

No. 33

AN ACT

SB 1280

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," changing the membership of the agency, granting additional powers to the agency, limiting the powers of the agency to issue bond anticipation notes and make rental housing program mortgage loans, requiring approval of the Governor for the issuance of bonds and notes, requiring notices to the Governor and to the General Assembly in additional instances and empowering the agency to establish separate capital reserve funds and accounts.

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

Section 1. Section 103, act of December 3, 1959 (P.L.1688, No.621), known as the "Housing Finance Agency Law," is amended by adding a clause to read:

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

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(19) "Federal housing assistance program" means a housing assistance program under which a mortgage loan or project receives assistance from a Federal agency, department or other Federally related entity in the form of a Federal guarantee, insurance, co-insurance, interest reduction payments, rental subsidies, commitment for permanent financing of a project upon completion of construction, or other assistance, pursuant to section 8 of the United States Housing Act of 1937, as amended by the Housing and Community Development Act of 1974; section 236 of the National

Housing Act of 1934; section 802 of the Housing and Community Development Act of 1974; section 244 of the National Housing Act of 1934, as amended by the Housing and Community Development Act of 1974; section 101 of the Housing and Urban Development Act of 1965; section 23 of the United States Housing Act of 1937; section 515 of Title V of the Housing Act of 1949; and any similar or other program or programs which amend, supplement, replace or succeed such a program.

Section 2. Section 202 and clauses (2) and (5) of section 205 of the act, amended December 5, 1972 (P.L.1259, No.282), are amended to read:

Section 202. Agency Membership.—The members of the agency shall be the Secretary of Community Affairs, **[his successors in office,] 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. **The Secretary of Community Affairs shall 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 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 205. Agency Powers.—The agency shall have the following powers:

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(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 various programs of the agency pursuant to this act and** the conduct of **[the] its business [of the agency].**

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(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] any capital reserve fund** created in accordance with section 504-A of this act.

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Section 3. Section 205 of the act is amended by adding clauses to read:
Section 205. Agency Powers.—The agency shall have the following powers:

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(18) Subject to any agreement with bondholders or noteholders, to collect, enforce the collection of, and foreclose on any collateral securing its loans and acquire or take possession of such collateral and sell the same at public or private sale, with or without bidding, and otherwise deal with such collateral as may be necessary to protect the interests of the agency therein or in which the agency has an interest.

(19) Subject to any agreement with bondholders or noteholders and with the written approval of the Governor, to consent to any modification with respect to rate of interest, time and payment of any installment of principal or interest, security or any other term of any loan to a mortgage lender or any bond or note, contract or agreement of any kind to which the agency is a party.

Section 4. Clause (1) of section 401-A, subsections (a) and (b) of section 501-A, sections 503-A and 504-A of the act, added December 5, 1972 (P.L.1259, No.282), are amended to read:

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. **The agency shall not make any mortgage loan pursuant to the provisions of this Article IV, unless such mortgage loan is made in conjunction with a Federal Housing Assistance Program; provided, however, that any mortgage loan for which the agency had issued a written commitment and/or projects for which the agency had issued written feasibility approval on or before January 1, 1976, shall be excluded from the limitations of this sentence.**

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Section 501-A. Issuance of Bonds and Notes.—(a) The agency shall have the power and is hereby authorized from time to time **by resolution of the members and subject to the written approval by the Governor** 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 **the** power, from time to time, **by resolution of the members and subject to the written approval of the Governor** 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. *The agency shall not have the power to issue bond anticipation notes, provided, however, that renewal bond anticipation notes may be issued for the sole purpose of redeeming any issue or portion of any issue of bond anticipation notes heretofore issued by the agency which have not been retired through the sale of bonds.*

(b) The notes and bonds [shall be authorized by resolution of the members,] of the agency 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.

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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.] *Funds and Accounts.—The agency shall create such funds and accounts as may be necessary or desirable for its corporate purposes and shall pay into each such fund or account any moneys appropriated and made available by the Commonwealth for the purposes of such fund or account. Nothing contained herein shall be construed as prohibiting the agency from creating within any fund one or more accounts which may be used or pledged by the agency for a specific purpose.*

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.] *Reserve Funds and Appropriations.*—(a) *The agency may create and establish one or more special funds, herein referred to as “capital reserve funds,” and shall pay into each such capital reserve fund (i) any moneys appropriated and made available by the Commonwealth for the purpose of such fund, (ii) any proceeds of sale of notes or bonds to the extent provided in the resolution or resolutions of the agency authorizing the issuance thereof, and (iii) 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 any capital reserve fund, except as hereinafter provided, shall be used, as required, solely for the payment of the principal of bonds secured in whole or in part by such fund or of the sinking fund payments with respect to such bonds, the purchase or redemption of such bonds, the payment of interest on such bonds or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity. 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 minimum capital reserve fund requirement established for such fund, as hereinafter provided, except for the purpose of making, with respect to bonds secured in whole or in part by such fund, payment when due, of principal, interest, redemption premiums and the sinking fund payments with respect to such bonds for the payment of which other moneys of the agency are not available. Any income or interest earned by, or increments to, any capital reserve fund due to the investment thereof may be transferred by the agency to other funds or accounts of the agency to the extent it does not reduce the amount of that capital reserve fund below the minimum capital reserve fund requirement for such fund.*

(b) *The agency shall not at any time issue bonds, secured in whole or in part by a capital reserve fund; if upon the issuance of such bonds, the amount in such capital reserve fund will be less than the minimum capital reserve fund requirement for such fund, unless the agency at the time of issuance of such bonds, shall deposit in such fund from the proceeds of the*

bonds to be issued, or from other sources, an amount which, together with the amount then in such fund, will not be less than the minimum capital reserve fund requirement for such fund. For the purposes of this section, the term "minimum capital reserve fund requirement" shall mean, as of any particular date of computation, an amount of money, as provided in the resolution or resolutions of the agency authorizing the bonds with respect to which such fund is established. In no event, however, shall such capital reserve fund requirement exceed an amount equal to not more than the greatest of the respective amounts, for the current or any future fiscal year of the agency, of annual debt service on the bonds of the agency secured in whole or in part by such fund, such annual debt service for any fiscal year being the amount of money equal to the aggregate of all interest and principal payable on such bonds during such fiscal year, calculated on the assumption that all such bonds are paid at maturity or if any amount of such bonds is required to be redeemed on any earlier date by operation of a sinking fund, then on the assumption that such amount of bonds is redeemed on such earlier date and that such amount is considered principal payable on such bonds during the year they are to be redeemed for purposes of this calculation.

(c) To assure the continued operation and solvency of the agency, for the carrying out of its corporate purposes, provision is made in subsection (a) for the accumulation in each capital reserve fund of an amount equal to the minimum capital reserve fund requirement for such fund. In order further to assure the maintenance of such capital reserve funds, the agency, at least thirty days before the beginning of each legislative session, shall submit to the Governor and the General Assembly a written statement of the obligations of the agency falling due within the succeeding twelve month period and of the manner in which the agency anticipates providing for such obligations by way of payment, extension, renewal or otherwise and an estimate of the funds, if any, expected to be necessary during the following year to restore to each such capital reserve fund any deficiencies in the minimum capital reserve fund requirement for such 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 moneys, 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 appropriations sufficient to restore any such deficiencies or otherwise to avoid any default. Such appropriations, if any, shall be repaid to the Commonwealth as soon as possible by the agency from moneys of the agency in excess of the amount required to make and keep the agency self-supporting.

(d) In computing the amount of any 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 if purchased at par, or if purchased at other than par, at amortized value, which 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 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 (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.

Section 5. This act shall take effect immediately.

APPROVED—The 7th day of April, A. D. 1976.

MILTON J. SHAPP