

# STATE OF NEW YORK

---

4935

2017-2018 Regular Sessions

## IN SENATE

March 3, 2017

---

Introduced by Sen. DIAZ -- read twice and ordered printed, and when printed to be committed to the Committee on Aging

AN ACT to amend the elder law, in relation to establishing the New York state senior housing opportunities partnership act

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The elder law is amended by adding a new section 209-a to  
2 read as follows:

3 § 209-a. The New York state senior housing opportunities partnership  
4 act. 1. Short title. This section shall be known and may be cited as  
5 the "New York state senior housing opportunities partnership act".

6 2. Definitions. As used in this section:

7 a. "Authority" means the New York state senior housing opportunities  
8 partnership authority created by this section.

9 b. "Bank" means any banking organization defined by section two of the  
10 banking law that has a market capitalization (determined by multiplying  
11 the number of shares times the current market price), of less than two  
12 billion dollars.

13 c. "Senior" means a person who is sixty years of age or older who is  
14 the head of a household. Any other provision of any other law to the  
15 contrary notwithstanding, including any provision of article fifteen of  
16 the executive law, it shall not be unlawful to restrict rental, sale or  
17 lease of a senior housing project financed in whole or in part by the  
18 authority exclusively to persons sixty years of age or older and the  
19 spouse of any such person.

20 d. "Senior housing opportunities development corporation" means any  
21 person, individual, firm, partnership, association, or other entity or  
22 collaboration of entities organized or existing under the laws of the  
23 state or any other state, domestic or foreign, exclusive of a state  
24 agency, undertaking the construction of a senior housing facility.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD07283-01-7

1 e. "Senior housing opportunities partnership financing instrument"  
2 means any financing instrument, including a bank loan, bonds and notes,  
3 or credit enhancement issued or purchased by or on behalf of a senior  
4 housing opportunities development corporation for a senior housing  
5 opportunities facility.

6 f. "Senior housing opportunities facility" means any structure,  
7 improvement, furnishing, equipment or other real or personal property  
8 that is or is to be used, owned or occupied in whole or in excess of  
9 fifty percent by housing for seniors, whether as rental or owner-occu-  
10 piated housing. Senior housing facility means and includes, but is not  
11 limited to naturally occurring retirement communities (as defined in  
12 section two hundred nine of this title, or any successor thereto), mark-  
13 et-rate independent living, adult home (as defined in section two of the  
14 social services law), as well as any and all recreational, educational,  
15 cultural, office, living, rehearsal, parking, restaurant, retail, stor-  
16 age and other facilities necessary or desirable in connection with the  
17 activities of the senior facility. For purposes of this section, owner-  
18 occupied means and includes any provision or instrument that allows a  
19 senior to own or to eventually own their living unit such that it  
20 becomes an owner-occupied living unit, including through such means as  
21 direct purchase, reverse-mortgage, lease-to-own, subsidized mortgage, or  
22 any similar provision allowing for transfer of title of the living unit  
23 to a senior; owner-occupied living unit means and includes any unit  
24 which is or will upon completion or shortly thereafter be occupied by  
25 the purchasing senior, including condominium or cooperative units.  
26 Notwithstanding any implication of the foregoing, senior housing facili-  
27 ty shall be deemed to mean and include scattered site housing, or hous-  
28 ing units scattered throughout a neighborhood or an area which is broad-  
29 ly defined by traditional neighborhood or community boundaries, and  
30 where appropriate, bounded by major natural or man-made physical bounda-  
31 ries, such as bodies of water, railroad lines, or limited access high-  
32 ways.

33 g. "Senior housing opportunities facility project" means a project to  
34 construct a senior housing opportunities facility, including all build-  
35 ings, systems, facilities, appurtenances, machinery and equipment which  
36 the authority deems necessary for the operation of the project.

37 h. "Project" means and includes the site or sites for a senior housing  
38 opportunities facility project, which may be composed of non-contiguous  
39 parcels, together with all property, rights, easements and interests, on  
40 or off such site or sites, which may be required for the operation of  
41 the project.

42 i. "Activities in a project which may be financed by the authority"  
43 means all activities necessary to the successful development and placing  
44 in operation of the project, including but not limited to the costs of:

45 (1) construction of the project;

46 (2) acquisition of property, both real and personal and improved and  
47 unimproved;

48 (3) demolishing, removing or relocating buildings or structures on  
49 lands acquired, including acquisition of any lands to which such build-  
50 ings or structures may be moved or relocated;

51 (4) systems, facilities, machinery and equipment;

52 (5) financing charges, interest prior to and during construction;

53 (6) professional services, including engineering and architectural  
54 services, plans and specifications, consultants' and legal services,  
55 lease guarantee or bond insurance, fiscal and economic investigations,  
56 studies, surveys, designs, plans, drawings, specifications, procedures,



1 and other such similar activities related thereto, regardless of when  
2 completed, as well as the costs of a project manager or clerk-of-the-  
3 works or other such similar personnel;

4 (7) all or part of the initial operational expenses, provided these do  
5 not exceed two years duration;

6 (8) development, contingency, and other financial plan costs; and

7 (9) any other expenses necessary or incidental to the construction of  
8 such project and the financing of its construction.

9 j. "Real property" means and includes lands, structures, franchises  
10 and interests in land, waters, lands under water, riparian rights and  
11 air-rights and any and all things and rights included within said term  
12 and includes not only fees simple absolute but also any and all lesser  
13 interests including but not limited to easements, rights of way, uses,  
14 leases, licenses and all other incorporeal hereditaments and every  
15 estate, interest or right, legal or equitable, including terms for years  
16 and liens thereon by way of judgments, mortgages or otherwise.

17 k. "State agency" means any officer, authority, corporation, depart-  
18 ment, board, commission, bureau, division, public benefit corporation,  
19 council, agency or instrumentality of the state.

20 3. New York state senior housing opportunities partnership authority.

21 a. The New York state senior housing opportunities partnership authori-  
22 ty is hereby created as a body corporate and politic constituting a  
23 public benefit authority. Its purpose shall be to finance or collaborate  
24 in the financing of senior housing opportunities facility projects for  
25 or on behalf of senior housing opportunities development corporations,  
26 as provided in this section. The authority may make loans or provide  
27 credit for loans which may be secured by mortgage, contracts, or provide  
28 other financing instruments to senior housing opportunities development  
29 corporations in accordance with the provisions of this article. It is  
30 hereby found and declared that such purposes are in all respects for the  
31 benefit of the people of the state of New York and the authority shall  
32 be regarded as performing an essential governmental function in carrying  
33 out its purposes and in exercising the powers granted by this section.

34 b. Membership of the authority shall consist of seven directors, of  
35 whom six shall be appointed by the governor by and with the advice and  
36 consent of the senate, two of whom shall be so appointed on recommenda-  
37 tion of the temporary president of the senate, and two on recommenda-  
38 tion of the speaker of the assembly. Each director shall at the time of  
39 appointment have had at least five years experience in finance, as an  
40 officer in an entity in which he or she served as a banker or investment  
41 banker, and/or as a developer of senior housing or other projects for  
42 seniors with a development cost in excess of five million dollars.  
43 Directors shall serve for terms of six years each, provided, however,  
44 that of the directors first appointed, two shall serve for terms of two  
45 years, two for terms of four years and two for terms of six years,  
46 respectively, from January first next succeeding their appointment. Any  
47 vacancy occurring otherwise than by expiration of term shall be filled  
48 in the same manner as the original appointment for the balance of the  
49 unexpired term. The director of the office for the aging shall serve as  
50 ex officio member with the same rights and duties as other members, and  
51 shall also be the chair of the authority and chief executive officer of  
52 the authority, and shall appoint such vice-chairman as he or she deems  
53 appropriate. Directors of the authority shall continue in office until  
54 their successors are appointed and shall have qualified. A director, on  
55 his or her initiative, may acquire by loaned employee from the office  
56 for the aging, through the powers provided him or her, no more than two

1 officers and employees, plus administrative-secretarial support staff as  
2 required, the duties and work of whom are hereby declared to be an  
3 essential state purpose, and who shall suffer no diminution of their  
4 compensation or benefits as result of such assignment, provided that no  
5 such transfer be made except with the approval of the director of the  
6 budget, and in compliance with the rules and regulations of the civil  
7 service commission of the state; and may retain or employ counsel, audi-  
8 tors, engineers and private consultants on a contract basis or otherwise  
9 for rendering professional or technical services and advice.

10 c. Directors shall receive no salary or other compensation, but shall  
11 be entitled to reimbursement for their actual and necessary expenses  
12 incurred in the performance of official duties. Any other provision of  
13 law to the contrary notwithstanding, no officer or employee of the  
14 state, or of any civil division thereof, shall be deemed to have  
15 forfeited or shall forfeit his or her office or employment or any bene-  
16 fits provided under the retirement and social security law by reason of  
17 acceptance of membership on the authority, provided, however, that a  
18 director who holds such other public office or employment shall receive  
19 no additional compensation for services rendered pursuant to this arti-  
20 cle, but shall be entitled to reimbursement for actual and necessary  
21 expenses incurred in the performance of such services. Directors may  
22 engage in private employment, or in a profession or business, subject to  
23 the limitations contained in sections seventy-three and seventy-four of  
24 the public officers law. The authority shall, for the purposes of  
25 sections seventy-three and seventy-four of the public officers law, be a  
26 state agency, and its directors shall be officers of the authority for  
27 the purposes of said sections.

28 d. Four directors of the authority shall constitute a quorum for tran-  
29 saction of business or the exercise of any power of the authority. For  
30 the transaction of business or the exercise of any power of the authori-  
31 ty, the authority shall have power to act by majority of the directors  
32 present at any meeting at which a quorum is in attendance. The authority  
33 may delegate to one or more of its directors, or its officers, agents  
34 and employees, such powers and duties as it may deem proper. Nothing  
35 contained in this paragraph shall prevent the directors from conducting  
36 their meetings by televideo or teleconference, or by telephone confer-  
37 ence, provided that at least three directors of the authority shall be  
38 physically present.

39 e. The governor may remove any director for inefficiency, neglect of  
40 duty or misconduct in office after giving him or her a copy of the  
41 charges against him or her and an opportunity to be heard, in person or  
42 by counsel in his or her defense, upon not less than ten days' notice.  
43 If any director shall be so removed, the governor shall file in the  
44 office of the department of state a complete statement of charges made  
45 against such director, and his or her findings thereon, together with a  
46 complete record of the proceedings.

47 f. The authority shall continue so long as it shall have bonds or  
48 other obligations outstanding and until its existence shall be termi-  
49 nated by law. Upon the termination of the existence of the authority,  
50 all its rights and properties shall pass to and be vested in the state.

51 4. Powers of the authority. Except as otherwise limited by this  
52 section, the authority shall have power:

53 a. To sue and be sued;

54 b. To have a seal and alter the same at pleasure;



1 c. To borrow money and issue negotiable or non-negotiable notes, bonds  
2 or other obligations, to the limits and for the purposes described in  
3 this section, and to provide for the rights of the holders thereof;

4 d. To invest any funds held in reserve or sinking funds, or any monies  
5 not required for immediate use or disbursement, at the discretion of the  
6 authority, in obligations of the state or the United States of America,  
7 in obligations the principal and interest of which are guaranteed by the  
8 state or the United States of America, or in deposits with such banks or  
9 trust companies as may be designated by the authority. Each such bank or  
10 trust company deposit shall be continuously and fully secured by direct  
11 obligations of the state or the United States of America, or by obli-  
12 gations the principal and interest of which are guaranteed by the state  
13 or the United States of America, and additionally, any funds managed by  
14 the authority for any senior housing opportunities corporation may be  
15 continuously and fully secured by obligations of any senior housing  
16 opportunities corporation of a market value equal at all times to the  
17 amount of the deposit, and all banks and trust companies are hereby  
18 authorized to give such security;

19 e. To make and alter by-laws for its organization and internal manage-  
20 ment, and rules and regulations governing the exercise of its powers and  
21 the fulfillment of its purposes under this section;

22 f. To enter into contracts and leases and to execute all instruments  
23 necessary to the purposes of the authority or to carry out any powers  
24 expressly given it;

25 g. To acquire, purchase, hold, lease as lessee, dispose of and use any  
26 real or personal property or any interest therein, or to sell, lease as  
27 lessor, grant easements or rights on, transfer and dispose of any prop-  
28 erty or interest therein at any time as it may deem necessary, conven-  
29 ient or desirable to effectuate the purposes of this section;

30 h. To make plans, surveys and studies necessary, convenient or desira-  
31 ble to effectuate its purposes and powers;

32 i. To enter upon such lands, waters or premises as in the judgment of  
33 the authority may be necessary, convenient or desirable for the purpose  
34 of making surveys, soundings, borings and examinations to accomplish any  
35 purpose authorized by this article, the authority being liable for actu-  
36 al damage done;

37 j. To conduct investigations and hearings in the furtherance of its  
38 general purposes, and in aid thereof to have access to any books,  
39 records or papers relevant thereto; and if any person whose testimony  
40 shall be required for the proper performance of the duties of the  
41 authority shall fail or refuse to aid or assist the authority in the  
42 conduct of any investigation or hearing, or to produce any relevant  
43 books, records or other papers, the authority is authorized to apply for  
44 process of subpoena, to issue out of any court of general original  
45 jurisdiction whose process can reach such person, upon due cause shown;

46 k. To acquire senior housing opportunity corporation bonds and notes,  
47 and to make loan commitments and loans to senior housing opportunity  
48 corporations, and to enter into option arrangements with senior housing  
49 opportunity corporations for the purchase of senior housing opportunity  
50 corporations bonds and notes;

51 l. To sell any senior housing opportunity corporations bonds or notes,  
52 other securities, or other personal property acquired by the authority  
53 whenever it is determined by the authority that the sale of such proper-  
54 ty is desirable, such bonds and notes to be sold by the authority only  
55 at public sale at such price or prices as the authority shall determine,  
56 provided that a notice of such sale shall be published at least once not

1 less than five days prior to the date of such sale in a financial news-  
2 paper or journal published in the city of New York. The proceeds of such  
3 sale shall be subject to such agreements with bondholders or noteholders  
4 as may then exist;

5 m. To apply for and receive, in its own name or in the name of the  
6 state, gifts or grants or loans of funds or property from the federal  
7 government or from the state or from any other federal or state public  
8 body or political subdivision or any other person or entity, which it  
9 may use to meet capital or operating expenses and for any other use  
10 within the scope of its powers, and to negotiate for the same upon such  
11 terms and conditions as the authority may determine to be necessary,  
12 convenient or desirable, and to comply, subject to the provisions of  
13 this section, with the terms and conditions thereof; and

14 n. To appoint such advisory committees as may be necessary, convenient  
15 or desirable to effectuate the purposes and powers of the authority.

16 5. Special powers of the authority. In order to carry out the purposes  
17 of this section, the authority shall have and exercise the following  
18 special powers:

19 a. Commitments for senior housing opportunities partnership financing  
20 instruments:

21 (1) The authority shall enter into a contract or contracts with a bank  
22 or consortium of banks to make senior housing opportunities partnership  
23 financing instruments available to senior housing opportunity corpo-  
24 rations for the development of projects in an amount or amounts not to  
25 exceed the cost of such project. In connection with making available  
26 such senior housing opportunities partnership financing instruments, the  
27 authority may fix and collect such fees and charges, including but not  
28 limited to reimbursement of all costs of financing by the authority, as  
29 the authority shall determine to be reasonable.

30 (2) In no event shall the authority approve such financing prior to  
31 the formal approval of financing or of a financial pro forma by such  
32 bank or banks in whatever means are traditionally and customarily used  
33 to approve such commitments, through the credit committees of such  
34 banks, or through their boards of directors, as appropriate, provided  
35 that such formal approval may be contingent on participation by the  
36 authority in the financing.

37 (3) The authority may sell a credit enhancement, letter of credit or  
38 other similar credit device for purposes of the development of a senior  
39 housing opportunities facility project to a bank, consortium of banks or  
40 a senior housing opportunities development corporation, upon application  
41 by such bank or consortium, or by the senior housing opportunities  
42 development corporation at an appropriate and competitive market rate,  
43 or in the absence of such appropriate and competitive market rate, upon  
44 such security as the authority shall deem appropriate. In the case of a  
45 mixed-use project, or a project that encompasses more than a senior  
46 housing opportunities facility, such credit device shall be limited to  
47 the senior housing opportunities facility portion of the project. Such  
48 credit device shall not exceed one hundred percent of the appraised  
49 value of the project as built and fully occupied, after discounting for  
50 other security pledges.

51 (4) The authority may deny an application for a financing instrument  
52 for any reason it deems appropriate in the public interest. The exten-  
53 sion of any such credit or loan is subject to the ability of the author-  
54 ity to secure the necessary financing.

55 b. Construction, operation and maintenance of senior housing opportu-  
56 nities facility projects.

1     (1) The authority and a senior housing opportunity corporation may  
2 enter into a contract for the operation and maintenance of a senior  
3 housing opportunities facility owned by the authority by such senior  
4 housing opportunity corporation or by a person approved by the authority  
5 and such senior housing opportunity corporation. Such contract may  
6 include provision for all or part of the amounts necessary to provide  
7 for (A) the expense of operation and maintenance of such senior housing  
8 opportunities facility including, without limitation, insurance, exten-  
9 sions, betterments and replacements and the principal of and interest on  
10 any bonds or notes of the authority, (B) deficits resulting from failure  
11 to secure sums payable to the authority by such senior housing opportu-  
12 nity corporation, (C) reserves or sinking funds for any of the forego-  
13 ing, and (D) the payment to the authority of expenses incurred by the  
14 authority related to placing the project in operation. Subject to any  
15 contracts with the holders of its bonds or notes, the authority is here-  
16 by authorized to do and perform any and all acts or things necessary,  
17 convenient or desirable to carry out and perform its obligations under  
18 every such contract and, in accordance with any such contract to waive,  
19 modify, suspend or reduce charges which would otherwise be charged and  
20 collected by the authority from the senior housing opportunity corpo-  
21 ration. A senior housing opportunity corporation shall not be liable for  
22 any act or omission of the authority, its officers, agents, servants or  
23 contractors in the performance of any such contract by the authority.

24     (2) A contract entered into by the authority and a senior housing  
25 opportunity corporation pursuant to this subdivision may provide that at  
26 its termination the title to the senior housing opportunities facility  
27 shall vest in the senior housing opportunity corporation or its succes-  
28 sor in interest, if any, free and clear of any indebtedness contracted  
29 by the authority. Any such contract entered into by the authority and  
30 any senior housing opportunity corporation which provides that title  
31 shall so vest in the senior housing opportunity corporation or its  
32 successor in interest shall be subject at a minimum to the following  
33 provisions: (A) the senior housing opportunity corporation shall pledge  
34 security for the payment of annual payments including interest on debt;  
35 (B) the total unpaid payments in relation to the principal of the  
36 indebtedness shall be deemed to be indebtedness of the senior housing  
37 opportunity corporation; and (C) the senior housing opportunity corpo-  
38 ration shall not be liable for a default on the obligations of the  
39 authority with respect to the facility if it is not in default on its  
40 payment pursuant to the contract.

41     6. Miscellaneous provisions. a. The authority may acquire, hold, own,  
42 lease, establish, construct, effectuate, operate, maintain, renovate,  
43 improve, extend or repair any of its facilities through, and cause any  
44 one or more of its powers, duties, functions or activities to be exer-  
45 cised or performed by, one or more wholly owned subsidiary corporations  
46 of the authority and may transfer to or from any such corporation any  
47 moneys, real property or other property for any of the purposes of this  
48 section. The directors or members of each subsidiary corporation shall  
49 be the same persons holding the offices of members of the authority.  
50 Each subsidiary corporation and any of its property, functions and  
51 activities shall have all of the privileges, immunities, tax exemptions  
52 and other exemptions of the authority and of the authority's property,  
53 functions and activities, and shall be subject to the restrictions and  
54 limitations to which the authority may be subject. The employees of any  
55 such subsidiary corporation, except those who are also employees of the  
56 authority, shall not be deemed employees of the authority. If the

1 authority shall determine that one or more of its subsidiary corpo-  
2 rations should be in the form of a public benefit corporation, it shall  
3 create each such public benefit corporation by executing and filing with  
4 the secretary of state a certificate of incorporation, which may be  
5 amended from time to time by filing, which shall set forth the name of  
6 such public benefit subsidiary corporation, its duration, the location  
7 of its principal office, and any or all of the purposes of acquiring,  
8 owning, leasing, establishing, constructing, effectuating, operating,  
9 maintaining, renovating, improving, extending or repairing one or more  
10 facilities of the authority. Each such public benefit subsidiary corpo-  
11 ration shall be a body politic and corporate and shall have all those  
12 powers vested in the authority by the provisions of this section which  
13 the authority shall determine to include in its certificate of incorpo-  
14 ration except the power to contract indebtedness. Whenever any state,  
15 political subdivision, senior housing opportunity corporation, commis-  
16 sion, agency, officer, department, board, division or person shall enter  
17 into agreements with the authority it shall have the same authorization  
18 and power for any of such purposes to cooperate and enter into agree-  
19 ments with a subsidiary corporation of the authority.

20 b. For purposes of the federal internal revenue service revenue  
21 rulings or revenue procedure, including revenue ruling 63-20 and revenue  
22 procedure 82-26 and successors and amendments thereto, the authority  
23 shall be and is hereby declared to be a political subdivision, or in the  
24 alternative an agent for the state for purposes of acquiring a benefi-  
25 cial interest in a senior housing project and approving the obligations  
26 issued by the senior housing development corporation.

27 7. Revolving fund. a. There is hereby established in the custody of  
28 the authority a special fund to be known as the senior housing opportu-  
29 nities facilities revolving fund. Moneys in the fund shall be segregated  
30 from all other funds of or in the custody of the authority subject to  
31 any rights of holders of authority bonds or notes issued for the  
32 purposes of this section. Moneys in the revolving fund shall be applied  
33 to or paid out for authorized purposes of the fund on the direction of  
34 the chair of the authority in accordance with this section, or such  
35 other person as the authority shall authorize to make such direction. In  
36 consultation with the director of the division of the budget, the  
37 authority may establish within the revolving fund additional accounts or  
38 subaccounts and specify any conditions applicable to the transfer of  
39 moneys between such accounts or subaccounts. With respect to each senior  
40 housing opportunities facilities project, the authority shall establish  
41 and maintain a record of the corpus allocation for such project and any  
42 applicable investment earnings attributable to such corpus allocation  
43 for the benefit of such project in accordance with the terms of the  
44 applicable project financing or loan agreement.

45 b. Such fund shall consist of federal grants and awards or other  
46 federal assistance; moneys appropriated for the purpose of such fund or  
47 otherwise transferred by the state for deposit therein by the comp-  
48 troller as required by law; payments of principal and interest made by  
49 senior housing opportunity corporations pursuant to loan or other  
50 agreements entered into pursuant to this section, provided, however, if  
51 such loans were financed by the issuance of bonds or notes of the  
52 authority, deposit of such payments into the fund shall be subject to  
53 the rights of the holders of such bonds or notes to receive such moneys;  
54 investment earnings on amounts in such fund; any other payments received  
55 from senior housing opportunity corporations pursuant to a loan or other  
56 agreement made pursuant to this section for costs of managing and admin-



1 istering the program; and the proceeds of bonds or notes issued by the  
2 authority for purposes of providing financial assistance to senior hous-  
3 ing opportunity corporations.

4 c. Moneys in the revolving fund shall be applied by the authority to  
5 provide financial assistance to senior housing opportunity corporations  
6 for projects, including any one or more of the following:

7 (1) making loans to senior housing opportunity corporations for  
8 projects, provided such loans are made at market or below market rates  
9 and do not have a final maturity of more than forty years following  
10 scheduled completion of the eligible project;

11 (2) buying or refinancing debt obligations of senior housing opportu-  
12 nity corporations at market or below market rates;

13 (3) guarantying or purchasing insurance or other credit enhancement  
14 for senior housing opportunity corporation bonds and notes or senior  
15 housing opportunities partnership financing instrument where such action  
16 would improve credit market access for or reduce interest rates on such  
17 senior housing opportunity corporation financing;

18 (4) providing a source of revenue or security for payment of principal  
19 and interest on bonds or notes issued by the authority if the proceeds  
20 of the sale of such bonds or notes will be deposited in the fund;

21 (5) providing interest rate subsidies from investment earnings on  
22 corpus allocations to subsidize loans to senior housing opportunity  
23 corporations made from the proceeds of the authority's bonds or notes;

24 (6) using investment earnings on moneys in the fund to pay the costs  
25 of the authority of administering and managing the program.

26 d. Notwithstanding the foregoing provisions of this subdivision if the  
27 sources of revenues described in this subdivision are at any time insuf-  
28 ficient to make a reimbursement when due, the authority shall make such  
29 reimbursement from any other available amounts in the revolving fund,  
30 excluding all amounts that are the subject of a corpus allocation,  
31 provided that the amounts paid from fund sources shall be reimbursed  
32 upon a determination by the director of the budget that future revenues  
33 obtained from such sources are in excess of the amounts reasonably need-  
34 ed to make future reimbursements pursuant to this subdivision.

35 e. Moneys in the revolving fund may be invested as provided in (1)  
36 investment agreements continuously secured by obligations with any  
37 insurance or reinsurance company or corporate affiliate thereof rated by  
38 a nationally recognized rating agency in one of its two highest catego-  
39 ries, any bank, trust company or broker or dealer, as defined by the  
40 securities exchange act of nineteen hundred thirty-four, which is a  
41 dealer in government bonds, which reports to, trades with and is recog-  
42 nized as a primary dealer by a federal reserve bank and is a member of  
43 the securities investors protection authority, provided that no invest-  
44 ment agreement shall be entered into with an insurance or reinsurance  
45 company or corporate affiliate thereof, if, (A) such obligations secur-  
46 ing such investment agreements are obligations of the state or the  
47 United States of America, or obligations the principal and interest of  
48 which are guaranteed by the state or the United States of America, (B)  
49 such obligations are delivered to a trustee for the benefit of the  
50 authority or, with respect to moneys pledged under an indenture of trust  
51 relating to bonds or notes of the authority, to the trustee under such  
52 indenture, or are supported by a safe keeping receipt issued by a depos-  
53 itory satisfactory to the authority as applicable, provided that such  
54 investment agreements must provide that the value of the underlying  
55 obligations shall be maintained at a current market value, calculated no  
56 less frequently than monthly, of not less than the amount deposited

1 thereunder, (C) a prior perfected security interest in the obligations  
2 which are securing such agreement has been granted to the authority, as  
3 applicable, and (D) such obligations are free and clear of adverse third  
4 party claims, or (2) obligations the interest on which is excludable  
5 from gross income under section one hundred three of the internal reven-  
6 ue code, provided that such obligations are rated by a nationally recog-  
7 nized rating agency in one of its two highest rating categories.

8 f. In addition to the powers granted to the authority elsewhere in  
9 this section, the authority may make loans to senior housing opportunity  
10 corporations for purposes of financing projects for which the revolving  
11 fund may be used, may accept the obligations of any senior housing  
12 opportunity corporation as security for the repayment of a loan to such  
13 senior housing opportunity corporation, and may assign and pledge such  
14 senior housing opportunity corporation obligations and loan agreements  
15 for the benefit of the holder of obligations of the authority from the  
16 proceeds of which such loans are made. Loan proceeds may be disbursed to  
17 a senior housing opportunity corporation with any restrictions imposed  
18 by the authority in connection with such loan or obligations of the  
19 authority from the proceeds of which such loan is made.

20 8. Audits. The authority shall arrange for any audits required by law  
21 for the purpose of issuing its bonds or notes or otherwise to provide  
22 financial assistance to senior housing opportunity corporations, and  
23 provide for the implementation of any independently conducted reviews or  
24 audits.

25 9. Default. In the event a senior housing opportunity corporation  
26 shall fail to make any payment due the authority pursuant to a loan  
27 agreement or other obligation of the senior housing opportunity corpo-  
28 ration issued as security for the undertaking of the senior housing  
29 opportunity corporation thereunder, the authority shall certify to the  
30 comptroller, and notify the chair of the senate finance committee, the  
31 chair of the assembly ways and means committee, the director of the  
32 division of the budget, and the governing body of the senior housing  
33 opportunity corporation that such senior housing opportunity corporation  
34 has failed to make such payment. Such certificate shall be in such form  
35 as may be determined by the authority provided it shall specify the  
36 exact amount of debt service and surcharge, if applicable, required to  
37 satisfy such senior housing opportunity corporation's unpaid obligation.  
38 The comptroller, upon receipt of such certificate from the authority, is  
39 authorized to and shall, to the extent not otherwise prohibited by law  
40 and subject to any other provision of law providing for withholding of  
41 payments to the senior housing opportunity corporation which take  
42 precedence over this subdivision, withhold from such senior housing  
43 opportunity corporation the next succeeding payments of state aid or  
44 local assistance otherwise payable to it to the extent necessary to meet  
45 the certified amount of debt service and surcharge, if applicable, due  
46 the authority and shall immediately pay over to the authority as a debt  
47 service payment on behalf of such senior housing opportunity corporation  
48 the amount so withheld. The authority shall further take any action  
49 permitted by law to recover such amount.

50 10. Issuance and sale of loan recipients bonds and notes. Notwith-  
51 standing any by-law, rule or regulation requiring the recipient to issue  
52 bonds or notes at a public or competitive sale, any recipient of a loan  
53 from the authority pursuant to this article may validly issue its notes  
54 or bonds to the authority, as evidence of its obligation to repay such  
55 loan.

1 11. Co-operation and assistance of other agencies. The authority may  
2 make use of existing studies, surveys, plans, data and other materials  
3 in the possession of any state agency or municipality or political  
4 subdivision of the state. Each such agency, municipality and subdivision  
5 is hereby authorized to make the same available to the authority and  
6 otherwise to assist it in the performance of its functions. The officers  
7 and personnel of such agencies, municipalities and subdivisions, and of  
8 any other government or agency whatever, may serve at the request of the  
9 authority upon such advisory committees as the authority shall determine  
10 to create and such officers and personnel may serve upon such committees  
11 without forfeiture of office or employment and with no loss or diminu-  
12 tion in the compensation, status, rights and privileges which they  
13 otherwise enjoy.

14 12. Notes and bonds of the authority. a. The authority shall have  
15 power and is hereby authorized from time to time to issue its negotiable  
16 or non-negotiable bonds and notes in conformity with applicable  
17 provisions of the uniform commercial code in such principal amount, as,  
18 in the opinion of the authority, shall be necessary to provide suffi-  
19 cient funds for achieving its purposes or to any senior housing opportu-  
20 nity corporation or recipient for such purposes. The authority shall  
21 have power, from time to time, to issue renewal notes, to issue bonds to  
22 pay notes and whenever it deems refunding expedient, to refund any bonds  
23 by the issuance of new bonds, whether the bonds to be refunded have or  
24 have not matured, and to issue bonds partly to refund bonds then  
25 outstanding, and partly for any other purpose. The refunding bonds shall  
26 be sold and the proceeds applied to the purchase, redemption or payment  
27 of the bonds to be refunded.

28 b. Except as may otherwise be expressly provided by the authority,  
29 every issue of its notes or bonds shall be (1) general obligations of  
30 the authority payable out of any revenues or monies of the authority,  
31 subject only to any agreements with the holders of particular notes or  
32 bonds pledging any particular recipients or revenues, (2) special obli-  
33 gations of the authority payable solely from the revenues, service  
34 charges, rentals, proceeds or other payments to be received on account  
35 of the mortgage, loan or other agreements and payments, reserve and  
36 insurance funds or accounts issuance of special obligations, and fees,  
37 charges or other monies to be received by the authority in respect to  
38 loans made pursuant to this section, or from amounts received by the  
39 authority pursuant to any contract, lease, easement, license or other  
40 instrument entered into by the authority pursuant to this section, and  
41 may, but need not, be secured by mortgages, assignments or pledges of  
42 such revenues, service charges, rentals, proceeds, other payments, funds  
43 and accounts, fees, charges and other monies, and by mortgages or  
44 assignments thereof in respect to projects, and may include pooled  
45 financings subject only to any agreements with the holders of particular  
46 special obligation notes or bonds issued to finance the cost of, or  
47 loans for, a project or projects.

48 c. Any bonds or notes issued for the purpose of financing amounts  
49 deposited or to be deposited in the revolving fund may be issued in an  
50 aggregate principal amount sufficient to finance the amount to be depos-  
51 ited plus an amount sufficient to fund any debt service reserve fund  
52 established by the authority and to provide for the payment of fees and  
53 other charges and expenses of the authority in connection with such  
54 bonds and notes.

55 d. The notes and bonds shall be authorized by resolution of the direc-  
56 tors of the authority, shall bear such date or dates, and shall mature

1 at such time or times, as such resolution or resolutions may provide;  
2 provided, however, that the final maturity of any bond issued for the  
3 purpose of financing any amounts deposited or to be deposited in the  
4 revolving fund shall not exceed forty years from the date of issue of  
5 such bond. The notes and bonds shall bear interest at such rate or rates  
6 which may vary from time to time, be in such denominations, be in such  
7 form, either coupon or registered, carry such registration privileges,  
8 be executed in such manner, be payable in such medium of payment, at  
9 such place or places and be subject to such terms of redemption as such  
10 resolution or resolutions may provide. The notes and bonds of the  
11 authority may be sold by the authority, at public or private sale, at  
12 such price or prices as the authority shall determine. No notes or bonds  
13 of the authority may be sold by the authority at private sale, however,  
14 unless such sale and the terms thereof have been approved in writing by  
15 (1) the comptroller, where such sale is not to the comptroller, or (2)  
16 the director of the budget, where such sale is to the comptroller.

17 e. Any resolution or resolutions authorizing any notes or bonds or any  
18 issue thereof may contain provisions, which shall be a part of the  
19 contract with the holders thereof, as to:

20 (1) pledging all or any part of the rentals, rates, charges and other  
21 fees made or received by the authority and other monies received or to  
22 be received from the ownership or operation or otherwise in connection  
23 with any project or projects and all or any part of the monies received  
24 in payment of principal or interest on bonds or notes of any state agen-  
25 cy and senior housing opportunity corporation bonds or notes acquired by  
26 the authority, to secure the payment of the notes or bonds or of any  
27 issue thereof, subject to such agreements with bondholders or notehold-  
28 ers as may then exist;

29 (2) pledging all or any part of the assets of the authority including  
30 senior housing opportunity corporation bonds and notes acquired by the  
31 authority in the issuance of general obligations, and in the issuance of  
32 special obligations, notes or other evidences of indebtedness of any  
33 person acquired by the authority, and assigning and pledging any mort-  
34 gages or other security interests acquired by the authority or any  
35 interests of the authority in properties or revenues or other sums paya-  
36 ble to the authority and any reserve and issuance funds or accounts or  
37 other funds and accounts established in connection with the issuance of  
38 special obligations to secure the payment of the notes or bonds or of  
39 any issue of notes or bonds of general obligations or special obli-  
40 gations, as the case may be, subject to such agreements with noteholders  
41 or bondholders as may then exist;

42 (3) the use and disposition of rentals, rates, charges and other fees  
43 made or received by the authority;

44 (4) the setting aside of reserves or sinking funds and the regulation  
45 and disposition thereof from the ownership or operation or otherwise in  
46 connection with any project or projects and of the gross income from  
47 senior housing opportunity corporation bonds and notes, and bonds and  
48 notes of any state agency owned by the authority;

49 (5) limitations on the purpose to which the proceeds of sale of notes  
50 or bonds may be applied and pledging such proceeds to secure the payment  
51 of the notes or bonds or of any issue thereof;

52 (6) limitations on the issuance of additional notes or bonds; the  
53 terms upon which additional notes or bonds may be issued and secured;  
54 and the refunding of outstanding or other notes or bonds;

55 (7) the procedure, if any, by which the terms of any contract with  
56 noteholders or bondholders may be amended or abrogated, the amount of

1 notes or bonds the holders of which must consent thereto, and the manner  
2 in which such consent may be given;

3 (8) limitations on the amount of monies to be expended by the authori-  
4 ty for operating, administrative or other expenses of the authority;

5 (9) vesting in a trustee or trustees such property, rights, powers and  
6 duties in trust as the authority may determine, which may include any or  
7 all of the rights, powers and duties of the trustee appointed by the  
8 bondholders pursuant to this section, and limiting or abrogating the  
9 right of the bondholders to appoint a trustee under this section or  
10 limiting the rights, powers and duties of such trustee; and

11 (10) any other matters, of like or different character, which in any  
12 way affect the security or protection of the notes or bonds.

13 f. In addition to the powers conferred upon the authority to secure  
14 its notes and bonds, the authority shall have power in connection with  
15 the issuance of notes and bonds to enter into such agreements as the  
16 authority may deem necessary, convenient or desirable concerning the use  
17 or disposition of its monies or property including the mortgaging of any  
18 such property and the entrusting, pledging or creation of any other  
19 security interest in any such monies or property and the doing of any  
20 act (including refraining from doing any act) which the authority would  
21 have the right to do in the absence of such agreements. The authority  
22 shall have power to enter into amendments of any such agreements within  
23 the powers granted to the authority by this section and to perform such  
24 agreements. The provisions of any such agreements may be made a part of  
25 the contract with the holders of the notes and bonds of the authority.

26 g. It is the intention of this subdivision that any pledge, mortgage  
27 or security instrument made by the authority shall be valid and binding  
28 from the time when the pledge, mortgage or security instrument is made;  
29 that the monies or property so pledged, mortgaged and entrusted and  
30 thereafter received by the authority shall immediately be subject to the  
31 lien of such pledge, mortgage or security instrument without any phys-  
32 ical delivery thereof or further act; and that the lien of any such  
33 pledge, mortgage or security instrument shall be valid and binding as  
34 against all parties having claims of any kind in tort, contract or  
35 otherwise against the authority, irrespective of whether such parties  
36 have notice thereof. Neither the resolution nor any mortgage, security  
37 instrument or other instrument by which a pledge, mortgage lien or other  
38 security is created need be recorded or filed and the authority shall  
39 not be required to comply with any of the provisions of the uniform  
40 commercial code.

41 h. Neither the directors of the authority nor any person executing the  
42 notes or bonds shall be liable personally on the notes or bonds, or be  
43 subject to any personal liability or accountability by reason of the  
44 issuance thereof.

45 i. The authority, subject to such agreements with noteholders or bond-  
46 holders as may then exist, shall have power out of any funds available  
47 therefor to purchase notes or bonds of the authority, which shall there-  
48 upon be cancelled, at a price not exceeding (1) if the notes or bonds  
49 are then redeemable, the redemption price then applicable plus accrued  
50 interest to the next interest payment thereon, or (2) if the notes or  
51 bonds are not then redeemable, the redemption price applicable on the  
52 first date after such purchase upon which the notes or bonds become  
53 subject to redemption plus accrued interest to such date.

54 j. Neither the state nor any senior housing opportunity corporation  
55 shall be liable on notes or bonds issued as general obligations of the  
56 authority and such notes and bonds shall not be a debt of the state or

1 any senior housing opportunity corporation, and such notes and bonds  
2 shall contain on the face thereof a statement to such effect. The state  
3 shall not be liable on notes or bonds issued as special obligations of  
4 the authority, and such notes and bonds shall not be a debt of the state  
5 and shall be payable solely from the revenues, service charges, rentals,  
6 proceeds or other payments to be derived from the extension of credit or  
7 the loan for the project for which such notes and bonds were issued, and  
8 such notes and bonds shall contain on the face thereof a statement to  
9 such effect.

10 k. The authority may obtain from any department or agency of the  
11 United States of America any available insurance or guaranty for the  
12 payment or repayment of interest or principal, or both, or any part  
13 thereof, on any bonds or notes issued by the authority, but notwith-  
14 standing any other provisions of this section shall not enter into any  
15 agreement or contract with respect to any such insurance or guaranty to  
16 the extent that it would in any way impair or interfere with the ability  
17 of the authority to perform and fulfill the terms of any agreement made  
18 with the holders of the bonds or notes of the authority.

19 13. Reserve funds and appropriations. a. The authority may create and  
20 establish one or more reserve funds to be known as debt service reserve  
21 funds and may pay into such debt service reserve funds any monies appro-  
22 priated and made available by the state for the purposes of such funds,  
23 any proceeds of sale of notes or bonds, to the extent provided in the  
24 resolution of the authority authorizing the issuance thereof, and any  
25 other monies which may be made available to the authority for the  
26 purpose of such funds from any other source or sources.

27 b. The monies held in or credited to any debt service reserve fund  
28 established under this subdivision, except as otherwise provided in this  
29 subdivision, shall be used solely for the payment of the principal of  
30 bonds of the authority secured by such debt service reserve fund as the  
31 same mature or as payments required by the terms of any contracts there-  
32 for as sinking fund payments become due, the purchase of such bonds of  
33 the authority, the payment of interest on such bonds of the authority or  
34 the payment of any redemption premium required to be paid when such  
35 bonds are redeemed prior to maturity; provided however, that the author-  
36 ity shall have power to provide that monies in any such fund shall not  
37 be withdrawn therefrom at any time in such amount of any sinking fund  
38 payments becoming due and principal and interest maturing and becoming  
39 due in any succeeding calendar year on the bonds of the authority then  
40 outstanding and secured by such debt service reserve fund, except for  
41 the purpose of paying any sinking fund payments becoming due and princi-  
42 pal of and interest on such bonds of the authority secured by such debt  
43 service reserve fund maturing and becoming due and for the payment of  
44 which other monies of the authority are not available. Any income or  
45 interest earned by, or increment to, any such debt service reserve fund  
46 due to the investment thereof may be transferred by the authority to any  
47 other fund or account of the authority and the authority shall have  
48 power to provide that any such transfer shall not reduce the amount of  
49 such debt service reserve fund below the maximum amount of any sinking  
50 fund payments becoming due and principal and interest maturing and  
51 becoming due in any succeeding calendar year on all bonds of the author-  
52 ity then outstanding and secured by such debt service reserve fund.

53 c. The authority shall not issue bonds at any time if the maximum  
54 amount of any sinking fund payments becoming due and principal and  
55 interest maturing and becoming due in any succeeding calendar year on  
56 the bonds outstanding and then to be issued and secured by a debt

1 service reserve fund will exceed the amount of such debt service reserve  
2 fund at the time of issuance, unless the authority, at the time of the  
3 issuance of such bonds, shall deposit in such debt service reserve fund  
4 from the proceeds of the bonds so to be issued, or otherwise, an amount  
5 which, together with the amount then in such debt service reserve fund,  
6 will be not less than the maximum amount of any sinking fund payments  
7 becoming due and principal and interest maturing and becoming due in any  
8 succeeding calendar year on the bonds then to be issued and on all other  
9 bonds of the authority then outstanding and secured by such debt service  
10 reserve fund.

11 d. To assure the continued operation and solvency of the authority for  
12 the carrying out of the public purposes of this section, provision is  
13 made in this section for the accumulation in each debt service reserve  
14 fund of an amount equal to the maximum amount of any sinking fund  
15 payments becoming due and principal, and interest maturing and becoming  
16 due in any succeeding calendar year as determined by the authority on  
17 all bonds of the authority then outstanding and secured by such debt  
18 service reserve fund. In order further to assure the maintenance of such  
19 debt service reserve funds in the respective amounts provided therefor  
20 by the authority in the issuance of its bonds secured thereby, there  
21 shall be annually apportioned and paid to the authority for deposit in  
22 each such debt service reserve fund such amount, if any, as shall be  
23 certified by the chief executive officer of the authority to the gover-  
24 nor and director of the budget as necessary to restore such debt service  
25 reserve fund to an amount equal to the maximum amount provided therefor  
26 by the authority as aforesaid. The chief executive officer of the  
27 authority shall annually, on or before December first, make and deliver  
28 to the governor and director of the budget his or her certificate stat-  
29 ing the amount, if any, required to restore each debt service reserve  
30 fund to the amount aforesaid and the amount or amounts so certified, if  
31 any, shall be apportioned and paid to the authority during the then  
32 current state fiscal year. The principal amount of bonds secured by a  
33 debt service reserve fund or funds to which state funds are apportiona-  
34 ble pursuant to this subdivision shall be limited to the total amount of  
35 bonds and notes outstanding on the effective date of this section, plus  
36 the total amount of bonds and notes contracted after the effective date  
37 of this section to finance projects in progress on the effective date of  
38 this section as determined by the New York state public authorities  
39 control board created pursuant to the state finance law whose affirma-  
40 tive determination shall be conclusive as to all matters of law and fact  
41 solely for the purposes of the limitations contained in this subdivi-  
42 sion, but in no event shall the total amount of bonds so secured by such  
43 a debt service reserve fund or funds exceed forty million five hundred  
44 thirteen thousand dollars, excluding bonds issued to refund such  
45 outstanding bonds until the date of redemption of such outstanding  
46 bonds. As outstanding bonds so secured are paid, the amount so secured  
47 shall be reduced accordingly but the redemption of such outstanding  
48 bonds from the proceeds of refunding bonds shall not reduce the amount  
49 so secured.

50 e. For the purposes of this section, maximum amount of any sinking  
51 fund payments becoming due and principal and interest maturing and  
52 becoming due in any succeeding year means, as of the date of computa-  
53 tion, the largest amount of money required in any succeeding year for  
54 the payment of interest on and maturing principal of outstanding bonds  
55 and payments required by the terms of any contracts to be made to any  
56 sinking fund established for the payment or redemption of such bonds,

1 provided that the principal amount of any bonds required to be made to  
2 any such sinking fund during any year shall, for the purposes of this  
3 definition, be considered as maturing in the year during which such  
4 payment is required and not in the year in which the stated maturity of  
5 such bonds occurs. In computing the amount of any debt service reserve  
6 fund for the purposes of this section, securities in which all or a  
7 portion of such fund shall be invested shall be valued at par, or if  
8 purchased at less than par, at their cost to the authority.

9 14. Agreement of the state. The state does hereby pledge to and agree  
10 with the holders of any notes or bonds issued under this section, that  
11 the state will not limit or alter the rights hereby vested in the  
12 authority to fulfill the terms of any agreements made with the holders  
13 thereof, or in any way impair the rights and remedies of such holders  
14 until such notes or bonds, together with the interest thereon, with  
15 interest of any unpaid installments of interest, and all costs and  
16 expenses for which the authority is liable in connection with any action  
17 or proceeding by or on behalf of such holders, are fully met and  
18 discharged. The authority is authorized to include this pledge and  
19 agreement of the state in any agreement with the holders of such notes  
20 or bonds.

21 15. Right of state to require redemption of bonds. Notwithstanding and  
22 in addition to any provisions for the redemption of bonds which may be  
23 contained in any contract with the holders of the bonds, the state may,  
24 upon furnishing sufficient funds therefor, require the authority to  
25 redeem, prior to maturing, as a whole, any issue of bonds on any inter-  
26 est payment date not less than twenty years after the date of the bonds  
27 of such issue at one hundred five per centum of their face value and  
28 accrued interest or at such lower redemption price as may be provided in  
29 the bonds in case of the redemption thereof as a whole on the redemption  
30 date. Notice of such redemption shall be published in at least two news-  
31 papers publishing and circulating respectively in the cities of Albany  
32 and New York at least twice, the first publication to be at least thirty  
33 days before the date of redemption.

34 16. Remedies of noteholders and bondholders. a. In the event that the  
35 authority shall default in the payment of principal of or interest on  
36 any issue of notes or bonds after the same shall become due, whether on  
37 any sinking fund payment date, at maturity or upon call for redemption,  
38 and such default shall continue for a period of thirty days, or in the  
39 event that the authority shall fail or refuse to comply with the  
40 provisions of this section or shall default in any agreement made with  
41 the holders of any issue of notes or bonds, the holders of twenty-five  
42 per centum in aggregate principal amount of the notes or bonds of such  
43 issue then outstanding, by instrument or instruments filed in the office  
44 of the clerk of the county of Albany and proved or acknowledged in the  
45 same manner as a deed to be recorded, may appoint a trustee to represent  
46 the holders of such notes or bonds for the purposes provided in this  
47 subdivision.

48 b. Such trustee may, and upon written request of the holders of twen-  
49 ty-five per centum in principal amount of such notes or bonds then  
50 outstanding shall, in his or its own name,

51 (1) by suit, action or proceeding in accordance with the civil prac-  
52 tice law and rules, enforce all rights of the noteholders or bondhold-  
53 ers, including the right to require the authority to collect rentals,  
54 rates, charges and other fees and to collect interest and amortization  
55 payments on senior housing opportunity corporation bonds and notes and  
56 bonds and notes of any state agency held by it adequate to carry out any



1 agreement as to, or pledge of, such rentals, rates, charges and other  
2 fees and of such interest and amortization payments, and to require the  
3 authority to carry out any other agreements with the holders of such  
4 notes or bonds and to perform its duties under this section;

5 (2) bring suit upon such notes or bonds;

6 (3) by action or suit, require the authority to account as if it were  
7 the trustee of an express trust for the holders of such notes or bonds;

8 (4) by action or suit, enjoin any acts or things which may be unlawful  
9 or in violation of the rights of the holders of such notes or bonds; and

10 (5) declare all such notes or bonds due and payable, and if all  
11 defaults shall be made good, then with the consent of the holders of  
12 twenty-five per centum of the principal amount of such notes or bonds  
13 then outstanding, to annul such declaration and its consequences.

14 c. Such trustee shall in addition to the foregoing have and possess  
15 all of the powers necessary or appropriate for the exercise of any func-  
16 tions specifically set forth herein or incident to the general represen-  
17 tation of bondholders or noteholders in the enforcement and protection  
18 of their rights.

19 d. The supreme court shall have jurisdiction of any suit, action or  
20 proceeding by the trustee on behalf of such noteholders or bondholders.  
21 The venue of any such suit, action or proceeding shall be laid in the  
22 county of Albany.

23 e. Before declaring the principal of notes or bonds due and payable,  
24 the trustee shall first give thirty days' notice in writing to the  
25 governor, to the authority, to the comptroller and to the attorney  
26 general of the state.

27 17. Notes and bonds as legal investment. The notes and bonds of the  
28 authority are hereby made securities in which all public officers and  
29 bodies of the state and all senior housing opportunity corporations and  
30 political subdivisions, all insurance companies and associations and  
31 other persons carrying on an insurance business, all banks, bankers,  
32 trust companies, savings banks and savings associations, including  
33 savings and loan associations, building and loan associations, invest-  
34 ment companies, and other persons carrying on a banking business, all  
35 administrators, guardians, executors, trustees and other fiduciaries,  
36 and all other persons whatsoever who are now or who may hereafter be  
37 authorized to invest in bonds or other obligations of the state, may  
38 properly and legally invest funds including capital in their control or  
39 belonging to them. Notwithstanding any other provisions of law, the  
40 bonds of the authority are also hereby made securities which may be  
41 deposited with and shall be received by all public officers and bodies  
42 of this state and all senior housing opportunity corporations and poli-  
43 tical subdivisions for any purpose for which the deposit of bonds or  
44 other obligations of the state is now or may hereafter be authorized.

45 18. Exemption from taxation; payments in lieu of taxes. a. Real prop-  
46 erty owned by the authority shall be exempt from any taxation, special  
47 ad valorem levy and special assessment, but shall be subject to a  
48 payment in lieu of taxes.

49 b. The authority shall be required to pay no fees or taxes, whether  
50 state or local, including but not limited to fees or taxes on real  
51 estate, franchise taxes, sales taxes or other excise taxes, upon any of  
52 its property, real or personal, or upon the use thereof, or upon its  
53 activities in the operation and maintenance of its facilities or on any  
54 rentals, rates, charges or other fees, revenues or other income received  
55 by the authority and that the bonds and notes of the authority and the  
56 income therefrom shall at all times be exempt from taxation, except for

1 gift and estate taxes and taxes on transfers. Nothing contained in this  
2 subdivision shall affect the obligation imposed by this section on the  
3 authority to make in lieu payments.

4 c. This section shall constitute a covenant and agreement with the  
5 holders of all bonds and notes issued by the authority.

6 19. Actions against the authority. a. As a condition to the consent of  
7 the state to such suits against the authority, in every action against  
8 the authority for damages, for injuries to real or personal property or  
9 for the destruction thereof, or for personal injuries or death, the  
10 complaint shall contain an allegation that at least thirty days have  
11 elapsed since the demand, claim or claims upon which such action is  
12 founded were presented to a member of the authority or other officer  
13 designated for such purpose and that the authority has neglected or  
14 refused to make an adjustment or payment thereof.

15 b. An action against the authority founded on tort, except an action  
16 for wrongful death, shall not be commenced more than one year after the  
17 cause of action therefor shall have accrued, nor unless a notice of  
18 claim shall have been served on the authority within the time limited by  
19 and in compliance with all the requirements of section fifty-e of the  
20 general municipal law. An action against the authority for wrongful  
21 death shall be commenced in accordance with the notice of claim and time  
22 limitation provisions of title eleven of article nine of the public  
23 authorities law.

24 c. The authority may require any person, presenting for settlement on  
25 account or claim for any cause whatever against the authority, to be  
26 sworn before a director, counsel or an attorney, officer or employee of  
27 the authority designated for such purpose, concerning such account or  
28 claim and when so sworn to answer orally as to any facts relative to  
29 such account or claim. The authority shall have power to settle or  
30 adjust all claims in favor of or against the authority.

31 d. The rate of interest to be paid by the authority upon any judgment  
32 for which it is liable shall not exceed four per centum per annum.

33 20. Severability. If any provision of this section or the application  
34 thereof to any person or circumstance shall be adjudged invalid by a  
35 court of competent jurisdiction, such order or judgment shall be  
36 confined in its operation to the controversy in which it was rendered,  
37 and shall not affect or invalidate the remainder of any provision of  
38 this section or the application of any part thereof to any other person  
39 or circumstance and to this end the provisions of each subdivision of  
40 this section are hereby declared to be severable. Insofar as the  
41 provisions of this section are inconsistent with the provisions of any  
42 other law, general, special or local, the provisions of this section  
43 shall be controlling.

44 § 2. This act shall take effect immediately.