

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.

“Low income persons or families”, those persons and families whose annual income is equal to or less than the maximum amount which would make them eligible for units owned or leased by the housing authority in the city or town in which the residence for which the mortgage loan is sought is located or, in the event that there is no housing authority, that amount which is established as the maximum for eligibility for low-rent units by the department of community affairs.

“Moderate income persons or families”, those persons and families whose annual income is less than the amount necessary to enable them to obtain and maintain decent, safe and sanitary housing without the expenditure of over twenty-five per cent of such income for housing expenses, including the provision of heat, electricity, hot water and an allowance for maintenance and repairs.

“Annual income”, a family’s or person’s gross annual income less such reasonable allowances for dependents, other than spouse, and for medical expenses as MHMFA determines.

“MHMFA”, the Massachusetts Home Mortgage Finance Agency.

SECTION 2. *Declaration of Public Necessity.* It is hereby found that as a result of the continuing increases in the cost of construction or rehabilitation, municipal taxes, heating and electricity expenses, maintenance and repair expenses and the cost of land, low income persons and families and moderate income persons and families in many areas within the commonwealth, including areas which contained formerly stable neighborhoods, are unable to purchase, rehabilitate and maintain decent, safe and sanitary housing which provide an opportunity for home ownership either directly or through a condominium or cooperative form of ownership. The inability of such families to purchase and hold housing in the commonwealth results in the decline of new housing and in the decay of the existing housing stock and of existing neighborhoods with attendant increases in municipal costs for welfare, police and fire protection. The decline in new housing, together with the decay of existing housing stock, has produced a critical shortage of adequate housing in the commonwealth adversely affecting the economy of the commonwealth and the well-being of its residents. Private enterprise without the assistance contemplated by this act cannot achieve the construction or rehabilitation of any housing for persons and families of low or moderate income and the alternative of forcing such families to live in substandard housing is undesirable since it tends to decrease the interest of such families in their communities, the maintenance of their property and the preservation of their neighborhoods.

A large and significant number of commonwealth residents have and will be subject to hardship in finding decent, safe and sanitary housing unless new facilities are constructed and existing housing, where appropriate, is rehabilitated. Unless the supply of housing and the ability of low income persons and families and moderate income persons and families to obtain mortgage financing is increased significantly and expeditiously, a large number of residents of the commonwealth will be compelled to live in unsanitary, overcrowded

and unsafe conditions to the detriment of the health, welfare and well-being of these persons and of the whole community of which they are a part. By increasing the housing supply of the commonwealth and the ability of low income persons and families and moderate income persons and families to obtain mortgage financing, the clearance, replanning, development and redevelopment of blighted areas will be aided, and the critical shortage of adequate housing will be ameliorated.

It is hereby found that a major cause of this housing crisis is the lack of funds at interest rates which are at a level whereby low and moderate income persons and families can afford to own and maintain decent, safe and sanitary housing, and further, it is hereby found that an additional major cause of such a housing crisis is the lack of funds available to finance housing by the private mortgage lending institutions of the commonwealth. It is further found that this lack of funds has frustrated the maintenance, sale and purchase of existing residences in the Commonwealth.

It is hereby further found that to aid in remedying these conditions, to promote the expansion of the supply of funds at low interest rates available for new residential mortgages for low income persons and families and moderate income persons and families and thereby help alleviate the shortage of adequate housing, a corporate agency of the commonwealth shall be created with power (i) to raise funds from private investors in order to make those funds available, through mortgage lending institutions, for new residential mortgage loans to low income persons and families and moderate income persons and families, (ii) to insure such new residential mortgage loans, and (iii) to provide technical assistance to low income persons and families and moderate income persons and families desiring such new residential mortgage loans. By utilizing such powers the agency created shall help develop the financial resources available to meet such housing needs. This purpose is best accomplished through a program whereby mortgage lending institutions make the needed residential mortgage loans, insured or uninsured, through the use of proceeds of loans made available by the agency on terms designed to assure the expansion of available mortgage funds while protecting against the realization by these mortgage lending institutions of an excessive financial return or benefit.

It is hereby further found that the authority and powers conferred under this act and the expenditure of public moneys pursuant thereto constitutes a serving of a valid public purpose and that the enactment of the provisions hereinafter set forth is in the public interest and is hereby so declared to be such as a matter of determination by the general court.

SECTION 3. *Massachusetts Home Mortgage Finance Agency.* There is hereby created in the department of community affairs a body politic and corporate to be known as the Massachusetts Home Mortgage Finance Agency, which shall not be subject to the supervision or control of the department of community affairs or of any department, commission, board, bureau or agency of the commonwealth except to the extent and in the manner provided in

this act. The MHMFA is hereby constituted a public instrumentality and the exercise by the MHMFA of the powers conferred by this act shall be deemed and held to be the performance of an essential governmental function.

The MHMFA shall consist of the commissioner of community affairs or his designated representative and the commissioner of corporations and taxation or his designated representative and the chairman of the Massachusetts Housing Finance Agency, *ex officio*, and four persons to be appointed by the governor, of whom one shall be experienced in commercial banking, one shall be experienced in real estate transactions and one shall be a representative of a community action agency, or other recognized low income organization. Each appointive member shall be appointed for a term of seven years, except that in making his initial appointments, the governor shall appoint three members to serve for terms of three, five and six years, respectively, as he may designate. Any person appointed to fill a vacancy shall serve only for the unexpired term. Any member shall be eligible for reappointment.

The chairman of the Massachusetts Housing Finance Agency shall serve as chairman of the MHMFA and the MHMFA shall annually elect one of its members as vice-chairman and shall also annually elect a secretary, a treasurer and such other officers as it may determine, *none of whom need be members of the MHMFA*. The secretary shall keep a record of the proceedings of the MHMFA and shall be custodian of all books, documents, and papers filed with the MHMFA and of its minute book and seal. He shall have authority to cause to be made copies of all minutes and other records and documents of the MHMFA and to give certificates under the seal of the MHMFA to the effect that such copies are true copies and all persons dealing with the MHMFA may rely upon such certificates. The treasurer shall be the chief financial and accounting officer of the MHMFA and shall be in charge of its funds, books of account and accounting records.

The chief executive officer of MHMFA shall be the executive director of the Massachusetts Housing Finance Agency.

Four members of the MHMFA shall constitute a quorum and the affirmative vote of four members shall be necessary for any action taken by the MHMFA. No vacancy in the membership of the MHMFA shall impair the right of a quorum to exercise all the rights and perform all the duties of the MHMFA.

The members, chairman and chief executive officer of the MHMFA shall serve without compensation, but shall be reimbursed for their necessary expenses incurred in the discharge of their official duties. Notwithstanding the provisions of any other law, no officer or employee of the commonwealth or of any public instrumentality thereof shall be deemed to have forfeited or shall forfeit his office or employment by reason of his acceptance of MHMFA or employment therewith.

SECTION 4. *General Grant of Powers.* The MHMFA is hereby authorized to:

- (a) Make loans to mortgage lenders under terms and conditions

requiring the proceeds thereof to be used by such mortgage lenders for the making of new residential mortgages, all subject to the provisions of section five.

(b) Adopt by-laws for the regulation of its affairs and the conduct of its business.

(c) Adopt an official seal.

(d) Sue and be sued in its own name.

(e) Make and execute contracts and all other instruments necessary or convenient for the exercise of its power and functions.

(f) Acquire, use, hold and dispose of real or personal property or interests therein for its corporate purposes.

(g) Enter into agreements or other transactions with any federal or state agency.

(h) Contract with the Massachusetts Housing Finance Agency to render such services as the MHMFA may deem appropriate, including but not limited to the use of the premises, personnel and personal property of the Massachusetts Housing Finance Agency, and to pay the reasonable costs thereof and provide for the reimbursement to the Massachusetts Housing Finance Agency for any expenses necessarily incurred by the Massachusetts Housing Finance Agency in carrying out the terms of such contract.

(i) 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 in the commonwealth.

(j) Borrow money by the making of notes and the issuance of bonds and secure such bonds by the pledge of revenues, mortgages and notes of others.

(k) Provide technical assistance to potential borrowers from mortgage lenders, subject to the provisions of section seven.

(l) Appear in its own behalf before boards, commissions, departments or other agencies of municipal, state, or federal government.

(m) Collect, enforce the collection of, and foreclose on any collateral securing its loans to mortgage lenders and acquire or take possession of such collateral and sell the same at public or private sale, with or without public bidding, and otherwise deal with such collateral as may be necessary to protect the interest of the MHMFA therein, all subject to any agreement with bondholders or noteholders.

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

(o) Employ such agents, employees, professional and business advisers as may from time to time be necessary in its judgment and to fix their compensation. The chief executive officer, professional advisers and business advisers shall not be subject to the provision of chapter thirty-one or section nine A of chapter thirty of the General Laws.

(p) Make and publish rules and regulations respecting the grant of loans under this act and the regulation of borrowers and any other regulations necessary to fulfill the purposes of this act.

(q) Accept gifts or grants or loans of funds or property or financial or other aid from any federal or state agency or private fund.

(r) Establish, and revise from time to time, and charge and collect fees and charges in connection with, loans made by the MHMFA to mortgage lenders and in connection with MHMFA's mortgage insurance program.

(s) Establish a program to insure loans made by mortgage lenders with the proceeds of loans made by MHMFA to such mortgage lenders, subject to the provisions of section six.

(t) Do any and all things necessary or convenient to carry out its purposes and exercise the powers expressly given and granted in this act.

SECTION 5. *Loans to Mortgage Lenders.* The MHMFA shall from time to time make loans to a mortgage lender under terms and conditions requiring the proceeds thereof to be used by such mortgage lender for the making of a new residential mortgage for housing to persons and families of low and moderate income, provided that such persons or families are or intend to be owner-occupants and provided that such mortgage lender secures such loan as to the payment of principal and interest by a pledge of and lien upon collateral security in such amounts and consisting of such obligations and securities as the MHMFA shall by resolution determine to be necessary to assure payment of such loans and the interest thereon as the same become due.

The MHMFA shall from time to time adopt, modify, amend or repeal rules and regulations governing the making of such loans to mortgage lenders and the application of the proceeds thereof, including rules and regulations as to any or all of the following:

(1) Procedures for the submission of requests or the invitation of proposals for loans;

(2) Standards and requirements as to allocations of loans among all or certain of the mortgage lenders or awards of loans and determining the amounts and interest rates thereof;

(3) Limitations or restrictions as to the number of family units, location or other qualifications or characteristics of residences to be financed by new residential mortgages;

(4) Restrictions as to the interest rates on new residential mortgages or the return realized therefrom by mortgage lenders;

(5) Requirements as to commitments made with loans from MHMFA by mortgage lenders with respect to new residential mortgages;

(6) Schedules of any fees and charges necessary to provide for expenses and reserves of the MHMFA;

(7) Procedures or standards for foreclosure and subsequent resale;

(8) Any other matters related to the duties, and the exercise of the powers of the agency.

Such rules and regulations shall be designed to effectuate the general purposes of this act and the following specific objectives: (i) the expansion of the supply of funds in the Commonwealth available for new residential mortgages; (ii) the provision of the additional

housing needed to remedy the shortage of adequate housing in the commonwealth and to eliminate the existence of a large number of substandard dwellings; and (iii) the effective participation by mortgage lenders in the program authorized by this act and the restriction of the financial return and benefit thereto from such program to that which is necessary and reasonable to induce such participation.

Loans to mortgage lenders shall be general obligations of the respective mortgage lenders owing the same and shall bear such date or dates, shall mature at such time or times, shall be evidenced by such note, bond or other certificate of indebtedness, shall be subject to prepayment, and shall contain such other provisions as the MHMFA shall by resolution determine.

Notwithstanding any other provision of this section to the contrary, the interest rate or rates and other terms of the loans to mortgage lenders made from the proceeds of any issue of bonds of the MHMFA shall be at least sufficient so as to assure the payment of said bonds and the interest thereon as the same become due from the amounts received by the MHMFA in repayment of such loans and interest thereon.

The MHMFA shall require as a condition of each loan to a mortgage lender that such mortgage lender shall, on or prior to the ninetieth day or such earlier day as shall be prescribed by rules and regulations of the MHMFA following the receipt of the loan proceeds, have entered into written commitments to make, and shall thereafter proceed as promptly as practicable to make and disburse from such loan proceeds new residential mortgages as defined in section one of this act to low income persons and families or moderate income persons, or families, such mortgage loans to be an aggregate principal amount equal to the amount of such loan from the MHMFA.

A new residential mortgage loan for rehabilitation of a dwelling of two or more units and which otherwise meets the criteria of this act may be made only if:

(i) the tenants residing in the dwelling have sufficient income reasonably to pay any increase in rent resulting from such rehabilitation so that new residential mortgage loans made with MHMFA loan funds minimize residential displacement; provided that this limitation shall not apply when the proceeds of said mortgage loan are to be used to alleviate conditions which violate the state sanitary code or applicable building or housing codes or to carry out other essential maintenance, and provided further that nothing in this act shall authorize a rent increase not otherwise authorized by law;

(ii) the borrower has entered into a two-year agreement on a form approved by MHMFA with each tenant residing in the dwelling which limits rent increases during such period to those properly resulting from the new residential mortgage or those necessitated by increases in property taxes, operating or maintenance expenses, or additional capital improvement;

(iii) the borrower has, on a form provided by MHMFA, notified each

tenant residing in the dwelling of the repairs or improvements to be undertaken with the proceeds of the mortgage loan, of the estimated increase in rent, if any, attributable to such repairs or improvements, and of the right of said tenant to review by the MHMFA of the mortgage application, if the tenant believes the mortgage loan is not being made in accordance with the requirements of this act or MHMFA regulations and if the tenant requests the review within fourteen days of receipt of the notice. Such review need not be in accordance with sections ten and eleven of chapter thirty A of the General Laws.

A district court or housing court within the jurisdiction in which a dwelling unit affected by an action, regulation or order of MHMFA under this section is located shall have original jurisdiction over proceedings contesting such action, regulation or order and shall be authorized to take such action with respect thereto as is provided in the case of the superior court under the provisions of chapter two hundred and thirty-one A of the General Laws. All orders, judgments and decrees of such district court or housing court may be appealed as is provided in the case of a civil action in such district court or housing court.

It shall be the policy of MHMFA in making loans to mortgage lenders to consider the ability of a mortgage lender to make loans comparable to the policies expressed in this act from existing reserves held by such mortgage lender for the purpose of making loans. MHMFA shall set requirements on participating mortgage lenders so that at least eighty per cent of the bond proceeds shall be for new residential mortgages on structures at least ten years old. MHMFA shall require participating mortgage lenders to make periodic reports including but not limited to, information on the geographic distribution, terms and type, as in first or second lien, of mortgages made with proceeds of MHMFA bonds, the distribution and terms of those mortgages insured by the MHMFA, and individual citation as to where and by how much rent levels have been projected to increase by the mortgage lender and the borrower in the course of processing the loan. Such information shall be published by the MHMFA and submitted annually to the general court and the department of community affairs. In addition, the MHMFA shall require as a condition to mortgage lenders that in any city or town with an approved neighborhood preservation program proposed to MHMFA by a city or town, an agreed upon dollar volume of bonding authorization as a minimum commitment shall be located in priority areas set forth in the neighborhood preservation program within an agreed upon time period, not greater than five years; provided, however, that local community organizations such as community action agencies or other recognized low income organizations shall be included in reviewing the neighborhood preservation program.

In proposing a neighborhood preservation program to the MHMFA, a city or town shall submit in a manner as may be required by the MHMFA, the following:

- (1) the degree of blight, decay or deterioration of housing accom-

modations, or the imminent threat of such blight, decay or deterioration within the area;

(2) the degree to which conventional financing or refinancing of repairs, remodeling or rehabilitation of such housing accommodations is available;

(3) the proportion of residential structures within the area which are owner-occupied and;

(4) the degree to which the project income and the financial resources of owner-occupants, where relevant, of the housing accommodations with the area provide reasonable assurances of the economic feasibility of the financing of the repairs, remodeling or rehabilitation to be insured hereunder;

(5) the proportion of residential structures in the area where rehabilitation work can be done with financing as provided herein, without necessitating a substantial increase in carrying costs and rental charges to any owner-occupant or tenant beyond their capacity to absorb, and the extent of suitable vacant housing in such an area.

Before giving approval of a neighborhood preservation program, the MHMFA shall consider the expressed commitment of a city or town to provide a concentrated effort to enforce the building and housing codes within certain priority areas in such city or town, and the expressed commitment of a city or town to provide capital improvements and other city services to improve and restore such areas.

The MHMFA may revoke its approval of a neighborhood preservation program if it determines that a city or town in which an area for said program is located has failed to initiate and continue tangible activity on such a program.

The MHMFA shall require the submission, by each mortgage lender to which the MHMFA has made a loan, of evidence satisfactory to the MHMFA of the making of new residential mortgages as required by this Section and prescribed by rules and regulations of the MHMFA and in connection therewith may inspect the books and records of such mortgage lender.

The MHMFA may require as a condition of any loans to mortgage lenders such representations and warranties as it shall determine to be necessary to secure such loans and carry out the purposes of the act.

SECTION 6. *Mortgage Insurance Program.* MHMFA may, pursuant to regulations adopted by it, establish a program of mortgage insurance to insure those loans made by mortgage lenders as a condition to the receipt of a loan from the MHMFA under section five and also to insure conventional mortgage loans to resident owners made for purposes of acquisition and rehabilitation or rehabilitation in areas designated for neighborhood preservation programs under section five.

Such sums as may be appropriated or otherwise acquired may be used for the purpose of establishing a mortgage insurance fund administered by the MHMFA. Such sum, to the extent necessary, shall

be applied to the payment of (i) claims made by lenders who have made new residential mortgage loans as a condition to the receipt of a loan from the MHMFA under section five, and which new residential mortgage loans are in default and (ii) claims made by lenders of conventional mortgage loans, in default, made to resident owners for purposes of acquisition and rehabilitation in areas designated for neighborhood preservation programs under section five. Claims shall be made against the mortgage insurance fund in accordance with procedures established by MHMFA. Pursuant to this Section, and to rules and regulations adopted by it, MHMFA may have at any time a total amount of insurance risk outstanding not in excess of the amount contained in the fund multiplied by thirty. At such time as premiums and other sources of income to the fund provide adequate protection against potential losses, MHMFA shall, to the extent it deems it prudent, return to the General Fund of the commonwealth from the mortgage insurance fund all or a portion of such funds appropriated.

The commissioner of insurance shall prepare regulations to govern the issuance of mortgage insurance which shall be included without amendment in the regulations adopted by the MHMFA pursuant to this section. To the full extent practicable said regulations shall require compliance with the general provisions of chapter one hundred and seventy-five of the General Laws.

SECTION 7. *Technical Assistance.* MHMFA may, subject to appropriation by the general court or funds made available from any other public or private source, and pursuant to rules and regulations adopted by it, contract with nonprofit organizations incorporated under the laws of the commonwealth or qualified public agencies for technical assistance to potential borrowers from such mortgage lenders including without limitation the following services:

(i) consultation as to the nature, extent and manner of new construction, or the repair, remodeling or rehabilitation financed hereunder and consultation regarding the nature, extent and manner of repairs required to ensure that the dwelling structure shall not contain a substantial violation of the housing or building codes after such work is completed;

(ii) consultation regarding the laws, rules, regulations and codes regulating the nature, extent and manner of undertaking such work;

(iii) consultation as to the contractors, subcontractors, individuals, or other entities to perform such work;

(iv) consultation as to the proper manner, mode and method of financing such work;

(v) consultation regarding the manner, method or mode by which such borrowers may undertake all or any portion of the work themselves;

(vi) consultation regarding the progress of the work, including technical assistance regarding the quality of such work;

(vii) consultation regarding debt consolidation, debt management and money management to ensure the stability and repayment of any mortgage insured hereunder;

(viii) consultation regarding ongoing management of the premises.

SECTION 7A. Resident Ownership Subsidy Program. MHMFA shall create and establish a special fund, herein referred to as the Resident Ownership Fund, and shall pay into such fund any monies appropriated and made available by the commonwealth and any grants or financial aids received from others for the purposes of such fund. All monies held in the Resident Ownership Fund shall be used solely to assist low income families or persons who own single-family or multi-family homes or cooperative housing shares or condominium units, the purchase or rehabilitation of which are financed under this act by providing, as designated by appropriation, (i) a subsidy to such families or persons not to exceed the difference between the amount required annually to pay interest and debt service, real property taxes, fire insurance, reasonable management costs and reasonable maintenance costs on such a home, share, or unit, and twenty-five per cent of the annual income of such families or persons or (ii) special advice and assistance to such families or persons.

SECTION 8. Issuance of Bonds and Notes. The MHMFA shall have power and is hereby authorized from time to time to issue its negotiable bonds and notes in such principal amount as, in the opinion of the MHMFA, shall be necessary to provide sufficient funds for achieving its corporate purposes, including the making of loans, the payment of interest on bonds and notes of the MHMFA, establishment of reserves to secure such bonds and notes, and all other expenditures of the MHMFA incident to and necessary or convenient to carry out its corporate purposes and powers. The MHMFA 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.

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 as such resolutions, may provide, except that no bond shall mature more than fifty years from the date of its issue. The bonds may be issued as serial bonds payable in annual installments or as term bonds or as a combination thereof. The notes and bonds shall bear interest at such rate or rates, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, contain such terms and provisions relating to, but not limited to, pledges of the MHMFA'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 MHMFA may be sold at public or private sale, at such price or prices as the MHMFA shall determine. The principal of and interest on any

bonds or notes issued by the MHMFA may be secured by the full faith and credit of the MHMFA, by a pledge of any revenues and receipts of the MHMFA, by a pledge of loan collateral, or by any one or more of the foregoing, all as the MHMFA may determine in the resolution authorizing the issue of such bonds or notes. No notes or bonds of the MHMFA shall be sold by the MHMFA at private sale, unless such sale and the terms thereof have been approved by the state treasurer. The aggregate principal amount of notes and bonds of the MHMFA outstanding at any one time shall not exceed the sum of twenty-five million dollars.

Neither the members of the MHMFA 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.

The MHMFA, 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 9. *Credit of Commonwealth or any Subdivision Thereof Not Pledged.* 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, except as provided in section eight, of any such political subdivision, but such bonds and notes shall be payable solely from the proceeds of loans made under this act, reserve funds created therefor by the MHMFA, and other available funds of the MHMFA. All such bonds and notes shall contain on the face thereof a statement to the effect that neither the MHMFA 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 and available funds and that neither the faith and credit nor the taxing power of the commonwealth or, except as provided in section eight, any political subdivision thereof, is pledged to the payment of the principal of or the interest on such bonds.

SECTION 10. *Capital Reserve Fund.* The MHMFA shall create and establish a special fund, herein referred to as the Capital Reserve Fund, and shall pay into said Capital Reserve Fund any monies appropriated and made available by the commonwealth or from any other source, public or private, for the purposes of such fund, any proceeds of sale of notes or bonds to the extent provided in the resolution of the MHMFA authorizing issuance thereof, and any other monies which may be available to the MHMFA for the purpose of such fund from any other source. All monies held in the Capital Reserve Fund, except as hereinafter provided, shall be used solely for the payment

of the principal or annual sinking fund payment of bonds of the MHMFA as the same mature or become due, the purchase of bonds of the MHMFA, the payment of interest on such bonds of the MHMFA or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity; provided, however, that monies in such fund shall not be withdrawn therefrom at any time in such amount as would reduce the amount of such fund to less than the maximum amount of principal and interest or annual sinking fund payment, whichever is less, maturing or becoming due in any succeeding calendar year on all bonds of the MHMFA then outstanding, except for the purpose of paying the principal of and interest on such bonds of the MHMFA maturing or becoming due, whether at maturity or by annual sinking fund payment, and for the payment of which other monies of the MHMFA are not available. Any income or interest earned by, or increment to, the Capital Reserve Fund due to the investment thereof may be transferred by the MHMFA to any fund of the MHMFA to the extent it does not reduce the amount of the Capital Reserve Fund below the maximum amount of principal and interest or annual sinking fund payment, whichever is less, maturing or becoming due in any succeeding calendar year on all bonds of the MHMFA then outstanding.

The MHMFA shall not issue bonds at any time if the maximum amount of principal and interest maturing becoming due, whether at maturity or by annual sinking fund payment, in a succeeding calendar year or such bonds then to be issued and on all other bonds of the MHMFA then outstanding will exceed the amount of the Capital Reserve Fund at the time of issuance unless the MHMFA, 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, shall be not less than the maximum amount of principal and interest maturing or becoming due, whether at maturity or by annual sinking fund payment, in any succeeding calendar year on such bonds then to be issued and on all other bonds of the MHMFA then outstanding.

To assure the continued operation and solvency of the MHMFA for the carrying out of the public purposes of this act, provision is made in this section for the accumulation in the Capital Reserve Fund of an amount equal to the maximum amount of principal and interest, whether at maturity or by annual sinking fund payment, maturing or becoming due in any succeeding calendar year on all bonds of the MHMFA then outstanding. In order further to assure such maintenance of the Capital Reserve Fund there shall be annually appropriated and paid to the MHMFA for deposit in the Capital Reserve Fund such sum, if any, as shall be certified by the chairman of the MHMFA to the governor as necessary to restore the Capital Reserve Fund to an amount equal to the maximum amount of principal and interest, whether at maturity or by annual sinking fund payment, maturing or becoming due in any succeeding calendar year on the bonds of the MHMFA then outstanding. The chairman of the MHMFA shall annually, on or before December first, make and deliver to the governor

his certificate stating the amount, if any, required to restore the Capital Reserve Fund to the amount aforesaid and the amount so stated, if any, shall be appropriated and paid to the MHMFA during the then current fiscal year of the commonwealth. Such amount, if any, shall be repaid to the commonwealth as soon as possible by the MHMFA from monies in excess of the amount required to make and keep MHMFA self-supporting.

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 MHMFA.

SECTION 11. *Trust Agreement.* In the discretion of the MHMFA, bonds and notes issued by it shall be secured by a trust agreement by and between the MHMFA 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 MHMFA in relation to the custody, safeguarding and application of all monies.

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 MHMFA. 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 MHMFA may deem reasonable and proper for the security of the bondholders.

SECTION 12. *Bonds and Notes Tax Exempt.* The creation of the MHMFA 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 MHMFA shall 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 MHMFA, in consideration of the acceptance of any payment for the notes and bonds, that the notes and bonds of the MHMFA, issued pursuant to this act and the income therefrom shall at all times be free from taxation.

SECTION 13. *Bonds and Notes Eligible for Investment.* Bonds and notes issued under the provisions of this act are hereby made securities in which all public officers and public bodies of the commonwealth and its political subdivisions, all insurance companies, trust companies in their commercial departments and within the limits set by section forty of chapter one hundred and seventy-two of the General Laws, savings banks, co-operative banks, banking associations, investment companies, executors, trustees and other fiduci-

aries, 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. Such bonds and notes are hereby made securities which may properly legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the commonwealth for any purpose for which the deposit of bonds or other obligations of the commonwealth now or may hereafter be authorized by law.

SECTION 14. *Advisory Committee.* To assist the MHMFA in the discharge of its duties, the Massachusetts Housing Finance Agency Advisory Committee shall assist the MHMFA and its staff in formulating policies and procedures dealing with programs to accomplish the purposes of this act.

Members of the Massachusetts Housing Finance Agency advisory committee shall receive no compensation. They shall not be subject to the provisions of chapter thirty-one or chapter two hundred and sixty-eight A of the General Laws.

SECTION 15. *Annual Report.* The MHMFA shall annually submit to the governor, the chairman of the senate committee on ways and means, the chairman of the house committee on ways and means, the commissioner of administration, and the comptroller within ninety days after the end of its fiscal year, a complete and detailed report setting forth: (a) its operations and accomplishments; (b) its receipts and expenditures during such fiscal year in accordance with the categories and classifications established by the MHMFA for its operating and capital outlay purposes; (c) its assets and liabilities at the end of its fiscal year, including a schedule of its loans, commitments, insurance in force and the status of reserve, special, or other funds, and (d) a schedule of its bonds and notes outstanding at the end of its fiscal year, together with a statement of the amounts redeemed and incurred during such fiscal year.

SECTION 16. *Inspection of Books and Records.* The books and records of the MHMFA shall be subject to an annual audit by the auditor of the commonwealth.

SECTION 17. *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 18. *Severability.* The provisions of this act are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

Approved August 14, 1974.

EMERGENCY LETTER — September 17, 1974 at 4:52 P.M.

Chap. 847. AN ACT REGULATING THE CONVERSION OF CERTAIN APARTMENT BUILDINGS IN THE CITY OF NEWTON.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of chapter forty A