

No. 282

AN ACT

SB 1407

Amending the act of December 3, 1959 (P.L.1688), entitled "An act to promote the health, safety and welfare of the people of the Commonwealth by broadening the market for low-priced private homes and alleviating shortages thereof, and by assisting in the provision of housing for elderly persons through the creation of the Pennsylvania Housing 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 eligible mortgagors upon the security of insured mortgages, defining eligible mortgagors and providing for priorities among them in certain instances, prescribing interest rates and other terms of housing loans, permitting the agency to make agreements with financial institutions and Federal agencies, 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," extending the act to rental housing and to persons of low and moderate income; changing the name of the act and the name and membership of the administering agency; further providing for the powers and duties of the agency; and providing penalties.

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

Section 1. The title and sections 101, 102, 103, 201 and 202, act of December 3, 1959 (P.L.1688), known as the "Housing Agency Law," clause (7) of section 102 amended July 31, 1968 (P.L.914), are amended to read:

AN ACT

To promote the health, safety and welfare of the people of the Commonwealth by broadening the market for **[low-priced private homes] 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 **[eligible] qualified** mortgagors upon the security of insured **and uninsured** mortgages, defining **[eligible] qualified** mortgagors and providing for priorities among **[them]**

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.

Section 101. Short Title.—This act shall be known and may be cited as the “Housing *Finance* Agency Law.”

Section 102. Findings and Declaration of Policy.—It is hereby determined and declared as a matter of legislative finding that—

(1) The welfare of the Commonwealth is threatened by the fact that throughout Pennsylvania the supply of [low-priced] private homes *and rental units for persons and families of low and moderate income* is inadequate to meet the need for such housing created by an expanding population, the wearing out of older dwellings and the elimination of substandard dwellings by governmental action, and by a shortage of suitable dwellings for elderly persons.

(2) Because of higher construction costs, a scarcity of financing available for housing and the resulting increase in interest rates, the housing need which exists in fact has not been able to find economic expression in a market demand sufficient to encourage greater production of [low-priced] homes and *rental housing [for elderly persons]* by private industry *for persons and families of low and moderate income, including the elderly.*

(3) Persons *and families* whose residences are condemned by governmental action in the prosecution of necessary public works in urban slum clearance programs and under regulatory laws protecting health and safety, face insuperable difficulties in finding new [homes which are] *housing which is* adequate, safe and sanitary. Many such persons *and families* are not eligible to occupy public housing administered by governmental agencies and are also unable to rent or purchase adequate, safe and sanitary [private] housing because of the economic conditions described. Unless it becomes economically feasible for these persons *and families* to acquire [private] housing in place of the dwellings now being eliminated by urban renewal programs in blighted areas and other dwellings

removed by reason of other public works, such necessary governmental activities face serious curtailment or interruption.

(4) The Commonwealth has a strong moral responsibility to assist in providing opportunity for the rental or purchase of relocation housing by persons *and families* who are displaced by necessary governmental action, as well as a general and continuing responsibility to eliminate conditions which prevent private industry from supplying [homes] *housing* to relieve the general shortage of [dwellings] *housing*.

(5) [Private industry, if provided with market and financial conditions warranting greater expenditure of private capital for housing and for the development of technological advances in housing construction, can supply the low-priced private homes needed in this Commonwealth.] *Private industry alone has been and now is unable to provide the financing necessary, at a cost which persons and families of low and moderate income can afford, for housing for such persons and families and therefore, the specialized financing provided for in this act will encourage greater expenditure of private capital for housing.*

(6) The relationship of a sufficient provision of adequate, safe and sanitary housing to the advancement of the public health and morals and to the prevention of fire, accident and crime is clear.

(7) Therefore, it is hereby declared to be the policy of the Commonwealth of Pennsylvania to promote the health, safety and welfare of its inhabitants by the creation of a body corporate and politic, to be known as the "Pennsylvania Housing *Finance* Agency," which shall exist and operate for the purposes of alleviating the hardship which results from insufficient production of [low-priced] private homes and of *rental* housing for [elderly] persons *and families of low and moderate income, including the elderly*, the hardship resulting from the relocation of persons displaced by governmental action, the deleterious effect of inadequate housing upon the general welfare of the Commonwealth, and the disadvantages, resulting from economic conditions, which bar private industry from satisfying a vital need, by broadening the market for [low-priced] *private* homes and for housing for [elderly] persons *and families of low and moderate income, including the elderly*, through the provision of specialized financing secured by [insured] mortgages to [persons or to agencies who] *corporations, individuals, joint ventures, partnerships, limited partnerships, trusts, cooperatives and condominiums, which* are unable to obtain such financing in the general market *or who are unable to participate in specialized Federal housing programs because of lack of available Federal funds*, and through cooperation with and assistance to the Pennsylvania Department of Community Affairs as such department carries into effect the powers and duties vested in it, thus improving and stimulating the distribution of investment capital for housing. Such purposes are public purposes for which public money may be spent.

Section 103. Definitions.—As used in this act *unless otherwise indicated*—

(1) “Agency” means the “Pennsylvania Housing *Finance* Agency,” the public body, corporate and politic, created by this act.

(2) “Board” means the governing body of the agency.

(3) “Bonds” and “notes” mean the bonds and notes which the agency is authorized to issue pursuant to article V.-A of this act.

(4) “Federal agency” means the United States of America, the President or any department of the United States or any corporation, agency or instrumentality, heretofore or hereafter created, designated or established by the United States.

(5) “Mortgage” means a first mortgage on a fee simple estate in real estate located in Pennsylvania, given to secure advances on or the unpaid purchase price of the real estate under the laws of Pennsylvania, together with the credit instruments, if any, secured thereby; *the term “mortgage,” unmodified by the word “insured,” includes both insured mortgages and those which are not insured.*

(6) “Insured mortgage” means a mortgage insured or approved to be insured [by the Federal Housing Administration, pursuant to the National Housing Act of June 27, 1934, and its amendments and supplements, heretofore and hereinafter enacted] *or guaranteed by a Federal agency and shall include instruments or certificates which are guaranteed by a Federal agency and secured by insured or guaranteed mortgages.*

(7) “Act” means this act and the rules and regulations adopted by the agency hereunder.

(8) “Annual income” shall mean the total annual income of all members of a family, from whatever source derived, including but not limited to, pension, annuity, retirement and social security benefits; provided, however, that there may be excluded from income (i) such reasonable allowances for dependents, (ii) such reasonable allowances for medical expenses, (iii) all or any proportionate part of the earnings of gainfully employed minors or family members other than the chief wage earner, or (iv) such income as is not received regularly, as the agency by rule or regulation may determine.

(9) “Earned surplus” shall have the same meaning as in generally accepted accounting standards.

(10) “Elderly or elderly person or persons” shall mean any individual who is qualified, by reason of age, to draw benefits from Federal Old Age and Survivors Insurance or from any other pension or annuity in which the age of the recipient is the criterion for entitlement, or in the absence of entitlement to insurance of the above types, one who has attained the age at which Federal Old Age and Survivors Insurance benefits would be payable if the individual had been covered by that insurance system.

(11) “Mortgagor” shall mean individuals, joint ventures,

partnerships, limited partnerships, trusts, corporations, cooperatives and condominiums, whether nonprofit or organized for profit.

(12) *“F.H.A.” shall mean the Federal Housing Administration, United States Department of Housing and Urban Development and any successor to its functions.*

(13) *“Low income persons or families” and “moderate income persons or families” shall mean families and persons who cannot afford to pay the amounts at which private enterprise, without the assistance of this act is providing a substantial supply of decent, safe and sanitary housing. The income limits for the admission of such families and persons to projects shall be those established pursuant to the rules and regulations established by the agency.*

(14) *“Moderate rentals” shall mean rent charges less than those rents generally charged for new dwelling units of comparable size and location built by the unassisted efforts of private enterprise and financed at then current market interest rates.*

(15) *“Low rentals” shall mean rent charges at least ten per cent lower than moderate rentals.*

(16) *“Rent” or “rentals” shall mean the charges paid by moderate and low-income persons for occupancy in a project under this act, whether the project is operated on a landlord-tenant basis or as a condominium or cooperative.*

(17) *“Project” shall mean a number of dwelling units constructed, rehabilitated or converted to a cooperative or condominium with the assistance of a mortgage loan from the agency, including the acquisition, construction or rehabilitation of lands, buildings, equipment, improvements and other ancillary facilities such as, but not limited to streets, sewers, utilities, parks, site preparation, landscaping, and such ancillary facilities, offices and other nonhousing facilities such as administrative, community, health, recreational, educational and welfare facilities as the agency determines to be necessary, convenient or desirable appurtenances and including the acquisition, construction or rehabilitation of such ancillary commercial facilities as the agency determines to be necessary to make the remainder of the project economically feasible.*

(18) *“Total project cost” means the sum total of all costs incurred in the development of a project, which are approved by the agency as reasonable and necessary, which costs shall include, but are not necessarily limited to, (i) cost of land acquisition and any buildings thereon, (ii) cost of site preparation, demolition and development, (iii) architect, engineer, legal, agency and other fees paid or payable in connection with the planning, execution and financing of the project, (iv) cost of necessary studies, surveys, plans and permits, (v) insurance, interest, financing, tax and assessment costs and other operating and carrying costs during construction, (vi) cost of construction,*

reconstruction, fixtures, and equipment related to the real property, (vii) cost of land improvements, (viii) necessary expenses in connection with initial occupancy of the project, (ix) a reasonable profit or fee to the builder and developer, (x) an allowance established by the agency for working capital and contingency reserves, and reserves for any anticipated operating deficits during the first two years of occupancy, (xi) the cost of such other items, including tenant relocation, as the agency 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 and personal property on the project site during construction.

All costs shall be subject to approval and audit by the agency. The agency may adopt rules and regulations specifying in detail the types and categories of cost which shall be allowable if actually incurred in the construction or reconstruction of a project.

Section 201. Agency Creation.—A body corporate and politic, named the “Pennsylvania Housing *Finance* Agency,” is hereby created as a public corporation and government instrumentality to have continuing succession until its existence shall be terminated by law.

Section 202. Agency Membership.—The members of the agency shall be the Secretary of [Commerce] *Community Affairs*, his successors in office, and six additional members whom the Governor shall appoint. 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 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.

Section 2. Section 204 of the act is repealed.

Section 3. Section 205 of the act, clauses (5), (7.1) and (13), amended or added July 31, 1968 (P.L.914), is amended to read:

Section 205. Agency Powers.—The agency shall have the following powers:

- (1) To adopt, use and alter at will a corporate seal.
- (2) To make and alter bylaws for the management and regulation of its affairs *and to make and from time to time amend and repeal rules and regulations governing the conduct of the business of the agency.*
- (3) To enter into contracts of all kinds and to execute all instruments necessary or convenient for carrying on its operations.

(4) To accept grants and subsidies from and to enter into agreements or other transactions with any Federal agency *or agency of the Commonwealth or other entity.*

(5) To accept grants-in-aid, gifts, donations, legacies or usages of money made or extended by individuals, organizations, public or private corporations, departments or instrumentalities of the Commonwealth, or the Federal government, and to return money advanced for its usage not otherwise required for its purposes or for the Capital Reserve Fund created in accordance with section [508] 504-A of this act.

(6) To be a party litigant in any court having jurisdiction according to law in any form of action whatsoever.

(7) In accordance with the provisions of [article III. and article IV. of] this act to make commitments to purchase and to purchase, service and sell [insured] mortgages, and to make loans directly upon the security of [insured] mortgages.

(7.1) To cooperate with and assist the Pennsylvania Department of Community Affairs as such department carries into effect the powers and duties vested in it.

(8) To acquire, hold and dispose of personal property, tangible and intangible.

(9) To acquire, hold and dispose of real property, or any interest therein, to be used by the agency for the purpose of its offices and operations.

(10) [To acquire real property, or any interest therein, by purchase or foreclosure, where such acquisition is necessary or appropriate to protect any loan in which the agency has an interest; to sell, transfer and convey any such property to a buyer and in the event such sale, transfer or conveyance cannot be effected with reasonable promptness or at a reasonable price, to lease such property to a tenant.] *Acquire by purchase, gift or foreclosure any real or personal property, or any interest therein, to enter into any lease of property and to hold, sell, assign, lease, encumber, mortgage or otherwise dispose of any real or personal property, or any interest therein, or mortgage lien interest owned by it or under its control, custody or in its possession and release or relinquish any right, title, claim, lien, interest, easement or demand however acquired, including any equity or right of redemption, in property foreclosed by it and to do any of the foregoing by public or private sale, with or without public bidding, notwithstanding the provisions of any other law.*

(11) To borrow money for the operation and work of the agency by the making of notes and by the issuance of bonds in accordance with the provisions of article V.- A of this act.

(12) To invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement, in such investments as may be lawful for fiduciaries under any law of the Commonwealth, including insured mortgages, *which for such temporary purposes alone, need not*

be made by a mortgagor or involve real estate located in Pennsylvania.

(13) To conduct housing studies and to enter into contracts with the Department of Community Affairs and to do all things necessary or convenient to carry out the powers granted by this act or other acts.

(14) *Employ an executive director and such other officers, agents, employes, professional and business advisers as may from time to time be necessary in its judgment and to fix their compensation; and to promote and discharge such officers, employes and agents.*

(15) *Appear in its own behalf before boards, commissions, departments or other agencies of government, municipal, State or Federal.*

(16) *Procure insurance against any loss in connection with its property in such amounts, and from such insurers, as may be necessary or desirable.*

(17) *To do all things necessary or convenient to carry out the powers granted by this act or other acts.*

Section 4. Articles III., IV., V. and VI. of the act are repealed and four articles are added to read:

ARTICLE III.-A

Housing Purchase Program

Section 301-A. Housing Purchase Program.—(a) The agency may make loans to any mortgagor for the construction, reconstruction or rehabilitation of housing units for sale to individual purchasers of low or moderate income as provided by the agency in its rules and regulations and to any such individual purchaser for the long-term financing of a housing unit. A loan under this section may be in an amount not to exceed one hundred per cent of the total project cost as approved by the agency.

(b) While such loan is outstanding, any sale by the mortgagor or any subsequent resale shall be subject to approval by the agency and the agency shall provide in its rules and regulations concerning such sales and resales that the price of the housing unit sold, the method of making payments thereafter, the security afforded and the interest rates, fees and charges to be paid shall at all times be sufficient to permit the agency to make the payments on its bonds and notes plus any administrative or other costs of the agency in connection with the transactions. Housing units shall be sold under terms that provide for monthly payments including principal, interest, taxes and insurance.

(c) While such loan is outstanding, the agency shall, prior to the approval of sale by the mortgagor or any subsequent resale, satisfy itself that such sale or resale is to persons of low or moderate income.

(d) Upon the sale by the mortgagor of any housing unit to an individual purchaser of low or moderate income under this subsection

to whom a loan is being made by the agency, such housing unit shall be released from the mortgage running from the mortgagor to the agency and such mortgage shall be replaced as to the housing unit by a mortgage running from the individual purchaser to the agency.

(e) Loans may, in addition, be made directly to individual purchasers of low or moderate income for the construction, reconstruction, or rehabilitation of housing units by them, not in excess of one hundred per cent of the cost of such construction, reconstruction, or rehabilitation. The agency shall provide in its rules and regulations concerning such loans that the amount of the loan, the method of making payments thereafter, the security afforded and interest rates, fees and charges to be paid shall at all times be sufficient to permit the agency to make the payments on its bonds and notes plus any administrative or other costs of the agency in connection with the transactions.

ARTICLE IV.-A Rental Housing Program

Section 401-A. Rental Housing Program.—To accomplish the declared purpose of this act of providing rental housing to persons and families of low and moderate income the agency is hereby authorized to:

(1) Make first mortgage loans secured by real property or a leasehold estate, including mortgages insured by a Federal agency, to finance projects designed and planned to be available for low and moderate income persons and families or elderly persons and others.

(2) Sell, at public or private sale, with or without bidding, any mortgage or other obligation securing a mortgage loan, including sales of mortgages to the United States of America or the Commonwealth or any agencies, instrumentalities or departments thereof.

(3) Consent, subject to the provisions of any contract with noteholders or bondholders, whenever it deems it necessary or desirable in the fulfillment of the purposes of this act, to the modification, with respect to rate of interest, time of payment of any installment of principal or interest, or any other terms of any mortgage, mortgage loan, mortgage loan commitment, contract or agreement of any kind to which the agency is a party.

(4) In the event of a violation by the mortgagor of the terms of any agreement between the agency and the eligible mortgagor or in the event of a violation by the mortgagor of this act or of the terms of the mortgage loan agreement or of any rules and regulations of the agency duly promulgated pursuant to this act, or in the event the agency shall determine that any loan, or part thereof, made pursuant to this act is in jeopardy of not being repaid, the agency may remove any or all of

the existing owners, partners, officers or directors of such mortgagor and appoint such person or persons who the agency in its sole discretion deems advisable, including officers or employes of the agency, as new officers or directors to serve in place of those removed. Officers or directors so appointed need not be stockholders or meet other qualifications which may be prescribed by the certificate of incorporation or bylaws of such mortgagor. In the absence of fraud or bad faith, officers or directors so appointed shall not be personally liable for debts, obligations or liabilities of such mortgagor. Officers or directors so appointed shall serve only for a period coexistent with the duration of such violation or until the agency is assured in a manner satisfactory to it that such violation, or violations of a similar nature, have not and will not reoccur. Officers or employes of the agency who are so appointed as officers or directors shall serve in such capacity without compensation, but shall be entitled to be reimbursed, if and as the certificate of incorporation or bylaws of such mortgagor may provide, for all necessary expenses incurred in the discharge of their duties as officers or directors so appointed of such mortgagor and such other necessary expenses incurred in the discharge of their duties as officers or directors of such eligible mortgagor as determined by the agency.

Section 402-A. Mortgage Loans.—(a) Purpose. The agency may make mortgage loans to mortgagors for such projects as in the judgment of the agency have promise of supplying well planned, well designed apartment units which will provide housing for low and moderate income persons or families or the elderly and others in locations where there is a need for such housing. Such loans may include construction loans as well as permanent loans. The agency shall require the mortgagor receiving a loan or its contractor to post labor and materials, and construction performance, surety bonds in amounts related to the project cost as established by regulation or to execute other assurances and guarantees as the agency may deem necessary and may require its principals or stockholders to also execute such other assurances and guarantees as the agency may deem necessary.

(b) Interest and Charges. The agency shall have authority to set from time to time the interest rates at which it shall make loans, consistent with the agency's cost of borrowing money, cost of operation and its responsibilities to the holders of its bonds. In connection with the making of mortgage loans and commitments therefor, and in addition to such interest charges, the agency may make and collect such fees and charges, including but not limited to reimbursement of the agency's financing costs, service charges, insurance premiums and mortgage insurance premiums, as the agency determines to be reasonable.

(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.

(d) Use of Nondistributed Profits. Whenever a mortgagor accumulates earned surplus in addition to such reserves for replacement as the agency may require, in excess of ten per cent of the current annual rent roll for the project, rents in the project shall be reduced to the extent necessary to lower the earned surplus accumulation to such ten per cent figure in the following fiscal year.

(e) Regulatory Agreement. The loan shall be subject to an agreement between the agency and the mortgagor which will subject said mortgagor and its principals or stockholders to limitations established by the agency as to rentals and other charges, builders' and developers' profits, dividends and fees, and the disposition of its property and franchises to the extent more restrictive limitations are not provided by the law under which the borrower is incorporated or organized.

(f) Nondiscrimination. The agency shall require that occupancy of all housing financed or otherwise assisted under this act be open to all persons regardless of race, national origin, religion, or creed, and that mortgagors, contractors and subcontractors engaged in the construction, rehabilitation, sale or rental of such housing, shall provide equal opportunity for employment without discrimination as to race, national origin, religion or creed.

(g) Amortization and Refinancing. The ratio of loan to project value and the amortization period of loans made under this act which are insured by F.H.A. shall be governed by the F.H.A. mortgage insurance commitment for each project concerned, but shall not exceed fifty years. In the case of a mortgage loan not insured by F.H.A., the ratio of loan to project value and the amortization period of loans shall be determined in accordance with regulations formulated and published by the agency.

(h) Project Cost Certification. No loan shall be made unless the

mortgagor agrees (i) to certify upon completion of project construction or rehabilitation, subject to audit and determination by the agency, the actual total project cost as defined herein, and (ii) to pay forthwith to the agency, for application to reduction of the principal of the loan, the amount, if any, subject to audit and determination by the agency, of loan proceeds received in excess of the allowable loan based upon the percentage of loan to total project cost authorized by the agency. Notwithstanding the provisions of this subsection, the agency may accept, in lieu of any certification of total project cost as provided herein, such other assurances of the said total project cost, in any form or manner whatsoever, as will enable the agency to determine with reasonable accuracy the amount of said total project cost.

Section 403-A. Rental Charges.—In order to encourage developments which are not economically homogeneous and to achieve rent charges which will make units available to persons and families of low income at low rentals and moderate income at moderate rentals the agency and a mortgagor may use measures including, but not limited to: direct rental assistance in the form of partial rent subsidy from any county, municipal, Commonwealth or Federal source, allocation of lower rents, and the raising of rents in the majority of apartments in the project in order to lower the rents of those in the lower rent charge category. With respect to each project the agency shall, prior to initial occupancy, allocate and prescribe the number of lower rental units and the rents to be charged therefor. The allocation may be reviewed and adjusted from time to time. The method of achieving lower rental charges shall, in each instance, be prescribed by the agency.

Section 404-A. Tenants.—(a) Prior to making a loan commitment under this article, the agency shall approve a tenant selection plan submitted by the applicant for such a loan. The agency shall make regulations from time to time governing the terms of such tenant selection plans. Such plans shall include criteria for tenant selection based upon the established income limits for eligible tenants which may vary with the size and circumstances of the person or family. Such income limits shall be sufficiently flexible to avoid undue economic homogeneity among the tenants of a project. Tenant selection plans shall provide that as between applicants equally in need and eligible for occupancy of the unit, preference may be given to the elderly and to persons displaced by public action or natural disaster.

(b) The agency shall by rules and regulations provide for the periodic examination of the annual income of any person or family residing in any project constructed or rehabilitated with a loan from the agency. In the event that the annual income of a person or family residing in any such project increases and exceeds the income limits prescribed by applicable rules and regulations of the agency but is not more than twenty-five per cent above the annual income so prescribed

for admission to the project, the owner or managing agent of such project shall permit the person or family to continue to occupy the unit. The agency or (with the approval of the agency) the mortgagor of any project constructed or rehabilitated with a loan from the agency, may terminate the tenancy or interest of any person or family residing in such project whose annual income exceeds one hundred twenty-five per cent of that prescribed by applicable rules and regulations of the agency and which continues to exceed the same for a period of six months or more: Provided, That no tenancy or interest of any such person or family in any such project shall be terminated except upon reasonable notice and opportunity to obtain suitable alternate housing, in accordance with rules and regulations of the agency: Provided further, That any such person or family, with the approval of the agency, may be permitted to continue to occupy the unit, subject to payment of a rent or carrying charge surcharge to the mortgagor in accordance with a schedule of surcharges fixed by the agency. The agency may require the mortgagor to make payable such surcharge to the agency's general fund.

ARTICLE V.-A Bonds and Notes

Section 501-A. Issuance of Bonds and Notes.—(a) The agency shall have the power and is hereby authorized from time to time to issue its negotiable bonds, either as serial bonds maturing in annual installments or as term bonds, or any combination thereof, and notes 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 housing programs established in Articles III.-A and IV.-A, 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. The agency shall have power, from time to time, to issue renewal notes, to issue bonds to pay notes 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 other purpose. The refunding bonds shall be sold and the proceeds applied to the purchase, redemption or payment of the bonds to be refunded.

(b) The notes and bonds 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, not exceeding five years from the date of issue of such original note, and in the case of any such bond not exceeding fifty years from the date of issue,

as such resolution or resolutions may provide. 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, contain such terms and provisions relating to, but not limited to, pledges of the agency's assets, setting aside of reserves, limitations on additional notes and bonds, and such other matters as may affect the security or protection of the notes and bonds, 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 at public or private sale, at such price or prices as the agency shall determine.

(c) 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.

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

Section 502-A. Credit of Commonwealth or Any Subdivision Thereof Not Pledged.—Except as may otherwise be expressly provided by the agency, its bonds and notes shall be general obligations of the agency payable out of any moneys or revenues of the agency, including the proceeds of mortgage loans made under this act, reserve funds created therefor by the agency, any mortgage insurance contracts pertaining thereto and other lawfully available money, subject only to any agreements with holders of the bonds or notes pledging any receipts or revenues. Bonds and notes issued under the provisions of this act shall not be deemed to constitute a debt of the Commonwealth or of any political subdivision thereof or a pledge of the faith and credit of the Commonwealth or of any such political subdivision. All such bonds and notes shall contain on the face thereof a statement to the effect that neither the agency nor the Commonwealth nor any political subdivision thereof shall be obligated to pay the same or the interest thereon except from such proceeds, reserve fund or mortgage insurance contracts and that neither the faith and credit nor the taxing power of the Commonwealth or any political subdivision thereof is pledged to the payment of the principal of or the interest on such bonds.

Section 503-A. General Fund.—The agency shall create and

establish a general fund, herein referred to as the "General Fund," and shall pay into such General Fund any moneys appropriated and made available by the Commonwealth for the purposes of such General Fund, and any other moneys which may be available to the agency for its general purposes from any source or sources other than proceeds from the issuance and sale of notes or bonds by the agency.

Section 504-A. Capital Reserve Fund.—(a) The agency shall create and establish a separate special fund, herein referred to as the "Capital Reserve Fund," and shall pay into such Capital Reserve Fund any moneys appropriated and made available by the Commonwealth for the purposes of such fund, any proceeds of sale of notes or bonds to the extent provided in the resolution of the agency authorizing issuance thereof, and any other moneys which may be 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 as the same mature, required payments to any sinking fund established for the amortization of term bonds (hereinafter referred to as "sinking fund payments"), the purchase of bonds of the agency, 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 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 and sinking fund payments required to be made in any succeeding calendar year on all bonds of the agency then outstanding, except for the purpose of paying the principal, 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 purpose of this subdivision, in computing the maximum amount of principal maturing in any succeeding calendar year, the principal amount of any term bonds which are to be authorized by sinking fund payments shall not be included in the computation. Any income or interest earned by, or increment to, the Capital Reserve Fund due to the investment thereof may be transferred to the General Fund or any other fund of the agency to the extent it does not reduce the amount in such 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 bonds of the agency then outstanding and secured by such Capital Reserve Fund.

(b) The agency shall not issue 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 such bonds then to be issued and on all other bonds of the

agency then outstanding 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 bonds of the agency then outstanding.

(c) To assure the continued operation and solvency of the agency for the carrying out of the public purposes of this act, provision is made in subsection (a) 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. In order further to assure such maintenance of the Capital Reserve Fund the agency, at least thirty days before the beginning of each Legislative Session, shall submit to the Governor and General Assembly an estimate of any funds expected to be necessary during the following year to make up any deficiencies in the Capital Reserve Fund or otherwise to avoid default in the payment of interest or principal upon bonds or notes issued by the agency, or in sinking fund payments required to be made, and the Governor shall cause the amount of such deficiency, if any, to be placed in the budget of the Commonwealth for the next succeeding fiscal year, so that the General Assembly shall be enabled to provide appropriation sufficient to make up any such deficiency or otherwise to avoid any default. Such amount appropriated, if any, shall be repaid to the Commonwealth as soon as possible by the agency from moneys in the General Fund in excess of the amount required to make and keep the agency self-supporting.

(d) 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 are invested shall be valued at par, or if purchased at less than par, at their cost to the agency.

Section 505-A. Trust Agreement.—In the discretion of the agency, bonds and notes issued by it shall be secured by a trust agreement by and between the agency and a trustee, which may be any trust company or bank within the Commonwealth having the powers of a trust company. Either the resolution providing for the issuance of bonds and notes or such trust agreement 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 agency in relation to the custody, safeguarding and application of all moneys.

It shall be lawful for any bank or trust company incorporated under the laws of the Commonwealth to act as depository of the proceeds of

bonds and notes or of revenues and to furnish such indemnifying bonds or to pledge such securities as may be required by the agency. Such trust agreement may set forth the rights and remedies of the bondholders and noteholders and of the trustee, and may restrict the individual right of action by bondholders and noteholders. In addition to the foregoing, such trust agreement may contain such other provision as the agency may deem reasonable and proper for the security of the bondholders and noteholders. All expenses incurred in carrying out the provisions of such trust agreement may be treated as a part of the cost of the operation of the agency.

Section 506-A. Bonds and Notes Tax Exempt.—*The creation of the agency is in all respects for the benefit of the people of the Commonwealth and for the improvement of their health, safety, welfare, comfort and security, and its purposes are public purposes and the agency will be performing an essential governmental function. The Commonwealth covenants with the purchasers and all subsequent holders and transferees of the notes and bonds issued by the agency, in consideration of the acceptance of any payment for the notes and bonds, that the notes and bonds of the agency, issued pursuant to this act and the income therefrom, the income and revenues of the agency, and the agency and its property shall at all times be free from taxation or assessment of every kind and nature except for inheritance, estate, gift and transfer taxes.*

Section 507-A. Notes and Bonds as Legal Investments.—*The notes and bonds of the agency are securities in which all public officers and bodies of the Commonwealth and all municipalities and municipal subdivisions, all insurance companies and associations, and other persons carrying on an insurance business, all banks, trust companies, savings banks and savings associations, saving and loan associations, investment companies, 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 Commonwealth, may properly and legally invest funds, including capital, in their control or belonging to them.*

Section 508-A. Covenant by Commonwealth Not to Limit or Alter Powers Vested in Agency.—*The Commonwealth of Pennsylvania does hereby pledge to and covenant and agree with the holders of any bonds, bond anticipation notes or other obligations issued pursuant to the authority of this act that the Commonwealth will not limit or alter the rights or powers hereby vested in the agency to perform and fulfill the terms of any agreement made with the holders of such bonds, bond anticipation notes or other obligations, or in any way impair the rights or remedies of such holders, until such bond, bond anticipation notes and other obligations, together with interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in*

connection with any action or proceedings by or in behalf of such holders, are fully met and discharged or provided for. The agency may include this pledge and agreement of the Commonwealth in any agreement with the holders of bonds, bond anticipation notes and other obligations issued by the agency.

ARTICLE VI.-A

Liberal Construction, Fraud Penalty and Effective Date

Section 601-A. Liberal Construction.—This act, being necessary for the welfare of the Commonwealth and its inhabitants, shall be liberally construed to effect the purposes thereof.

Section 602-A. Fraud Penalty.—Any person who attempts to or obtains financial aid for a project hereunder or occupancy or continual occupancy of a dwelling unit therein by false or misleading information or who shall violate this act or who shall by fraud attempt to obtain moneys from the agency or its approval for the payment of moneys or shall fraudulently attempt to or does prevent the collection of any moneys due to the agency shall, for each offense, be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding three hundred dollars (\$300) or undergo imprisonment not exceeding one year, or both.

Section 603-A. Effective Date; Proclamation.—This act shall become effective when the Governor by proclamation declares that sufficient funds are available to administer this act. For the purposes of this determination and then thereafter, in addition to any appropriations as are made to the agency, the Commonwealth is authorized to accept for the account of the agency grants-in-aid, donations and gifts of every manner and type from the Federal Government or from any other private or public corporation or person. Upon such declaration, such funds as have been collected shall immediately be paid to the treasurer of the agency, or if a treasurer has not been appointed, to such other person as the Governor may designate as acting treasurer.

APPROVED—The 5th day of December, A. D. 1972.

MILTON J. SHAPP

The foregoing is a true and correct copy of Act of the General Assembly No. 282.



Secretary of the Commonwealth.