

MassHousing Enabling Act

As of October 1, 2024

M.G.L.A. 23A App. §§ 1-1:1-17

NOTE:

This version of the Act has been produced by MassHousing with a focus on readability. It is generated from the records available through Thompson Reuter's Westlaw service as of October 28, 2024, and edited for the following:

- (1) remove Westlaw navigational headers and footers,
- (2) reference St. 2023, c.7 §107 regarding the interpretation of certain words, and
- (3) incorporate the amendments enacted by St. 2024, c. 150, §§53-56.

Any questions regarding the Act or its interpretation should be directed to the General Counsel.

§ 1-1. Definitions

As used in this act the following words and terms shall have the following meanings unless a contrary intent is clearly indicated:--

- (a) “earned surplus” shall have the same meaning as in generally accepted accounting standards;
- (b) “FHA” shall mean the Federal Housing Administration, United States Department of Housing and Urban Development, and any successor to its functions;
- (c) “Secretary of housing and urban development” shall mean the principal executive officer of the United States Department of Housing and Urban Development.
- (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 affairs¹.
- (e) “Annual income” shall mean a family’s or person’s gross annual income less such reasonable allowances for dependents (other than spouse) and medical expenses as MHFA determines.
- (f) “MHFA” shall mean the Massachusetts Housing Finance Agency; and
- (g) “project” shall mean a number of dwelling units constructed, rehabilitated, refinanced for continued use or converted to a cooperative or condominium with the assistance of a mortgage loan from the MHFA.
- (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 30 per cent of such income for housing expenses, including the provision of heat, electricity, hot water and an allowance for maintenance and repairs.

¹ St. 2023, c.7 Section 107: “Wherever, in any general or special law, there are used the following words:— (a) division of housing, (b) division of urban renewal, (c) bureau of relocation, (d) bureau of project development services, (e) bureau of construction services, (f) bureau of property management services, (g) bureau of community programs, (h) bureau of financial assistance, (i) state housing board, (j) bureau of planning assistance, (k) commonwealth service corps, (l) bureau of housing for the handicapped, (m) department of community affairs, (n) executive office of communities and development; (o) department of housing and community development, or (p) words having the same connotation, said words shall, unless the context otherwise requires, mean the executive office of housing and livable communities established by this chapter and in section 16G ½ of chapter 6A. Any reference in any general or special law to the administrative head of any of the agencies enumerated in the foregoing paragraph shall, unless the context otherwise requires, mean the secretary of housing and livable communities or such officer or employee of the executive office of housing and livable communities as the secretary from time to time may designate.”

(i) “Disposition agreement”, an agreement between the mortgagor and MHFA contained in an instrument in recordable form, which agreement shall require that at least twenty per cent of the dwelling units in a project financed by a mortgage loan be used solely for housing for low income persons or families, consistent with the provisions of this act, for a term equal to the original term of the mortgage loan; provided, however, that, in the case of a disposition agreement entered into with respect to a mortgage loan made or financed by the MHFA after July first, nineteen hundred and eighty-three, the term of such disposition agreement shall be fifteen years or such greater period of time as may be required by the MHFA.

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

(k) “New residential mortgage”, a loan, including a home improvement loan, made by or on behalf of the MHFA or by a mortgage lender and secured by a mortgage, note, bond or other obligation constituting a lien upon real property or by a lease of the fee of real property or a pledge of stock in a cooperative and an assignment of a proprietary lease on real property located in the commonwealth and improved by a residential building or unimproved if the proceeds of such loan shall be used for purpose of erecting, acquiring or rehabilitating a residential building thereon, or for the purpose of acquiring, constructing or rehabilitating a condominium unit or a cooperative share in a cooperative provided that each such loan made from the proceeds of a loan made or acquired by MHFA or made by a mortgage lender shall be made to an owner-occupant pursuant to section five A.

(l) “Housing development area“, any blighted open area, or any decadent area, or any substandard area, as respectively defined in section one of chapter one hundred and twenty-one B of the General Laws, and as determined by MHFA.

(m) “Community based residence”, a residential unit constructed or rehabilitated to accommodate clients under the care, treatment or supervision of an agency of the commonwealth including, but not limited to, the departments of mental health, developmental services and public health or any successors thereto.

(n) “Elderly housing”, housing that is specifically intended, designed or operated to assist persons 62 years of age or older or otherwise designated as housing for older persons pursuant to the provisions of the Federal Fair Housing Act, 42 USC 3601, et seq.

Credits

St.1966, c. 708, § 1. Amended by St.1970, c. 855, § 1; St.1973, c. 1215, § 15; St.1975, c. 643, § 1; St.1981, c. 789, § 6; St.1982, c. 264, §§ 1 to 3; St.1983, c. 574, § 17; St.1985, c. 259, § 2; St.1989, c. 679, § 1; St.1998, c. 239, §§ 1 to 3 St.2008, c. 451, § 170, eff. June 30, 2009.

§ 1-2. Declaration of public necessity

It is hereby declared that as a result of public actions involving highways, public facilities and urban renewal programs, and as a result of the spread of slum conditions and blight to formerly sound neighborhoods, there now exists in many cities and towns in the commonwealth an acute shortage of decent, safe and sanitary housing available at low rentals which persons and families of low income, elderly persons and veterans who will be returning from Vietnam can afford. This shortage is inimical to the safety, health, morals and welfare of the residents of the commonwealth and the sound growth of the communities therein. The continued inadequacy of the supply of such housing inhibits the carrying out of needed slum clearance projects and results in the continued existence and proliferation of substandard and decadent housing, with all its attendant consequences of disease, crime, injuries, retardation of education, and high costs for municipal services, such as welfare, police and fire protection. This public exigency, emergency and distress has not been met in any way by private agencies. Private enterprise, without the assistance contemplated in this act, cannot achieve the construction of decent, safe and sanitary housing at rentals which persons and families of low income can afford in situations where permanent betterment of living conditions is to be hoped for. Moreover, experience has demonstrated that concentration of low income persons and families even in standard structures built with public subsidy does not eliminate undesirable social conditions and does not permanently eliminate slum conditions. It is therefore imperative that the cost of mortgage financing, which materially affects rental levels in units built by private enterprise be made lower so as to reduce rental levels for these low income persons and families, that the supply of housing for persons and families displaced by public action or natural disaster be increased, and that private enterprise be encouraged to build housing which will prevent the recurrence of slum conditions and assist in their permanent elimination by housing persons of varied economic means in the same projects and neighborhoods.

It is further declared that the commonwealth is faced with serious deterioration of its housing stock. This deterioration exacerbates the shortage of decent housing that low or moderate income persons or families can afford. Deterioration of the housing stock also has adverse impacts on many neighborhoods where the housing is located, which may result in further proliferation of substandard housing with all its attendant consequences. Private enterprise cannot address the housing deterioration problem adequately unaided. The repair or rehabilitation by private owners of housing at an early state of deterioration, therefore, should be encouraged and assisted through provision of a low-cost financing program for moderate rehabilitation.

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 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.

It is hereby further found that there is insufficient housing which is accessible to and usable by handicapped persons. The shortage of housing results in handicapped persons having to modify and adapt housing so as to make it accessible and usable to them. Persons of low and moderate income frequently do not have the resources to finance these necessary modifications and adaptations of housing. To aid in remedying those conditions, to promote the expansion of the supply of funds at low interest rates available for residential loans for low income persons and families and moderate income persons and families and thereby help alleviate the shortage of accessible housing, the Massachusetts Housing Finance Agency shall have the power (i) to raise funds from private investors in order to make such funds available, through lending institutions for residential loans to low income persons and families and moderate income persons and families, (ii) to insure such residential loans, and (iii) to provide technical assistance to low income persons and families desiring such residential loans. By utilizing such powers the Massachusetts Housing Finance Agency shall develop the financial resources available to meet the need for housing which is accessible to and usable by handicapped persons.

It is hereby further found that there is insufficient housing which is accessible to and suited for physically and mentally handicapped persons who are otherwise capable of living in community settings. Persons of low and moderate income frequently do not have the resources to finance the acquisition or construction of new housing or the necessary accommodations or modifications and adaptations of existing housing and there is a shortage of decent, safe and sanitary housing that offers the necessary supportive services for persons with mental disabilities or other special needs. Such shortage of decent, safe and sanitary housing results in the continued hospitalization or institutionalization of a number of mentally disabled and other persons who desire to and can live independently in the community and who will benefit substantially from placement in a private, community based residence. Private enterprise, without the assistance contemplated by this act, cannot achieve the modification or adaptation of existing housing into community based residences nor the construction of community based residences. To address such problems, the Massachusetts Housing Finance Agency shall have the power to: (i) raise funds from private investors in order to make low interest rate funds available for the acquisition, construction, adaptation and rehabilitation of housing designed to meet the needs of physically or mentally handicapped individuals and their families, (ii) insure residential or construction or permanent or rehabilitation loans for community based residences; and (iii) provide technical assistance to low income persons and families applying for residential loans and to sponsors of community based residences.

Credits

St.1966, c. 708, § 2. Amended by St.1981, c. 789, § 7; St.1982, c. 264, § 4; St.1989, c. 722, § 32; St.1998, c. 239, § 4.

§ 1-3. Massachusetts Housing Finance Agency

There is hereby created and placed in the executive office of housing and livable communities a body politic and corporate to be known as the Massachusetts Housing Finance Agency, which shall not be subject to the supervision or control of any executive office, department, division, commission, board, bureau or agency except to the extent and in the manner provided by law. The MHFA is hereby constituted a public instrumentality, and the exercise by the MHFA of the powers conferred by this act shall be deemed and held to be the performance of an essential governmental function. Any law to the contrary notwithstanding the MHFA shall not be subject to the provisions of chapter 30A, sections 24 through 28, inclusive, of chapter 93, chapter 255E or chapter 255F of the General Laws.

The MHFA shall consist of the secretary of housing and livable communities or his designated representative and the secretary of administration and finance or his designated representative, ex officio, 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.

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.

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

The members of the MHFA shall serve without compensation, but each member shall be reimbursed for his necessary expenses incurred in the discharge of his official duties.

Credits

St.1966, c. 708, § 3. Amended by St.1968, c. 709, § 1; St.1968, c. 761, § 21; St.1975, c. 163, § 32; St.1975, c. 517; St.1978, c. 514, § 276; St.1979, c. 263; St.1981, c. 789, § 8; St.1982, c. 264, §§ 5 to 7; St.1996, c. 151, §§ 502, 503; St.1996, c. 204, §§ 43, 44; St. 2024, c. 150, §§53-55.

§ 1-4. General grant of powers

The MHFA is hereby authorized to:

(a) Make first mortgage loans or other loans secured in such manner 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, including mortgages insured by the secretary of housing and urban development or purchase, participate in the purchase of, or contract to purchase, and to make advance commitments therefor, such loans or securities which are secured by such mortgage loans, or make loans to mortgage lenders who have entered into a commitment to make such mortgage loans, to finance the building acquisition, continued use or rehabilitation of housing designed and planned to be available at low and moderate rental for low income persons and families and others upon the terms set forth in section five and pursuant to regulations adopted by it, make seed money loans to nonprofit developers of such housing.

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

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

(h) Acquire real property, or an interest therein, by purchase or foreclosure, where such acquisition is necessary or appropriate to protect any loan in which the agency has an interest; to sell, transfer and convey any such property to a buyer and in the event such sale, transfer or conveyance cannot be effected with reasonable promptness or at a reasonable price, to lease such property to a tenant. In effecting a foreclosure sale, the MHFA may require that the purchaser acquire title subject to such restrictions on use and occupancy for low and moderate income persons and families as may be in effect for the development at the time of the sale.

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

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

(m) Sell, at public or private sale, any mortgage or other obligation securing mortgage loan, including sales of mortgages to the Federal National Mortgage Association, United States Department of Housing and Urban Development.

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

(p) Make and publish rules and regulations respecting the grant of mortgage loans under this act, the regulation of borrowers, the delineation of general housing market areas and the setting of dependency and medical expense allowances.

(q) Do any and all things necessary or convenient to carry out its purposes and exercise the powers expressly given and granted in this act, including the establishment of any type of subsidiary, subordinated, independent or affiliated entity otherwise allowed by law, including stock corporations or membership corporations whether organized for profit or for nonprofit purposes, partnerships, joint ventures or trusts, and to hold any type or form of ownership or other beneficial interest in any such entity.

(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.

(s) Establish a special financing program to enable low-income families or persons to own one, two and three family homes, provided that the total number of low-income families eligible hereunder shall not exceed one per cent of the total number of families resident in a city or town, provided that the structures acquired hereunder may be newly built, existing or rehabilitated, provided such structures conform to the local building code and the State Sanitary Code, and provided that the MHFA shall find that making of such loan shall not create or contribute to an undue concentration of low income families in any one neighborhood. The MHFA may purchase such structures in its own name or authorize the purchase of the same by low income families. Any structure so purchased by the MHFA shall be conveyed to a low-income family within one year from the date of such purchase. A down payment or equity investment of not less than two per cent of the purchase price shall be required of each prospective buyer which may be made in the form of a money payment or in any other form approved by the MHFA.

(t) Establish a program to finance the building or rehabilitation of housing designed for condominium or cooperative ownership, convert existing housing however financed to such form of ownership, and finance the ownership of individual shares of cooperative housing, and individual units of condominium housing, and in connection therewith to make first mortgage loans to finance the organization and the construction or rehabilitation of cooperative or condominium housing projects, to assist and advise tenants and owners during a period of conversion from ownership to cooperative or condominium ownership, and to make first mortgage loans to finance the ownership of cooperative shares or condominium units in existing as well as newly built or rehabilitated buildings for low-income persons and families and others on the terms set forth in section five, except that in the case of loans to individual owner-occupants the loan value ratio shall not exceed ninety-eight per cent of the project cost or value as determined by the MHFA and clauses (2), (3) and (4) of paragraph (g) of section five need not be made, and provided that in the case of loans with respect to occupied, existing housing to be converted to cooperative or condominium ownership, MHFA shall determine, prior to any loan commitment, pursuant to rules and regulations promulgated by it, that a sufficient number of the persons and families who are tenants before such a conversion shall have agreed to purchase units after conversion to ensure the economic feasibility of the conversion and to ensure that the conversion will not create undue hardship through the displacement of such tenants.

(u) The MHFA may establish a program or programs to insure its mortgage loans pursuant to section five or new residential mortgages made or acquired by it or made by mortgage lenders from the proceeds of a loan pursuant to section five A alone or in conjunction with private enterprise or the commonwealth or

the United States or any agency of either or both of them. The MHFA may establish loss reserve accounts for insurance programs and may fund such accounts from available monies.

(v) Establish a program to finance or assist the financing of the moderate rehabilitation of existing housing and in connection therewith to make mortgage loans to finance such rehabilitation, to purchase, participate in the purchase of, or contract to purchase moderate rehabilitation loans, to enter into advance commitments for the purchase of, or participation in the purchase of moderate rehabilitation loans, to make loans to mortgage lenders who have entered into commitments to make moderate rehabilitation loans and to fund and operate an interest subsidy program. Such moderate rehabilitation loans shall be made upon the terms set forth in section five, except as expressly provided herein. The term “moderate rehabilitation loan” shall mean a loan to finance housing repairs or rehabilitation of less than a substantial nature, as defined by the MHFA, plus any building acquisition or mortgage refinancing allowed by the MHFA. Such moderate rehabilitation loans may be secured by either a first or senior lien or a second or junior lien upon the real property of which the project consists and the personal property attached to or used in connection with the acquisition, rehabilitation, and repair of the project or may be unsecured. MHFA may obtain or participate in loan insurance with governmental as well as private sources. MHFA may declare and establish rules and regulations, respecting the grant or purchase of loans and the funding and operation of subsidy programs under this section, the regulation of borrowers and lenders including allocation of risk of loan defaults, the delineation of types of loans and neighborhoods to be covered by the program and other matters. MHFA may enter into agreements with local communities to facilitate the implementation of the program. MHFA may finance such moderate rehabilitation loan program by the sale of bonds or notes.

(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.

(x) Establish a program to utilize the net proceeds realized from the prepayment of any mortgage purchased from the United States or any agency thereof, to provide subsidies for the purpose of enabling low income persons or families to continue to occupy units in such projects after the mortgage has been prepaid.

(y) Establish a program to finance or assist the financing of the modifications or adaptation of existing housing in order to make such housing accessible to and usable by handicapped persons and in conjunction therewith and to further the purpose of this program (i) to make low interest loans, including but not limited to home improvement loans, to low income persons or families and to moderate income persons or families, (ii) to purchase, participate in the purchase of, or contract to purchase loans, (iii) to enter into advance commitments for the purchase of or participation in the purchase of loans, and (iv) to make loans to lenders who have entered into commitments to make loans and to fund and operate an interest subsidy program.

(z) Notwithstanding any provision herein to the contrary, make loans for the purpose of financing the construction or acquisition and rehabilitation of community based residences. In conjunction therewith, the MHFA is authorized to make low interest loans including, but not limited to, construction or permanent loans for community based residences. The MHFA shall publish regulations governing the making of such loans.

(aa) Take any and all actions necessary and appropriate, directly or through an affiliate or subsidiary entity: (i) to provide contract administration services in or for any state of the United States of America or the District of Columbia, in connection with any multifamily rental subsidy program of the United States Department of Housing and Urban Development; (ii) to provide loan servicing services with respect to 1-family to 4-family residential mortgage loans secured by mortgages on real property located in any state of the United States or the District of Columbia; provided the MHFA shall not enter into any agreement for such loan servicing unless the majority of loans to be serviced are mortgage loans secured by mortgages on real property located within the commonwealth; and (iii) to provide any loan servicing, master servicing, mortgage insurance and other commercial services and products related to residential mortgage loans in partnership with a governmental or quasi-governmental agency in any state or the District of Columbia; in each case unless and to the extent prohibited by the laws of any such state or the District of Columbia.

Credits

St.1966, c. 708, § 4. Amended by St.1968, c. 671; St.1970, c. 855, § 2; St.1974, c. 689, § 1; St.1976, c. 519, § 1; St.1979, c. 632, § 1; St.1981, c. 789, § 9; St.1982, c. 264, §§ 8 to 10; St.1983, c. 574, § 18; St.1989, c. 679, §§ 2 to 6; St.1989, c. 722, § 33; St.1990, c. 199; St.1998, c. 239, §§ 5, 6; St.2018, c. 99, § 23, eff. May 31, 2018.

§ 1-4A. Grant of additional powers

The MHFA is hereby also authorized to:

(a) Make and acquire new residential mortgages and participations therein and 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 new residential mortgages made or acquired by it and 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 this act.

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

(f) Establish programs to insure new residential mortgages made or acquired by the MHFA and 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 or any agency or instrumentality thereof or corporation created thereby 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.

(l) Make loans to mortgage lenders for residential development for families or elderly persons the dwelling units and related common areas of which are, or are to be, owned in accordance with the provisions of chapter one hundred and eighty-three A of the General Laws; provided, however, that such dwelling units are available only to first time home owners as defined by regulation by MHFA; and provided, further, that such dwelling units are available only to persons of moderate income as defined by regulations by MHFA.

(m) Make loans to eligible mortgagors as defined in paragraph (b) of section five, and acquire loans from mortgage lenders or make loans to mortgage lenders, for the purpose of financing the construction or acquisition and rehabilitation of owner-occupied housing not less than 25 per cent of which is available for purchase by persons and families qualifying for a new residential mortgage made or acquired by or on behalf of MHFA pursuant to section five A. Prior to making a construction loan for owner-occupied housing, the MHFA will make a finding that such construction financing is not available from conventional financing sources.

(n) Establish a qualified mortgage credit certificate program and issue mortgage credit certificates, as defined in Section 25 of the Internal Revenue Code of 1986, and thereunder, upon such terms and conditions as the MHFA, in its discretion, may determine to be necessary or desirable, provided such certificates shall not constitute bonds or notes or other evidence or indebtedness of the MHFA under the provisions of this chapter or be deemed to be a debt or pledge of the faith and credit of the MHFA.

(o) Establish a lead paint abatement loan program throughout the commonwealth in consultation with the department of public health or such agency as the governor shall designate, the purpose of which shall be to assist residential property owners in financing the abatement and containment of lead paint hazards. Not less than one-half of funds allocated for this program shall be distributed to agencies and organizations serving high risk areas and communities designated by the department of public health or by such agency as the governor shall designate.

(p) Administer on behalf of any agency of the commonwealth a program of rehabilitation or home improvement for the benefit of low and moderate income persons or families.

Credits

St.1966, c. 708, § 4A, added by St.1982, c. 264, § 11. Amended by St.1983, c. 574, § 18A; St.1989, c. 679, §§ 7 to 12; St.1998, c. 239, §§ 7, 8.

§ 1-5. Mortgage loans

(a) *Purpose.*--The MHFA may make mortgage loans to owners or sponsors of such housing projects containing two or more dwelling units as in the judgment of MHFA are supplying or have promise of supplying well planned, well designed apartment units which are providing or will provide housing for low-income persons or families in a location where there is a need for such housing, or purchase or participate in the purchase of securities which are secured by such mortgage loans. Such projects may include ancillary commercial facilities to the extent permitted by the then applicable MHFA regulations. On all construction loans for the construction of eleven or more dwelling units the MHFA shall require (1) the payment of prevailing wages as determined by the commissioner of labor and industries as provided in sections twenty-six to twenty-seven D of chapter one hundred and forty-nine of the General Laws, and said commissioner shall enforce the provisions of said sections, and (2) that said sponsor furnish a bond, letter of credit or escrow arrangement which in the discretion of the MHFA is adequate to ensure that mechanics liens filed pursuant to the provisions of chapter two hundred and fifty-four may be discharged.

(b) *Eligible Mortgagor.*--The MHFA may make or finance loans to individuals, joint ventures, partnerships, limited partnerships, trusts, corporations, cooperatives and condominiums, whether nonprofit or organized for profit and federal, state or local agencies or departments.

(c) *Interest and Charges.*--The MHFA shall have authority to set from time to time the interest rates at which it shall make or finance loans. In connection with the making or financing of mortgage loans and commitments therefor, and in addition to such interest charges, the MHFA may make and collect such fees and charges, including but not limited to reimbursement of the MHFA's financing costs service charges, insurance premiums and mortgage insurance premiums, as the MHFA determines to be reasonable.

(d) *Limited Profit.*--A mortgagor may not make distributions in any one year with respect to a project financed by the MHFA in excess of ten percent of the mortgagor's equity in such project. The mortgagor's initial equity in a project shall consist of the difference between the mortgage and the total project value or cost, whichever is greater as determined by MHFA in accordance with its regulations or other published procedures. The MHFA may reestablish the mortgagor's equity not more than once every five years thereafter, based upon the total project value at that time.

Notwithstanding the foregoing, the provisions of this paragraph shall not apply to mortgages purchased by MHFA from the United States or any agency thereof. In the event any such mortgage is increased or otherwise modified, the provisions of this paragraph shall apply and the MHFA shall, pursuant to regulations adopted by it, establish the mortgagor's equity at the time of such increase or modification.

(e) *Use of Undistributed Profits.*--Whenever a mortgagor accumulates earned surplus in addition to such reserves for replacement as the MHFA may require in excess of ten per cent of the initial annual rent roll for the project, rents in the project shall be reduced to the extent necessary to lower the earned surplus accumulation to such ten per cent figure in the following fiscal year. Every ten years the mortgagor may seek the approval of the MHFA to an increase in the replacement reserves to the extent warranted, in the judgment of the MHFA, by increased price levels or unusual maintenance and repaid requirements.

(f) *Amortization and Refinancing.*--The terms including the ratio of loan to project value, prepayment provisions and the amortization period of loans made or financed under this act which are insured by FHA shall be governed by the FHA mortgage insurance commitment for each project concerned, but shall not exceed fifty years. In the case of a mortgage loan not insured by FHA, the ratio of loan to project value and the amortization period of loans shall be determined in accordance with regulations formulated and published by the MHFA, but in no event shall such loan value ratio exceed ninety per cent of project cost as determined by the MHFA, except that in the case of loans to nonprofit sponsors, such loan shall not exceed one hundred per cent of the project cost, nor shall the amortization period exceed fifty years. A loan hereunder may be prepaid after a period of (a) twenty years for loans made prior to July first, nineteen hundred and eighty-three; (b) fifteen years for loans made on or subsequent to July first, nineteen hundred and eighty-three; or (c) sooner with the permission of MHFA for the purpose of conversion of the project to cooperative or condominium ownership by an occupant; provided, however, that nonprofit sponsors may prepay their loans prior to maturity only with the consent of MHFA. The MHFA shall grant such consent if it finds: (1) that it may reasonably be expected that the prepayment of the loan will not result in a material escalation of rents charged to tenants in the project; and (2) the need for low rental housing in the area concerned is no longer acute. Notwithstanding the foregoing, the provisions of this section shall not apply to mortgages purchased by the MHFA from the United States or any agency thereof.

(g) *Findings.*--Prior to making or financing a loan commitment or loan under this act, the MHFA shall find (1) that low income persons and families can afford the adjusted rentals, including the provision of heat, electricity and hot water, set for 20 per cent of the units in the project on the basis of the use of not more than 30 per cent of the qualifying income for such housing or such greater portion of their annual income as required by laws, regulations or guidelines applicable to any affordable housing program of an agency of the United States government, or the commonwealth or any agency thereof, to be used in connection with the proposed project; (2) that there exists or would exist but for the project a shortage of decent, safe, and sanitary housing at low rents available to persons and families of low-income within the general housing market area to be served by the proposed project; (3) that private enterprise without the

assistance contemplated by this act cannot supply such housing; (4) that such project either is itself designed to house persons and families of varied economic means or will not create or contribute to an undue concentration of low-income families in any one neighborhood; and (5) that programs of public agencies within the general housing market are to be served by the project have accomplished or will accomplish within the next five years the elimination by demolition, condemnation, effective closing, or compulsory repair or improvement of unsafe or unsanitary dwelling units situated within such market area substantially equal in number to the number of units to be provided by such project provided that the accomplishment of such elimination may be deferred beyond the five-year period in any general housing market area where there continues to be an acute shortage of decent, safe, or sanitary housing available to persons and families of low income. Where more than one family is living in an unsafe or unsanitary dwelling unit, the elimination of such unit shall count as the elimination of units equal to the number of families accommodated therein. The findings as to the elimination of unsafe and unsanitary dwelling units need not be made in the case of the purchase of a mortgage by the MHFA from the United States or any agency thereof or the financing of a project previously financed by the United States or any agency thereof, or in the case of any project located in a rural, nonfarm area, or of any project developed on the site of substandard area or of any project undertaken within an urban renewal or land assembly and redevelopment area.

(h) Prior to making a loan commitment or loan under this act, the MHFA shall notify the municipal officers and members of the general court hereinafter specified of its intention to make such a commitment or loan, setting forth in such notification a description of the property, sufficient for purposes of identification, with respect to which such loan is contemplated and a description of the scope of the construction or reconstruction to be financed by such loan. Said notification shall be given to the mayor of cities or selectmen of towns in any city or town within which property may lie with respect to which such loan is contemplated. Such notification shall also be given to all state senators and state representatives within whose districts property may lie with respect to which a MHFA loan is contemplated.

(i) The MHFA shall require, in the fulfillment of the purposes of this act, prior to or in connection with making or modifying a mortgage loan, contract, or agreement of any kind, including those in existence on the effective date of this paragraph, to which the MHFA is a party, that the mortgagor enter into a disposition agreement with the MHFA. No disposition agreement shall be unenforceable on account of lack of privity of estate or contract or lack of benefit to particular land or on account of the benefit thereof being assignable. A disposition agreement shall constitute an interest in land and shall run with the land and may be enforced by the MHFA and its successors and assigns by injunction or any remedy at law or in equity. The provisions of a disposition agreement shall survive the foreclosure of any mortgage and shall be enforceable during the term of the disposition agreement. The MHFA and its successors and assigns may enter upon the land, at reasonable times, to ensure compliance with a disposition agreement. The MHFA and its successors and assigns may waive the requirement that a disposition agreement be entered into with respect to only those units designated for persons or families paying market-rate rents if the MHFA determines that such waiver will be in the interest of furthering the purpose of this act. The MHFA and its successors and assigns also may release a disposition agreement at any time if the MHFA determines that such release will preserve affordable housing that would otherwise be converted to market rate housing or if it otherwise finds that such release will further the specific purposes of this act. Notwithstanding the foregoing, the provisions of this section shall not apply to mortgages purchased by the MHFA from the United States or any agency thereof.

Credits

St.1966, c. 708, § 5. Amended by St.1968, c. 709, § 2; St.1970, c. 855, §§ 3 to 5; St.1971, c. 1030; St.1973, c. 1215, § 16;

St.1977, c. 375; St.1979, c. 632, §§ 2 to 6; St.1981, c. 544; St.1981, c. 789, § 10; St.1982, c. 546, § 1; St.1983, c. 574, §§ 19, 20; St.1989, c. 679, §§ 13 to 18; St.1998, c. 239, §§ 9 to 11.

§ 1-5A. Purchase of residential mortgages; 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, 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 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 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 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 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 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.

Credits

St.1966, c. 708, § 5A, added by St.1982, c. 264, § 12.
M.G.L.A. 23A App. § 1-5A, MA ST 23A App. § 1-5A

§ 1-5B. Mortgage insurance programs

Without limiting the powers of the MHFA otherwise granted by this chapter, the MHFA, or any subsidiary, subordinated, independent or affiliated entity thereto or established thereby in accordance with this chapter, may, establish a program to insure new residential mortgages and participations therein made or acquired by the MHFA under section five A or 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, construction and rehabilitation of owner-occupied residential housing for persons and families of low and moderate income.

Such sums as may be appropriated or otherwise acquired or received by the MHFA may be used for the purpose of establishing a Mortgage Insurance Fund administered by the MHFA or otherwise held and applied as security for or in payment of the MHFA's insurance obligations under this section. Such sums, to the extent necessary, may be applied to the payment of (i) claims made by mortgage 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, (ii) claims made by lenders of conventional mortgage loans, in default, made to resident owners for purposes of acquisition, construction and rehabilitation of owner-occupied residential housing for persons and families of low and moderate income and (iii) new residential mortgages heretofore or hereafter made or acquired by the MHFA under section five A. MHFA's insurance obligations under this section may be reinsured with such agencies or instrumentalities of the commonwealth or the United States or with foreign insurance companies qualified to do business in the commonwealth as MHFA shall select. 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 net 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 as may have been appropriated to such fund by the commonwealth.

Credits

St.1966, c. 708, § 5B, added by St.1982, c. 264, § 12. Amended by St.1989, c. 679, § 19.

§ 1-5C. 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;

(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.

Credits

St.1966, c. 708, § 5C, added by St.1982, c. 264, § 12.

§ 1-5D. Loans to mortgage lenders for multi-family housing projects

(a) The MHFA may make, or contract to make, loans to mortgage lenders for multi-family housing projects at such interest rates, terms and conditions as it shall determine pursuant to rules or regulations adopted by it. The MHFA shall require that the proceeds of its loans to mortgage lenders or an equivalent amount shall be used by such mortgage lenders to make mortgage loans with respect to housing projects containing two or more dwelling units which meet the requirements of section five located with¹ the commonwealth, subject to such terms and conditions as the MHFA may prescribe.

(b) The MHFA shall require that each mortgage lender which is the recipient of a loan pursuant to this section shall issue and deliver to the MHFA an evidence of its indebtedness to the MHFA, which shall constitute a general obligation of such mortgage lender and shall bear such date or dates, shall mature at such time or times, shall be subject to such prepayment, and shall contain such other provisions consistent with this section as the MHFA shall determine.

(c) Notwithstanding any other provisions of this section to the contrary, the interest rate or rates and other terms of such loans to mortgage lenders made from the proceeds of any issue of bonds of the MHFA shall be at least sufficient to assure the payment of said bonds and the interest thereon as the bonds become due.

(d) The MHFA may require that loans made to mortgage lenders pursuant to this section be additionally secured as to payment of both principal and interest by a pledge of collateral security in such amounts and consisting of such obligations, securities or mortgages as the MHFA shall determine to be necessary to assure the payment of such loans and the interest thereon as the same become due.

(e) The MHFA may require that any collateral for loans to mortgage lenders be deposited with a bank, trust company or other financial institution acceptable to the MHFA located either within or outside the commonwealth as designated by the MHFA. In the absence of such requirement a mortgage lender that is the recipient of a loan from the MHFA shall enter into an agreement with the MHFA containing such provisions as the MHFA shall deem necessary or desirable to adequately identify and maintain such collateral, if any, to service such collateral, and to require that such mortgage lender shall hold such collateral as agent for the MHFA and shall be accountable to the MHFA as the trustee of an express trust for the application and disposition thereof and the income therefrom solely to the uses and purposes in accordance with the provisions of such agreement. A copy of each agreement and any revisions or supplements thereto shall be filed with the state secretary and no further filing or other action under chapter one hundred and six or any other law of the commonwealth shall be required to perfect the security interest of the MHFA in the collateral, if any, or any additions thereto or substitutions thereof. The lien and trust so created for the benefit of the MHFA shall be binding from and after the time made or against all parties having claims of any kind in tort, contract, or otherwise against the mortgage lender. The MHFA may also establish such additional requirements as it shall deem necessary with respect to the pledging, assigning, setting aside or holding of such collateral and the making of substitutions therefor or additions thereto and the disposition of income and receipts therefrom.

(f) The MHFA shall require mortgage lenders that are the recipients of loans from the MHFA to submit evidence satisfactory to the MHFA that the mortgage lender has used the proceeds of such loans by the MHFA, or any equivalent amount, to make mortgage loans with respect to housing projects and that the mortgage lender has complied with the terms and conditions of such loans as prescribed by the MHFA. In connection therewith, the MHFA, through its employees or agents, may inspect the books and records of such mortgage lender.

(g) The MHFA may require as a condition of any loans to mortgage lenders such representations and warranties as it shall determine to be necessary or desirable to service such loans and implement the provisions of this section.

(h) Subject to the rights of holders of bonds of the MHFA, the MHFA may 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 private or public sale, with or without public bidding, and otherwise deal with such collateral as may be necessary to protect the interest of the MHFA therein.

(i) To the extent that any provisions of this section may be inconsistent with any provision of the law of the commonwealth governing mortgage lenders, the provisions of this section shall control.

Credits

St.1983, c. 574, § 21.

Footnotes

¹ So in original; probably should read “within”.

§ 1-6. Rental determinations

(a) The MHFA shall, pursuant to regulations adopted by it, make the following rental determinations for each housing unit located in a project to which MHFA has made or financed a mortgage loan hereunder: (1) the market rate rental, which is the rental which would be appropriate if the project had been originally financed at then current market interest rates; (2) the below-market rate rental, which is the market rate rental adjusted for the extent to which the applicable MHFA loan interest rate is below such then current interest rates; and (3) adjusted rental, which is the below market rate rental, further adjusted downward so that such adjusted rental, including the provision of heat, electricity and hot water, will be affordable by low-income persons and families without such persons and families having to expend more than 30 per cent of the maximum income amount which would make them eligible for units owned or leased by the housing authority in the city or town in which the development or the residence is located or, in the event that there is no housing authority, no more than 30 per cent of that amount which is established as the maximum for eligibility for low-rent units by the department of housing and community development. In the event, however, that housing is provided under an affordable housing program of an agency of the United States government, or the commonwealth or any agency thereof, the adjusted rental may exceed 30 per cent of the income limits set forth above, provided it shall not exceed the maximum percentage allowed by the applicable laws, regulations, or guidelines of such affordable housing program. Such rentals determination may be reviewed and adjusted by MHFA from time to time.

(b) Subject only to the rights of FHA, if any, the rents to be charged for housing units which receive loans hereunder must be approved by the MHFA. In each project financed under this act, not less than twenty per cent of the units in the project shall be rented at all times to low income persons or families at the adjusted rental. Up to an additional five per cent of the units in each project shall be rented to low or moderate income persons or families if (1) the MHFA determines the additional low or moderate income units are needed in the area in which the project is located; and (2) state or federal housing subsidy funds are available to the MHFA to pay to the mortgagor the difference between the rental paid by such persons or families, which in the case of low-income persons and families shall not exceed the adjusted rental, and the below market rental for each additional unit rented to such low or moderate income persons or families. The remaining units not made available to low-income persons or families shall be made available at rents sufficiently high as determined by MHFA to achieve and maintain a fiscally sound project, provided, in each project which is not located in a housing development area, such units not made available to low or moderate income persons or families shall be made available at rentals at least equal to the rental charged for similar units in the market area, as determined by MHFA so that any benefit to the tenants who are not low and moderate income persons or families derived from the assistance provided to sponsors of projects will be at most incidental to and no greater than is necessary for achieving proper housing for low and moderate income persons and families. Such determination shall be reviewed by MHFA from time to

time, but not less often than once every two years and may be adjusted if necessary, by MHFA from time to time.

(c) All rentals received by the mortgagor in excess of the below-market rental established for each unit shall be applied, pursuant to such regulations as MHFA shall make and publish from time to time and subject to any applicable requirements of FHA or any other public agency providing rental assistance, supplement, subsidy or other similar payments, to reduce rentals so as to make units more available to low-income persons and families.

Credits

St.1966, c. 708, § 6. Amended by St.1970, c. 855, § 6; St.1979, c. 632, § 7; St.1982, c. 546, § 2; St.1983, c. 574, §§ 22, 23; St.1985, c. 259, § 3; St.1998, c. 239, § 12.

§ 1-7. Tenants

Prior to making a loan commitment under this act, the MHFA shall approve a tenant selection plan submitted by the applicant for such a loan. The MHFA shall publish regulations from time to time governing the terms of such tenant selection plans. Such plans shall include criteria for tenant selection which establish income limits for eligible tenants which may vary with the size and circumstances of the persons or family. Tenant selection plans provide that as between applicants equally in need and eligible for occupancy of the unit, preference shall be given to persons displaced by public action or natural disaster, pursuant to such regulations as the department of housing and community development may formulate. Tenant selection plans shall also provide with respect to apartment units designated for rent at the adjusted rental that the housing authority in the city or town in which the project is located, or such other agency as the executive office of community and development may from time to time designate, shall have the rights to designate tenants, who are otherwise eligible, for such units as they become available, either in the initial renting of the projects or as vacancies thereafter occur.

Credits

St.1966, c. 708, § 7. Amended by St.1970, c. 855, §§ 7, 8; St.1985, c. 259, § 4; St.1998, c. 239, § 13.

§ 1-8. Issuance of bonds and notes

(a) The MHFA 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 MHFA, shall be necessary to provide sufficient funds for achieving its corporate purposes, including the making or financing of mortgage loans, the payment of interest on bonds and notes of the agency, establishment of reserves to secure such bonds and notes and all other expenditures of the MHFA incident to and necessary or convenient to carry out its corporate purposes and powers. The MHFA 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 issued pursuant to the provisions of this act may be issued in the discretion of the MHFA with such terms as will cause the interest thereon to be subject to federal income taxation.

(b) The notes and bonds shall be authorized by resolution of the members, shall bear such date or dates, and shall mature at such time or times, in the case of any such note, or any renewals thereof, not exceeding six years from the date of issue of such original note, and in the case of any such bond not exceeding fifty years from the date of issue, as such resolution or resolutions may provide. The notes and bonds shall bear interest at such rate or rates, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, contain such terms and provisions relating to, but not limited to, pledges of the MHFA'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 MHFA may be sold at public or private sale, at such price or prices as the MHFA shall determine. The principal of and interest on any bonds or notes issued by the MHFA may be secured by the full faith and credit of the MHFA, by a pledge of any revenues and receipts of the MHFA, by a mortgage or other instrument covering all or any part of any and all projects, including any additions, improvements, extensions to or enlargements of any projects thereafter made, or by any one or more of the foregoing, all as the MHFA may determine in the resolution authorizing the issue of such bonds or notes. No notes or bonds of the MHFA shall be sold by the MHFA at private sale, however, unless such sale and the terms thereof have been approved by the treasurer and receiver-general. The aggregate principal amount of notes and bonds of the MHFA issued to make mortgage loans pursuant to section 5 and to make or purchase loans pursuant to section 5A, outstanding at any 1 time, shall not exceed the sum of \$10,800,000,000. 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 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.

(c) Neither the members of the MHFA nor any person executing the notes or bonds shall be liable personally on the notes or bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

(d) The MHFA, 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 (1) if the notes or bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date thereupon, or (2) 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.

(e) Notwithstanding any general or special law to the contrary, and except as otherwise provided in the applicable resolution or other instrument: (1) any pledge made by the MHFA in any resolution or other instrument authorizing notes or bonds, or securing the same, shall be valid and binding from the time specified in such resolution or instrument; (2) any such pledge by MHFA of its rights to receive payments of any kind from or for the account of mortgagors under mortgages, participations therein, or subsidy, guarantee, insurance or other contracts relating thereto, and of its revenues or other property, and of the mortgages, notes, such participations, such subsidy, guarantee, insurance or other contracts or other collateral, and of the proceeds of any or all thereof, shall be valid and binding and shall be deemed continuously perfected for the purposes of chapter one hundred and six of the General Laws from the time the pledge is made; (3) any such pledge shall be effective as to all such rights and other pledged property whether then existing or thereafter coming into existence, whether then held or thereafter acquired by MHFA, and whether or not segregated or held in trust by MHFA; (4) the rights, revenues, mortgages, notes, participations, contracts, collateral, other property and proceeds so pledged shall immediately be subject to the lien of such pledge without any physical delivery or segregation thereof or further act; (5) the lien of such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against MHFA, irrespective of whether such parties have notice thereof, and (6) the resolution or other instrument by which a pledge is created need not be filed or recorded except in the records of the MHFA, and no filing need be made under chapter one hundred and six of the General Laws.

Credits

St.1966, c. 708, § 8. Amended by St.1968, c. 709, § 3; St.1970, c. 855, § 9; St.1971, c. 971; St.1973, c. 1215, §§ 17, 18; St.1975, c. 643, § 2; St.1976, c. 4, § 14; St.1979, c. 632, §§ 8 to 10; St.1981, c. 348; St.1982, c. 264, §§ 13, 14; St.1983, c. 574, §§ 24, 25; St.1984, c. 406; St.1985, c. 259, § 5; St.1987, c. 318; St.1989, c. 581, §§ 1, 2; St.1992, c. 366; St.1998, c. 239, §§ 14, 15; St.2003, c. 34, §§ 1, 2, eff. July 17, 2003; St. 2024, c. 150, §§56.

§ 1-9. 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 any political subdivision thereof or a pledge of the faith and credit of the commonwealth or any political subdivision thereof and shall be payable solely from the proceeds of mortgage loans made under this act, reserve funds created therefor by the MHFA, and any mortgage insurance contracts pertaining thereto. All such bonds and notes shall contain on the face thereof a statement to the effect that neither the MHFA nor the commonwealth nor any political subdivision thereof shall be obligated to pay the same or the interest thereon except from such proceeds, reserve funds or mortgage insurance contracts and that neither the faith and credit nor the taxing power of the commonwealth or any political subdivision thereof is pledged to the payment of the principal of or the interest on such bonds and notes.

Credits

St.1966, c. 708, § 9. Amended by St.1968, c. 709, § 3A; St.1975, c. 598; St.1976, c. 4, § 25; St.1979, c. 632, § 11.

§ 1-9A. Working capital fund

(a) MHFA shall create and establish a general fund, herein referred to as the “Working Capital Fund”, and shall pay into such Working Capital Fund any monies appropriated and made available by the commonwealth for the purposes of such Working Capital Fund, and any other monies which may be available to the MHFA for its general purposes from any source or sources other than proceeds from the issuance and sale of notes or bonds by the MHFA.

All monies held in the Working Capital Fund, including without limitation any income or interest earned by, or increment to such Fund, shall be used by the MHFA for its general purposes, and to the extent authorized by the MHFA, any such monies in excess of the amount required to make and keep MHFA self-supporting shall be made available for the purposes of a Capital Reserve Fund.

(b) To provide for the organizational and administrative over-head incident to the inception and early operations of the MHFA, the sum of three hundred thousand dollars is hereby appropriated from the General Fund of the Commonwealth and made available to the MHFA for the purposes of the Working Capital Fund, which sum shall be paid to the MHFA and which sum the MHFA shall repay the commonwealth in ten annual installments beginning with the commencement of the sixth full year after the receipt of such funds.

Credits

St.1966, c. 708, § 9A, added by St.1968, c. 709, § 4. Amended by St.1979, c. 632, § 12.

§ 1-9B. Capital reserve fund

(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, 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 mature, 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 maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on outstanding bonds which are secured by such Capital Reserve Fund, except for the purpose of paying the principal of and interest on such bonds maturing and becoming due and for the payment of which other monies of the MHFA are not available. Any income or interest earned by, or increment to, a Capital Reserve Fund due to the investment thereof shall be used by the MHFA for the purposes of such Capital Reserve Fund.

(b) The MHFA shall not issue bonds which are secured by a Capital Reserve Fund at any time if the maximum amount of principal and interest maturing or becoming due in a succeeding calendar year on such bonds then to be issued and on all other outstanding bonds of the MHFA which are secured by such Capital Reserve Fund will exceed the amount of such Capital Reserve Fund at the time of issuance 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 issued, or otherwise, an amount which, together with the amount then in such Fund, will be not less than the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on such bonds then to be issued and on all other outstanding bonds of the MHFA which are secured by such Capital Reserve Fund.

(c) To assure the continued operation and solvency of the MHFA for the carrying out of the public purposes of this act, provision is made in paragraph (a) for the accumulation in a Capital Reserve Fund of an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on all outstanding bonds which are secured by such Capital Reserve Fund. In order further to assure such maintenance of a Capital Reserve Fund 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 an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the outstanding bonds which are secured by such Capital Reserve Fund. 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. Such amount, if any, shall be repaid to the commonwealth as soon as possible by the MHFA from monies in the Working Capital Fund in excess of the amount required to make and keep MHFA self-supporting.

(d) In computing the amount of a 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 MHFA.

Credits

St.1966, c. 708, § 9B, added by St.1968, c. 709, § 4. Amended by St.1976, c. 519, § 2; St.1979, c. 632, § 13; St.1982, c. 264, § 15.

§ 1-9C. Capital reserve fund; bonds; maintenance

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 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. Notwithstanding anything herein to the contrary, the MHFA shall not at any time issue bonds secured by a Capital Reserve Fund as provided in this section without the prior approval of the governor or his designee, after consultation with the finance advisory board.

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

chairperson of the MHFA shall annually, on or before December first, make and deliver to the governor the chairperson's 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. Such amount, if any, shall be repaid 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.

Credits

St.1966, c. 708, § 9C, added by St.1982, c. 264, § 16. Amended by St.1985, c. 259, §§ 6, 7; St.1998, c. 239, § 16.

§ 1-10. Trust agreement

In the discretion of the MHFA bonds and notes issued by it shall be secured by a trust agreement by and between the MHFA and a trustee, which may be any trust company or bank doing business 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 MHFA in relation to the custody, safeguarding and application of all moneys.

It shall be lawful for any bank or trust company doing business within 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 MHFA. 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 MHFA may deem reasonable and proper for the security of the bondholders and noteholders. All expenses incurred in carrying out the provisions of such trust agreement may be treated as a part of the cost of the operation of the MHFA.

Credits

St.1966, c. 708, § 10. Amended by St.1998, c. 239, §§ 17, 18.

§ 1-11. Advisory committee

To assist the MHFA in the discharge of its duties, the governor shall appoint from among interested citizens of the commonwealth an advisory committee of fifteen persons, including persons with experience or training in urban renewal, building, social work, mortgage financing, the municipal bond market, architecture, land use planning, and municipal government. It shall be the role of the advisory committee to assist the MHFA and its staff in formulating policies and procedures dealing with site selection, tenant selection, rent levels, design objectives, and such other questions relevant to the MHFA's underlying goal of providing housing for low income families and attaining balanced, attractive communities.

Members of the 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.

Credits

St.1966, c. 708, § 11.

§ 1-12. Bonds and notes tax exempt

The creation of the MHFA 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 MHFA will be performing an essential governmental function. The commonwealth covenants with the purchasers and all subsequent holders and transferees of the notes and bonds issued by the MHFA, in consideration of the acceptance of any payment for the notes and bonds, that the notes and bonds of the MHFA, issued pursuant to this act and the income therefrom shall at all times be free from taxation.

Credits

St.1966, c. 708, § 12.

§ 1-13. 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 fourteen of chapter one hundred and sixty-seven E of the General Laws, savings banks, co-operative banks, banking associations, investment companies, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of the commonwealth may properly and legally invest funds, including capital in their control or belonging to them. Such bonds and notes are hereby made securities which may properly and 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. 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.

Credits

St.1966, c. 708, § 13. Amended by St.1972, c. 521; St.1973, c. 807; St.1982, c. 264, § 17; St.1983, c. 371, § 103.

§ 1-13A. Interest subsidy program

In addition to its other powers and to the extent of appropriations or grants or other financial aid directed to the purpose, the MHFA may operate an interest subsidy program. Such program shall, pursuant to regulations adopted by the MHFA, provide, on behalf of the low and moderate income persons and families living in projects financed under this act, a subsidy to be applied towards rent payments not to exceed the difference between that portion of the rental of such units which is attributable to the mortgagor's interest payments and the amount which would have been attributable if the interest rate for the financing of the project were one per cent per annum.

Credits

St.1966, c. 708, § 13A, added by St.1970, c. 855, § 10. Amended by St.1975, c. 643, § 3.

§ 1-13B. Resident ownership subsidy program

MHFA 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 to own homes or cooperative housing shares or condominium units the purchase and rehabilitation of which are financed under this act by providing, as designated by appropriation, (a) 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 such family or person's annual income, or (b) mortgage funds on an interim basis prior to the issuance of refunding notes or bonds therefor for mortgage loans made by the MHFA pursuant to the authority granted it in clause (s) of section four, or (c) special advice and assistance to such families and persons.

Credits

St.1966, c. 708, § 13B, added by St.1970, c. 855, § 10.

§ 1-14. Annual report

The MHFA shall annually submit to the governor, the chairman of the senate ways and means committee, the chairman of the house ways and means committee, the commissioner of administration and finance, 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 MHFA for its operating and capital outlay purposes; (c) its assets and liabilities at the end of its fiscal year, including a schedule of its mortgage loans and commitments 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.

Credits

St.1966, c. 708, § 14.

§ 1-15. Inspection of books and records

The books and records of the MHFA shall be subject to an audit by the state auditor, in accordance with generally accepted government auditing standards, once every 3 years and as often as the state auditor determines is necessary.

Credits

St.1966, c. 708, § 15. Amended by St.2016, c. 463, § 45, eff. April 13, 2017.

§ 1-16. Liberal construction

This act, being necessary for the welfare of the commonwealth and its inhabitants, shall be liberally construed to effect the purposes thereof.

Credits

St.1966, c. 708, § 16.

§ 1-16A. Claims against the MHFA

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.

Credits

St.1966, c. 708, § 16A, added by St.1982, c. 264, § 18.

§ 1-17. 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.

Credits

St.1966, c. 708, § 17.