

Section 6A. All requests and recommendations for appropriations or authorizations for expenditures by the commonwealth, other than those submitted by the governor to the general court pursuant to section two of Article LXIII of the Amendment to the Constitution, shall be submitted by the governor to the general court; shall be classified to show the request of each officer having charge of an office, department or undertaking, including the priorities assigned to each program by said officer, the recommendation of the secretary of the executive office within which such office, department or undertaking shall be, the recommendation of the governor, and the prior year appropriation, if any; and shall indicate the number, if any, of permanent positions proposed to be authorized for an office, department or undertaking and the number of persons to be served or the number of actions to be taken by such office, department or undertaking.

SECTION 5. Said chapter 29 is hereby further amended by inserting after section 7 the following section:—

Section 7A. All estimates, requests and recommendations for the expenditure of state funds, by which such expenditures shall be defrayed by borrowing or by the issuance of notes, bonds or other obligations, for new construction, additions, improvements and other capital outlay programs and projects shall be submitted by the governor to the general court and shall be itemized and classified to indicate those requests which are most urgent, those which are essential but may be delayed and those which are future, long-range development plans of a state agency; shall show separately:— (a) the request of the agency desiring such program or project, (b) the recommendation, if any, of the secretary of the executive office within which such agency shall be and, (c) the recommendation of the governor; and shall include a statement of the estimated annual operating and maintenance cost of the facilities to be constructed, shall indicate whether the project is to repair, enlarge or improve an existing, properly identified structure or to provide entirely new and additional facilities. The governor shall transmit therewith a statement showing the total indebtedness proposed to be incurred under each capital outlay program or project and the fund to be charged therefor, and a statement relative to the condition of the state debt.

Approved August 14, 1974.

Chap 845. AN ACT PROVIDING FOR THE APPOINTMENT OF GUARDIANS AND CONSERVATORS FOR CERTAIN MENTALLY RETARDED PERSONS.

Be it enacted, etc., as follows:

SECTION 1. The first sentence of section 4 of chapter 123 of the General Laws, as appearing in section 4 of chapter 888 of the acts of 1970, is hereby amended by inserting after the word "appointed", in line 9, the words:— or removed.

SECTION 2. Section 1 of chapter 201 of the General Laws, as most recently amended by section 1 of chapter 314 of the acts of

1956, is hereby further amended by inserting after the word "persons", in line 3, the words:—, mentally retarded persons, and —, by inserting after the word "or", in line 5, the words:—, mental retardation or, — and by adding the following paragraph:—

For the purposes of this chapter, a mentally retarded person is a person who, as a result of inadequately developed or impaired intelligence, is substantially limited in his ability to learn or adapt, as determined in accordance with established standards for the evaluation of a person's ability to function in society.

SECTION 3. Section 6 of said chapter 201, as most recently amended by section 2 of said chapter 314, is hereby further amended by striking out, in lines 1 to 4, inclusive, the words "Two or more relatives or friends of a mentally ill person, or the mayor and aldermen of a city or the selectmen of a town in which he is an inhabitant or resident" and inserting in place thereof the words:— A parent of a mentally ill person, two or more relatives or friends of a mentally ill person, a nonprofit corporation organized under the laws of the commonwealth whose corporate charter authorizes the corporation to act as a guardian of a mentally ill person —, and by striking out, in line 6, the word "him" and inserting in place thereof the words:— such mentally ill person.

SECTION 4. Said chapter 201 is hereby further amended by inserting after section 6 the following section:—

Section 6A. A parent of a mentally retarded person, two or more relatives or friends of a mentally retarded person, a nonprofit corporation organized under the laws of the commonwealth whose corporate charter authorizes the corporation to act as guardian of a mentally retarded person, or any agency within the executive offices of human services or educational affairs may file a petition in the probate court asking to have a guardian appointed for such mentally retarded person. If, after notice as provided in section seven and a hearing, the court finds that the person is mentally retarded to the degree that he is incapable of making informed decisions with respect to the conduct of his personal and financial affairs, that failure to appoint a guardian would create an unreasonable risk to his health, welfare and property, and that appointment of a conservator pursuant to section sixteen B would not eliminate such risk, it may appoint a guardian of his person and estate. The court shall not so find unless the petition is accompanied by a report from a clinical team consisting of a physician, a licensed psychologist and a social worker, each of whom is experienced in the evaluation of mentally retarded persons, that it has examined the said person and has determined that he is mentally retarded to the degree that he is incapable of making informed decisions with respect to the conduct of his personal and financial affairs. The court shall not, pursuant to this section, appoint as guardian any person or organization which, in its opinion, has any interest, responsibilities or powers which would render such person or organization unable to perform the duties of guardian in the best interest of the mentally retarded person. A copy of such appointment shall be sent by mail by the register to the department

of mental health. The court may require additional testimony as to the existence and degree of mental retardation, and may require the person subject to the petition to submit to examination. It may also appoint one or more persons experienced in the evaluation of mentally retarded persons to examine such person and report their conclusions to the court. Reasonable expenses incurred in any examination conducted pursuant to this section shall be paid by the petitioner, the estate of such person, or by the county, as may be determined by the court.

The guardian of a mentally retarded person shall act to protect the welfare of such person and may utilize the services of agencies and individuals to provide necessary and desirable social and protective services of different types appropriate to such person including, but not limited to, counseling services, advocacy services, legal services, and other aid as he deems to be in the interest of such person.

SECTION 5. Section 7 of said chapter 201, as most recently amended by section 3 of chapter 314 of the acts of 1956, is hereby further amended by inserting after the word "ill", in lines 4, 5, 11, and 15, in each instance, the words:— or mentally retarded.

SECTION 6. Section 12 of said chapter 201, as amended by section 4 of said chapter 314, is hereby further amended by inserting after the word "ill", in line 1, the words:— or mentally retarded —, and by striking out, in lines 6 and 7, the words " , except that the conditions relative to the education of the ward shall be omitted" and inserting in place thereof the words:— ; provided, however, that in the case of a guardian of a mentally ill person or spendthrift, the condition prescribed by clause Second of paragraph 6 of said section one of said chapter two hundred and five relative to the education of the ward shall be omitted.

SECTION 7. Section 13 of said chapter 201, as most recently amended by section 5 of said chapter 314, is hereby further amended by inserting after the word "ill", in lines 2, 5 and 8, in each instance, the words:— or mentally retarded.

SECTION 8. Said chapter 201 is hereby further amended by striking out section 13A, as amended by section 6 of said chapter 314, and inserting, in place thereof, the following section:—

Section 13A. A mentally ill person under guardianship or any person, agency or corporation authorized by section six to petition for the appointment of a guardian for a mentally ill person may file a petition for the removal of such guardian. A mentally retarded person under guardianship or any person, agency or corporation authorized by section six A to petition for the appointment of a guardian for a mentally retarded person may file a petition for the removal of such guardian.

SECTION 9. Said chapter 201 is hereby further amended by inserting, after section 16A, the following section:—

Section 16B. A parent of a mentally retarded person, two or more of his relatives or friends, a nonprofit corporation organized under the laws of the commonwealth whose corporate charter authorizes the corporation to act as a conservator of a mentally retarded person, or

any agency within the executive office of human services may file a petition in the probate court asking to have a conservator appointed for such mentally retarded person. If, after notice as provided in section seventeen and a hearing, the court finds that the person is mentally retarded to the degree that he is incapable of making informed decisions with respect to the conduct of his financial affairs and that the failure to appoint a conservator would create an unreasonable risk to his property, it may appoint a conservator to have charge and management of his property, subject to the direction of the court. The court shall not so find unless the petition is accompanied by a report from a clinical team consisting of a physician, a licensed psychologist and a social worker, each of whom is experienced in the evaluation of mentally retarded persons, that it has examined the person and has determined that the person is mentally retarded to the degree that he is incapable of making informed decisions with respect to the conduct of his financial affairs. In the case of a mentally retarded person of majority age who is wholly or substantially self-supporting by means of his wages or earnings from employment or other financial entitlement, the court may, upon the recommendation of such clinical team, exempt the property of the mentally retarded person from the powers of a conservator as described in section twenty to the extent of his wages or other financial entitlement, or three hundred dollars per month, whichever is less.

SECTION 10. Said chapter 201 is hereby further amended by striking out section 19, as appearing in the Tercentenary Edition, and inserting in place thereof the following section:—

Section 19. A conservator appointed pursuant to section sixteen or section sixteen A shall give the bond prescribed in section one of chapter two hundred and five except that the conditions set out in clause Second of paragraph 6 of said section one of said chapter two hundred and five regarding custody and education of the ward shall be omitted.

SECTION 11. Said chapter 201 is hereby further amended by striking out section 20, as amended by section 8 of chapter 314 of the acts of 1956, and inserting in place thereof the following section:—

Section 20. A conservator shall have the management of all of the estate of his ward, except as provided in section sixteen B, and all laws relative to the jurisdiction of the probate court over the estate of a person under guardianship as a mentally ill person, including the management, sale or mortgage of his property and the payment of his debts, shall be applicable to the estate of a person under conservatorship.

SECTION 12. Section 22 of said chapter 201, as amended by section 9 of said chapter 314, is hereby further amended by inserting after the word "ill", in line 2, the words:— or mentally retarded.

SECTION 13. Section 42 of said chapter 201, as amended by section 13 of said chapter 314, is hereby further amended by inserting after the word "ill", in lines 2, 3 and 5, in each instance, the words:— or mentally retarded.

SECTION 14. Section 43 of said chapter 201, as amended by section 14 of said chapter 314, is hereby further amended by inserting

after the word "ill", in lines 3 and 4, in each instance, the words:— or mentally retarded.

SECTION 15. Section 43A of said chapter 201, as amended by section 15 of said chapter 314, is hereby further amended by inserting after the word "ill", in lines 3 and 7, in each instance, the words:— or mentally retarded.

SECTION 16. Section 45 of said chapter 201, as most recently amended by section 16 of said chapter 314, is hereby further amended by inserting after the word "illness", in lines 4 and 18, in each instance, the words:— , mental retardation, — , and by inserting after the word "ill", in line 10, the words:— or mentally retarded.

SECTION 17. Section 48A of said chapter 201, as most recently amended by chapter 442 of the acts of 1972, is hereby further amended by inserting after the word "ill", in line 2, the words:— or mentally retarded.

SECTION 18. Section 7 of chapter 206 of the General Laws, as most recently amended by section 18 of chapter 314 of the acts of 1956, is hereby further amended by inserting after the word "ill", in lines 2 and 5, in each instance, the words:— or mentally retarded.

Approved August 14, 1974.

Chap. 846. AN ACT ESTABLISHING A MASSACHUSETTS HOME MORTGAGE FINANCE AGENCY.

Be it enacted, etc., as follows:

SECTION 1. *Definitions.* As used in this act the following words and terms shall have the following meanings unless a contrary intent is clearly indicated:—

"Mortgage lender", any bank, mortgage broker, mortgage company or mortgage banker, trust company, savings bank, credit union, national banking association, federal savings and loan association, or building and loan association maintaining an office in the commonwealth or any insurance company authorized to transact business in the commonwealth.

"New residential mortgage", a loan made by a mortgage lender and secured by a mortgage constituting a lien upon real property or a lease of the fee of real property located in the commonwealth and improved by a residential building or unimproved if the proceeds of such loan shall be used for the purpose of erecting, acquiring or rehabilitating, including home improvement loans, a residential building thereon; or for the purpose of purchasing a condominium unit or a cooperative share in a residential condominium or cooperative provided that each such mortgage loan made from the proceeds of a loan made by MHMFA to such mortgage lender shall be made to an owner-occupant pursuant to section five.

"Annual sinking fund payment", the amount of money specified in the resolution or resolutions authorizing term bonds as payable into a sinking fund during a particular calendar year for the retirement of term bonds at maturity after such fiscal year, but shall not include any amount payable by reason only of the maturity of a bond.