

No. 1986-189

AN ACT

HB 1776

Amending the act of December 3, 1959 (P.L.1688, No.621), entitled, as amended, "An act to promote the health, safety and welfare of the people of the Commonwealth by broadening the market for housing for persons and families of low and moderate income and alleviating shortages thereof, and by assisting in the provision of housing for elderly persons through the creation of the Pennsylvania Housing Finance Agency as a public corporation and government instrumentality; providing for the organization, membership and administration of the agency, prescribing its general powers and duties and the manner in which its funds are kept and audited, empowering the agency to make housing loans to qualified mortgagors upon the security of insured and uninsured mortgages, defining qualified mortgagors and providing for priorities among tenants in certain instances, prescribing interest rates and other terms of housing loans, permitting the agency to acquire real or personal property, permitting the agency to make agreements with financial institutions and Federal agencies, providing for the purchase by persons of low and moderate income of housing units, and approving the sale of housing units, permitting the agency to sell housing loans, providing for the promulgation of regulations and forms by the agency, prescribing penalties for furnishing false information, empowering the agency to borrow money upon its own credit by the issuance and sale of bonds and notes and by giving security therefor, permitting the refunding, redemption and purchase of such obligations by the agency, prescribing remedies of holders of such bonds and notes, exempting bonds and notes of the agency, the income therefrom, and the income and revenues of the agency from taxation, except transfer, death and gift taxes; making such bonds and notes legal investments for certain purposes; and indicating how the act shall become effective," reestablishing and continuing the Pennsylvania Housing Finance Agency; further providing for agency membership and terms; providing for removal from the agency for nonattendance at meetings; further providing for mortgagors' profits; continuing the Homeowner's Emergency Assistance program; and making a conforming amendment.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 202 of the act of December 3, 1959 (P.L.1688, No.621), known as the Housing Finance Agency Law, amended April 7, 1976 (P.L.73, No.33), is amended to read:

Section 202. Agency Membership.—The members of the agency shall be the Secretary of Community Affairs, the State Treasurer, the Secretary of Commerce and the Secretary of Banking, and the respective successors in office of each of them and six additional members whom the Governor shall appoint. *One of the members of the agency appointed by the Governor with the advice and consent of the Senate shall be a representative of a community-based nonprofit group which assists low-income and moderate-income individuals in housing matters.* [The Secretary of Community Affairs shall] *Annually at the first meeting held during the calendar year, the members shall elect one of the members to serve as chairperson.* The members initially appointed shall serve for terms of one, two, three, four, five and six years,

respectively, the particular term of each to be designated by the Governor at the time of appointment. The terms of all their successors shall be six years each, except that any person appointed to fill a vacancy shall serve only for the unexpired term. Every member's term shall extend until his successor is appointed and qualified. Any appointment of a member of the agency made hereafter shall be subject to the advice and consent of **[two-thirds] a majority** of all the members of the Senate. Any appointed member of the agency shall be eligible for reappointment. The members of the agency shall not receive compensation for their services as members, but shall receive reimbursement for all necessary expenses incurred in connection with the performance of their duties as members. *A member who fails to attend meetings for three consecutive months shall forfeit his seat unless the chairperson of the agency, upon written request from the member, finds that the member should be excused from a meeting because of illness or the death of an immediate family member.*

Section 2. The act is amended by adding a section to read:

Section 208. Housing Studies.—The agency shall conduct a periodic study of housing needs in the Commonwealth, with particular emphasis on the needs of low-income and moderate-income individuals. Such a study shall be conducted at least every four years.

Section 3. Section 402-A(c) of the act, added December 5, 1972 (P.L.1259, No.282), is amended to read:

Section 402-A. Mortgage Loans.—* * *

[(c) Limited Profit. A mortgagor may not make distributions in any one year, with respect to a project financed by the agency, in excess of eight per cent of the mortgagor's equity in such project, except that the right to such distribution shall be cumulative. The mortgagor's equity in a project shall consist of the difference between the mortgage loan and the total project cost. A loan may be in an amount not to exceed one hundred per cent of the project cost as approved by the agency in the case of a non-profit mortgagor and in an amount not to exceed ninety per cent of the project cost as approved by the agency in all other cases. With respect to every project, the agency shall, pursuant to regulations adopted by it, establish the mortgagor's equity at the time of the making of the final mortgage advance and for purposes of this paragraph, that figure shall remain constant during the life of the agency's mortgage on such project. In the case of a nonprofit mortgagor receiving a mortgage loan in the amount of one hundred per cent of the total project cost, no distributions shall be permitted.]

(c) Limited Profit. The loan shall be subject to an agreement between the agency and the mortgagor limiting the mortgagor and its principals or stockholders to such rate of return on its investment in the housing project to be assisted with a loan from the agency as shall be fixed from time to time by the agency in its regulations, which shall take into account the prevailing rates of return available for similar investments and the risks associated with the development of the project, together with factors designed to promote the objectives of providing affordable housing throughout the Commonwealth, maintaining and improving the existing housing stock and other objectives of

this act. A loan may be in an amount not to exceed one hundred per cent of the project cost as approved by the agency in the case of a nonprofit mortgagor and in an amount not to exceed ninety per cent of the project costs as approved by the agency in all other cases.

* * *

Section 4. The act is amended by adding a section to read:

Section 411-C. Expiration.—This article, other than the provisions contained in sections 405-C(g) and 406-C shall expire December 23, 1989, except that mortgage assistance shall continue to be made available to mortgagors who were deemed eligible for mortgage assistance prior to the expiration of this article in accordance with the terms of this article.

Section 5. This act, with respect to the Pennsylvania Housing Finance Agency, shall constitute the legislation required to reestablish an agency under the act of December 22, 1981 (P.L.508, No.142), known as the Sunset Act.

Section 6. (a) Section 4 of the act of December 23, 1983 (P.L.385, No.91), entitled "An act amending the act of December 3, 1959 (P.L.1688, No.621), entitled, as amended, 'An act to promote the health, safety and welfare of the people of the Commonwealth by broadening the market for housing for persons and families of low and moderate income and alleviating shortages thereof, and by assisting in the provision of housing for elderly persons through the creation of the Pennsylvania Housing Finance Agency as a public corporation and government instrumentality; providing for the organization, membership and administration of the agency, prescribing its general powers and duties and the manner in which its funds are kept and audited, empowering the agency to make housing loans to qualified mortgagors upon the security of insured and uninsured mortgages, defining qualified mortgagors and providing for priorities among tenants in certain instances, prescribing interest rates and other terms of housing loans, permitting the agency to acquire real or personal property, permitting the agency to make agreements with financial institutions and Federal agencies, providing for the purchase by persons of low and moderate income of housing units, and approving the sale of housing units, permitting the agency to sell housing loans, providing for the promulgation of regulations and forms by the agency, prescribing penalties for furnishing false information, empowering the agency to borrow money upon its own credit by the issuance and sale of bonds and notes and by giving security therefor, permitting the refunding, redemption and purchase of such obligations by the agency, prescribing remedies of holders of such bonds and notes, exempting bonds and notes of the agency, the income therefrom, and the income and revenues of the agency from taxation, except transfer, death and gift taxes; making such bonds and notes legal investments for certain purposes; and indicating how the act shall become effective,' providing for homeowner's emergency assistance," is repealed.

(b) All other acts and parts of acts are repealed insofar as they are inconsistent with this act.

Section 7. The presently confirmed members of the existing Pennsylvania Housing Finance Agency as of December 31, 1986, shall continue to serve as agency members until successors are appointed and qualified.

Section 8. Each rule and regulation of the agency in effect on December 31, 1986, shall remain in effect after such date until repealed or amended by the agency.

Section 9. (a) Sections 4 and 6 of this act shall take effect immediately.

(b) The remainder of this act shall take effect January 1, 1987.

APPROVED—The 16th day of December, A. D. 1986.

DICK THORNBURGH