

ACTS, 1982. - Chaps. 262, 263, 264.

Chap. 262. AN ACT FURTHER REGULATING THE
REVOCATION OF A LICENSE AND MOTOR
VEHICLE OPERATOR REGISTRATION.

Be it enacted, etc., as follows:

Section 29 of chapter 90 of the General Laws is hereby amended by striking out the eighth sentence, as amended by chapter 364 of the acts of 1968, and inserting in place thereof the following sentence:- Every such officer, upon the request of the registrar, shall demand forthwith the license of any operator and the certificate of registration and may take into his possession the number plates of any motor vehicle situated in a city or town within such officer's jurisdiction when said license or certificate has been suspended or revoked by the registrar and shall forward the said license, certificate and plates to the registrar.

Approved July 6, 1982.

Chap. 263. AN ACT AUTHORIZING THE CITY OF LYNN TO
APPROPRIATE A CERTAIN OVERLAY DEFICIT
OVER A PERIOD OF YEARS.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any provision of law to the contrary, the city of Lynn is hereby authorized to carry its overlay deficit, as it existed as of June thirtieth, nineteen hundred and eighty-two, and to appropriate said overlay deficit on the following ratio: one-fifth of said deficit in fiscal nineteen hundred and eighty-three, one-fifth of said deficit in fiscal nineteen hundred and eighty-four, one-fifth of said deficit in fiscal nineteen hundred and eighty-five, one-fifth of said deficit in fiscal nineteen hundred and eighty-six, and the remaining one-fifth of said deficit in fiscal nineteen hundred and eighty-seven.

SECTION 2. This act shall take effect upon its passage.

Approved July 6, 1982.

Chap. 264. AN ACT FURTHER REGULATING THE
MASSACHUSETTS HOUSING FINANCE AGENCY
AND THE MASSACHUSETTS HOME MORTGAGE
FINANCE AGENCY.

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Whereas, The deferred operation of this act would tend to defeat its purpose, which is to increase the availability of housing to the low and moderate income families of the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Section 1 of chapter 708 of the acts of 1966 is hereby amended by striking out paragraph (d), as amended by section 15 of chapter 1215 of the acts of 1973, and inserting in place thereof the following paragraph:-

(d) "Low income persons or families" shall mean 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 project or 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.

SECTION 2. Said section 1 of said chapter 708 is hereby further amended by striking out paragraph (h), added by section 1 of chapter 643 of the acts of 1975, and inserting in place thereof the following paragraph:-

(h) "Moderate income persons or families" shall mean those persons or families other than low income persons or 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.

SECTION 3. Said section 1 of said chapter 708 is hereby further amended by adding the following two paragraphs:-

(j) "Mortgage lender" shall mean 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 an insurance company authorized to transact business in the commonwealth.

(k) "New residential mortgage" shall mean a loan, including a home improvement loan, made by a mortgage lender and secured

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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 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 MHFA to such mortgage lender shall be made to an owner-occupant pursuant to paragraph (a) of section five.

SECTION 4. Section 2 of said chapter 708 is hereby amended by adding the following five paragraphs:-

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 persons or families to live in substandard housing is undesirable since it tends to decrease the interest of such persons or 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

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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 at which 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.

It is hereby further found that the authority and powers conferred under this act and the expenditure of public monies 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 5. Section 3 of said chapter 708 is hereby amended by striking out the second paragraph, as most recently amended by chapter 263 of the acts of 1979, and inserting in place

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thereof the following paragraph:-

The MHFA shall consist of the secretary of communities and development or his designated representative and the secretary of administration and finance or his designated representative, ex officii, and seven persons to be appointed by the governor, of whom one shall be experienced in mortgage banking, one shall be trained in architecture or city or regional planning, one shall be experienced in real estate transactions, two shall be experienced in single-family residential development, and one shall be a representative of organized labor appointed from a list of at least five names submitted by the Massachusetts State Labor Council, AFL-CIO. 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. Each appointive member shall serve until his successor is appointed and duly qualified. Any person appointed to fill a vacancy shall serve only for the unexpired term. Any member shall be eligible for reappointment.

SECTION 6. Said section 3 of said chapter 708 is hereby amended by striking out the third paragraph, as amended by section 1 of chapter 709 of the acts of 1968, and inserting in place thereof the following paragraph:-

The governor shall designate one of the members as chairman of the MHFA who shall serve as such chairman during his term of office as a member. The MHFA 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 MHFA. The secretary shall keep a record of the proceedings of the MHFA and shall be custodian of all books, documents, and papers filed with the MHFA 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 MHFA and to give certificates under the seal of the MHFA to the effect that such copies are true copies and all persons dealing with the MHFA may rely upon such certificates. The treasurer shall be the chief financial and accounting officer of the MHFA and shall be in charge of its funds, books of account, and accounting records.

SECTION 7. Said section 3 of said chapter 708 is hereby further amended by striking out the fourth paragraph and inserting in place thereof the following paragraph:-

Five members of the MHFA shall constitute a quorum and the affirmative vote of five members shall be necessary for any

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action taken by the MHFA. No vacancy in the membership of the MHFA shall impair the right of a quorum to exercise all the rights and perform all the duties of the MHFA.

SECTION 8. Section 4 of said chapter 708 is hereby amended by striking out clause (f) and inserting in place thereof the following clause:-

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

SECTION 9. Said section 4 of said chapter 708 is hereby further amended by striking out clause (r) and inserting in place thereof the following clause:-

(r) Accept gifts or grants or loans of, or act as an agent or conduit in administering the disbursement of funds or property or financial or other aid from any federal or state agency or private fund.

SECTION 10. Said section 4 of said chapter 708 is hereby further amended by adding after clause (y), added by section 9 of chapter 789 of the acts of 1981, the following clause:-

(w) Loan or grant any monies in its Working Capital Fund available to MHFA for its general purposes to the Massachusetts Home Mortgage Finance Agency to be used for its general purposes.

SECTION 11. Said chapter 708 is hereby further amended by inserting after section 4 the following section:-

Section 4A. Grant of Additional Powers. The MHFA is hereby also 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 A.

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

(c) 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 sales, with or without public bidding, and otherwise deal with such collateral as may be necessary to protect the interest of the MHFA therein, all subject to any agreement with bondholders or noteholders.

(d) 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

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this act.

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

(f) Establish a program to insure loans made by mortgage lenders with the proceeds of loans made by MHFA to such mortgage lenders, subject to the provisions of section five B.

(g) Establish in areas covered by a neighborhood preservation program approved by the MHFA under section five A a program to encourage mortgage lenders to make loans within such areas to persons or families of low and moderate income who are, or intend to be, owner-occupants.

(h) Sell, purchase and contract and enter into advance commitments to purchase and take assignments from mortgage lenders of new residential mortgages owned or to be owned by mortgage lenders, including securities and other obligations of mortgage lenders secured by or representing an interest in new residential mortgages, all subject to the provisions of section five A. Acquire or accept by pledge Government National Mortgage Association guaranteed mortgage-backed securities, backed by new residential mortgages or interests therein, or other instruments of indebtedness issued or guaranteed by the United States of America thereof which have been or will be issued to finance new residential mortgages.

(i) Engage in or assist in the rehabilitation of housing or the development of home ownership under any federal program providing assistance for low or moderate income housing as from time to time may be established and funded by the federal government.

(j) Enter into contribution contracts with any federal or state agency or private fund, and contracts with owners or tenants of dwelling units, with respect to the making of federal or state rent subsidy payments.

(k) 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 12. Said chapter 708 is hereby further amended by inserting after section 5 the following three sections:-

Section 5A. Loans to Mortgage Lenders. The MHFA may from time to time purchase, and contract and make commitments to purchase new residential mortgages and notes, bonds or other obligations issued by mortgage lenders, and make loans to mortgage lenders, for the purpose of financing new residential mortgages for persons and families of low and moderate income,

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provided that such persons or families are or intend to be owner-occupants and provided that in the case of a loan to a mortgage lender, such mortgage lender secures such loan as to the payment of principal and interest by a pledge of and lien upon collateral in such amounts and consisting of such obligations and securities as the MHFA shall by resolution determine to be necessary to assure payment of such loans and the interest thereon as the same become due.

The MHFA shall from time to time adopt, modify, amend or repeal rules and regulations governing the making, purchasing or financing of new residential mortgages, including rules and regulations as to any or all of the following:

(a) Procedures for the submission of requests or the invitation of proposals for the making, purchasing or financing of new residential mortgages;

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

(c) 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;

(d) Requirements as to purchase or loan commitments from MHFA to mortgage lenders with respect to new residential mortgages;

(e) The terms and conditions of new residential mortgages including their principal amount, loan to value ratio, rate or rates of interest and restrictions thereon and restrictions on the return realized thereon by mortgage lenders;

(f) Schedules of any fees and charges necessary to provide expenses and reserves of MHFA;

(g) Procedures and other standards for foreclosure and subsequent resale;

(h) The time within which mortgage lenders must make commitments and disbursements for new residential mortgages;

(i) Any other matters related to the duties, and the exercise of the powers of the MHFA, and other regulations and restrictions governing the selection of mortgagors and the making, purchasing and financing of mortgage loans and security therefore as the MHFA shall deem advisable to accomplish the purposes of this act.

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

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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 MHFA shall by resolution determine.

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

The MHFA 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 MHFA 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 MHFA.

No new residential mortgage shall be purchased by MHFA unless the mortgage lender who made the new residential mortgage certifies to MHFA that the residential building securing such new residential mortgage is or will be owned and occupied by a person or family of low or moderate income or the mortgage lender is obligated by the terms of such purchase to re-invest the new proceeds thereof in new residential mortgages for persons or families of low or moderate income in an aggregate principal amount substantially equal to the amount of such net proceeds.

The MHFA shall from time to time adopt, modify, amend or repeal rules and regulations governing the making of new residential mortgage loans for the purpose of rehabilitation of dwellings of two or more units so as to afford protection to existing tenants. Such rules and regulations shall be designed

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to effectuate the general purposes of this act and the following specific objectives: (i) insuring that tenants residing in such dwellings have income reasonably sufficient to pay any increase in rent resulting from such rehabilitation so that residential mortgage loans made with MHFA loan funds minimize residential displacement, unless the proceeds of such mortgage loans are to be used to alleviate conditions which violate the state sanitary code or applicable building or housing codes or to carry out essential maintenance; (ii) notification of tenants residing in such dwellings as to the repairs or improvements to be undertaken with the proceeds of such mortgage loans and the estimated increase in rent, if any, attributable to such repairs or improvements; and (iii) agreements between borrowers and tenants residing in such dwelling which limit rent increases during such reasonable periods as the MHFA may prescribe to those properly resulting from such mortgage loans or those necessitated by increases in property taxes, operating or maintenance expenses or additional capital improvement. Nothing in this act shall authorize a rent increase not otherwise authorized by law.

A district court or housing court within the jurisdiction in which a dwelling unit affected by an action, regulation or order of MHFA 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 MHFA in making loans to mortgage lenders to consider the ability of a mortgage lender to make loans consistent with the policies expressed in this act from existing reserves held by such mortgage lender for the purpose of making loans. MHFA 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 MHFA bonds, the distribution and terms of those mortgages insured by the MHFA, 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 MHFA and submitted annually to the general court and the department of community affairs. In addition, the MHFA may require as a condition to

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mortgage lenders that in any city or town with an approved neighborhood preservation program proposed to MHFA 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 MHFA, a city or town, acting through the local chief executive, shall submit, in a manner as may be required by the MHFA, the following items:

(1) The degree of blight, decay or deterioration of housing accommodations, 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 accommodation is available;

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

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

(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 MHFA 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 MHFA 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.

Before authorizing an applicant to proceed with a final application for a neighborhood preservation program, the MHFA shall submit the preliminary application to the secretary of

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communities and development for review. The secretary shall review the appropriateness of the proposed program with regard to overall state and local growth and housing policy. If the secretary does not disapprove the application within thirty days the application shall be deemed to be approved for processing by the MHFA. In the event of a major change in the proposed neighborhood preservation program, including but not limited to significant changes in the proposed boundaries of the neighborhood area, the loan amount, or the state or federal subsidies requested, after the initial review by the secretary, the MHFA shall submit each proposed change to the secretary for his review. If the secretary does not disapprove the revision within thirty days, the revised application shall be deemed to be approved for processing by the MHFA.

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

The MHFA may require as a condition of any loans to mortgage lenders, or of any purchase of new residential mortgages from 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.

Prior to issuing any notes or bonds to make loans pursuant to this section, the MHFA shall consult with the Massachusetts Home Mortgage Finance Agency advisory committee established pursuant to section fourteen of chapter eight hundred and forty-six of the acts of nineteen hundred and seventy-four.

Notwithstanding any provisions of chapter two hundred and sixty-eight A of the General Laws, a present or former employee of the commonwealth, or any political subdivision thereof, or of any state, county or municipal agency as defined in said chapter two hundred and sixty-eight A may be a mortgagor of a new residential mortgage hereunder.

Section 5B. Mortgage Insurance Program. MHFA 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 MHFA under section five A 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 said section five A.

Such sums as may be appropriated or otherwise acquired may

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be used for the purpose of establishing a Mortgage Insurance Fund administered by the MHFA. Such sums, to the extent necessary, shall be applied to the payment of (i) claims made by lenders who have made new residential mortgages as a condition to the receipt of a loan from the MHFA under section five A and which new residential mortgages 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 A. Claims shall be made against the mortgage insurance fund in accordance with procedures established by MHFA. Pursuant to this section, and to rules and regulations adopted by it, MHFA 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 times as premiums and other sources of income to the fund provide adequate protection against potential losses, MHFA 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 MHFA 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 5C. Technical Assistance. The MHFA 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;

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(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 13. Paragraph (b) of section 8 of said chapter 708 is hereby amended by striking out the sixth, seventh, eighth and ninth sentences, as amended by section 9 of chapter 632 of the acts of 1979, and inserting in place thereof the following five sentences:- The aggregate principal amount of notes and bonds of the MHFA issued to make mortgage loans pursuant to section five, outstanding at any one time shall not exceed the sum of one billion five hundred million dollars of which one hundred and fifty million dollars shall be used only to make mortgage loans in cities or towns which have been found to have a rate of unemployment of at least six percentum in the issue of "Area Trends in Employment and Unemployment" published by the United States Department of Labor for the October preceding the making of any such loan. For purposes of the preceding sentence, the aggregate principal amount of notes and bonds of the MHFA outstanding at any time shall equal the aggregate principal amount of notes and bonds of the MHFA issued and unpaid less (A) an amount equal to the aggregate principal amount of notes issued to fund construction loans with respect to which the United States government or an agency of the United States government is committed to insure or approve construction advances in an amount in excess of ninety per cent of the mortgage amount and with respect to which a person other than the MHFA has agreed to provide permanent financing and (B) an amount equal to monies irrevocably escrowed in trust exclusively for the payment of the principal of either notes or bonds, provided that either (i) other monies so escrowed are sufficient to pay when due the interest to accrue on such notes or bonds or (ii) such monies have been invested in investments permitted under the resolution of the MHFA authorizing the issuance of such notes or bonds in such manner that the income thereon will be sufficient to pay when due the interest to accrue on such

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notes or bonds prior to the time the principal of such notes or bonds shall mature. At any time after December thirty-first, nineteen hundred and seventy-seven, the MHFA shall not be authorized to issue notes other than (i) notes issued to refund notes previously issued, (ii) notes issued to fund mortgage loan increases for projects for which notes have previously been issued and (iii) notes issued to fund construction loans with respect to which a person other than the MHFA has agreed to provide permanent financing, if after such issuance the aggregate principal amount of all notes, other than notes described in clauses (ii) and (iii) of this sentence, then outstanding shall exceed twenty-five per cent of the aggregate principal amount of all bonds of the MHFA then outstanding. For purposes of the preceding sentence, the aggregate principal amount of all such notes outstanding at any time shall equal the aggregate principal amount of such notes issued and unpaid less an amount equal to monies irrevocably escrowed in trust exclusively for the payment of the principal of such notes, provided that either (i) other monies so escrowed are sufficient to pay when due the interest to accrue on such notes or (ii) such monies have been invested in investments permitted under the resolution of the MHFA authorizing the issuance of such notes in such manner that the income thereon will be sufficient to pay when due the interest to accrue on such notes. The aggregate principal amount of notes and bonds of the MHFA and the Massachusetts Home Mortgage Finance Agency issued to make loans pursuant to section five A of this chapter and chapter eight hundred and forty-six of the acts of nineteen hundred and seventy-four outstanding at any one time shall not exceed the sum of five hundred million dollars.

SECTION 14. Said section 8 of said chapter 708 is hereby amended by adding after paragraph (e), added by chapter 348 of the acts of 1981, the following paragraph:-

(f) The MHFA and the Massachusetts Home Mortgage Finance Agency shall be allocated, for purposes of Section 103A(g) of the Internal Revenue Code of 1954, as amended, one hundred per cent of the state ceiling applicable to the commonwealth for any calendar year of the aggregate amount of qualified mortgage bonds, as defined in said Section 103A(g). The MHFA shall establish the allocation of such aggregate amount between the MHFA and the Massachusetts Home Mortgage Finance Agency.

SECTION 15. Paragraph (a) of section 9B of said chapter 708 is hereby amended by striking out the first sentence, as amended by section 13 of chapter 632 of the acts of 1979, and

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inserting in place thereof the following sentence:- The MHFA may create and establish one or more special funds, herein individually referred to as a Capital Reserve Fund, and to the extent so created, shall pay into each such Capital Reserve Fund any monies 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 MHFA authorizing issuance thereof, and any other monies which may be available to the MHFA for the purpose of such fund from any other source or sources.

SECTION 16. Said chapter 708 is hereby further amended by inserting after section 9B the following section:-

Section 9C. Notwithstanding anything to the contrary, as security for the payment of bonds issued for the purpose of carrying out the provisions of section five A, the MHFA may create and establish one or more special funds, herein individually referred to as a Capital Reserve Fund, and to the extent so created, shall pay into each such Capital Reserve Fund any monies 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 MHFA authorizing issuance thereof, and any other monies which may be available to the MHFA for the purpose of such fund from any other source or sources. All monies held in a Capital Reserve Fund pursuant to this section, except as hereinafter provided, shall be used solely for the payment of the principal of bonds of the MHFA which are secured by such Capital Reserve Fund as the same become payable, the purchase 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; provided, however, that monies in a Capital Reserve 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 requirement thereof established by resolution of the MHFA except for the purpose of paying the principal of and interest and premium on bonds secured by such fund becoming due and for the payment of which other monies of the MHFA are not available.

The MHFA shall not at any time issue bonds secured by a Capital Reserve Fund if following the issuance of such bonds the amount of the Capital Reserve Fund shall be less than the minimum requirement thereof established by the resolution of the MHFA providing for the issuance of bonds secured by such fund unless the MHFA, at the time of issuance of such bonds, shall deposit in such fund from the proceeds of the bonds so to be

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issued, or otherwise, an amount which, together with the amount then in such fund, will not be less than the minimum requirement; provided that at no time shall the minimum requirement of a Capital Reserve Fund be established by the MHFA at an amount less than one-quarter of the maximum amount of interest becoming due in the current or any succeeding fiscal year of the MHFA or at an amount greater than the maximum amount of principal and interest becoming due in the current or any succeeding fiscal year of MHFA on all outstanding bonds which are secured by such Capital Reserve Fund.

In order to assure the maintenance of a Capital Reserve Fund at the minimum requirement thereof established by resolution of the MHFA, there shall be annually appropriated and paid to the MHFA for deposit in such Capital Reserve Fund such sum, if any, as shall be certified by the chairman of the MHFA to the governor as necessary to restore such Capital Reserve Fund to such minimum requirement. The chairman of the MHFA shall annually, on or before December first, make and deliver to the governor his certificate stating the amount, if any, required to restore a Capital Reserve Fund to the amount aforesaid and the amount so stated, if any, shall be appropriated and paid to the MHFA during the then current fiscal year of the commonwealth as soon as possible by the MHFA from monies in excess of the amount required to make and keep MHFA self-supporting.

For purposes of this section, the term "outstanding bonds" shall exclude bonds for the payment or redemption of which refunding bonds have been issued pursuant to section eight.

Notwithstanding the provisions of this section, the MHFA may create and establish a Capital Reserve Fund for any issue of bonds under such provisions as are necessary to comply with the provisions of Section 103A of the Internal Revenue Code of 1954, as amended.

SECTION 17. Section 13 of said chapter 708, as most recently amended by chapter 807 of the acts of 1973, is hereby further amended by adding the following sentence:- Notwithstanding any general or special law to the contrary, all mortgage lenders may properly and legally invest funds, including capital in their control or belonging to them, in new residential mortgages and interests therein and other securities or obligations held by or for the account of the MHFA under this act, and may participate with the MHFA in making or acquiring new residential mortgages or jointly owned interests in new residential mortgages with the MHFA, and may otherwise transact business with the MHFA as contemplated herein.

SECTION 18. Said chapter 708 is hereby further amended by

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inserting after section 16 the following section:-

Section 16A. The MHFA shall be liable on all claims made as a result of the activities, whether ministerial or discretionary, of any member, officer, or employee of the MHFA acting as such, except for willful dishonesty or intentional violation of the law, in the same manner and to the same extent as a private person under like circumstances; provided, however, that the MHFA shall not be liable to levy of execution on any real or personal property to satisfy judgment, for interest prior to judgment, for punitive damages or for any amount in excess of one hundred thousand dollars.

No person shall be liable to the commonwealth, to the MHFA or to any other person as a result of his activities, whether ministerial or discretionary, as a member, officer or employee of the MHFA except for willful dishonesty or intentional violation of the law; provided, however, that such person shall provide reasonable cooperation to the MHFA in the defense of any claim. Failure of such person to provide reasonable cooperation shall cause him to be jointly liable with the MHFA, to the extent that such failure prejudiced the defense of the action.

The MHFA may indemnify or reimburse any person, or his personal representative, for losses or expenses, including legal fees and costs, arising from any claim, action, proceeding, award, compromise, settlement or judgment resulting from such person's activities, whether ministerial or discretionary, as a member, officer, or employee of the MHFA; provided that the defense or settlement thereof shall have been made by counsel approved by the MHFA. The MHFA may procure insurance for itself and for its members, officers and employees against liabilities, losses and expenses which may be incurred by virtue of this section or otherwise.

No civil action hereunder shall be brought more than three years after the date upon which the cause thereof accrued.

SECTION 19. Chapter 846 of the acts of 1974 is hereby amended by striking out section 3, as most recently amended by section 8 of chapter 789 of the acts of 1981, and inserting in place thereof the following section:-

Section 3. Massachusetts Home Mortgage Finance Agency.

There is hereby established in the department of community affairs a body politic and corporate 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 or 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

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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 nine members of the Massachusetts Housing Finance Agency, ex officiiis.

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 a member 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 executive director of the Massachusetts Housing Finance Agency shall serve as the executive director of the MHMFA.

Five members of the MHMFA shall constitute a quorum and the affirmative vote of five 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 executive director of 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 compensation from MHMFA or employment therewith.

SECTION 20. Section 4 of said chapter 846 is hereby amended by adding the following clause:-

(y) Loan or grant any monies available to MHMFA for its general purposes to the Massachusetts Housing Finance Agency to be used for its general purposes.

SECTION 21. The ninth paragraph of section 5 of said chapter 846 is hereby amended by striking out the second sentence, as amended by section 8 of chapter 793 of the acts of

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1979.

SECTION 22. Said ninth paragraph of said section 5 of said chapter 846 is hereby further amended by striking out the fifth sentence and inserting in place thereof the following sentence:- In addition, the MHMFA may 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.

SECTION 23. The second paragraph of section 8 of said chapter 846 is hereby amended by striking out the last sentence, as amended by section 13 of chapter 789 of the acts of 1981, and inserting in place thereof the following two sentences:- The aggregate principal amount of notes and bonds of the MHMFA and the Massachusetts Housing Finance Agency issued pursuant to section five A of chapter seven hundred and eight of the acts of nineteen hundred and sixty-six outstanding at any one time shall not exceed the sum of five hundred million dollars; provided that notes and bonds for the payment or redemption of which, either at or prior to maturity, refunding bonds shall have been issued pursuant to this section shall be excluded in the computation of outstanding notes and bonds. The notes and bonds issued pursuant to the provisions of this act may be issued in the discretion of the MHMFA with such terms as will cause the interest thereon to be subject to federal income taxation.

SECTION 24. Said section 8 of said chapter 846 is hereby further amended by striking out the last paragraph, added by section 14 of said chapter 789, and inserting in place thereof the following paragraph:-

The MHMFA and the Massachusetts Housing Finance Agency shall be allocated, for purposes of Section 103A(g) of the Internal Revenue Code of 1954 as amended, one hundred per cent of the state ceiling applicable to the commonwealth for any calendar year of the aggregate amount of qualified mortgage bonds, as defined in said Section 103A(g). The Massachusetts Housing Finance Agency shall establish the allocation of such aggregate amount between the MHMFA and the Massachusetts Housing Finance Agency.

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SECTION 25. Said chapter 846 is hereby further amended by striking out section 10, as amended by section 15 of said chapter 789, and inserting in place thereof the following section:-

Section 10. Capital Reserve Fund. The MHMFA may create and establish one or more special funds, herein individually referred to as a Capital Reserve Fund, and to the extent so created, shall pay into each such Capital Reserve Fund any monies 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 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 or sources. All monies held in a Capital Reserve Fund pursuant to this section, except as hereinafter provided, shall be used solely for the payment of the principal of bonds of the MHMFA which are secured by such Capital Reserve Fund as the same become payable, the purchase 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; provided, however, that monies in a Capital Reserve 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 requirement thereof established by resolution of the MHMFA, except for the purpose of paying the principal of and interest and premium on bonds secured by such fund becoming due and for the payment of which other monies of the MHMFA are not available.

The MHMFA shall not at any time issue bonds secured by a Capital Reserve Fund if following the issuance of such bonds the amount of the Capital Reserve Fund shall be less than the minimum requirement thereof established by the resolution of MHMFA providing for the issuance of bonds secured by such fund 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, will not be less than the minimum requirement; provided that at no time shall the minimum requirement of a Capital Reserve Fund be established by the MHMFA at an amount less than one-quarter of the maximum amount of interest becoming due in the current or any succeeding fiscal year of MHMFA or at an amount greater than the maximum amount of principal and interest becoming due in the current or any succeeding fiscal year of MHMFA on all outstanding bonds which are secured by such Capital Reserve Fund.

In order to assure the maintenance of a Capital Reserve Fund at the minimum requirement thereof established by the MHMFA, there shall be annually appropriated and paid to the MHMFA for

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deposit in such Capital Reserve Fund such sum, if any, as shall be certified by the chairman of the MHMFA to the governor as necessary to restore such Capital Reserve Fund to such minimum requirement. 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 a 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.

For purposes of this section, the term "outstanding bonds" shall exclude bonds for the payment or redemption of which refunding bonds have been issued pursuant to section eight.

Notwithstanding the provisions of this section, the MHMFA may create and establish a Capital Reserve Fund for any issue of bonds under such provisions as are necessary to comply with the provisions of Section 103A of the Internal Revenue Code of 1954, as amended.

SECTION 26. The last paragraph of section 11 of said chapter 846, added by section 16 of chapter 793 of the acts of 1979, is hereby amended by striking out clause (5) and inserting in place thereof the following clause:-

(5) the lien of such pledge shall be valid and binding against any and all parties having a claim of any kind, in tort, contract or otherwise, against MHMFA, irrespective of whether such parties have notice thereof.

SECTION 27. Said chapter 846 is hereby further amended by inserting after section 16 the following section:-

Section 16A. Claims Against the MHMFA. The MHMFA shall be liable on all claims made as a result of the activities, whether ministerial or discretionary, of any member, officer, or employee of the MHMFA acting as such, except for willful dishonesty or intentional violation of the law, in the same manner and to the same extent as a private person under like circumstances; provided, however, that the MHMFA shall not be liable to levy of execution on any real or personal property to satisfy judgment, for interest prior to judgment, for punitive damages or for any amount in excess of one hundred thousand dollars.

No person shall be liable to the commonwealth, to the MHMFA or to any other person as a result of his activities, whether ministerial or discretionary, as a member, officer or employee of the MHMFA except for willful dishonesty or intentional violation

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of the law; provided, however, that such person shall provide reasonable cooperation to the MHMFA in the defense of any claim. Failure of such person to provide reasonable cooperation shall cause him to be jointly liable with the MHMFA, to the extent that such failure prejudices the defense of the action.

The MHMFA may indemnify or reimburse any person, or his personal representative, for losses or expenses, including legal fees and costs, arising from any claim, action, proceeding, award, compromise, settlement or judgment resulting from such person's activities, whether ministerial or discretionary, as a member, officer, or employee of the MHMFA; provided that the defense or settlement thereof shall have been made by counsel approved by the MHMFA. The MHMFA may procure insurance for itself and for its members, officers and employees against liabilities, losses and expenses which may be incurred by virtue of this section or otherwise.

No civil action hereunder shall be brought more than three years after the date upon which the cause thereof accrued.

Approved July 7, 1982.

Chap. 265. AN ACT PROVIDING PLANNING ASSISTANCE TO THE CITY OF SALEM.

Be it enacted, etc., as follows:

SECTION 1. Section 2 of chapter 351 of the acts of 1981 is hereby amended by inserting after item 3722-9104 the following item: -

3722-9105 For a grant for planning activities in the city of Salem in connection with the recovery from the fire of February, nineteen hundred and eighty-two, said funds to be allocated by the mayor of said city; as he may see fit, to the planning department of the city of Salem, with the assistance of the Salem Redevelopment Authority, appropriation expires June thirtieth, nineteen hundred and eighty-three \$100,000.00

SECTION 2. This act shall take effect upon its passage.

Approved July 7, 1982.