsidiary of such a corporation or organization, a partnership at least fifty percent of the controlling interest of which is held by such a corporation or organization and which has agreed to limit profits or rate of return of investors in accordance with a formula established or approved by the corporation or a private developer which has agreed to limit profits or rate of return

of investors in accordance with a formula established or approved by the corporation, a city, town or village, or a county, provided, however, that the county is only acting as an administrator of a program under which projects are rehabilitated or constructed or nonresidential properties are converted by other eligible applicants, or a municipal housing authority created pursuant to the public housing law, provided, however, that any real property of such housing authority to be rehabilitated, constructed or converted under this article shall not have been financed pursuant to the provisions of the public housing law and shall not have been owned by such authority prior to July first, nineteen hundred eighty-six and provided further, however, that persons of low income shall not be direct recipients of payments, grants or loans from the corporation under this article but may receive such funds from another eligible applicant.

8. "Conversion" shall mean all work necessary to convert nonresidential property into a cooperative or condominium, homesteading or rental rehabilitation project.

9. "Nonresidential property" shall mean any property which is not residential property and is underutilized.

10. "Persons of low income" shall mean (a) in cities with a population of one million or more persons, those persons and families whose incomes do not exceed eighty percent of the median income for the metropolitan statistical area in which a project is located; provided however that in the case of an owner occupant of a homesteading project, "persons of low income" shall also mean those persons and families whose incomes do not exceed eighty percent of the median income for the state and (b) in the portion of the state outside cities with a population of one million or more persons, (i) and within a metropolitan statistical area those persons and families whose incomes do not exceed ninety percent of the median income for the metropolitan statistical area in which a project is located or ninety percent of the median income for the state, whichever is greater or, (ii) if a project is located outside a metropolitan statistical area, those persons and families whose incomes do not exceed ninety percent of the median income for the county in

which a project is located, or ninety percent of the median income for the state, whichever is greater.

11. " Distressed residential property" shall mean (a) a residential property which has an occupancy rate by lawful occupants of less than sixty percent, (b) a portion of a residential property described in paragraph (a) of this subdivision provided that such portion also has an occupancy rate by lawful occupants of less than sixty percent, (c) a residential property which consists of one or two residential units prior to rehabilitation under this article and which, subsequent to rehabilitation, will contain at least one additional residential unit, or (d) a residential property, the rehabilitation of which would preserve affordable housing currently serving a population whose housing need would justify its replacement if it ceased to be available.

12. "Project" shall mean a cooperative, condominium, homesteading or rental project. In cases where any such project consists of less than the total number of units or the total amount of floor space of a property, any reference in this article, to a "project", "cooperative project", "condominium project", "rental project" or "homesteading project" shall mean that portion of such property which makes up such project.

13. "Private developer" shall mean a person, firm, partnership or corporation which is not otherwise included in the definition of "eligible applicant".

§ 1102. Cooperative or condominium, homesteading and rental contracts.

1. Within the limit of funds available in the housing trust fund account, the corporation is hereby authorized to enter into contracts with eligible applicants for the furnishing by such applicants of housing for persons of low income. Each such contract shall provide that eligible applicants rehabilitate or construct one or more projects or convert one or more nonresidential properties. Such contracts may provide for payments, grants or loans by the corporation for the activities to be carried out by the eligible applicant under the

contract. Such contracts shall provide that a private developer make an equity investment of the greater of (i) two and one-half percent of project costs or (ii) five percent of project costs less grants which are to be applied to such costs. The foregoing shall not preclude a private developer from making a greater equity investment. Any payments, grants or loans made by the corporation outstanding at the time of resale shall be subject to repayment in whole or in part upon resale after termination of the regulatory period and as otherwise provided therein. Such repayment provisions may survive the end of the regulatory period. Such contracts may provide that eligible applicants shall either (a) perform activities specified under the contract themselves or (b) act as administrators of a program under which projects are rehabilitated or constructed or nonresidential properties are converted by other eligible applicants or (c) perform both such functions. In the case of a municipality acting as an administrator, funds provided to such municipality hereunder shall not be deemed to be municipal funds. The corporation shall refer any request for payments, grants or loans from persons of low income to eligible applicants in the area in which such persons reside. Loans may be in the form of participation in loans including but not limited to participation in loans originated or financed by lending institutions as defined in section forty-two of this chapter, the state of New York mortgage agency, the New York city housing development corporation, the New York state housing finance agency or private or public employee pension funds. Notwithstanding any other provision of law, payments, grants and loans may be deposited by the corporation directly with a lending institution at or before the time of initial loan closing pursuant to an escrow agreement satisfactory to the corporation. Payments, grants and loans shall be on such terms and conditions as the corporation, or the eligible applicant with the approval of the corporation, as the case may be, shall determine. Payments, grants and loans shall be used to pay for the actual and necessary cost of acquisition, construction, rehabilitation or conversion, provided that not more than fifty percent of such payments, grants and loans received for the rehabilitation, construction or conversion of a project may be used for the cost of the project's acquisition and not more than ten percent of such payments, grants and loans may be used for the rehabilitation, construction or conversion of

community service facilities and, provided further, that payments, grants or loans shall not be used for (i) the administrative costs of an eligible applicant except as otherwise authorized by law, (ii) the cost of the acquisition, construction, conversion or rehabilitation of residential units which, subsequent to such acquisition, construction, conversion or rehabilitation, are to be occupied by persons other than persons of low income, and (iii) the cost of the acquisition, construction, conversion or rehabilitation of units which, subsequent to such acquisition, construction, conversion or rehabilitation, are occupied or to be occupied for other than residential purposes, except for community service facilities as described above. No such payments, grants or loans shall exceed a total of two hundred fifty thousand dollars per dwelling unit, or such amount of additional funds as the corporation may determine in accordance with this subdivision. Among the criteria the corporation shall consider in determining whether to provide additional funds are: average cost of construction in the area, location of the project and the impact of the additional funding on the affordability of the project for the occupants of such project. The length of any loan provided under this article shall not exceed forty years. No more than fifty percent of the total amount originally appropriated pursuant to this article in any fiscal year shall be allocated to projects located within any single municipality. Of the amount originally appropriated to the corporation in any fiscal year, no more than thirty-three and one-third percent shall be allocated to private developers for projects within a city with a population of one million or more. Of the amount originally appropriated to the corporation in any fiscal year, no more than thirty-three and one-third percent shall be allocated to private developers for projects in the area outside cities with a population of one million or more.

2. The corporation and eligible applicants which act as administrators of a program under this article shall deposit any recaptured funds or funds from the repayment of loans and interest received on loans into the housing trust fund account.

3. The corporation shall not enter into a contract under this article unless the eligible applicant has submitted an application and such

application contains a plan, acceptable to the corporation, which provides for each project:

(a) That violations on the project which are classified as hazardous or immediately hazardous shall be repaired in accordance with state and local laws and regulations of state and local agencies and the project shall be brought into compliance with all applicable laws and regulations.

(b) For the establishment of occupant selection procedures which provide that any lawful occupants who live in a project prior to rehabilitation shall not be displaced as a result of such rehabilitation, other than temporarily, in which case suitable relocation arrangements shall be provided, and that any additional occupants who move into a project are persons of low income. Preference in selection of such additional occupants; (i) shall be given to persons or families with the lowest incomes possible, given the income requirements of the project and; (ii) shall also be given to persons or families whose current housing fails to meet basic standards of health and safety and who have little prospect of improving the condition of their housing except by residing in a project receiving payments, grants or loans under this article.

(c) In the case of a homesteading project that (i) the project may only be transferred or sold to an eligible applicant; and (ii) the resale price of the project shall not exceed an amount equal to the sum of (A) the original equity paid by the owner for the project and rehabilitation or construction thereof, exclusive of any payments, grants or loans received pursuant to this article for such purposes, or from such other sources as determined by the corporation, with interest thereon at the rate of six percent per annum, (B) the cost of capital improvements to the project paid by such owner after the completion of rehabilitation or construction, exclusive of any payments, grants or loans received pursuant to this article for such purposes, or from such other sources as determined by the corporation, with interest thereon at the rate of six percent per annum, (C) the actual amortization paid by such owner in the reduction of total outstanding principal indebtedness on all existing and prior mortgages on, or loans for, such project, but only to the extent that the proceeds of such mortgages or loans were used by the owner for the project and rehabilitation or construction

thereof or for the cost of capital improvements thereto, with interest thereon at the rate of six percent per annum, (D) the actual outstanding principal indebtedness on all existing mortgages on, or loans or other obligations for, such project which the owner is required to satisfy, but only to the extent that the proceeds of such mortgages or loans were used by the owner for the project and rehabilitation or construction thereof or for the cost of capital improvements thereto, with interest thereon at the rate of six percent per annum, provided that if the indebtedness is not paid in full upon the sale of the project, such owner shall not be credited with the amount of such indebtedness, and (E) the reasonable costs and expenses incurred in connection with the sale of such project.

(d) In the case of a cooperative project that (i) the shares applicable to a cooperative unit shall be transferred or sold only to an eligible applicant; and (ii) the resale price of shares applicable to a cooperative unit shall not exceed an amount equal to the sum of (A) the original equity paid by the tenant shareholder for such shares and for the rehabilitation or construction of such unit, exclusive of any payments, grants or loans received pursuant to this article for such purposes or from such other sources as determined by the corporation, with interest thereon at the rate of six percent per annum, (B) the cost of capital improvements to such unit paid by such tenant shareholder after the completion of rehabilitation or construction, exclusive of any payments, grants or loans received pursuant to this article for such purposes or from such other sources as determined by the corporation, with interest thereon at the rate of six percent per annum, (C) the pro-rata portion of any capital assessments or capital contributions for building wide improvements paid by such tenant shareholder, with interest thereon at the rate of six percent per annum, (D) the pro-rata portion of actual amortization paid by such tenant shareholder on all existing and prior mortgages on such project in the reduction of total outstanding principal indebtedness, with interest thereon at the rate of six percent per annum, (E) the actual amortization paid by such tenant shareholder in the reduction of total outstanding principal indebtedness on all existing and prior loans for such unit, but only to the extent that the proceeds of such loans were used by the tenant shareholder for the purchase of such shares or for the cost of the rehabilitation or

construction of, or capital improvements to, such unit, with interest thereon at the rate of six percent per annum, (F) the actual outstanding principal indebtedness on all existing loans or other obligations for such unit which the tenant shareholder is required to satisfy, but only to the extent that the proceeds of such loans were used by such tenant shareholder for the purchase of such shares or for the cost of the rehabilitation or construction of, or capital improvements to, such unit, provided that if such indebtedness is not paid in full upon the sale of such tenant's shares such tenant shareholder shall not be credited with the amount of such indebtedness, and (G) the reasonable costs and expenses incurred in connection with the sale of such shares.

(e) In the case of a condominium project that (i) a condominium unit shall be transferred or sold only to an eligible applicant; and (ii) the resale price of a condominium unit shall not exceed an amount equal to the sum of (A) the original equity paid by the owner for such unit and the rehabilitation or construction thereof, exclusive of any payments, grants or loans received pursuant to this article for such purposes or from such other sources as determined by the corporation, with interest thereon at the rate of six percent per annum, (B) the cost of capital improvements to such unit paid by such owner after the completion of rehabilitation or construction, exclusive of any payments, grants or loans received pursuant to this article for such purposes or from such other sources as determined by the corporation, with interest thereon at the rate of six percent per annum, (C) the pro-rata portion of any capital assessments or capital contributions for building wide improvements paid by such owner to the project, with interest thereon at the rate of six percent per annum, (D) the actual amortization paid by such owner on all existing and prior mortgages on, or loans for, such unit in the reduction of total outstanding principal indebtedness, but only to the extent that the proceeds of such mortgages or loans were used by such owner for the unit and the rehabilitation or construction thereof or for the cost of capital improvements thereto with interest thereon at the rate of six percent per annum, (E) the actual outstanding principal indebtedness on all existing mortgages on, and loans or other obligations for, such unit which the owner is required to satisfy, but only to the extent that the proceeds of such mortgages or loans were used by such owner for the unit and the rehabilitation or construction

thereof or for the cost of capital improvements thereto, provided that if the indebtedness is not paid in full upon the sale of such unit, such owner shall not be credited with the amount of such indebtedness, and (F) the reasonable costs and expenses incurred in connection with the sale of such unit.

(f) In the case of a rental project that (i) the rental project may only be transferred or sold to an eligible applicant; and (ii) the resale price of the rental project shall not exceed an amount equal to the sum of (A) the original equity paid by the owner for the project and rehabilitation or construction thereof, exclusive of any payments, grants or loans received pursuant to this article for such purposes or from such other sources as determined by the corporation, with interest thereon at the rate of six percent per annum, (B) the cost of capital improvements to the project paid by the owner after the completion of rehabilitation or construction, exclusive of any payments, grants or loans received pursuant to this article for such purposes or from such other sources as determined by the corporation, with interest thereon at the rate of six percent per annum, (C) the actual amortization paid by such owner on all existing and prior mortgages on, or loans for, such project in the reduction of total outstanding principal indebtedness, but only to the extent that the proceeds of such mortgages or loans were used by such owner for the project and rehabilitation thereof or for the cost of capital improvements thereto, with interest thereon at the rate of six percent per annum, (D) the actual outstanding principal indebtedness on all existing mortgages on, or loans or other obligations for, such project which the owner is required to satisfy, but only to the extent that the proceeds of such mortgages or loans were used by the owner for the project and rehabilitation thereof or for the cost of capital improvements thereto, provided that if the indebtedness is not paid in full upon the sale of the project, such owner shall not be credited with the amount of such indebtedness, and (E) the reasonable costs and expenses incurred in connection with the sale of such project.

(g) In the case of a rental project, that the project shall be operated initially as a rental property, and when located in the city of New York shall be subject to the rent stabilization law of nineteen hundred sixty-nine, and when located in a municipality which has elected to be covered by the provisions of the emergency tenant protection act

of nineteen seventy-four, be subject to the provisions of such act. Any subsequent conversion to cooperative or condominium ownership during the period in which such property remains subject to the provisions of this article shall only be allowed with the consent of the corporation and if done pursuant to section three hundred fifty-two-eeee or three hundred fifty-two-eee of the general business law shall only be allowed pursuant to a non-eviction plan. The conversion of a rental project to cooperative or condominium ownership shall make the cooperative or condominium subject to the provisions of this article for cooperative or condominium projects for the remaining term which the rental project was to be subject to the provisions of this article.

(h) To be located in an area which is blighted, deteriorated or deteriorating, or has a blighting influence on the surrounding area, or is in danger of becoming a slum or a blighted area because of the existence of substandard, insanitary, deteriorating or deteriorated conditions, an aged housing stock, or vacant non-residential property, or other factors indicating an inability or unwillingness of the private sector unaided to cause the rehabilitation, construction or conversion which is contracted for under this article.

3-a. The corporation shall provide the applicant with a list of conditions that must be met prior to entering into a contract pursuant to this article. Within fifteen working days of receipt by the corporation of all documents in satisfaction of the list, the corporation shall notify the applicant of the sufficiency or insufficiency of the documents. After satisfaction by the applicant of all conditions required by the corporation prior to entering into a contract the corporation shall enter into the contract within forty-five working days of satisfaction of such conditions.

4. Notwithstanding the provisions of, or any regulation promulgated pursuant to, the emergency housing rent control law, the local emergency housing rent control act, or local law enacted pursuant thereto, the rent stabilization law of nineteen hundred sixty-nine, or the emergency tenant protection act of nineteen seventy-four, the eligible applicant with the approval of the corporation shall have the power to set the initial rent level of any rental housing accommodation which is located

in a rental or homesteading project receiving payments, grants or loans under this article.

5. Any cooperative or condominium or rental project which receives payments, grants or loans pursuant to this article shall be subject to its provisions for a period of twenty years following completion of rehabilitation work, construction or conversion or for the period during which any loan or indebtedness received under this article remains outstanding, whichever is greater provided however that all housing accommodations in rental projects shall continue to be subject to the rent stabilization law of nineteen hundred sixty-nine or the emergency tenant protection act of nineteen seventy-four, as provided in paragraph (g) of subdivision three of this section as the case may be, for the period specified in this subdivision and thereafter the applicability of such laws shall terminate as to each accommodation upon the first vacancy which occurs in each accommodation.

6. Any homesteading project which receives payments, grants or loans under this article shall be subject to its provisions for a period of fifteen years following completion of rehabilitation work, construction or conversion, or for the period during which any loan or indebtedness received under this article remains outstanding, whichever is greater.

6-a. Notwithstanding any provisions of subdivisions five and six of this section to the contrary, in the case of projects subject to a mortgage made by any lender:

(a) such lender, if not the corporation, shall give the corporation notice when an owner has defaulted on any payment of principal or interest on such mortgage loan for a project for a consecutive period of sixty days.

(b) following receipt of such notice, or at such earlier time as the corporation deems appropriate, the corporation shall seek to cure such default and make the project economically viable by assisting the owner in entering into a mortgage modification agreement with the lender, finding a new eligible applicant to own the project and assume the obligations under the mortgage or taking such other actions, consistent with the provisions of this article, as the corporation deems

appropriate.

(c) notwithstanding the provisions of paragraphs (a) and (b) of this subdivision, with respect to any lender other than the corporation, the corporation may provide in agreements respecting any project that where a lender shall have foreclosed or obtained title to a project in accordance with law and the provisions of its mortgage, the project or particular residential units therein shall not be subject to one or more provisions of this article, other than the rent stabilization coverage provisions of paragraph (g) of subdivision three of this section. Any agreement pursuant to this paragraph shall only be made upon a finding by the corporation that such agreement is necessary in order to enable a project owner to obtain a mortgage loan from a lender other than the corporation.

7. The corporation shall provide for the review, at periodic intervals at least annually, of the performance of eligible applicants under contract pursuant to this article. Such review shall, among other things, be for the purposes of ascertaining conformity to contractual provisions, the financial integrity and efficiency of eligible applicants and the evaluation of the project. Contracts entered into pursuant to this article may be terminated, funds may be withheld and unspent funds may be recaptured by the corporation upon a finding of substantial nonperformance or breach by the eligible applicant of its obligations under its contract.

8. Within each of the three categories of projects (cooperative or condominium, rental, or homesteading), preference in the awarding of contracts shall be given to economically feasible projects which contain a substantial number of persons of low income whose income does not exceed fifty percent of the median income for the metropolitan statistical area in which the project is located, or if the project is located outside such an area, to projects which contain a substantial number of persons of low income whose incomes do not exceed fifty percent of the median income for the county in which the project is located, additional preference shall be given to economically feasible projects located on a brownfield site that has received a certificate of completion.

§ 1103. General and administrative provisions. 1. The corporation shall issue and promulgate rules and regulations for the administration of this article. The rules and regulations shall include provisions concerning the eligibility of applicants for payments, grants and loans under this article; funding criteria and the funding determination process; supervision and evaluation of contracting applicants; reporting, budgeting and record-keeping requirements; provisions for modification and termination of contracts; and such other matters not inconsistent with the purposes and provisions of this article as the corporation shall deem necessary or appropriate.

2. The corporation may provide technical services and assistance or contract to provide technical services and assistance to eligible applicants to comply with the provisions and intent of this article which services and assistance may include but shall not necessarily be limited to rehabilitation skills training, site selection, financial packaging and engineering and architectural services necessary for the preparation of proposals for entering into contracts or for the continued operation of cooperative or condominium, homesteading or rental rehabilitation projects.

3. The corporation shall, on or before September fifteenth in each year, submit a proposed budget for the operation of the corporation for its next fiscal year to the director of the budget for his review. The chairman of the corporation shall also deliver a copy of such budget to the chairman of the senate finance committee and the chairman of the assembly ways and means committee at the same time that the budget is delivered to the director of the budget. The budget shall include the total amount needed for corporate purposes, including the funds required by the corporation for its general and administrative expenses, the source of all funds that the corporation expects to receive and such other information as the director of the budget shall require.

4. The corporation shall require the submission of the names, addresses and business background of the principals involved, the nature

of their fiduciary relationship and their financial relationship, past, present and future, to the project and to each other.

ARTICLE XVIII-A
**LOW INCOME TURNKEY/ENHANCED
HOUSING TRUST FUND PROGRAM**

Section 1106. Legislative findings and declarations.

1106-a. Definitions.

1106-b. Low income turnkey/enhanced housing trust fund program established.

1106-c. Request for proposals.

1106-d. Selection of eligible applicants for grants or loans under this article.

1106-e. Reserve fund.

1106-f. Project operation and management; rent structure; tenant selection.

1106-g. Adjustment of rents; income verification.

1106-h. Real property tax exemption.

1106-i. General and administrative provisions of this article.

1106-j. Liability on obligations.

§ 1106. Legislative findings and declarations. The legislature hereby finds and declares that there is a serious shortage of decent affordable housing in the state for persons of low income; that the cost of providing such housing without public participation and assistance is prohibitively high; that programs operated by municipal housing authorities and municipalities have for decades provided hundreds of thousands of low income New Yorkers with decent, safe and affordable housing; that due to the lack of funds available for leveraging state dollars for low income housing, and the delay that occurs when a variety of funding sources are used to produce such housing, a need exists for the state to fully finance debt free low income housing. The legislature therefore finds that a program should be established pursuant to which the housing trust fund corporation shall provide grants or loans to municipal housing authorities, municipalities and

not-for-profit organizations or charitable organizations, housing development fund companies, or private developers which shall be used to pay for all or a portion of the project costs of constructing or rehabilitating turnkey/enhanced rental projects, and that such projects shall thereafter be owned by eligible owners for the benefit of persons of low income. The legislature intends that grants or loans provided to municipal housing authorities, or municipalities through the low income turnkey/enhanced housing trust fund program shall not substitute for funds which such authorities or municipalities would have spent in the absence of such program, and that authorities and municipalities shall use such grants or loans to increase the supply of low income housing to levels greater than would have been possible without such program.

§ 1106-a. Definitions. For purposes of this article, the following terms shall have the following meanings:

1. "Corporation" means the housing trust fund corporation established by section forty-five-a of this chapter.

2. "Turnkey/enhanced rental project" or "project" means a vacant property which is converted or rehabilitated to residential rental use, a newly constructed rental project or projects or a state-aided public housing project or projects where more than thirty percent of the units are vacant.

3. "Turnkey/enhanced rental project costs" means the reasonable and necessary costs for planning, financing, acquisition of land or buildings and construction of new buildings or the reconstruction, rehabilitation, repair or remodeling of existing buildings, provided however that not more than twenty percent of such costs may be used for acquisition of land or buildings. Such costs may also include all or any portion of the cost necessary for the creation of a reserve fund required pursuant to section eleven hundred six-e of this article, and all or a portion of a working capital fund. Such costs shall not include the costs of nondwelling-related facilities, eligible applicant administrative costs or, in cities with a population of one million or

more, the cost of demolition or acquisition of land or buildings.

4. "Eligible applicant" means a housing development fund company incorporated pursuant to article eleven of this chapter, a not-for-profit corporation or charitable organization which has as one of its primary purposes the improvement of housing for persons of low income, a wholly owned subsidiary of such a corporation or organization, a municipality, a municipal housing authority created pursuant to the public housing law or a person, firm, partnership or corporation which has agreed to limit profits or rate of return of investors in accordance with a formula established by the corporation. In the case of an application by a city with a population of one million or more for funding pursuant to this article for projects expected to contain thirty percent or more permanent housing units occupied by eligible homeless families, as defined in article three-A of this chapter, such city shall be an eligible applicant only if the corporation shall determine in its sole discretion that funding for the purpose of undertaking the project is unavailable for the project pursuant to article three-A of this chapter.

5. "Eligible owner" means a housing development fund company incorporated pursuant to article eleven of this chapter, a not-for-profit corporation or charitable organization which has as one of its primary purposes the improvement of housing for persons of low income, a wholly owned subsidiary of such a corporation or organization, a partnership at least fifty percent of the controlling interest of which is held by such a corporation or organization and which has agreed to limit profits or rate of return of investors in accordance with a formula established or approved by the corporation, a municipality or a municipal housing authority created pursuant to the public housing law.

6. "Reserve fund" means a fund or funds to be used in accordance with guidelines established by the corporation for ongoing operation and maintenance costs and replacement costs and may only be used after the first year of a project's operation, as measured from the date of substantial occupancy, except in the event of an imminent threat to the health and safety of the tenants. Such fund shall be deposited in a

banking institution whose principal place of business is located within the state of New York and which has a proven record of investment in the community in which the project is located.

7. "Working capital fund" shall mean a fund to be used for start-up expenses including, but not limited to, liability insurance, fidelity bond premiums, utility hook-up deposits, maintenance equipment, movable furnishings and equipment and other initial project related expenses, as approved by the corporation.

§ 1106-b. Low income turnkey/enhanced housing trust fund program established. There is hereby established within the housing trust fund corporation a low income turnkey/enhanced housing trust fund program. Within the limit of funds available for this purpose in the turnkey/enhanced housing account, the corporation is hereby authorized to enter into contracts to provide grants or loans to eligible applicants for all or a portion of turnkey/enhanced rental project costs to construct or rehabilitate turnkey/enhanced rental projects subject to the terms and conditions of this article. Upon completion of construction or rehabilitation of a turnkey/enhanced rental project, an eligible applicant may, where appropriate, transfer such project to an eligible owner.

§ 1106-c. Request for proposals. The corporation, pursuant to a request for proposals, shall not provide grants or loans under this article except to an eligible applicant which has submitted an application in consultation with the eligible owner or owners, which contains:

1. a development timetable acceptable to the corporation that shall include the projected time schedule for (a) commencement and completion of regulatory and review processes and approvals including procedures for land use and disposition; (b) construction loan closing; and (c) commencement and completion of construction. Such timetable shall also include a projected date as to when the units will be available for

occupancy and when such units will be fully occupied and any other information the corporation deems appropriate;

2. a proposed operating and maintenance budget;

3. an estimate of the total project costs which shall include (a) the costs necessary for construction or rehabilitation which shall not exceed a ceiling amount established by the corporation which is consistent with the reasonable costs of constructing or rehabilitating projects in the municipality in which the project shall be located, (b) the costs necessary for working capital and a reserve fund and (c) such other reasonable costs necessary for the completion of such project;

4. evidence that the municipality within which the turnkey/enhanced rental project will be located is experiencing a shortage of affordable housing for persons of low income and the proposed turnkey/enhanced rental project will contribute to reducing such shortage;

5. the names, addresses and business background of the principals involved, the nature of their fiduciary relationship and their financial relationship, past, present and future, to the project and to each other;

6. the identity of the eligible owner if the eligible owner is not the eligible applicant; and

7. such other information as the corporation may require.

§ 1106-d. Selection of eligible applicants for grants or loans under this article. 1. Prior to providing grants or loans to an eligible applicant pursuant to this article, the corporation shall determine that:

(a) eligible applicants can demonstrate by their past performance or other objective factors, that they are able to complete a turnkey/enhanced rental project in a timely, efficient and cost effective manner;

(b) the turnkey/enhanced rental project will be managed by an eligible owner or other entity who can demonstrate by its past performance or other objective factors that it is capable of effectively managing such a project for the benefit of persons of low income; and

(c) the eligible applicant shall not borrow any funds for the project without the prior approval of the corporation.

2. In selecting eligible applicants who will obtain grants or loans pursuant to this article, the corporation shall give preference to proposals for turnkey/enhanced rental projects which:

(a) will be located in an area which is experiencing a severe shortage of affordable housing for persons of low income;

(b) will be located in a municipality which will utilize steps to simplify or expedite processing, where applicable;

(c) will result in the greatest number of quality units and the lowest costs per unit; and

(d) will rehabilitate or construct small scale, low rise buildings.

§ 1106-e. Reserve fund. There shall be a reserve fund for each project which in no event shall initially be less than five percent of the turnkey/enhanced rental project costs, exclusive of any reserve fund. Such reserve fund may be provided by the corporation or any other source and, if provided by another source, shall be provided in cash or the payment of such cash shall be assured by deposit of adequate marketable collateral prior to the payment by the corporation of any project costs, excluding advances for planning costs.

§ 1106-f. Project operation and management; rent structure; tenant selection. The eligible owner shall enter into an agreement with the corporation which provides that the eligible owner of such project shall:

1. operate and manage such project as a rental building which is used for other than transient occupancy;

2. structure rent levels in such project to be: (a) affordable to the tenants as specified in subdivision four of this section to the extent economically feasible and (b) when added to any other sources of funds available for the project's operation not in excess of the costs of operating and maintaining the project including a reserve fund;

3. not borrow any funds for the project without the prior approval of the corporation;

4. to the extent economically feasible, select tenants who move into such project and maintain a mix of tenants so that (a) at least thirty percent and no more than seventy percent of such tenants are receiving benefits pursuant to section one hundred thirty-one-a of the social services law or could only afford rents no greater than those paid by persons receiving benefits pursuant to such section, provided, however, that of such tenants preference shall be given to persons who have been referred from hotels, motels or shelters operated by a social services district or receiving payment directly or indirectly from such district, or any other philanthropic or charitable facility providing such accommodations; and (b) the remaining tenants have incomes which do not exceed eighty percent of the median income for the metropolitan statistical area in which such project is located or if a project is located outside such area, those persons or families whose incomes do not exceed eighty percent of the median income for the county in which a project is located; and

5. provide such other information as may be necessary to carry out the provisions of this article.

§ 1106-g. Adjustment of rents; income verification. Notwithstanding any other provision of law, no grants or loans shall be provided pursuant to this article unless an eligible owner has agreed to require the tenants and occupants residing in the housing project or projects to submit an annual income affidavit as prescribed by the corporation, together with proper documentation as and if prescribed by the corporation, as the case may be. Upon submission of such affidavit and

documentation, if any, the eligible owner shall adjust the rent of a tenant pursuant to a procedure established by the corporation by regulation which procedure shall, to the extent economically feasible, maintain the affordability of such project to such tenants. If the tenant or occupant shall fail to submit such affidavit and documentation, or if such verification as prescribed by the corporation shall result in a disagreement caused by understatement of income and the tenant shall have failed to correct such original affidavit and documentation on forms specified by the corporation within sixty days of notification by certified mail by the eligible owner addressed to the tenant, the eligible owner shall in addition to the last rent assess such tenant or occupant a surcharge which shall equal the difference between the tenant's last rent and the rent the tenant would otherwise have to pay had the grant or loan provided under this article been made as a loan at the prevailing market rate of interest and requiring thirty year amortization at the time the grant or loan was made. The provisions of any other law to the contrary notwithstanding, solely for the purpose of verification of income, the corporation may contract with the department of taxation and finance for services performed by such department in verifying income information forwarded by the corporation or the eligible owner to such department. Nothing contained herein shall be construed to authorize the corporation to contract with such department to provide any income information whatsoever and such agreement shall be limited solely to the verification of income information. No officer or employee of the corporation, the New York state housing finance agency, the division of housing and community renewal or the eligible owner shall be subject to any civil or criminal liability by reason of his forwarding to the department of taxation and finance of any income information pursuant to this section, unless (i) such information is knowingly and willfully materially misrepresented by such officer or employee or (ii) such information is knowingly and willfully divulged to any person, except in the discharge of such officer's or employee's duties solely for the purpose of verification of income, for any reason whatsoever. The corporation shall promulgate rules and regulations to effect the provisions of this section provided however that the corporation need not promulgate rules and regulations in the event the corporation adopts procedures which are substantially

similar to the rules and regulations adopted by the commissioner pursuant to section sixty of this chapter. The provisions of the state freedom of information act shall not apply to any income information obtained by an eligible owner, division of housing and community renewal, New York state housing finance agency or the corporation, pursuant to the provisions of this section.

§ 1106-h. Real property tax exemption. 1. The local legislative body of any city, town or village is hereby authorized and empowered to adopt and amend a local law to provide that all or any portion of the value of the property included in a turnkey/enhanced rental project which represents an increase over the assessed valuation of the real property, both land and improvements, prior to the improvements of the property necessary or intended to effectuate the purposes of this article, may be exempt from any and all city, village and town real property taxes, as defined in subdivision twenty of section one hundred two of the real property tax law, real property special ad valorem levies, as defined in subdivision fourteen of section one hundred two of the real property tax law, and special assessments, as defined in subdivision fifteen of section one hundred two of the real property tax law, except that the assessed valuation may be increased or decreased to reflect a change in the level of assessment as certified pursuant to title two of article twelve of the real property tax law.

2. In any assessing unit in which there has been a change in level of assessment as provided in title two of article twelve of the real property tax law, the commissioner of taxation and finance shall certify the change in level of assessment factor in the manner provided in title two of article twelve of the real property tax law. The term "assessing unit" as used in this subdivision means a city, town, village or county having a county department of assessment with the power to assess real property.

3. Such local law may also provide for the abatement of any or all of the property taxes which are payable to such city, town or village from such project, for such duration as is provided in such local law, if any

property taxes remain to be paid after the exemption or abatement provided in this section is determined.

4. Provided that the tax exemption or abatement authorized by this section shall be in addition to any other tax exemption or abatement authorized by law, and provided further, however, that in the event a project ceases to be subject to one or more provisions of this article any tax exemption or abatement authorized pursuant to this section with respect to the eligible property of such project shall terminate.

§ 1106-i. General and administrative provisions of this article. 1. The corporation shall provide for the review, at periodic intervals at least annually, of the performance of eligible applicants to the extent applicable and eligible owners under contract pursuant to this article. Such review shall, among other things, be for the purposes of ascertaining conformity to contractual provisions and the financial condition of the project.

2. The provisions of section eleven hundred three of this chapter shall apply to this article.

3. Paragraph f of subdivision three of section eleven hundred two of this chapter shall apply to this article. For the purposes of said paragraph a turnkey/enhanced rental project shall be deemed to be a rental project.

4. The corporation shall deposit any recaptured funds or funds from the repayment of loans and interest received on loans into the turnkey/enhanced housing account.

5. Notwithstanding any other provision of law, payments, grants and loans may be deposited by the corporation directly with a lending institution at or before the time of initial loan closing pursuant to an escrow agreement satisfactory to the corporation.

6. In addition to the information contained in the report required

pursuant to section twenty of the public housing law, the corporation shall, on or before October first in each year, submit a report to the governor, the temporary president of the senate, the speaker of the assembly and the minority leader of the senate and the minority leader of the assembly which shall include (i) the name of the eligible owner of the turnkey/enhanced housing trust fund project if such owner is not also the eligible applicant; (ii) the actual development schedule to date for each project; and (iii) a list of the number of units per project that upon initial occupancy were occupied by homeless families who previously resided in hotels, motels or shelters that are regulated under title eighteen of the official compilation of codes, rules and regulations of the state of New York, and a list of names and locations of such hotels, motels or shelters.

§ 1106-j. Liability on obligations. 1. Except for obligations which the corporation assumes by contract for the construction, rehabilitation and development period of any project, neither the corporation, the New York state housing finance agency nor the state shall have any responsibility or liability as to construction, rehabilitation, operation, maintenance, repair or use of projects unless otherwise specifically provided by law.

2. Any contract entered into pursuant to this section between the corporation and an eligible applicant, or eligible owner of a project shall cite and set forth subdivision one of this section.

ARTICLE XIX

AFFORDABLE HOME OWNERSHIP DEVELOPMENT PROGRAM

Section 1110. Statement of legislative findings and purpose.

1111. Definitions.

1112. Affordable home ownership development contracts.

1113. General and administrative provisions.

§ 1110. Statement of legislative findings and purpose. The legislature hereby finds and declares that home ownership by persons of low and moderate income has long been, and still is, an essential element of the state's social economy, resulting in the development, stabilization and preservation of neighborhoods and communities. The legislature further finds that persons of low and moderate income require assistance to enable them to supplement their own resources and the ability of the private sector to make the availability of private home ownership a reality. By providing home ownership assistance the state may narrow the gap between the resources of the individual and the high cost of home ownership and by requiring leveraging may cause investment of other public and private funds. The appeal of private home ownership has been demonstrated to be a strong incentive to families to move into areas which otherwise may be in danger of becoming blighted through neglect and the lack of investment. Pride in ownership will halt deterioration and offer the prospect of turnaround. The legislature further finds that adequate private resources are often not available to persons with modest incomes to acquire, rehabilitate or construct their homes and that the preservation of and development of existing private homes can often prevent an area from becoming a slum or a blighted area. In addition, stimulation of the level of activity in construction of new affordable homes will provide needed jobs and stability for communities. The legislature therefore finds that a program should be established to provide monies to make the construction, rehabilitation and improvement of homes for low and moderate income persons more affordable. It is intended that any monies provided to municipalities through this program not substitute for monies which such municipalities would have spent in the absence of this program and that such monies will enable such municipalities to expand their commitment to increase the supply and condition of low and moderate income owner occupied housing to levels greater than would have been possible without this program.

§ 1111. Definitions. 1. "Home" shall mean a one to four family dwelling which has at least one owner occupant or an owner occupied unit in a cooperative or a condominium.

2. "Eligible applicant" shall mean a city, a town, a village, a housing development fund company incorporated pursuant to article eleven of this chapter, any not-for-profit corporation or charitable organization which has as one of its primary purposes the improvement of housing or a municipal housing authority created pursuant to the public housing law, or a public benefit corporation formed to assist particular municipalities with their housing, community development or renewal needs, or a county, provided, however, that the county acts as an administrator of a program under which projects are constructed, rehabilitated or improved by other eligible applicants or acts in any other capacity as permitted by law.

3. "Grantee" shall mean an eligible applicant which operates a program of financial assistance pursuant to this article.

4. "Owner" shall mean an individual who owns or agrees to purchase a home assisted under this program and to occupy it as his principal place of residence or a partnership, corporation or other entity which will build or rehabilitate vacant properties for sale to home buyers.

5. "Home buyers" shall mean individuals or households for whom there are no other reasonable and affordable homeownership, rehabilitation or home improvement alternatives, as the case may be, in the private market, as determined by the grantee and who shall occupy a home assisted under this article as their principal place of residence.

6. "Rehabilitation" or "home improvement" shall mean all work necessary to bring a structure into compliance with all applicable laws and regulations including but not limited to the installation, replacement or repair of heating, plumbing, electrical and related systems and the elimination of all hazardous and immediately hazardous violations in the structure in accordance with state and local laws and regulations of state and local agencies. Rehabilitation or home improvement may also include reconstruction or work to improve the habitability or prolong the useful life of residential property.

7. "Corporation" shall mean the affordable housing corporation created

by section forty-five-b of this chapter.

8. "Affordable home ownership development programs" or "Project" shall mean the rehabilitation, improvement, construction or acquisition, singly or in combination, of one or more homes.

§ 1112. Affordable home ownership development contracts. 1. Within the limit of funds available in the affordable housing development account, the corporation is hereby authorized to enter into contracts with eligible applicants to provide grants which such applicants shall use to finance affordable home ownership development programs subject to the terms and conditions of this article. Any grants received by a municipality hereunder shall not be deemed to be municipal funds. Grantees shall utilize funds provided pursuant to this article solely as payments, grants and loans to owners to reduce the costs of new construction, rehabilitation or home improvement or the cost of acquisition, but only where such acquisition is part of an affordable home ownership development program or project to construct or rehabilitate homes, or as otherwise authorized by law. Such financial assistance may be in the form of loans, participation in loans including but not limited to participation in loans originated or financed by lending institutions as defined in section forty-two of this chapter, private or public employee pension funds or the state of New York mortgage agency, or grants, on such terms and conditions as the grantee with the approval of the corporation shall determine, provided that no such payments, grants and loans shall exceed the lesser of (i) sixty percent of the project cost for projects involving acquisition or one hundred percent of rehabilitation programs without an acquisition component or (ii) the following per dwelling unit limitations (A) fifty thousand dollars for projects except as provided in subparagraph (B) of this paragraph or (B) up to seventy-five thousand dollars for a high cost project or a project which will receive a loan from the federal farmers home administration. Up to ten percent of the program or project cost may be used for grantee operating expenses including expenses related to the organization operating support and administration of the contract. Among the criteria the corporation shall consider in

determining whether a project is a high cost project are: average cost of construction in the area, location of the project, and the impact of the additional funding on the affordability of the project for the occupants of such project. No more than fifty percent of the total amount appropriated pursuant to this article in any fiscal year shall be allocated to homes located within any single municipality.

2. The corporation shall not enter into a contract under this article except with an eligible applicant which has submitted an application pursuant to a request for proposals issued by the corporation which application contains a plan acceptable to the corporation which provides that:

(a) The proposed project or program will make home ownership, rehabilitation or home improvement affordable to persons who cannot afford to own, rehabilitate or improve homes by relying upon the ordinary unaided operation of private enterprise.

(b) There shall be criteria, satisfactory to the corporation, which provide for maximum income limitations or a system of income targeting designed to ensure that home buyers who benefit from financial assistance provided pursuant to this article would be unable to acquire, rehabilitate or improve homes by relying upon the ordinary unaided operation of private enterprise.

(c) The payments, grants and loans provided by grantees pursuant to this article will be supplemented by private or other public investment and the payments, grants and loans provided by the grantee are the least necessary to make home ownership, rehabilitation or home improvement affordable to the income group to be served by the proposed project or program.

(d) The proposed project or projects, if not built or rehabilitated by a not-for-profit corporation, will be built or rehabilitated by a private developer/builder who has agreed to limit his profit in accordance with a formula, satisfactory to the corporation, which has been established by the grantee.

(e) The proposed project or program will provide assistance in an area which is blighted, deteriorated or deteriorating, or has a blighting influence on the surrounding area, or is in danger of becoming a slum or a blighted area because of the existence of substandard, insanitary,

deteriorating or deteriorated conditions, an aged housing stock, or vacant non-residential property, or other factors indicating an inability or unwillingness of the private sector unaided to cause the construction, rehabilitation or home improvement for which payments, grants and loans under this article is provided.

(f) Home buyers will occupy homes as their principal place of residence and funds provided for the benefit of the home buyer will be recaptured by the grantee if the home buyer does not occupy the home as the home buyer's principal place of residence under the terms and conditions of a formula established or approved by the corporation.

(g) In the case of a rehabilitation or home improvement program, the majority of payments, grants and loans provided for each home shall be used to perform work which prolongs the useful life of the home or shall be used to correct basic structural defects or to repair basic building systems which threaten or if not corrected or repaired could threaten the health and safety of the dwelling's residents.

(h) The corporation shall provide the applicant with a list of conditions that must be met prior to entering into a contract pursuant to this article. Within fifteen working days of receipt by the corporation of all documents in satisfaction of the list, the corporation shall notify the applicant of the sufficiency or insufficiency of the documents. After satisfaction by the applicant of all conditions required by the corporation prior to entering into a contract the corporation shall enter into the contract within forty-five working days of satisfaction of such conditions.

(i) Eligible applicants receiving awards pursuant to this article for homes located in cities with a population of one hundred thousand or more shall provide preference to homebuyers who are members of a police force of such city, provided that such city has adopted a local law authorizing such preference.

(j) In the case of projects that receive an award of over forty thousand dollars, the grantee may establish resale restrictions requiring the sale of the unit or units receiving such funding through a grant from the corporation be purchased only by qualified low-income homebuyers extending for a period of at least sixty years, but no more than ninety-nine years, and the grantee may ensure this resale restriction by use of deed restrictions, community land trusts, or

limited-equity cooperative ownership structure.

3. In determining awards pursuant to this article the corporation shall give preference to applications based upon the extent to which the proposed program or project will:

(a) Serve the lowest income households in the applicable region and is designed to continue to be affordable to such households for a substantial period of time.

(b) Leverage private and other public investment so as to reduce the amount of assistance provided pursuant to this article which is necessary to operate or establish the program or project.

(c) Contribute to the development of the neighborhood or community in which the program or project is located.

(d) Not directly displace current low and moderate income residents of such neighborhood or community.

(e) Be undertaken and completed in a timely fashion.

(f) Utilize innovative, cost effective design techniques and building materials, which reduce construction, rehabilitation or operating costs including, but not limited to factory built or modular homes.

(g) Be located on a brownfield site that has received a certificate of completion.

3-a. In determining awards pursuant to this article, the corporation shall establish tiered project funding levels based on length and depth of affordability.

4. The corporation shall not provide a grant to an eligible applicant pursuant to this article unless the corporation determines that there is a strong probability that the private investment in the applicant's proposed program would not be made without the grant and that the grant will not substitute for private funds which would be otherwise available to the program.

5. The corporation shall provide for the review, at periodic intervals not less than annually, of the performance of grantees receiving financial assistance pursuant to this article. Such review shall, among other things, be for the purposes of ascertaining conformity to

contractual provisions, the financial integrity and efficiency of grantees and the evaluation of the grantees' activities. Contracts entered into pursuant to this article may be terminated, funds may be withheld and unspent funds recaptured by the corporation upon a finding of substantial nonperformance or breach by the grantee of its obligations under its contract.

§ 1113. General and administrative provisions. 1. The corporation shall issue and promulgate rules and regulations for the administration of this article. The rules and regulations shall include provisions concerning eligibility of grantees for state financial assistance; funding criteria and the funding determination process; supervision and evaluation of the contracting grantees; reporting, budgeting and recordkeeping requirements; provisions for modification, termination, extension and renewal of contracts; and such other matters not inconsistent with the purposes and provisions of this article as the corporation shall deem necessary, proper or appropriate. Grantees shall deposit any funds received from the repayment of loans or interest received on loans into the affordable home ownership development account. The corporation may provide technical services and assistance or contract to provide technical services and assistance to grantees to comply with the provisions and intent of this article which services and assistance may include but shall not necessarily be limited to construction skills training, site selection, financial packaging and engineering and architectural services necessary for the preparation of proposals for entering into contracts or for the continued operation of projects.

2. (a) The corporation shall provide the commissioner of housing and community renewal, on a timely basis, with the data and other information necessary to compile the report or reports required pursuant to section twenty of the public housing law.

(b) The corporation shall, on or before September fifteenth in each year, submit a proposed budget for the operation of the corporation for its next fiscal year to the director of the budget for his review. The chairman of the corporation shall also deliver a copy of such budget to

the chairman of the senate finance committee and the chairman of the assembly ways and means committee at the same time that the budget is delivered to the director of the budget. The budget shall include the total amount needed for corporate purposes, including the funds required by the corporation for its general and administrative expenses, the source of all funds that the corporation expects to receive and such other information as the director of the budget shall require.

3. The corporation shall require the submission of the names, addresses and business background of the principals involved, the nature of their fiduciary relationship and their financial relationship, past, present and future, to the project and to each other.

ARTICLE XX

MANUFACTURED HOME COOPERATIVE FUND PROGRAM

Section 1120. Statement of legislative intent.

1121. Definitions.

1122. Manufactured home cooperative fund contracts.

1123. General and administrative provisions.

§ 1120. Statement of legislative intent. The legislature hereby finds and declares that the shortage of decent affordable housing for persons of low and moderate income remains significant and must be addressed in new and innovative ways; that a particular housing problem exists for homeowners residing in manufactured home parks, wherein there is the potential for serious dislocation of families and loss of equity through the sale of manufactured home parks to interests not conducive to continuation of park settings for these manufactured homes; that manufactured home park residents frequently lack the resources to purchase new homes or move existing homes; that an innovative and cost effective solution to the problem of dislocation of manufactured home park families is the formation of park cooperatives in which the manufactured home park is owned cooperatively by the manufactured home owners who reside therein; that a significant public purpose may be served by assisting these homeowners in the formation of manufactured

home park cooperatives, such purpose being a reduction in the cost of safe and sanitary housing for persons of low and moderate income; that manufactured home park cooperatives should be assisted through public support for infrastructure improvements; that it is the policy of the state to create such housing cooperative opportunities and to provide for the aid, care, and support of the needy in a manner that encourages self-sufficiency and self-determination. The legislature therefore finds that a program should be established to provide monies for land acquisition by manufactured home park cooperatives and for improvements to the infrastructures of such manufactured home parks.

§ 1121. Definitions. For the purposes of this article:

1. "Agency" shall mean the New York state housing finance agency created by section forty-three of this chapter.

2. "Cooperative project" or "project" shall mean any manufactured home park property which, subsequent to receiving assistance under this article, will be owned as a cooperative by the owners of the manufactured homes situated therein.

3. "Eligible applicant" shall mean a manufactured home residents' association representing a majority of the manufactured home residents, a manufactured home park cooperative, a municipality, a housing development fund company incorporated pursuant to article eleven of this chapter, or any not-for-profit corporation or charitable organization which has as one of its primary purposes the improvement of housing.

4. "Infrastructure improvement" shall mean the construction, reconstruction, improvement, reconditioning, and preservation, including the acquisition of real property and interests therein required or expected to be required in connection therewith, of roads, bridges, sewage and water collection and disposal systems, lighting districts, sidewalks, and other capital projects which will benefit the cooperative as a whole.

5. "Manufactured home park" shall mean a manufactured home park as defined in section two hundred thirty-three of the real property law.

6. "Manufactured home park cooperative" shall mean a corporation or other entity formed for the purpose of owning a manufactured home park wherein the ownership of such shares, membership interest or certificate of membership will entitle the owners or holders thereof to occupancy in such park pursuant to section three hundred fifty-two-e of the general business law.

§ 1122. Manufactured home cooperative fund contracts. 1. Within the limit of funds available in the manufactured home cooperative fund, the agency is hereby authorized to enter into contracts with eligible applicants to provide loans which such eligible applicants shall use to establish manufactured home park cooperatives through acquisition or infrastructure improvement or both.

2. No such loan may be made or its term extended pursuant to this article, unless the agency determines that the eligible applicants cannot afford or obtain the financing necessary to accomplish the purposes of such loans through the ordinary unaided operation of private enterprise.

3. The agency shall not enter into loans under this article except with an eligible applicant which has submitted a plan acceptable to the agency which provides that subsequent to conversion to cooperative ownership, a majority of the manufactured home owners or one or more members of their immediate family intend to occupy their manufactured homes as their primary residence.

4. Such contracts may provide for loans by the agency for the activities to be carried out by the eligible applicant under the contract, including participation in loans including but not limited to participation in loans originated or financed by lending institutions as defined in section forty-two of this chapter, private or public employee pension funds or the state of New York mortgage agency. Loans shall be

at the prevailing interest rate in the area for long term residential mortgages or at such lower rate as the agency determines to be necessary for the project to be financially feasible. Loans shall not exceed ninety-five percent of the project costs including purchase price and costs for infrastructure improvement. The term of the loan for a cooperative project or infrastructure improvement shall not exceed ten years unless extended for periods not to exceed ten years in which case the term of the loan as extended shall not exceed thirty years in the aggregate and the amortization schedule for the loan shall not exceed thirty years.

5. In determining loans pursuant to this article the agency shall give preference to applications based upon the following criteria:

(a) the extent to which park residents are threatened with displacement by the projected sale or closing of the existing park;

(b) the scarcity of affordable alternate sites in the immediate area for relocation of park residents;

(c) the extent to which manufactured home parks, subsequent to receiving assistance under this article, will be owned as a cooperative by shareholders or owners or holders of membership interests or certificate of membership in such cooperative whose average incomes do not exceed (i) the greater of one hundred percent of the median income for the metropolitan statistical area in which a project is located or one hundred percent of the median income for the state, or (ii) if the project is located outside such an area, the greater of one hundred percent of the median income for the county in which the project is located or one hundred percent of the median income for the state;

(d) the extent to which the proposed resident ownership structure provides long-term security and tenure;

(e) the extent to which the proposed project will be undertaken and completed in a timely fashion; and

(f) the extent to which the homes in a park are occupied by the manufactured home owners or members of their families.

6. The agency shall provide for the review, at periodic intervals not less than annually, of the performance of applicants receiving financial assistance pursuant to this article. Such review shall, among other

things, be for the purposes of ascertaining conformity to contractual provisions, the financial integrity and efficiency of applicants and the evaluation of the applicants' activities. Contracts entered into pursuant to this article may be terminated, funds may be withheld and unspent funds recaptured by the agency upon a finding of substantial nonperformance or breach by the applicant of its obligations under its contract.

§ 1123. General and administrative provisions. 1. The agency may issue and promulgate rules and regulations for the administration of this article. The rules and regulations shall include provisions concerning the eligibility of applicants for payments, grants and loans under this article; funding criteria and the funding determination process; supervision and evaluation of contracting applicants; reporting, budgeting and record-keeping requirements; provisions for modification and termination of contracts; and such other matters not inconsistent with the purposes and provisions of this article as the agency shall deem necessary, proper and appropriate.

2. The agency may provide technical services and assistance or contract to provide technical services and assistance to eligible applicants to comply with the provisions and intent of this article which services and assistance may include but shall not necessarily be limited to site selection, financial packaging and engineering and architectural services necessary for the preparation of proposals for entering into contracts or for the continued operation of a manufactured home cooperative or for infrastructure improvement projects.

3. The agency and applicants shall deposit any recaptured funds or funds from the repayment of loans and interest received on loans into the manufactured home cooperative fund.

4. Notwithstanding the provisions of article one-A of the public authorities law, contracts entered into by the agency pursuant to this article shall not be subject to the provisions of article one-A of the public authorities law.

5. The agency shall require the submission of the names, addresses and business background of the principals involved, the nature of their fiduciary relationship and their financial relationship, past, present and future, to the project and to each other.

ARTICLE XXI
**INFRASTRUCTURE DEVELOPMENT
DEMONSTRATION PROGRAM**

Section 1130. Statement of legislative findings and purpose.

1131. Definitions.

1132. Infrastructure development contracts.

1133. General and administrative provisions.

§ 1130. Statement of legislative findings and purpose. The legislature hereby finds and declares that there exists throughout the state a serious shortage of affordable housing and that the cost of infrastructure improvements, such as sewer, water and utility lines, increases the cost of providing such housing. The legislature therefore determines that a demonstration program should be established to provide infrastructure development grants in conjunction with existing state, local and federal housing programs to eligible applicants to enable, aid and facilitate the development of affordable housing.

§ 1131. Definitions. 1. "Eligible applicant" shall mean a public benefit corporation, not-for-profit corporation or charitable organization whose purpose includes the construction or rehabilitation of affordable housing or a municipality.

2. "Infrastructure improvements" shall mean the installation or upgrading of water and sewer lines to a public connection, the installation or upgrading of private wells and sanitary systems, storm sewers and road and sidewalk construction where required by local zoning ordinances and the installation of gas and electric lines and other site

improvements or site preparation which is necessary for the creation of affordable housing.

3. "Affordable housing project" shall mean residential housing being rehabilitated or constructed in conjunction with a state, federal or local program to produce affordable housing.

4. "Agency" shall mean the New York state housing finance agency.

5. "Municipality" shall mean a county, city, town or village.

§ 1132. Infrastructure development contracts. 1. The agency is hereby authorized, within the amounts appropriated, to enter into contracts with eligible applicants to provide funds for infrastructure improvements which are necessary for and will reduce the cost of the new construction or rehabilitation of affordable housing projects. Such contracts shall provide for grants by the agency to the eligible applicant for infrastructure improvements carried out under the contract. Grants shall be used to advance to or reimburse the eligible applicant for the actual and necessary cost of providing such infrastructure improvements, provided however that grants shall not be used to pay the administrative costs incurred by an eligible applicant for such improvements. Such payments, including payments to a municipality, shall be made in accordance with the agency's prompt payment statement adopted pursuant to section twenty-eight hundred eighty of the public authorities law. Payment to the eligible applicant shall not be conditioned on pre-payment for such improvements by the eligible applicant. No such grants shall exceed an amount equal to five thousand dollars for each unit of affordable housing to be constructed or rehabilitated in conjunction with such infrastructure improvements.

2. The agency shall not enter into a contract under this article except with an eligible applicant which has submitted an application to a state, federal or local entity to receive funds for the construction or rehabilitation of an affordable housing project and submits proof of such application to the agency. Such contract shall contain provisions

that infrastructure development funds are dependent upon such application being approved. Any contract for infrastructure development funds shall contain such other information which the agency deems appropriate, and a plan acceptable to the agency which demonstrates that the infrastructure improvements shall be undertaken in conjunction with the new construction or rehabilitation of an affordable housing project, shall be completed in a timely fashion and will result in a corresponding reduction in the cost of such affordable housing to the occupants therein.

3. Moneys expended by the agency for the purposes of this article shall not substitute for locally funded operating or capital expenditures which the municipality would have allocated through its normal budgetary process to programs that provide infrastructure improvement in the absence of the funds provided for this program. All such moneys shall be used to increase locally funded operating or capital expenditures for this program to a level which is greater than the level which would have existed if such moneys had not been provided by the state. Nothing in this subdivision shall require the municipality to allocate funds for this program if in the municipality's judgment such allocation would require an increase in taxation or a reduction in other municipal services.

4. Notwithstanding the provisions of article one-A of the public authorities law, contracts entered into by the agency pursuant to this article shall not be subject to the provisions of article one-A of the public authorities law.

§ 1133. General and administrative provisions. 1. The agency shall issue and promulgate rules and regulations for the administration of this article. The rules and regulations shall include provisions concerning eligibility of applicants for grants under this article; funding criteria and funding determination process; evaluation of contracting applicants; provisions for modification and termination of contracts; and such other matters not inconsistent with the purposes and provisions of this article as the agency shall deem necessary or

appropriate.

2. Not less than seventy-five percent of the total amount appropriated for the purposes of this demonstration program shall be made available for projects located in cities, towns or villages having a population of thirty thousand or less persons; such remaining amounts shall be made available to projects located in cities, towns or villages having a population of more than thirty thousand persons.

3. The agency shall inform prospective eligible applicants of the existence of this program and to the maximum extent practicable shall provide information on this program to all applicants for housing programs designed to promote the construction or rehabilitation of affordable housing.

4. The agency shall enter into agreements to the extent feasible, with other state agencies and public corporations to carry out the provisions of this article. In entering into such agreements the agency shall consider the extent to which funds provided pursuant to this article would compliment the programs administered by such agencies or public corporations. Such agreements shall be designed to allow the funds hereunder to be used in conjunction with the programs administered by such agencies or public corporations.

5. The agency or its designee shall require submission of the names, addresses and business background of the principals involved, the nature of their fiduciary relationship and their financial relationship, past, present and future, to the project and to each other.

ARTICLE XXII

AFFORDABLE HOUSING DEVELOPMENT LOANS

Section 1150. Statement of legislative findings and purposes.

1151. Definitions.

1152. Affordable housing development loans.

1153. General provisions.

§ 1150. Statement of legislative findings and purposes. It is hereby found and declared that there exists in the city of New York a seriously inadequate supply of safe, sanitary and affordable dwelling accommodations for persons and families for whom the ordinary operations of private enterprise cannot provide such accommodations. The legislature further finds and declares that the city of New York should be permitted to assist the private sector in the development of dwelling accommodations affordable to such persons through establishment of a program to provide monies to make the construction of dwelling accommodations more affordable. It is recognized that currently the city of New York assists the development of such housing accommodations through the provisions of articles fifteen and sixteen of the general municipal law which permit such assistance on city-owned sites which are sold to private developers or non-profit groups for construction of housing. It is intended that the city of New York also be authorized to expend monies to assist housing development on sites which are not city-owned. Accordingly, the legislature enacts this article to provide such authorization and to encourage the development of additional affordable dwelling accommodations.

§ 1151. Definitions. 1. "Eligible site" shall mean any real property in the city of New York which the agency determines to be located in an area which is blighted or deteriorated or has a blighting influence on the surrounding area or is in danger of becoming a slum or blighted area because of neighborhood conditions indicating an inability or unwillingness of the private sector to invest in housing in such area.

2. "Eligible project" shall mean a project intended to construct new housing accommodations on an eligible site by new construction or substantial rehabilitation, provided that such new construction or substantial rehabilitation may include climate resiliency improvements. An eligible project shall serve the needs of persons of low income, including privately-owned one to four family dwellings, condominiums and cooperatives, and rental projects.

3. "Participation loan" and the city's "participation" in, "portion" of, or "investment" in a loan, or words of similar meaning, shall mean any loan or grant made by the agency pursuant to this article either with or without a private lender, provided, however, that provisions of this article concerning the repayment or forgiveness of, or security for, a loan shall not apply to any grant.

4. "Persons of low income" for purposes of this article shall mean those persons defined as low income pursuant to section two of this chapter.

5. "Sponsor" shall mean any not-for-profit corporation, any public benefit corporation or any individual, corporation or partnership which receives a loan pursuant to this article for the construction of an eligible project, or which receives an advance pursuant to this article to defray the pre-development costs of any eligible project. A sponsor who is not a not-for-profit corporation shall agree to limit its profit in accordance with a formula satisfactory to the agency.

6. "Loan" shall mean a mortgage loan made by a private lender in participation with the city of New York to a sponsor for the purpose of construction of an eligible project including a loan in which the portion of the loan funded by the agency is represented by a separate note and mortgage.

7. "Private lender" shall mean one or more banking organizations, foundations, labor unions, credit unions, employees' associations, veterans' organizations, colleges, universities, educational institutions, child care institutions, hospitals, medical research institutes, insurance companies, trustees or fiduciaries, trustees of pensions and retirement funds and systems, corporations, partnerships, individuals or other entities or any combinations of the foregoing, and shall include any public benefit corporations and the United States of America and any of its agencies and departments. As used in this definition, the terms "trustees" and "fiduciaries" shall include any fiduciary or fiduciaries holding funds for investment and the term "banking organizations" shall have the same meaning as in subdivision

eleven of section two of the banking law.

8. "Rental project" shall mean any project consisting of five or more dwelling units occupied as a residential rental project.

9. "Agency" shall mean the department of housing preservation and development of the city of New York or any successor thereto.

§ 1152. Affordable housing development loans. 1. (a) Notwithstanding the provisions of any general, special or local law, one or more private lenders and the city of New York, acting through the agency, shall have the power to participate and invest in making loans to sponsors for the construction of eligible projects. Such loans may be made exclusively for or may include such amounts as may be required for site acquisition or the refinancing of eligible projects. Each such participation loan shall be secured by a bond or note and single participating mortgage or by separate bonds or notes and mortgages upon the eligible project. Such bond or note and mortgage or bonds or notes or mortgages may contain such other terms and provisions not inconsistent with the provisions of this article as the agency may deem necessary or desirable, including, but not limited to, terms providing that the lien created by such note and mortgage, and, if applicable, any regulatory agreement executed by the sponsor and such agency or restrictive covenant approved by such agency, may be recorded in an equal or subordinate position, or subsequently made equal or subordinate, to the lien created by any private lender against such eligible project.

(b) Notwithstanding the provisions of any general, special or local law, and in addition to the power to make or contract to make participation loans granted by paragraph (a) of this subdivision, the city of New York, acting through the agency, shall have the power to make or contract to make loans or grants to any owner described in paragraph (a) of this subdivision without the participation of a private lender, on the same terms as permitted under such paragraph for a participation loan.

2. The agency may enter into an agreement with a private lender to

deposit its share of a loan with the private lender to be advanced by the private lender. The portion of the loan funded by the agency may be equal to or subordinate in lien to the portion of the loan funded by the private lender and may contain such terms with respect to interest rate, if any, rate of amortization of principal, if any, and time of payment of interest and principal as determined by the agency. The agency may make provision either in the mortgage or mortgages or by separate agreement for the performance by the private lender of such services as are generally performed by a banking institution which itself holds a mortgage, including, without limitation, construction loan advances, construction supervision, initiation of foreclosure proceedings, procurement of insurance, and all other matters in connection with the financing, supervision, regulation and audit of any such loan to any such eligible project.

3. If the eligible project is to consist of one to four unit dwelling accommodations or cooperative or condominium units, the agency's share of the loan may be converted after completion of construction into mortgages on such dwelling accommodations or condominium units or financing statements filed with respect to such cooperative shares, provided such units or such cooperative shares are purchased by persons of low income. Such mortgages and any blanket mortgage that the agency retains on any portion of, or on all of, the eligible project may provide that such mortgages and such blanket mortgage will automatically be reduced to zero over a period of continuous compliance by the mortgagor with a regulatory agreement or restrictive covenant with or approved by the agency and upon the satisfaction of any additional conditions specified therein. Notwithstanding such provision as contained in such mortgage, the loan shall be reduced to zero only if, prior to or simultaneously with delivery of such mortgage, the agency made a written determination that such reduction would be necessary to ensure the continued affordability or economic viability of the eligible project. Such written determination shall document the basis upon which the loan was determined to be eligible for evaporation. Such period of continuous compliance with such regulatory agreement or restrictive covenant shall not be less than fifteen years.

4. If the eligible project is to consist of one to four unit dwelling accommodations or cooperative or condominium units, the agency shall require that the dwelling units be offered only to bona fide purchasers who intend to occupy a unit as their principal place of residence; provided, however, that in the case of two to four unit dwelling accommodations the bona fide purchaser may occupy only a single unit as a principal place of residence. If the purchaser ceases to occupy the unit as a principal place of residence, the agency may provide for recapture of all or a portion of the agency's share of the loan.

5. If the eligible project is a rental project, the agency's share of the loan may be converted after completion of construction into a permanent loan with a term of forty years, provided that such period may be extended as the agency may determine is necessary to ensure the continued affordability or economic viability of the eligible project, payable in such manner as may be provided in the note and any mortgage in connection with such loan. Such note and mortgage may contain such terms and conditions as the agency may deem necessary or desirable to effectuate the purposes and provisions of this article. The sponsor or any subsequent owner or owners of such a project shall agree to rent such units only to persons of low income for such period as the agency may determine. All such units shall be subject to the emergency tenant protection act of nineteen seventy-four and the rent stabilization law of nineteen hundred sixty-nine, as amended, unless converted to a cooperative or condominium pursuant to subdivision seven of this section. Initial rentals for all rental units shall be set by the agency.

6. If the eligible project is a rental project annual profits shall be limited to an amount set by the agency for as long as the loan is outstanding. Excess profits shall be used to establish project reserves, provide capital improvements or reduce the principal amount of the agency's loan, as determined by the agency.

7. If the eligible project is a rental project, no conversion to a cooperative or condominium shall be permitted for a period of twenty years after initial occupancy, and unless (i) the agency's share of the

loan is prepaid upon such conversion, (ii) the conversion shall be done pursuant to section three hundred fifty-two-eeee of the general business law as a non-eviction plan, and (iii) apartments occupied by non-purchasing tenants continue to be subject to the rent stabilization law of nineteen hundred sixty-nine as amended, until the occurrence of a vacancy.

8. A loan made pursuant to this article shall be exempt from the mortgage recording taxes imposed by article eleven of the tax law.

9. Notwithstanding the provisions of any general, special or local law or charter, the agency shall have power, without soliciting competing bids, to contract with any sponsor or to make provision in a loan for the construction or reconstruction of any site improvements located in the public right-of-way or on the eligible site which are necessary for the development of an eligible project. Such site improvements may include, but shall not be limited to, streets, sidewalks, landscaping, parks and open space, social, recreational, communal and other non-residential facilities and the outfitting thereof, lighting fixtures, and water and sewer lines, incidental or appurtenant to the construction of such eligible projects.

10. No loan shall be made pursuant to the provisions of this article unless the agency finds that: (a) the construction of the eligible project does not directly displace current low and moderate income residents of the eligible site; (b) the eligible project leverages private and other public investment, if any, so as to reduce the amount of assistance provided pursuant to this article to the minimal amount which is necessary for construction of the eligible project; (c) the eligible project will be built by a private developer/builder who has agreed to limit its profit in accordance with a formula satisfactory to the agency; (d) the eligible project will provide assistance to an area which is blighted or deteriorated or has a blighting influence on the surrounding area, or is in danger of becoming a slum or a blighted area because of neighborhood conditions indicating an inability or unwillingness of the private sector to cause the type of construction for which a loan is to be provided; and (e) the eligible project will

make home ownership or rental housing affordable to persons who cannot presently afford the housing available based upon the ordinary unaided operation of private enterprise.

11. a. The agency may make non-interest bearing advances to sponsors to defray the pre-development costs of eligible projects in accordance with the provisions of this chapter.

b. No such advances shall be made unless the agency finds that: (i) the sponsor proposes to finance the eligible project in whole or in part by a loan granted pursuant to this article or that the project, if otherwise financed, will provide housing for persons or families of low income, and that such project is otherwise consistent with the purposes of this article; (ii) the project site is suitable, there is a need for the housing type proposed in the area to be served and the project is feasible; and (iii) it is reasonable to anticipate that financing will be obtained and the agency makes a finding to that effect.

c. No such advances may be made to a sponsor unless such sponsor enters into an agreement with the agency which provides that such sponsor shall be regulated with respect to rents, profits, dividends and disposition of its property or franchise, in accordance with the provisions of this article.

d. An advance granted pursuant to this section shall be used only to defray the pre-development costs of eligible projects. For purposes of this subdivision, the term pre-development costs shall include, but shall not be limited to: the reasonable and necessary costs for planning, site preparation, developing architectural drawings and conducting engineering and environmental studies, but shall not include acquisition of land or buildings, drainage and landscaping of vacant land, construction of new buildings or the reconstruction or rehabilitation of existing buildings.

e. Each such advance shall be repaid in full to the agency by the sponsor. Such repayment shall be made upon receipt by the sponsor or its successor in interest of the proceeds of its mortgage or construction

loan for the eligible project, unless the agency extends the period for the repayment of such advances. In no event shall the time of repayment be extended to a date later than the date of final advance of funds pursuant to such mortgage or construction loan. Notwithstanding this paragraph, the agency may reduce such advance to zero over a period of continued compliance with the agency's agreement with the sponsor pursuant to paragraph c of this subdivision if the agency has made a written determination that such reduction would be necessary to ensure the continued affordability or economic viability of the eligible project. Such written determination shall document the basis upon which the agency's non-interest bearing advance was determined eligible for evaporation.

f. If the agency, in its discretion, determines at any time that mortgage or construction financing for the eligible project may not be obtained, then all advances made to the sponsor pursuant to this subdivision shall become immediately due and payable upon the demand of the agency.

12. If the eligible project is a rental project, the bond or note and mortgage or bonds or notes or mortgages issued by the sponsor of any eligible project to secure a participation loan may provide that the city's portion of such loan shall be reduced to zero commencing on the fifteenth year after the execution of such bond or note and mortgage or bonds or notes or mortgages, provided that, as of the date of any such reduction, the eligible project has been and continues to be owned and operated in a manner consistent with a regulatory agreement with the city. Notwithstanding such provision as contained in the bond or note and mortgage or bonds or notes or mortgages, the loan shall be reduced to zero only if, prior to or simultaneously with delivery of such bond or note and mortgage or bonds or notes or mortgages, the agency made a written determination that such reduction would be necessary to ensure the continued affordability or economic viability of the eligible project. Such written determination shall document the basis upon which the loan was determined to be eligible for evaporation.

§ 1153. General provisions. 1. The agency shall issue and promulgate rules and regulations for the administration of this article.

2. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgement shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

ARTICLE XXIV

NATIONAL AFFORDABLE HOUSING ACT PROGRAM

Section 1170. Statement of legislative findings and purposes.

1171. Definitions.

1172. The New York state HOME program.

1173. Gap communities.

1174. General and administrative provisions.

§ 1170. Statement of legislative findings and purposes. The legislature hereby finds and declares that it is in the best interest of the state to authorize participation in programs created by the federal government pursuant to the national affordable housing act of 1990 and that it is the purpose of this article to coordinate activities aided under existing municipal, state and federal housing programs with other public and private actions in order to address the lack of adequate affordable housing in New York state.

§ 1171. Definitions. As used in this article: 1. "NAHA" shall mean the national affordable housing act, 42 U.S.C. 12701-12839.

2. "HOME program" shall mean subtitle A of title II of the national affordable housing act.

3. "Division" shall mean the division of housing and community

renewal.

4. "HUD" shall mean the federal department of housing and urban development.

5. "HOME regulations" shall mean HUD regulations created pursuant to the national affordable housing act of 1990 as amended.

6. "Applicant" shall mean any entity eligible to receive grants or loans under the HOME program.

7. "CHAS" shall mean the New York state comprehensive housing affordability strategy prepared in accordance with the requirements of the national affordable housing act of 1990.

8. "Participating jurisdiction" shall mean a unit of general local government designated by HUD to receive HOME funds through a formula allocation.

9. "Non-participating jurisdiction" shall mean a unit of general local government which does not receive federal funds directly under the HOME program.

10. "Eligible activities" shall have the same meaning as set forth in the HOME regulations.

§ 1172. The New York state HOME program. 1. Agreements. (a) Within the limit of HOME program funds, the division is hereby authorized to take administrative actions necessary to comply with HUD requirements and consistent with the provisions of this article in order to enter into agreements with applicants to provide grants and loans which such applicants shall use to finance projects that qualify under HOME regulations as eligible activities.

(b) The division shall not enter into an agreement under this article except with an eligible applicant which has submitted an application pursuant to a notification of fund availability and a request for

proposals issued by the division.

(c) The division and the applicant shall execute a grant or loan agreement which shall set forth the terms and conditions under which the grant or loan will be provided.

2. Notice of fund availability. The division shall issue its initial notice of fund availability and request for proposals within forty-five working days of the effective date of this article. No more than sixty percent of the HOME funds shall be available for reservation in such initial funding cycle. No later than sixteen months from the effective date of this article, the division shall issue a second request for proposals and make available those funds not committed during the initial request for proposals, including funds recaptured by or otherwise made available to the division by the federal government under the HOME program. Additional requests for proposals shall be issued at the discretion of the division but in any event no later than sixty days following the availability of additional federal funds.

3. Application procedures. (a) Documentation determining eligibility. The division shall provide each applicant with a list of documents that must be included in the application before the application can be entered into the competitive process for the awarding of grants and loans. The division shall also include with such list of documents a detailed description of the review and selection procedures criteria utilized by the division pursuant to paragraph (b) of this subdivision. Within ten working days after the last day for receipt of applications, the division shall notify applicants if and how the application is incomplete and provide ten working days to complete such application. Documentation requirements shall include but not necessarily be limited to: (1) a feasibility study and market analysis of the proposal; (2) a proposed project financing and leveraging plan; (3) a schedule, with specific dates, of the expected project commencement date, expected completion date, and if appropriate, the anticipated schedule for closing and occupancy of units; (4) a description of the applicant's qualifications and previous experience; (5) a statement by the applicant as to the status of all public approvals and clearances required to undertake the project; (6) a plan as to how applicants will ensure

compliance with all federally mandated regulations throughout the regulatory term; (7) a statement describing the amount of and source of any matching contributions required for the proposed project and an opinion of counsel that funds proposed to be used as matching contributions are legally available to be used as proposed; and (8) a statement of need and how the project will further goals delineated within the state CHAS.

(b) The review and selection procedure. Within forty-five working days of the effective date of this article, the division shall develop, consistent with federal law and regulations, a review procedure and selection criteria for evaluating applications, which shall include design, underwriting, legal and program requirements. Such procedure and selection criteria shall be provided to applicants with the application. Such selection criteria shall include but not be limited to the following factors: (1) the extent to which the proposal will serve a demonstrated need; (2) the degree to which the proposal leverages private investment or other funding sources; (3) the likelihood of successful project completion, including consideration of the submitted market analysis, the prior experience of the applicant, and the viability of the submitted completion schedule; and (4) type of assistance requested.

4. Selection for award and notification requirements. The division shall base the awarding of grants and loans subject to the availability of funds upon the competitive review and selection procedure described in paragraph (b) of subdivision three of this section. Within eighty working days following the last day for receipt of applications in response to a request for proposals, the division shall notify all applicants of its funding decisions.

(a) The division will notify, in writing, all applicants who were not selected for funding of the reasons why the proposal was not funded, including the design, underwriting, legal or program deficiencies, deficiencies of any documents and/or the basis upon which the application was determined to be ineligible for funding. Until the issuance of a subsequent notice of fund availability, applicants not selected for funding due solely to the non-availability of federal funds under the notice of fund availability shall remain eligible for

selection for funding under such notice of fund availability in the event that unused federal funds become available for reallocation.

(b) The division shall provide each applicant selected for funding with a list of conditions that must be met prior to entering into a contract pursuant to this article. Within fifteen working days of receipt by the division of all documents in satisfaction of the list, the division shall notify the applicant of the sufficiency or insufficiency of the documents. After satisfaction by the applicant of all conditions required by the division prior to entering into a contract, the division shall enter into the contract within forty-five working days of satisfaction of such conditions. Applications which are not selected for funding must be resubmitted by the applicant for consideration under subsequent notices of funding availability.

5. Distribution of funds. Eighty percent of the funds available hereunder after deducting the set asides mandated by NAHA for community housing development organizations, shall be reserved for projects located within non-participating jurisdictions, provided however, that such reservation may be less than eighty percent where, following a notice of funding availability and request for proposals, the division has made a written finding that (i) applications, except those not selected for funding pursuant to subdivision four of this section, for projects in non-participating jurisdictions will not totally utilize the remaining available reserved funds and (ii) such funds are subject to recapture by HUD pursuant to federal HOME regulations within one hundred eighty days.

6. Monitoring and review. The division shall provide for the review, at periodic intervals not less than annually, of the performance of applicants receiving grants or loans pursuant to this article. Such review shall, among other things, be for the purposes of ascertaining the conformity to agreement provisions, and adherence to federal HOME regulations. Agreements entered into pursuant to this article may be terminated and funds may be withheld or recaptured by the division upon a finding of substantial nonperformance or breach by such applicant under its agreement or for failure to adhere to federal NAHA requirements.

7. Notwithstanding any contrary provision of law, on and after June thirtieth, nineteen hundred ninety-five, the division shall not issue notices of fund availability, accept applications or enter into any new agreements pursuant to the provisions of this section.

*** § 1173. Gap communities.** Notwithstanding the provisions of section eleven hundred seventy-two of this article the division may award funds to one or more localities, whose allocations of HOME program funds from the federal government are insufficient for such to become a participating jurisdiction, as are necessary to qualify the locality as a participating jurisdiction as set forth in 92.102 of the HOME regulations. Provided, however, the provisions of this section shall expire and be deemed repealed having no further force and effect on and after September thirtieth, nineteen hundred ninety-two.

* NB Expired September 30, 1992

§ 1174. General and administrative provisions. 1. The division shall issue and promulgate rules and regulations for the administration of this article. The rules and regulations shall include provisions concerning reporting, budgeting and recordkeeping requirements; provision for modification, termination, extension and renewal of agreements; and such other matters not inconsistent with the purposes and provisions of this article as the division shall deem necessary, proper or appropriate.

2. The division may provide appropriate technical services and assistance to applicants to comply with the provisions of this article.

3. The division shall issue a report to the temporary president of the senate and the speaker of the assembly, the chairpersons of the senate and assembly housing committees and the chairpersons of the senate finance and assembly ways and means committees on or before January first, nineteen hundred ninety-three and annually thereafter with respect to funds committed, contracted or disbursed pursuant to the

national affordable housing act. This report shall include but not be limited to: a description of the programs/projects funded pursuant to this program; the amount of funds committed, contracted or disbursed during the previous federal fiscal year; the amount of such funds derived from bond proceeds; the number of new affordable units constructed or rehabilitated, including both rental and home ownership; the number of units created which were constructed or rehabilitated by combining NAHA funds with other state-assisted housing programs and an accounting of the amount of such state-assisted housing program funds expended; and any access to additional HOME funds made available through any federal fund reallocation. In addition such report shall indicate the status of the rules and regulations as required in subdivision one of this section, until such rules and regulations have been promulgated.

4. All state agencies, offices, departments, boards, divisions, commissions, public authorities and public benefit corporations may render such services to the division within their respective functions as may be requested by the division in order to administer the provisions of this article.

ARTICLE XXV

NEW YORK ACCESS TO HOME PROGRAM

Section 1200. Statement of legislative findings and purpose.

1201. Definitions.

1202. Access to home contracts.

1203. Report.

§ 1200. Statement of legislative findings and purpose. The legislature hereby finds and declares that there exists in New York state a serious need for financial and technical resources to assist renters and property owners to make dwelling units accessible for low and moderate income persons with disabilities. Providing assistance with the cost of adapting homes will enable many New Yorkers with disabilities to safely and comfortably continue to, or return to, live in their residences instead of residing in an institutional setting. The division of housing

and community renewal shall undertake an ongoing effort to promote the availability of the access to home programs to all potentially eligible local administrators to encourage participation in the program. Such actions shall include working with any other state agencies that provide services to persons with disabilities to promote the access to home programs. Such actions shall also include but are not limited to providing contact and application information on the website for the division of housing and community renewal for eligible local administrators and potentially eligible beneficiaries which shall be updated annually.

§ 1201. Definitions. As used in this article:

1. "Corporation" shall mean the housing trust fund corporation established in section forty-five-a of this chapter.

2. "Eligible applicant" shall mean a city, town, village or not-for-profit corporation in existence for a period of one or more years prior to application, which is, or will be at the time of award, incorporated under the not-for-profit corporation law and has substantial experience in adapting or retrofitting homes for persons with disabilities.

3. "Disabled veteran" shall mean a veteran who is certified by the United States department of veterans affairs or the department of defense as entitled to receive disability payments upon the certification of such department for a disability incurred by him or her in time of war.

4. "Access to home programs" or "programs" shall mean a series of activities by an eligible applicant to administer funds to provide either loans or grants to homeowners and renters and to oversee the adaptation, retrofitting or repairs of eligible properties, provided that such repairs are related to the habitability of an eligible property and such repairs are related to the adaptation or retrofitting of an eligible property.

5. "Eligible property" shall mean a housing unit that is the primary residence of a person with a physical disability and a total household income that does not exceed eighty percent of median income or a disabled veteran who has a total household income that does not exceed one hundred twenty percent of median income. A property shall not be considered an eligible property if the owner of the property is otherwise obligated by federal, state or local law to provide the improvements funded under this article.

§ 1202. Access to home contracts. 1. Within the limit of funds available in the access to home program, the corporation is hereby authorized to enter into contracts with eligible applicants to provide financial assistance for the actual costs of an access to home program. Such costs may include the costs of repairs of eligible properties, provided that such repairs are related to the adaptation or retrofitting of such eligible properties, that such repairs are related to the habitability of such eligible properties, and that the access to home funds provided to cover the cost of such repairs does not exceed sixty percent of the access to home program grant or loan. The financial assistance shall be either in the form of grants or loans, as the corporation shall determine. No more than fifty percent of the total amount awarded pursuant to this article in any fiscal year shall be allocated to access to home programs located within any single municipality.

2. The total payment pursuant to any one contract shall not exceed five hundred thousand dollars and the contract shall provide for completion of the program within a reasonable period, as specified therein, which shall not in any event exceed three years from its commencement. Upon request, the corporation may extend the term of the contract for up to two additional one year periods for good cause shown by the eligible applicant.

3. The corporation may authorize the eligible applicant to spend up to ten percent of the contract amount for approved administrative costs

associated with administering the program.

4. The corporation shall require that, in order to receive funds pursuant to this article, the eligible applicant shall submit a plan which shall include, but not be limited to, program feasibility, impact on the community, budget for expenditure of program funds, a schedule for completion of the program, affirmative action and minority business participation.

§ 1203. Report. 1. The division of housing and community renewal shall issue an annual report on the access to home programs regarding certain data and program progress for the previous year, provided that reporting on paragraphs (e), (f) and (g) of this subdivision shall relate to contracts that have concluded in the previous year, as applicable. Such report shall include, but not be limited to:

(a) the number of received applications to become local administrators;

(b) the number of applications to become local administrators selected for award and contract;

(c) the amount of funding awarded to local administrators;

(d) the geographic area to be served by local administrators;

(e) the number of beneficiaries awarded;

(f) the average award to beneficiaries; and

(g) the number of potential beneficiaries who applied for an award and were deemed ineligible for such award.

2. Such report required pursuant to subdivision one of this section shall be posted and made publicly available on the division of housing and community renewal's website in a clear and conspicuous manner.

ARTICLE XXVI

NEW YORK MAIN STREET PROGRAM

Section 1220. Statement of legislative findings and purpose.

1221. Definitions.

1222. Main street contracts.

§ 1220. Statement of legislative findings and purpose. The legislature hereby finds and declares that there exists in New York state a serious need for financial and technical resources to help communities with their efforts to preserve and revitalize main street and downtown business districts which include commercial and residential uses. The legislature therefore finds that a program should be established to provide financial assistance to stimulate reinvestment in properties located within main street, mixed-use commercial, and downtown business districts in urban, small town, and rural areas by preserving existing housing units, fostering the development of new housing units, upgrading commercial and retail areas, and by creating innovative approaches to neighborhood and community revitalization, including the improvement of cultural, civic and community facilities.

§ 1221. Definitions. As used in this article:

1. "Corporation" shall mean the housing trust fund corporation established in section forty-five-a of this chapter.

2. "Eligible applicant" shall mean a unit of local government or not-for-profit corporation in existence for a period of one or more years prior to application, which is, or will be at the time of award, incorporated under the not-for-profit corporation law and has been engaged primarily in community development activities.

3. "Eligible area" shall mean an area: (i) that has experienced sustained physical deterioration, decay, neglect, or disinvestment; (ii) has a number of substandard buildings or vacant residential or commercial units; and (iii) in which more than fifty percent of the residents are persons of low income, or which is designated by a state or federal agency to be eligible for a community or economic development program.

4. "Main street program" or "program" shall mean a proposal by an

eligible applicant for a specific work or series of works for the revitalization and improvement of an eligible area through the creation, preservation or improvement of residential housing units; local commercial facilities; public facilities or other aspects of the area environment. Not less than eighty percent of the total amount awarded pursuant to this article in any fiscal year shall be allocated to main street programs that include the creation, preservation or improvement of residential housing units as an objective.

5. "Persons of low income" shall mean those persons and families whose incomes do not exceed ninety percent of the area median income for the county in which a project is located as calculated by the United States department of housing and urban development.

§ 1222. Main street contracts. 1. Within the limit of funds available in the main street program, the corporation is hereby authorized to enter into contracts with eligible applicants to provide financial assistance for the actual costs of a main street program. The financial assistance shall be either in the form of payments, grants or loans, as the corporation shall determine. No more than fifty percent of the total amount awarded pursuant to this article in any fiscal year shall be allocated to main street programs located within any single municipality.

2. The total payment pursuant to any one contract shall not exceed five hundred thousand dollars and the contract shall provide for completion of the program within a reasonable period, as specified therein which shall not in any event exceed two years from its commencement. Upon request, the corporation may extend the term of the contract for up to an additional two year period for good cause shown by the eligible applicant.

3. The corporation may authorize the eligible applicant to spend up to seven and one-half percent of the contract amount for approved planning and administrative costs of carrying out a program.

4. The corporation shall provide technical assistance and training to eligible applicants to help communities with their efforts to preserve and revitalize main street and downtown business districts consistent with the legislative findings and purpose of this article.

5. The corporation shall require that, in order to receive funds pursuant to this article, the eligible applicant must submit a plan which shall include but not be limited to program feasibility, leveraging of other resources, impact on the community, affirmative action and minority business participation.

6. If the eligible applicant is a not-for-profit corporation, its officers, directors and members must be representative of the residents and other legitimate interests of the community.

7. The owner of a property improved with funds made available under this article must agree for a minimum of five years to: maintain the property in good operating order and condition; to make available and maintain the affordability of residential housing units to persons of low income; and to obtain the consent of the corporation prior to making alterations to the property or changing its use.

ARTICLE XXVII

RURAL AND URBAN COMMUNITY INVESTMENT FUND PROGRAM

Section 1230. Statement of legislative findings and purpose.

1231. Definitions.

1232. Rural and urban community investment fund.

§ 1230. Statement of legislative findings and purpose. The legislature finds and declares that there exists in New York state a serious need to assist communities with the creation and improvement of affordable housing, and the commercial, retail and community facilities related to mixed use affordable residential developments. Locally based not-for-profit organizations play a significant role in addressing the unique characteristics of rural and urban communities. Partnerships,

alliances and collaborations with corporate entities, to the extent practicable, will foster cross-sector collaboration in order to build a diverse community support system. The legislature finds that, in both rural and urban areas of the state, a program should be established to fund the creation, preservation and/or improvement of affordable housing; or the creation, preservation or improvement of the commercial, retail or community facilities component of mixed use affordable residential developments.

§ 1231. Definitions. 1. "Corporation" shall mean the housing trust fund corporation established in section forty-five-a of this chapter.

2. "Rural and urban community investment fund program" shall mean activities by an eligible applicant for a specific work or series of works for the creation, preservation or improvement of affordable housing, or the creation, preservation or improvement of the commercial, retail or community facilities component of mixed use affordable residential developments, in rural and urban areas of the state.

3. "Rural area of the state" shall mean cities, towns and villages having a population of less than twenty-five thousand as determined by the last federal decennial census.

4. "Urban area of the state" shall mean any unit of local government within the state with a population of more than or equal to twenty-five thousand persons as determined by the last federal decennial census.

5. "Eligible applicant" shall include a not-for-profit corporation or charitable organization, or a wholly-owned subsidiary of such a corporation or organization, or a private for-profit developer such as a person, corporation, partnership or limited liability company.

6. "Affordable residential development" shall include residential units that are rent restricted and occupied by persons and families whose income does not exceed ninety percent of area median income for the county in which a project is located as calculated by the United States department of housing and urban development.

§ 1232. Rural and urban community investment fund. 1. Within amounts appropriated or otherwise available therefor, the housing trust fund corporation shall develop and administer a rural and urban community investment fund program which shall provide assistance in the form of payments, grants and loans for reasonable and necessary expenses, to an eligible applicant for the creation, preservation or improvement of affordable housing; or the creation, preservation or improvement of the commercial, retail or community facilities component of mixed use affordable residential developments, in rural and urban areas of the state.

2. Program criteria. The corporation shall develop procedures, criteria and requirements related to the application and award of projects pursuant to this section which shall include: eligibility, market demand, feasibility and funding criteria; the funding determination process; supervision and evaluation of contracting applicants; reporting, budgeting and record-keeping requirements; provisions for modification and termination of contracts; and such other matters not inconsistent with the purposes and provisions of this article as the corporation shall deem necessary or appropriate.

3. Fund allocation. Sixty percent of the total funds awarded pursuant to this article in any fiscal year shall be allocated to projects located in urban areas of the state. Forty percent of the total funds awarded pursuant to this article in any fiscal year shall be allocated to projects located in rural areas of the state.

4. Funding criteria. A one-third match requirement shall be required of any eligible applicant, which may include donated property, materials or labor and other resources, and may be reduced or eliminated for projects located within a declared disaster area.

5. Funding and annual report. The corporation in its sole discretion shall authorize all funding decisions and make all award announcements. The corporation shall, on or before December thirty-first in each year

submit a report to the legislature on the implementation of this article. Such report shall include, but not be limited to, for each award made to a grantee under this article: a description of such award; contract amount and cumulative total; the specific activities in rural and urban areas performed by such grantee; the amounts of match monies received by the grantee from sources other than payments made pursuant to this article; and such other information as the corporation deems pertinent.

ARTICLE XXIX

RESIDENTIAL EMERGENCY SERVICES TO OFFER HOME REPAIRS TO THE ELDERLY PROGRAM

Section 1260. Statement of legislative findings.

1261. Definitions.

1262. Residential emergency services to offer home repairs to the elderly contracts.

§ 1260. Statement of legislative findings. The legislature hereby finds and declares that there exists in New York state a need for financial resources to assist senior citizen homeowners with the cost of addressing emergencies and code violations that pose a threat to their health and safety, or affecting the livability of their home. Providing assistance for the cost of making such critical repairs will enable many seniors to continue to live independently in their own homes.

§ 1261. Definitions. As used in this article:

1. "Corporation" shall mean the housing trust fund corporation established in section forty-five-a of this chapter.

2. "Eligible applicant" shall mean a unit of local government or not-for-profit corporation in existence for a period of one or more years prior to application, which is, or will be at the time of award, incorporated under the not-for-profit corporation law and has been

engaged primarily in housing and community development activities.

3. "Residential emergency services to offer home repairs to the elderly programs" shall mean a series of activities by an eligible applicant to administer funds to provide either loans or grants to homeowners sixty years of age or older, with a household income of less than one hundred percent of the area median income, to oversee the adaptation or retrofitting of eligible properties.

4. "Eligible property" shall mean a housing unit that is the primary residence of a person that is sixty years of age or older and have a household income that does not exceed one hundred percent of the area median income.

§ 1262. Residential emergency services to offer home repairs to the elderly contracts. 1. Within the limit of funds available in the residential emergency services to offer home repairs to the elderly program, the corporation is hereby authorized to enter into contracts with eligible applicants to provide financial assistance for the actual costs of a residential emergency services to offer home repairs to the elderly program. The financial assistance shall be either in the form of grants or loans, as the corporation shall determine. Funds must be used for one- to four-unit dwellings that are owned and occupied by eligible households, and work undertaken cannot exceed twenty thousand dollars per building. No more than fifty percent of the total amount awarded pursuant to this article in any fiscal year shall be allocated to any residential emergency services to offer home repairs to the elderly program located within any single municipality.

2. From the date of the emergency referral, all repairs must be completed within sixty business days of the start of the repairs provided, however, that the commissioner shall grant the eligible applicant additional time for good cause.

3. The total payment pursuant to any one contract shall not exceed five hundred thousand dollars and the contract shall provide for

completion of the program within a reasonable period, as specified therein, which shall not in any event exceed three years from its commencement. Upon request, the corporation may extend the term of the contract for up to two additional one year periods for good cause shown by the eligible applicant.

4. The corporation shall authorize the eligible applicant to spend ten percent of the contract amount for approved planning and administrative costs associated with administering the program.

ARTICLE XXX

NEW YORK ACCESS TO HOME FOR HEROES PROGRAM

Section 1270. Statement of legislative findings and purpose.

1271. Definitions.

1272. Access to home for heroes contracts.

§ 1270. Statement of legislative findings and purpose. The legislature hereby finds and declares that many disabled veterans in New York state face a significant impediment to accessible and affordable housing as a result of service related injuries, age or health related disabilities. These men and women have served our country and state with honor and distinction and deserve to achieve maximum independence, social interaction and community integration. Providing financial assistance with the cost of adapting the dwelling units of our disabled veterans, is fundamental to providing for the promise of living safely, comfortably and productively in the most integrated setting of their choice.

§ 1271. Definitions. As used in this article:

1. "Corporation" shall mean the housing trust fund corporation established in section forty-five-a of this chapter.

2. "Eligible applicant" shall mean a city, town, village or

not-for-profit corporation in existence for a period of one or more years prior to application, which is, or will be at the time of award, incorporated under the not-for-profit corporation law and has substantial experience in adapting or retrofitting homes for persons with disabilities.

3. "Veteran" shall mean a veteran as defined in section one of the veterans' services law, or is a discharged LGBT veteran, as defined in section one of the veterans' services law, who is a resident of the state and has received a discharge other than bad conduct or dishonorable from such service.

4. "Disabled veteran" shall mean a veteran with, including but not limited to, a permanent physical or medical impairment resulting from an anatomical or physiological condition which prevents the exercise of a normal bodily function, substantially limits a major life activity or which is demonstrable by medically accepted clinical or laboratory diagnostic techniques. A professional evaluation must be provided which identifies the disability, describes the substantial limitation caused by the disability, and recommends potential structural modifications to improve the activities of daily living within and/or access to such residence in consideration of such disability.

5. "Access to home for heroes programs" or "programs" shall mean a series of activities by an eligible applicant to administer funds to provide grants to homeowners and renters and to oversee the adaptation, retrofitting or repairs of eligible properties, provided that such repairs are related to the habitability of an eligible property and such repairs are related to the adaptation or retrofitting of an eligible property.

6. "Eligible property" shall mean a housing unit that is the primary residence of a disabled veteran and a total household income that does not exceed one hundred and twenty percent of area median income. A property shall not be considered an eligible property if the owner of the property is otherwise obligated by federal, state or local law to provide the improvements funded under this article.

§ 1272. Access to home for heroes contracts. 1. Within the limit of funds available in the access to home for heroes program, the corporation is hereby authorized to enter into contracts with eligible applicants to provide financial assistance for the actual costs of an access to home for heroes program. Such costs may include the costs of repairs of eligible properties, provided that such repairs are related to the adaptation or retrofitting of such eligible properties, that such repairs are related to the habitability of such eligible properties, and that the access to home for heroes funds provided to cover the cost of such repairs does not exceed sixty percent of the access to home for heroes program grant or loan. The financial assistance shall be in the form of grants. No more than fifty percent of the total amount awarded pursuant to this article in any fiscal year shall be allocated to access to home programs located within any single municipality.

2. The total payment pursuant to any one contract shall not exceed five hundred thousand dollars and the contract shall provide for completion of the program within a reasonable period, as specified therein, which shall not in any event exceed three years from its commencement. Upon request, the corporation may extend the term of the contract for up to two additional one year periods for good cause shown by the eligible applicant.

3. The corporation shall authorize the eligible applicant to spend ten percent of the contract amount for approved administrative costs associated with administering the program.

4. The corporation shall require that, in order to receive funds pursuant to this article, the eligible applicant shall submit a plan which shall include, but not be limited to, program feasibility, impact on the community, budget for expenditure of program funds, a schedule for completion of the program, affirmative action and minority business participation.

ARTICLE XXXI

HOUSING OUR NEIGHBORS WITH DIGNITY PROGRAM

Section 1280. Legislative findings and purpose.

1281. Definitions.

1282. Housing our neighbors with dignity program.

§ 1280. Legislative findings and purpose. The state of New York, through the housing trust fund corporation, is empowered to finance the purchase, acquisition, holding or conversion of distressed hotels and commercial office properties for use as affordable permanent housing that meets standards established to ensure safety, habitability, quality, and access to supportive services as appropriate, to be made available to low-income households and people experiencing homelessness immediately prior to entering such housing. These properties shall be owned, operated and managed by appropriate nonprofit organizations through the use of government agency funding, pursuant to such appropriation to support the creation of an adaptive reuse affordable housing program, to acquire and/or convert the property.

The acquired properties shall be converted into permanently affordable housing modeled as financially and operationally deemed necessary by the state or appropriate nonprofit organization for the purposes of creating supportive or permanently affordable housing units; provided that the housing shall remain affordable as defined by the term affordable housing included in this article.

§ 1281. Definitions. For the purposes of this article, the following terms shall have the following meanings:

1. "Corporation" shall mean the housing trust fund corporation established pursuant to section forty-five-a of this chapter.

2. "Appropriate nonprofit organization" shall mean a not-for-profit corporation formed pursuant to the not-for-profit corporation law and exempt pursuant to section 501(c)(3) or 502(c)(4) of the Internal

Revenue Code of 1984 as amended and that:

(a) Has as one of such organization's primary purposes:

(i) The provision of housing that is affordable to low-income families; or

(ii) The provision of services or housing for individuals or families experiencing homelessness; or

(b) Is otherwise considered by the state as a suitable housing management organization, by a vetting process developed by the corporation.

3. "Affordable housing" shall mean permanent housing that is affordable to low and moderate-income households, such that the new housing achieves income averaging at or below sixty percent of the area median income, with residents' eligibility capped at a maximum of eighty percent of the area median income at the start of their lease. Applicants shall not be rejected from eligibility based on credit histories or credit scores.

4. "Building service employee" shall mean any person who is regularly employed at, and performs work in connection with the care or maintenance of, a converted property in a city with a population of one million or more, including but not limited to, a watchman, guard, doorman, building cleaner, porter, handyman, janitor, gardener, groundskeeper, elevator operator and starter, or window cleaner.

5. "Distressed" shall mean an available asset that is financially distressed as determined by the corporation.

6. "Exempt supportive housing" shall mean converted property for which a nonprofit organization has:

(a) entered into a regulatory agreement with a federal, state, or local government entity in a city with a population of one million or more that requires:

(i) at least fifty percent of the residential units in such converted property be reserved for homeless, disabled individuals or homeless families with a disabled head-of-household; and

(ii) the provision of on-site supportive services to the residents of

at least fifty percent of the residential units; and

(b) the remaining fifty percent of the residential units in such converted property rented to households earning, on average, up to eighty percent of the area median income, adjusted for household size.

7. "Experiencing homelessness" shall refer to those individuals residing in shelters, transitional housing, public spaces, and other types of emergency housing.

8. "Fiscal officer" shall mean the comptroller of the city of New York or other analogous officer of such city.

9. "Prevailing wage" shall mean the rate of wages and supplemental benefits paid in the locality to workers in the same trade or occupation and annually determined by the fiscal officer in accordance with the provisions of section two hundred thirty-four of the labor law.

10. "Rent stabilized" shall mean collectively, the rent stabilization law of nineteen hundred sixty-nine, the rent stabilization code, and the emergency tenant protection act of nineteen seventy-four, all as in effect as of the effective date of the chapter of the laws of two thousand twenty-one that added this subdivision or as amended thereafter, together with any successor statutes or regulations addressing substantially the same subject matter.

11. "Small converted property" shall mean a converted property project (a) to improve no more than one hundred nineteen residential units in one or more buildings; and (b) which has received financial assistance pursuant to this article.

§ 1282. Housing our neighbors with dignity program. 1. Establishment. Subject to amounts available by appropriation therefor, the corporation shall develop a housing our neighbors with dignity program (hereinafter referred to as "the program"), which shall provide a mechanism for the state to finance the acquisition and/or conversion of distressed hotels and commercial office properties by appropriate nonprofit organizations

for the purpose of maintaining or increasing affordable housing. All affordable housing properties produced through this program shall remain permanently affordable, and all converted properties in a city with a population of one million or more, with the exception of small converted properties and exempt supportive housing, shall be required to pay building service employees the applicable prevailing wage pursuant to subdivision one-a of this section. Permanent affordability restrictions shall require a regulatory agreement with the corporation or local housing agency or other affordability restrictions in recorded documents not specifically listed in this subdivision, provided the corporation or local housing agency determines that such restrictions are enforceable and likely to be enforced. Such enforcement measures shall include but not be limited to the ability to cancel or transfer the regulatory agreement or property to another entity for violating the terms of such regulatory agreement, such as failure to meet the minimum obligations set forth in this article when such failure is not cured.

1-a. In a city with a population of one million or more, all building service employees employed by an appropriate nonprofit organization at a converted property or otherwise employed at a converted property that is not a small converted property or exempt supportive housing shall receive at least the applicable prevailing wage in such city for craft, trade, or occupation of such building service employee. The fiscal officer shall have the power to enforce such provisions in the same manner as provided under subparagraph (iii) of paragraph (g) of subdivision seventeen of section four hundred twenty-one-a of the real property tax law. In addition, the fiscal officer shall have the power to conduct an investigation and hearing and file a determination as to the payment of wages owed by a lessee, owner, successor, or any employer of building service employees, as provided under subdivisions one, four, five, six, eight and nine of section two hundred thirty-five of the labor law.

2. Purpose. The program shall seek to:

(a) Finance the acquisition of distressed hotels and commercial office properties by appropriate nonprofit organizations for the purpose of stabilizing communities and the housing market;

(b) Finance the conversion and rehabilitation of the physical condition of acquired property by appropriate nonprofit organizations in order to improve the condition of such property for future occupants, such as habitability and environmental sustainability; and

(c) Provide an appropriate, expedient and efficient manner for owners of such distressed properties to transfer ownership to an appropriate nonprofit organization so as to promote the state's interest in the conversion of such properties to new supportive and affordable permanent housing units.

3. Powers. The state may finance the purchase, acquisition, conversion and/or holding by appropriate nonprofit organizations of distressed hotel or commercial office properties in any part of the state for the purpose of maintaining or increasing the stock of affordable, stable, quality housing; provided that in the case of a property at which any hotel workers are represented by a collective bargaining representative, prior to the proposed acquisition, the collective bargaining representative shall be notified in writing of the proposed acquisition, and the property owner shall certify prior to the state initiating such acquisition through financing that the collective bargaining representative has mutually agreed in a separate writing with the property owner to take the specific acquisition described in the written notice.

4. Converted properties. All properties converted to affordable housing pursuant to this section shall meet the minimum standards of habitability, safety and quality of life for all established housing. Additional operating expenses shall be met through any combination of subsidies, vouchers, commercial rents, or other sources of income available to the housing provider under the model the non-profit chooses to pursue. All units shall be rent stabilized as defined in this article in localities that have adopted or opted in to the rent stabilization law. At least fifty percent of all converted units shall be set aside for individuals and families who were experiencing homelessness immediately prior to entering such converted affordable housing. Each unit must contain, at a minimum, a living/sleeping space, private bathroom with bath or shower, and either a full kitchen or a kitchenette

with at least a 7-cubic feet capacity refrigerator, sink, cooktop, microwave oven and outlets for countertop appliances.

5. Restrictions. The state shall not, in any case, facilitate the sale or transfer of property unless the state has entered into an agreement with the appropriate nonprofit organization to ensure that any actions necessary to bring the property into compliance with applicable building, safety, health and habitability codes and requirements will be taken before such property is occupied.

6. Tenant protections. Tenants residing in properties converted to affordable housing pursuant to this section shall have full tenancy rights, including all the tenant protections pursuant to rent stabilization as defined in this article in localities that have adopted or opted in to the rent stabilization laws. Tenancy in such affordable housing shall not be restricted on the basis of sexual identity or orientation, gender identity or expression, conviction or arrest record, credit history, credit score, or immigration status.

ARTICLE 32

NEW YORK HOUSING FOR THE FUTURE HOMEOWNERSHIP AND RENTAL HOUSING PROGRAMS

Section 1290. New York housing for the future homeownership program.

1291. New York housing for the future rental housing program.

§ 1290. New York housing for the future homeownership program. 1. Program establishment. Within amounts appropriated or otherwise available therefor, the division of housing and community renewal, the housing trust fund corporation, or the housing finance agency shall develop and administer a program which shall provide assistance in the form of payments, grants and loans for the formation of limited equity cooperative housing utilizing funding appropriated for such a purpose as well as any other funding source or sources which the commissioner may determine is suitable to support such a program. Such program may utilize any appropriate site, including, but not limited to, state owned

sites, municipally owned sites, or sites owned by a not-for-profit corporation or community land trust for the purpose of providing housing pursuant to this section. Real property may be acquired by a municipality for the purpose of such program as authorized pursuant to section five hundred seventy-six-a of this chapter, provided, however, that any acquisitions or transfers undertaken to further the goals of this article pursuant to such section shall not be required to be transferred to a housing development fund company incorporated and organized pursuant to section five hundred seventy-three of this chapter. Such program shall provide (a) housing for households with an income up to one hundred and thirty percent of area median income at the time of purchase, provided further that households that are initially eligible for the program at the time of purchase but realize income gains subsequent to purchase may be required to pay a surcharge as determined by the division of housing and community renewal or other supervising agency, as the case may be, (b) a process in which households shall have the ability to accrue equity over time, and (c) that housing units created pursuant to this section remain affordable in perpetuity. The commissioner may also assist prospective homebuyers to identify funding sources that provide low interest loans to prospective homebuyers.

2. Additional responsibilities. The division of housing and community renewal, the housing trust fund corporation, or the housing finance agency shall have the power to issue regulations, plans, guidance documents, or set terms in regulatory agreements to implement such program and the process for:

(a) homebuyers obtaining a new unit which shall include both confirming income qualifications as well as a restriction on the maximum amount of assets any qualified homebuyer may have;

(b) selling shares in the cooperative in such a way as the affordability of the cooperative is maintained while allowing households to gain equity over time;

(c) prohibiting the use of a fixed percentage appreciation cap for the purposes of determining an allowable sales price for shares in the cooperative;

(d) selecting new households eligible to purchase housing which has

been vacated by a previous owner; and

(e) the creation of boards of directors for such limited profit housing companies established by this chapter, provided however that such boards shall have the powers and be subject to the limitations contained in the not-for-profit corporation law in the same manner and subject to the same exceptions as set forth in section thirteen-a of the this chapter.

3. Management. All such housing projects shall be managed independently of the residents of the project by a corporation or not-for-profit corporation determined qualified by the division of housing and community renewal or other supervising agency, as the case may be, provided further that the board of the limited equity cooperative housing corporation shall have oversight over such qualified corporation or not-for-profit corporation in accordance with standards or guidelines set by the division of housing and community renewal or other supervising agency, as the case may be. Any regulatory agreement that is executed for such program shall include a requirement that resident maintenance fees increase by a minimum percentage annually to ensure that such housing continues to be in good repair.

4. Tax exemptions. Housing for such program shall be eligible for tax exemptions in the same manner as projects under article eleven of this chapter.

5. Wage requirements. Notwithstanding any law, rule, or regulation to the contrary, any project constructed pursuant to this section shall be subject to prevailing wage requirements in accordance with sections two hundred twenty and two hundred twenty-b of the labor law; provided, however, such requirements shall not apply to construction work performed under a pre-hire collective bargaining agreement between an owner or developer and a bona fide building and construction trade labor organization which has established itself and/or its affiliates as the collective bargaining representative for all persons who will perform work on such a project, and which provides that only contractors and subcontractors who sign a pre-negotiated agreement with the labor organization can perform work on such a project.

§ 1291. New York housing for the future rental housing program. 1.

Program establishment. Within amounts appropriated or otherwise available therefor, the division of housing and community renewal, the housing trust fund corporation, or the housing finance agency shall develop and administer a program which shall provide assistance in the form of payments, grants and loans for the formation of income-limited rental housing utilizing funding appropriated for such a purpose as well as any other funding source or sources which the commissioner may determine is suitable to support such a program. Such program may utilize any appropriate site, including, but not limited to, state owned sites, municipally owned sites, or sites owned by a not-for-profit corporation or community land trust for the purpose of providing housing pursuant to this section. Real property may be acquired by a municipality for the purpose of such program as authorized pursuant to section five hundred seventy-six-a of this chapter, provided, however, that any acquisitions or transfers undertaken to further the goals of this article pursuant to such section shall not be required to be transferred to a housing development fund company incorporated and organized pursuant to section five hundred seventy-three of this chapter. Such program shall provide (a) housing for households with an income up to one hundred and thirty percent of area median income at the time such household initially occupies a unit, provided further that households that are initially eligible for the program at the time such household initially occupies a unit but realize income gains subsequent to occupying such unit may be required to pay a surcharge as determined by the division of housing and community renewal or other supervising agency, as the case may be, and (b) that housing units created pursuant to this section remain affordable in perpetuity.

2. Additional responsibilities. The division of housing and community renewal, the housing trust fund corporation, or the housing finance agency shall have the power to issue regulations, plans, guidance documents, or set terms in regulatory agreements to implement such program and the process for: (a) renters leasing a unit which shall include both confirming income qualifications as well as a restriction

on the maximum amount of assets any qualified renter may have; (b) selecting new households eligible to rent housing which has been vacated by a previous renter; and (c) the creation of boards of directors for such income-limited rental housing companies established by this chapter, provided however that such boards shall have the powers and be subject to the limitations contained in the not-for-profit corporation law in the same manner and subject to the same exceptions as set forth in section thirteen-a of this chapter.

3. Management. All such income-limited rental housing projects shall be managed independently of the residents of the project by a corporation or not-for-profit corporation determined qualified by the division of housing and community renewal or other supervising agency, as the case may be, in accordance with standards or guidelines set by the division of housing and community renewal or other supervising agency, as the case may be. Any regulatory agreement that is executed for such program shall include a requirement that resident rent increases by a minimum percentage annually to ensure that such housing continues to be in good repair.

4. Tax exemptions. Housing for such program shall be eligible for tax exemptions in the same manner as projects under article eleven of this chapter.

5. Wage requirements. Notwithstanding any law, rule, or regulation to the contrary, any project constructed pursuant to this section shall be subject to prevailing wage requirements in accordance with sections two hundred twenty and two hundred twenty-b of the labor law; provided, however, such requirements shall not apply to construction work performed under a pre-hire collective bargaining agreement between an owner or developer and a bona fide building and construction trade labor organization which has established itself and/or its affiliates as the collective bargaining representative for all persons who will perform work on such a project, and which provides that only contractors and subcontractors who sign a pre-negotiated agreement with the labor organization can perform work on such a project.

