

2010 -- H 7058

LC00121

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- HOUSING AND MORTGAGE  
FINANCE CORPORATION

Introduced By: Representatives Pollard, and Mattiello

Date Introduced: January 12, 2010

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 42-55 of the General Laws entitled "Rhode Island Housing and  
2 Mortgage Finance Corporation" is hereby amended by adding thereto the following section:

3 **42-55-6.1. Lender of last resort.** – (a) Notwithstanding any provision of the general or  
4 public laws to the contrary, the corporation shall serve as a lender of last resort to any individual  
5 who does not qualify for loans under the federal housing administration guidelines evidenced by a  
6 denial and disqualification letter relative under the federal housing administration guidelines.

7 (b) The corporation shall not compete, directly or indirectly, with lenders in the open  
8 market, as the corporation shall serve as a lender of last resort. Any violation of this section shall  
9 result in a civil penalty and a fine of five thousand dollars (\$5,000) shall be imposed upon the  
10 corporation for each violation; and the lender adversely affected shall have the right to bring a  
11 civil action in a court of competent jurisdiction.

12 SECTION 2. Section 42-55-3 of the General Laws in Chapter 42-55 entitled "Rhode  
13 Island Housing and Mortgage Finance Corporation" is hereby amended to read as follows:

14 **42-55-3. Definitions.** -- The following words and terms, unless the context clearly  
15 indicates a different meaning, shall have the following meanings:

16 (1) "Bonds, notes, and other obligations" or "bonds, bond anticipation notes, or other  
17 obligations" means any bonds, notes, debentures, interim certificates, or other evidences of  
18 financial indebtedness issued by the corporation pursuant to this chapter;

1           (2) "Corporation" means the Rhode Island housing and mortgage finance corporation  
2 created by this chapter;

3           (3) "Earned surplus" shall have the same meaning as in generally accepted accounting  
4 standards.

5           (4) "Energy saving improvements" means improvements for the purpose of promoting  
6 energy savings or efficiency in residential housing and shall include, but not be limited to, the  
7 installation or upgrading of ceiling, wall, floor, and duct insulation, storm windows and doors,  
8 caulking and weather stripping, solar, passive or other alternative energy sources, hot water  
9 heaters, heating or cooling systems, and any other improvements of a similar nature as may from  
10 time to time be determined by the corporation;

11           (5) "Federally insured mortgage" means a mortgage loan for land development or  
12 residential housing or health care facilities insured or guaranteed by the United States or a  
13 governmental agency or instrumentality of the United States, or a commitment by the United  
14 States or a governmental agency or instrumentality of the United States to insure that mortgage;

15           (6) "Federal mortgage" means a mortgage loan for land development or residential  
16 housing or health care facility made by the United States or a governmental agency or  
17 instrumentality of the United States or for which there is a commitment by the United States or a  
18 governmental agency or instrumentality of the United States to make that mortgage loan;

19           (7) "Governmental agency" or "instrumentality" means any department, division, public  
20 corporation, public agency, political subdivision, or other public instrumentality of the state, the  
21 federal government, any other state or public agency, or any two (2) or more of these;

22           (8) "Health care facilities" means real property (or a lease of the fee of real property)  
23 located in the state and improved by buildings, structures, or other improvements, including  
24 fixtures and equipment, constituting a facility providing services by or under the supervision of a  
25 physician or, in the case of a dental clinic or dental dispensary, of a dentist, for the prevention,  
26 diagnosis, or treatment of a human disease, pain, injury, deformity, or physical condition or  
27 constituting a facility providing to occupants nursing care to sick, invalid, infirm, disabled, or  
28 convalescent persons in addition to lodging and board or health-related service or providing  
29 nursing care and health-related service to persons who are not occupants of the facilities, or  
30 unimproved if the proceeds of an eligible mortgage shall be used for the purpose of erecting these  
31 buildings, structures, or other improvements;

32           (9) "Housing development" or "housing project" means any work or undertaking,  
33 whether new construction or rehabilitation, constituting a single family or multi-family residence  
34 including without limitation mobile homes and shelters, which are designed and financed

1 pursuant to the provisions of this chapter for the primary purpose of providing sanitary, decent,  
2 and safe dwelling accommodations for persons and families of low or moderate income in need  
3 of housing; this undertaking may include any buildings, land, equipment, facilities, or other real  
4 or personal properties which are necessary, convenient, or desirable in connection therewith,  
5 including, but not limited to, streets, sewers, utilities, parks, site preparation, landscaping, and  
6 those stores, offices, and other non-housing facilities such as administrative, community, health,  
7 recreational, educational, commercial, and welfare facilities that the corporation determines to be  
8 necessary, convenient, or desirable;

9 (10) "Housing development costs" means the sum total of all costs incurred in the  
10 development of a housing development or housing project, which are approved by the corporation  
11 as reasonable and necessary, which costs shall include, but are not necessarily limited to:

12 (i) Cost of land acquisition and any buildings thereon, including payments for options,  
13 deposits, or contracts to purchase properties on the proposed housing project or housing  
14 development site or payments for the purchase of the properties;

15 (ii) Cost of site preparation, demolition, and clearing;

16 (iii) Architectural, engineering, legal, accounting, corporation, and other fees paid or  
17 payable in connection with the planning, execution, and financing of the housing development  
18 and for finding an eligible mortgagee or mortgagees for the housing development;

19 (iv) Cost of necessary studies, surveys, plans, and permits;

20 (v) Insurance, interest, financing, tax and assessment costs, and other operating and  
21 carrying costs during construction;

22 (vi) Cost of construction, rehabilitation, reconstruction, fixtures, furnishings, equipment,  
23 machinery, apparatus, and similar facilities related to the real property;

24 (vii) Cost of land improvements, including without limitation, landscaping and off-site  
25 improvements, whether or not these costs have been paid for in cash or in a form other than cash;

26 (viii) Necessary expenses in connection with initial occupancy of the housing  
27 development or housing project;

28 (ix) A reasonable profit and risk fee in addition to job overhead to the general contractor  
29 and, if applicable, a limited profit housing sponsor;

30 (x) An allowance established by the corporation for working capital and contingency  
31 reserves, and reserves for any anticipated operating deficits during construction and for the first  
32 two (2) years of occupancy; and

33 (xi) The cost of any other items, including tenant relocation, that the corporation shall  
34 determine to be reasonable and necessary for the development of the housing development, less

1 any and all net rents and other net revenues received from the operation of the real and personal  
2 property on the development site during construction;

3 (11) "Housing sponsor," "health care sponsor" or "sponsor" means individuals, joint  
4 ventures, partnerships, limited partnerships, trusts, firms, associations, or other legal entities or  
5 any combination thereof, corporations, cooperatives, and condominiums, approved by the  
6 corporation as qualified either to own, construct, acquire, rehabilitate, operate, manage, or  
7 maintain a housing development, housing project or residential housing or health care facilities  
8 whether for profit, nonprofit, or organized for limited profit subject to the regulatory powers of  
9 the corporation and other terms and conditions set forth in this chapter;

10 (12) "Land development" means the process of acquiring land primarily for residential  
11 housing construction for persons and families of low and moderate income, or for construction of  
12 health care facilities, and making, installing, or constructing nonresidential housing or health care  
13 facility improvements, including water, sewer, and other utilities, roads, streets, curbs, gutters,  
14 sidewalks, storm drainage facilities, and other installations or works, whether on or off the site,  
15 which the corporation deems necessary or desirable to prepare the land primarily for residential  
16 housing or health care facility construction within the state;

17 (13) "Mortgage" means a mortgage deed, deed of trust, security agreement or other  
18 instrument which shall constitute a lien on real property in fee simple or on a leasehold under a  
19 lease having a remaining term, at the time the mortgage is acquired, which does not expire for at  
20 least that number of years beyond the maturity date of the obligation secured by the mortgage as  
21 is equal to the number of years remaining until the maturity date of the obligation and on related  
22 personal property constituting the housing development, housing project, or residential housing;

23 (14) "Mortgage lender" means any bank or trust company, federal national mortgage  
24 association approved mortgage banker, savings bank, savings and loan association, industrial  
25 bank, credit union, national banking association, federal savings and loan association, or federal  
26 credit union, or other financial institutions or governmental agencies which are eligible to provide  
27 service or otherwise aid in the financing of mortgages on single family residential housing or  
28 multifamily residential housing or health care facilities located in the state;

29 (15) "Mortgage loan" means an interest bearing obligation secured by a mortgage on  
30 land and improvements in the state constituting a housing development or housing project or  
31 health care facility or residential housing;

32 (16) "Multi-family residential housing" means residential housing consisting of five (5)  
33 or more family units;

34 (17) "Municipality" means any city, town, or other political subdivision of the state;

1 (18) "Persons and families of low and moderate income" means persons and families  
2 irrespective of race, creed, national origin, or sex deemed by the corporation to require any  
3 assistance made available by this chapter on account of insufficient personal or family income,  
4 taking into consideration, without limitation, such factors as:

5 (i) The amount of the total income of those persons and families available for housing  
6 needs;

7 (ii) The size of the family;

8 (iii) The cost and condition of housing facilities available;

9 (iv) The eligibility of those persons and families for federal housing assistance of any  
10 type predicated upon a low income basis or upon the basis of the age of the persons;

11 (v) The ability of those persons and families to compete successfully in the normal  
12 housing market and to pay the amounts at which private enterprise is providing decent, safe, and  
13 sanitary housing, and deemed by the corporation to be eligible to occupy residential housing  
14 constructed and financed, wholly or in part, with insured construction loans or insured mortgages,  
15 or with other public or private assistance;

16 [\(vi\) The persons and families must provide evidence of a denial of eligibility from the](#)  
17 [federal housing administration.](#)

18 (19) "Real property" means all lands including improvements and fixtures thereon, and  
19 property of any nature appurtenant thereto, or used in connection therewith, and every estate,  
20 interest, and right, legal or equitable, therein, including terms of years and liens by way of  
21 judgment, mortgage, or otherwise and the indebtedness secured by those liens;

22 (20) "Residential housing" means:

23 (i) A specific work or improvement within this state whether in single family or multi-  
24 family units undertaken primarily to provide dwelling accommodations for persons and families  
25 of low and moderate income and for the elderly, including the acquisition, construction, or  
26 rehabilitation of land, buildings, and improvements thereto, and other non-housing facilities  
27 incidental or appurtenant thereto; and

28 (ii) Existing housing owned and occupied by, and shelters for, persons or families of low  
29 or moderate income or the elderly;

30 (21) "Shelter" means an entity or organization located in the state which provides on-site  
31 temporary residential shelter to homeless, abused, battered, or neglected individuals and/or  
32 families, and which receives a portion of its operating funds from the state;

33 (22) "Single family residential housing" means residential housing consisting of four (4)  
34 or fewer family units; and

1 (23) "State" means the State of Rhode Island and Providence Plantations.

2 SECTION 3. This act shall take effect upon passage.

=====  
LC00121  
=====

EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- HOUSING AND MORTGAGE  
FINANCE CORPORATION

\*\*\*

1           This act would make the Rhode Island housing and mortgage financial corporation a  
2 lender of last resort and prohibit them from competing directly or indirectly in the marketplace. It  
3 would also impose a civil penalty against the corporation.

4           This act would take effect upon passage.

=====  
LC00121  
=====