

**UTAH HOUSING FINANCE AGENCY**

**AMENDMENTS**

2001 GENERAL SESSION

STATE OF UTAH

**Sponsor: Ron Bigelow**

**This act modifies the Community and Economic Development Code by amending the Utah Housing Finance Agency Act to authorize the agency's status as a public corporation. This act amends the corporation's exemptions from and compliance with certain acts. This act amends audit, immunity, and contracting provisions for the corporation. This act also makes technical corrections to this code. This act repeals authorization for state grants to the agency. This act takes effect on July 1, 2001.**

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

- 9-4-901, as renumbered and amended by Chapter 241, Laws of Utah 1992
- 9-4-902, as last amended by Chapter 250, Laws of Utah 1993
- 9-4-903, as last amended by Chapter 250, Laws of Utah 1993
- 9-4-904, as last amended by Chapter 243, Laws of Utah 1996
- 9-4-905, as renumbered and amended by Chapter 241, Laws of Utah 1992
- 9-4-906, as last amended by Chapter 20, Laws of Utah 1995
- 9-4-907, as renumbered and amended by Chapter 241, Laws of Utah 1992
- 9-4-908, as renumbered and amended by Chapter 241, Laws of Utah 1992
- 9-4-909, as last amended by Chapter 250, Laws of Utah 1993
- 9-4-910, as last amended by Chapter 250, Laws of Utah 1993
- 9-4-911, as last amended by Chapter 250, Laws of Utah 1993
- 9-4-912, as last amended by Chapter 4, Laws of Utah 1993
- 9-4-913, as renumbered and amended by Chapter 241, Laws of Utah 1992
- 9-4-914, as last amended by Chapter 4, Laws of Utah 1993
- 9-4-915, as renumbered and amended by Chapter 241, Laws of Utah 1992
- 9-4-916, as renumbered and amended by Chapter 241, Laws of Utah 1992

**9-4-917**, as last amended by Chapter 4, Laws of Utah 1993

**9-4-918**, as renumbered and amended by Chapter 241, Laws of Utah 1992

**9-4-919**, as renumbered and amended by Chapter 241, Laws of Utah 1992

**9-4-920**, as renumbered and amended by Chapter 241, Laws of Utah 1992

**9-4-922**, as renumbered and amended by Chapter 241, Laws of Utah 1992

**9-4-923**, as last amended by Chapter 20, Laws of Utah 1995

**9-4-924**, as renumbered and amended by Chapter 241, Laws of Utah 1992

**9-4-925**, as enacted by Chapter 250, Laws of Utah 1993

ENACTS:

**9-4-904.5**, Utah Code Annotated 1953

**9-4-926**, Utah Code Annotated 1953

REPEALS:

**9-4-921**, as renumbered and amended by Chapter 241, Laws of Utah 1992

*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **9-4-901** is amended to read:

**Part 9. Utah Housing Corporation Act**

**9-4-901. Title.**

This part is known as the "Utah Housing [~~Finance Agency~~] Corporation Act."

Section 2. Section **9-4-902** is amended to read:

**9-4-902. Policy -- Finding and declaration.**

(1) It is declared that the policy of the state of Utah is to assure the health, safety, and welfare of its citizens, that an adequate supply of decent, safe, and sanitary housing is essential to the well-being of the citizens of the state, and that an adequate supply of mortgage funds for housing at reasonable interest rates is in the public interest.

(2) It is found and declared that:

(a) there continues to exist throughout the state a seriously inadequate supply of safe and sanitary dwelling accommodations within the financial means of persons and families of low or moderate income who wish to purchase or rent residential housing[~~From~~]; and

(b) from time to time the high rates of interest charged by mortgage lenders seriously restrict the transfer of existing housing and new housing starts.

(3) It is found and declared that the reduction in residential construction starts associated with the high rates causes a condition of substantial unemployment and underemployment in the construction industry which impedes the economy of the state and affects the welfare and prosperity of all the people of the state.

(4) It is found and declared that:

(a) these conditions associated with the recurrent shortages of residential mortgage funds contribute to slums and blight in the cities and rural areas of the state and ultimately to the deterioration of the quality of living conditions within the state ~~[of Utah. In]; and~~

(b) in accordance with the purpose of this part to assist in providing housing for low and moderate income persons who otherwise could not achieve decent, safe, and sanitary housing, the agency shall make every effort to make housing available in rural, inner city, and other areas experiencing difficulty in securing construction and mortgage loans, and to make decent, safe, and sanitary housing available to low income persons and families.

(5) It is found and declared that in order to assure an adequate fund of private capital into this housing, the cooperation between private enterprise and state government is essential and is in the public interest.

(6) It is found and declared that low and moderate income persons in Utah have a wide range of housing needs, which necessitates the development of many different kinds of programs to address those needs, including programs providing mortgage loans, nontraditional loans, grants, and other forms of financial assistance, and combinations of these forms.

(7) It is found and declared that there are private organizations and governmental entities throughout Utah that are endeavoring to improve the availability of housing for low and moderate income, but many ~~[such]~~ of these organizations and entities lack expertise and financial resources to act efficiently and expeditiously in ~~[such]~~ these efforts.

(8) It is found and declared that innovative programs that bring together resources from the public, nonprofit, and private sector are necessary in order to increase the supply of housing for low

and moderate individuals, but these programs usually need advice and financial assistance to become established.

(9) It is declared that all of the foregoing are public purposes and uses for which moneys may be borrowed, expended, advanced, loaned, or granted, and that these activities serve a public purpose in improving or otherwise benefiting the people of this state, and that the necessity of enacting the provisions ~~[set forth]~~ in this part is in the public interest and is ~~[hereby]~~ so declared as a matter of express legislative determination.

(10) It is found and declared that the compelling need within the state for the creation of an adequate supply of mortgage funds at reasonable interest rates and for other kinds of financial assistance to help provide affordable housing for low and moderate income individuals can be best met by the establishment of an independent ~~[state agency and a]~~ body corporate and politic, constituting a public corporation, vested with the powers and duties specified in this part.

(11) It is declared that the corporation is intended to operate:

(a) with the power to issue tax exempt bonds to finance the purchase of mortgage loans to qualified buyers;

(b) as a financially independent body; and

(c) so that its debts shall be payable solely from payments received by the corporation from mortgage borrowers and other revenues generated internally by the corporation.

Section 3. Section **9-4-903** is amended to read:

**9-4-903. Definitions.**

As used in this part the following words and terms have the following meanings, unless a different meaning clearly appears from the context:

~~[(1) "Agency" means the Utah Housing Finance Agency created by Section 9-4-904.]~~

~~[(2)]~~ (1) "Bonds," "notes," and "other obligations" mean any bonds, notes, debentures, interim certificates, or other evidences of financial indebtedness of the ~~[agency]~~ corporation authorized to be issued under the provisions of this part.

~~[(3)]~~ (2) "Construction loan" means a short-term advance of monies for the purpose of constructing residential housing for low and moderate income persons.

(3) "Corporation" means the Utah Housing Corporation created by Section 9-4-904, which, prior to July 1, 2001, was named the Utah Housing Finance Agency.

(4) "Employee of the [agency] corporation" means any individual who is employed by the [agency] corporation but who is not a [member] trustee of the [agency] corporation.

(5) "Financial assistance" includes:

- (a) a loan, whether interest or noninterest bearing, secured or unsecured;
- (b) a loan that converts to a grant upon the occurrence of specified conditions;
- (c) a development loan;
- (d) a grant;
- (e) an award;
- (f) a subsidy;
- (g) a guarantee;
- (h) a warranty;
- (i) a lease;
- (j) a payment on behalf of a borrower of an amount usually paid by a borrower, including a down payment;
- (k) any other form of financial assistance that helps provide affordable housing for low and moderate income persons; or
- (l) any combination of the foregoing.

(6) "Housing development" means a residential housing project, which includes residential housing for low and moderate income persons.

(7) "Housing sponsor" includes a person who constructs, develops, rehabilitates, purchases, or owns a housing development that is or will be subject to legally enforceable restrictive covenants that require the housing development to provide, at least in part, residential housing to low and moderate income persons, including a local public body, a nonprofit, limited profit, or for profit corporation, a limited partnership, a limited liability company, a joint venture, a subsidiary of the [agency] corporation, or any subsidiary of the subsidiary, a cooperative, a mutual housing organization, or any other type of entity or arrangement that helps provide affordable housing for low

and moderate income persons.

(8) "Interest rate contract" means interest rate exchange contracts, interest rate floor contracts, interest rate ceiling contracts, and other similar contracts authorized in a resolution or policy adopted or approved by the trustees.

~~(8)~~ (9) "Local public body" means the state, any municipality, county, district, or other subdivision or instrumentality of the state, including redevelopment agencies and housing authorities created under Part 6.

~~(9)~~ (10) "Low and moderate income persons" means persons, irrespective of race, religion, creed, national origin, or sex, as determined by the ~~[agency]~~ corporation to require such assistance as is made available by this part on account of insufficient personal or family income taking into consideration ~~[without limiting the generality thereof, such]~~ factors ~~[as follows]~~, including:

(a) the amount of income ~~[of such]~~ that persons and families have available for housing needs;

(b) the size of family;

(c) whether or not a person is a single head of household;

(d) the cost and condition of residential housing available; and

(e) the ability of ~~[such]~~ persons and families to compete successfully in the normal private housing market and to pay the amounts at which private enterprise is providing decent, safe, and sanitary housing.

~~(10)~~ (11) "Mortgage lender" means any bank, trust company, savings and loan association, credit union, mortgage banker, or other financial institution authorized to transact business in the state, any local public body, or any other entity, profit or nonprofit, that makes mortgage loans.

~~(11)~~ (12) "Mortgage loan" means a loan secured by a mortgage, which loan may bear interest at either a fixed or variable rate or which may be noninterest bearing, the proceeds of which are used for the purpose of financing the construction, development, rehabilitation, or purchase of residential housing for low and moderate income persons, including low and moderate income persons who are first-time homebuyers, single heads of household, elderly, homeless, or disabled.

~~(12)~~ (13) "Mortgage" means a mortgage, deed of trust, or other instrument securing a

mortgage loan and constituting a lien on real property (the property being held in fee simple or on a leasehold under a lease having a remaining term, at the time the mortgage is acquired, of not less than the term for repayment of the mortgage loan secured by the mortgage) improved or to be improved by residential housing, creating a lien which may be first priority or subordinate.

~~[(13)]~~ (14) "Rehabilitation" includes the reconstruction, rehabilitation, improvement, and repair of residential housing.

~~[(14)]~~ (15) "Residential housing" means a specific work or improvement within this state undertaken primarily to provide dwelling accommodations, including land, buildings, and improvements to land and buildings, whether in one to four family units or multifamily units, and ~~[such]~~ other incidental or appurtenant nonhousing facilities ~~[as may be incidental or appurtenant thereto]~~, or as otherwise specified by the agency.

~~[(15)]~~ (16) "State" means the state of Utah.

~~[(16)]~~ (17) "State housing credit ceiling" means the amount specified in Subsection 42(h)(3)(C) of the Internal Revenue Code for each calendar year.

Section 4. Section **9-4-904** is amended to read:

**9-4-904. Creation -- Trustees -- Terms -- Vacancies -- Chair -- Powers -- Quorum -- Per diem and expenses.**

(1) (a) There is created an independent ~~[state agency and a]~~ body politic and corporate, constituting a public corporation, known as the "Utah Housing ~~[Finance Agency]~~ Corporation."

(b) The corporation may also be known and do business as the:

(i) Utah Housing Finance Association; and

(ii) Utah Housing Finance Agency in connection with any contract entered into when that was the corporation's legal name.

(c) Any other entity may not use the names described in Subsections (1)(a) and (b) without the express approval of the corporation.

(2) The ~~[agency]~~ corporation shall be governed by a board of trustees composed of the following nine ~~[members as follows]~~ trustees:

(a) three ex officio ~~[members]~~ trustees who shall be:

- (i) the executive director of the Department of Community and Economic Development;
- (ii) the commissioner of the Department of Financial Institutions or his designee; and
- (iii) the state treasurer or his designee; and
- (b) six public ~~[members]~~ trustees, being private citizens of the state, as follows:
  - (i) two people representing the mortgage lending industry;
  - (ii) two people representing the home building and real estate industry; and
  - (iii) two people representing the public at large.
- (3) The governor shall:
  - (a) appoint the six public ~~[members]~~ trustees of the ~~[agency]~~ corporation with the advice and consent of the Senate; and
  - (b) ensure that:
    - (i) the six public ~~[members]~~ trustees are from different counties and are residents of Utah; and
    - (ii) not more than three of the public ~~[members]~~ trustees belong to the same political party[; and].
    - ~~[(iii) none of the public members reside in the same county.]~~
  - (4) (a) Except as required by Subsection ~~(4)~~(b), the six public ~~[members]~~ trustees shall be appointed to terms of office of four years each.
    - (b) Notwithstanding the requirements of Subsection ~~(4)~~(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of ~~[agency members]~~ corporation trustees are staggered so that approximately half of the ~~[agency]~~ board is appointed every two years.
  - (5) (a) Any of the six public ~~[members]~~ trustees of the ~~[agency]~~ corporation may be removed from office for cause either by the governor or ~~[for cause]~~ by an affirmative vote of any six ~~[members]~~ trustees of the ~~[agency]~~ corporation.
  - (b) When a vacancy occurs in the ~~[membership]~~ board of trustees for any reason, the replacement shall be appointed for the unexpired term.
  - (c) Each public ~~[member]~~ trustee shall hold office for the term of his appointment and until



his successor has been appointed and qualified.

(d) Any public [~~member~~] trustee is eligible for reappointment but may not serve more than two full consecutive terms.

(6) (a) The governor shall select the chair of the [~~agency~~] corporation.

(b) The [~~members~~] trustees shall elect from among their number a vice chair and other officers they may determine.

(7) [~~The powers of the agency shall be vested in the members thereof from time to time.~~] Five [~~members of the agency~~] trustees of the corporation constitute a quorum for transaction of [~~agency~~] business. An affirmative vote of at least five [~~members~~] trustees is necessary for any action to be taken by the [~~agency~~] corporation. [~~No~~] A vacancy in the [~~membership of the agency~~] board of trustees may not impair the right of a quorum to exercise all rights and perform all duties of the [~~agency~~] corporation.

(8) (a) (i) [~~Members~~] Trustees who are not government employees [~~shall~~] may not receive [~~no~~] compensation or benefits for their services, but may receive a reasonable per diem and reimbursement expenses incurred in the performance of the [~~member's~~] trustee's official duties at the rates established by the [~~Division of Finance under Sections 63A-3-106 and 63A-3-107~~] board of trustees.

(ii) [~~Members~~] Trustees may decline to receive per diem and expenses for their service.

(b) (i) State government officer and employee [~~members~~] trustees who do not receive salary, per diem, or expenses from their agency for their service may receive per diem and expenses incurred

in the performance of their official duties from the [~~agency~~] corporation at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) State government officer and employee [~~members~~] trustees may decline to receive per diem and expenses for their service.

Section 5. Section **9-4-904.5** is enacted to read:

**9-4-904.5. Corporation as continuation of agency.**

(1) Beginning July 1, 2001, the Utah Housing Finance Agency shall become known as the Utah Housing Corporation.

(2) The corporation is a continuation of the Utah Housing Finance Agency and shall:

(a) possess all rights, title, privileges, powers, immunities, property, and claims of the agency; and

(b) fulfill and perform all obligations of the agency, including all agency obligations relating to outstanding bonds and notes.

Section 6. Section **9-4-905** is amended to read:

**9-4-905. President and chief executive officer -- Secretary-treasurer -- Powers and duties -- Power to employ experts -- Power to employ independent legal counsel.**

(1) (a) The [members] trustees shall appoint [an executive director] a president who shall be [an employee] the chief executive officer of the [agency] corporation, but who may not be a [member] trustee of the [agency] corporation, and who shall serve at the pleasure of the [members] trustees and receive compensation as set by the [members and approved by the governor] trustees.

(b) The [executive director] president, who shall also be the secretary-treasurer, shall administer, manage, and direct the affairs and activities of the [agency] corporation in accordance with the policies, control, and direction of the [members] trustees.

(c) The [executive director] president shall approve all accounts for salaries, allowable expenses of the [agency] corporation, or of any corporation employee or consultant [thereof], and expenses incidental to the operation of the [agency] corporation. [He]

(d) The president shall perform [such] any other duties as may be directed by the [members] trustees in carrying out the purposes of this part.

(2) (a) The [executive director] president shall:

(i) attend the meetings of the [agency, shall] corporation;

(ii) keep a record of the proceedings of the [agency,] corporation; and [shall]

(iii) maintain and be custodian of all:

(A) books, documents, and papers filed with the [agency and of] corporation;

(B) the minute book or journal of the [agency] corporation; and [of]

(C) its official seal. [He]

(b) The president may cause copies to be made of all minutes and other records and

documents of the [agency] corporation and may give certificates under seal of the [agency] corporation to the effect that [such] those copies are true copies, and all persons dealing with the [agency] corporation may rely upon [such] those certificates.

(3) (a) The [agency] corporation may employ or engage technical experts, independent professionals and consultants, and [such] any other officers, agents, or employees, permanent or temporary, as it [~~deems~~] considers necessary to carry out the efficient operation of the [agency] corporation, and shall determine their qualifications, duties, and compensation.

(b) The [members] trustees may delegate to one or more of the [agency's] corporation's agents, representatives, or employees [such] any administrative duties as they [~~deem~~] consider proper.

(4) The [agency] corporation may employ and retain independent legal counsel.

Section 7. Section **9-4-906** is amended to read:

**9-4-906. Relation to certain acts.**

(1) The [agency] corporation is exempt from:

~~[(4)]~~ (a) Title 51, Chapter 5, Funds Consolidation Act;

~~[(2)]~~ (b) Title 51, Chapter 7, State Money Management Act of 1974;

~~[(4)]~~ (c) Title 63, Chapter 38, Budgetary Procedures Act;

(d) Title 63, Chapter 38a, Revenue Procedures and Control Act;

~~[(5)]~~ (e) Title 63, Chapter 56, Utah Procurement Code; [~~and~~]

~~[(3)]~~ (f) Title 63A, Utah Administrative Services Code; and

~~[(6)]~~ (g) Title 67, Chapter 19, Utah State Personnel Management Act.

(2) The corporation shall comply with:

(a) Title 52, Chapter 4, Open and Public Meetings; and

(b) Title 63, Chapter 2, Government Records Access and Management Act.

Section 8. Section **9-4-907** is amended to read:

**9-4-907. Disclosure of interest.**

(1) Any [~~member~~] trustee, officer, or employee of the [agency] corporation who has, will have, or later acquires an interest, direct or indirect, in any transaction with the [agency] corporation

shall immediately disclose the nature and extent of that interest in writing to the [agency] corporation as soon as he has knowledge of the actual or prospective interest.

(2) (a) This disclosure shall be entered upon the minutes of the [agency] corporation.

(b) Upon ~~[such] the~~ disclosure, that ~~[member] trustee, officer,~~ or employee may participate in any action by the [agency] corporation authorizing ~~[such] the~~ transaction.

Section 9. Section **9-4-908** is amended to read:

**9-4-908. Officer or employee -- No forfeiture of office or employment.**

Notwithstanding the provisions of any other law, no officer or employee of this state shall be deemed to have forfeited or shall forfeit his office or employment by reason of his acceptance of ~~[membership on]~~ appointment as a trustee of the [agency] corporation or his service thereon.

Section 10. Section **9-4-909** is amended to read:

**9-4-909. Surety bond required.**

(1) The [agency] corporation shall maintain:

(a) for each ~~[member] trustee~~ a surety bond in the penal sum of \$25,000~~[-]~~; and

(b) for the ~~[executive director] president~~ of the [agency] corporation a surety bond in the penal sum of \$50,000.

(2) Each surety bond is to be conditioned upon the faithful performance of the duties of the office of the ~~[member] trustee or [executive director] president,~~ as the case may be, and is to be issued by a surety company authorized to transact business in the state ~~[of Utah] as surety[, and is to be filed in the office of the state treasurer].~~

(3) Each ~~[member] trustee and the [executive director] president~~ shall maintain these bonds in full force and effect.

(4) The [agency] corporation shall bear all costs of the surety bonds.

Section 11. Section **9-4-910** is amended to read:

**9-4-910. Corporation -- Powers.**

The [agency] corporation has and may exercise all powers necessary or appropriate to carry out ~~[and effectuate]~~ the purposes of this part, including ~~[without limiting the generality thereof,]~~ the following:

- (1) to have perpetual succession as a body politic and corporate, constituting a public corporation, and to adopt, amend, and repeal rules, policies, and procedures for the regulation of its affairs and the conduct of its business;
- (2) to sue and be sued in its own name;
- (3) to have an official seal and power to alter that seal at will;
- (4) to maintain an office at any place or places within this state it may designate;
- (5) to adopt, amend, and repeal bylaws and rules, not inconsistent with this part, to carry into effect the powers and purposes of the [agency] corporation and the conduct of its business;
- (6) to make and execute contracts and all other instruments necessary or convenient for the performance of its duties and the exercise of its powers and functions under this part, including contracts or agreements for the servicing and originating of mortgage loans;
- (7) to employ advisers, consultants, and agents, including[~~-, but not limited to,~~] financial experts, independent legal counsel, and [~~such~~] any advisers, consultants, and agents as may be necessary in its judgment and to fix their compensation;
- (8) to procure insurance against any loss in connection with its property and other assets, including mortgage loans, in amounts and from insurers it [~~deems~~] considers desirable;
- (9) to borrow money and to issue bonds and notes or other evidences of indebtedness as provided in this part;
- (10) to receive and accept aid or contributions from any source of money, property, labor, or other things of value to be held, used, loaned, granted, and applied to carry out the purposes of this part subject to the conditions, if any, upon which the grants and contributions are made, including[~~-, but not limited to,~~] gifts or grants from any department, agency, or instrumentality of the United States or of this state for any purpose consistent with this part;
- (11) to enter into agreements with any local public body, any housing sponsor, any department, agency, or instrumentality of the United States or this state, or with mortgagors and mortgage lenders for the purpose of planning and regulating and providing for the financing and refinancing, construction, rehabilitation, leasing, management, maintenance, operation, sale, or other disposition of, any residential housing undertaken with the assistance of the [agency] corporation

under this part;

(12) to exercise all of its remedies following the default under any mortgage loan, including:

(a) proceeding with a foreclosure action or private sale to obtain title to the real and personal property held as collateral and taking assignments of leases and rentals;

(b) to own, lease, clear, reconstruct, rehabilitate, repair, maintain, manage, and operate this property in preparation for its disposition; and

(c) to assign, encumber, sell, or otherwise dispose of ~~any such~~ this property;

(13) to invest any funds not required for immediate disbursement, including funds held in reserve, in ~~accordance~~ a manner consistent with applicable provisions of Title 51, Chapter 7, State Money Management Act of 1974;

(14) to provide technical and financial assistance to housing sponsors and advisory committees in the development or operation of housing for low and moderate income persons;

(15) to gather and distribute data and information concerning the housing needs of low and moderate income families within the various communities of this state;

(16) to the extent permitted under any contract with the holders of bonds, notes, and other obligations of the ~~agency~~ corporation, to consent to any modification with respect to rate of interest, time and payment of any installment of principal or interest security, or any other term of any contract, mortgage, mortgage loan, mortgage loan commitment, contract, or agreement of any kind to which the ~~agency~~ corporation is a party;

(17) to the extent permitted under any contract with the holders of bonds, notes, and other obligations of the ~~agency~~ corporation, to enter into contracts with any mortgagor or housing sponsor containing provisions enabling the mortgagor to reduce the rental or carrying charges to persons unable to pay the regular schedule of charges where, by reason of other income or payment by any department, agency, or instrumentality of the United States or of this state, the reduction can be made without jeopardizing the economic stability of residential housing being financed;

(18) to acquire property within this state for the purpose of holding it for subsequent disposition to a housing sponsor or other entity that can use it for residential housing for low and moderate income persons, except that if no person can be found to use it in ~~such a~~ this manner, the

[agency] corporation may dispose of the property to any person;

(19) to purchase, own and operate residential housing for the benefit, in whole or in part, of low and moderate income persons, so long as the [agency] corporation makes reasonable efforts to sell that residential housing to a housing sponsor;

(20) to incorporate or form one or more subsidiaries of the [agency] corporation for the purpose of carrying out any of the powers of the [agency] corporation and accomplishing any of the purposes of the [agency] corporation, to invest in and provide financial assistance to these subsidiaries, to borrow from these subsidiaries, to guarantee the obligations of these subsidiaries, and to enter into agreements with these subsidiaries to carry out any of the [agency's] corporation's powers under this part;

(21) to enter into partnership and limited liability company agreements, to purchase and sell interests in housing sponsors, to serve as general partner of a partnership, and to serve as a manager of a limited liability company to carry out any of the [agency's] corporation's powers under this part;

(22) to require that persons receiving a mortgage loan or financial assistance from the [agency] corporation subject the property involved to restrictive covenants that shall be considered to be running with the land, regardless of whether or not the [agency] corporation enjoys privity of estate or whether or not the covenant touches and concerns the burdened property;

(23) to enter into management agreements with any person or entity for the performance by the person or entity for the [agency] corporation of any of its functions or powers, ~~[upon such]~~ with terms and conditions as may be mutually agreeable;

(24) to sell, at public or private sale, with or without public bidding, any mortgage loan or other obligation held by the [agency] corporation;

(25) to sell or convey real property owned by the [agency] corporation to low or moderate income persons and housing sponsors, without consideration if the sale or conveyance will inure primarily to the benefit of low or moderate income persons living in a housing development;

(26) upon making a determination that the financial status of a housing development ~~[is such as to]~~ will jeopardize any economic interest of the [agency] corporation in the housing development, to assume managerial and financial control of the property or the owner and to supervise and

prescribe the activities of the property or the owner in [~~such~~] a manner and under [~~such~~] terms and conditions as the [~~agency~~] corporation may stipulate in any contract;

(27) to supervise housing sponsors of housing developments;

(28) to service mortgage loans; and

(29) to do any act necessary or convenient to the exercise of the powers granted [~~by~~] in or reasonably implied from this part [~~or reasonably implied therefrom~~].

Section 12. Section **9-4-911** is amended to read:

**9-4-911. Corporation -- Additional powers.**

(1) To accomplish the declared purposes of this part, the [~~agency~~] corporation has the following powers in addition to others granted in this part:

(a) to purchase mortgage loans originated by mortgage lenders or local public bodies made for the purpose of financing the construction, development, rehabilitation, or purchase of residential housing for low and moderate income persons;

(b) to make mortgage loans and to provide financial assistance to housing sponsors for the purpose of financing the construction, development, rehabilitation, or purchase of residential housing for low and moderate income persons;

(c) to make mortgage loans and provide financial assistance to housing sponsors for the purpose of financing the operations of a housing development that are necessary or desirable to enable the housing development to remain available as residential housing for low and moderate income persons, whether or not the housing development has been financed by the [~~agency~~] corporation;

(d) to provide financial assistance to any housing authority created under Part 6, which housing authorities may enter into commitments for and accept loans for a housing project or projects as defined in Section 9-4-602; and

(e) to make mortgage loans and to provide financial assistance to low and moderate income persons for the construction, rehabilitation, or purchase of residential housing.

(2) Bonds to purchase loans pursuant to Subsection (1)(a) shall be issued only after a determination by the [~~agency~~] corporation that the loans are not otherwise available upon reasonably



equivalent terms and conditions from private lenders.

(3) Loans for owner-occupied housing made pursuant to Subsection (1)(a) may not include a penalty for prepayment.

~~[(4) No mortgage loan is eligible for purchase by the agency if the loan was made more than two years prior to the date of purchase.]~~

~~[(5)]~~ (4) The [agency] corporation shall make rules ~~[governing]~~ or adopt policies and procedures to govern the activities authorized under this section including rules, policies, and procedures as to any or all of the following:

(a) procedures for the submission of requests or the invitation of proposals for the purchase and sale of mortgage loans and the making of mortgage loans;

(b) rates, fees, charges, and other terms and conditions of originating or servicing mortgage loans in order to protect against a realization of an excessive financial return or benefit by the originator or servicer;

~~[(c) the type and amount of collateral or security to be provided by housing authorities to assure repayment of loans from the agency;]~~

~~[(d)]~~ (c) the type and amount of collateral, payment bonds, performance bonds, or other security to be provided for construction loans made by the corporation;

~~[(e)]~~ (d) the nature and amounts of fees to be charged by the [agency] corporation to provide for expenses and reserves of the [agency] corporation;

~~[(f)]~~ (e) procedures allowing the [agency] corporation to prohibit persons who fail to comply with the rules of the [agency] corporation with respect to the operations of any program of the [agency] corporation from participating, either directly or indirectly, in the programs of the [agency] corporation;

~~[(g)]~~ (f) the terms and conditions under which the [agency] corporation may purchase and make mortgage loans under each program of the [agency] corporation;

~~[(h)]~~ (g) the terms and conditions under which the [agency] corporation may provide financial assistance under each program of the [agency] corporation;

~~[(i)]~~ (h) the terms and conditions under which the [agency] corporation may guarantee

mortgage loans under each program of the [agency] corporation; and

~~[(j)]~~ (i) any other matters related to the duties or exercise of powers under this section.

~~[(6)]~~ (5) (a) The ~~[members]~~ trustees of the [agency] corporation shall ~~[appoint]~~ elect the directors, trustees, members, ~~[and managers]~~ if any, of each subsidiary. Service by a ~~[member]~~ trustee of the [agency] corporation in any such capacity does not constitute a conflict of interest for any purpose. The [agency] corporation may delegate any of its powers and duties under this part to any subsidiary. Subsidiaries shall constitute legal entities separate and distinct from each other, the [agency] corporation, and the state.

(b) Each note, bond, and other obligation of a subsidiary shall contain on its face a statement to the effect that:

(i) the subsidiary is obligated to pay the same solely from the revenues or other funds of the subsidiary;

(ii) neither the [agency] corporation nor the state nor any of its political subdivisions is obligated to pay the same; and

(iii) neither the faith and credit nor the taxing power of the state or any of its political subdivisions is pledged to the payment of principal, or redemption price of, or the interest on the note, bond, or other obligation.

(c) Upon dissolution of any subsidiary of the [agency] corporation, any assets shall revert to the [agency] corporation or to any successor to the [agency] corporation or, failing this succession, to the state.

(6) (a) The corporation may:

(i) enter into interest rate contracts that its trustees determine are necessary, convenient, or appropriate for the control or management of debt or for the cost of servicing debt; and

(ii) use corporation funds to satisfy its payment obligations under those contracts.

(b) Interest rate contracts may contain payment, security, default, termination, remedy, and other terms and conditions that the trustees consider appropriate.

(c) Neither interest rate contracts nor funds used in connection with interest rate contracts may be considered a deposit or investment.

Section 13. Section **9-4-912** is amended to read:

**9-4-912. Power to issue mortgage credit certificates -- Impact of federal legislation on tax exempt status of corporation bond.**

(1) In order to accomplish the purposes of this part the [agency] corporation may issue mortgage credit certificates pursuant to 26 U.S.C., Section 143, as amended, and the regulations issued under the code and has the sole responsibility for issuing or approving the issuance of mortgage credit certificates allowable to the state.

(2) None of the powers granted to the [agency] corporation by this part shall in any way be diminished by the enactment of any federal legislation which would cause the interest on any bonds, notes, or other obligations of the [agency] corporation to be subject to taxation under federal law, nor shall the exemption from state taxation granted in this part be affected by any such federal legislation.

Section 14. Section **9-4-913** is amended to read:

**9-4-913. Power to borrow money and make loans -- Issuance of notes and bonds.**

(1) The [agency] corporation has the power and is [hereby] authorized to borrow money and to issue from time to time its notes, bonds, and other obligations in such principal amounts as the [agency] corporation determines is necessary to provide sufficient funds for:

- (a) the purchase of mortgage loans from mortgage lenders;
- (b) the making of construction loans;
- (c) the making of loans to housing authorities;
- (d) the payment of interest on bonds, notes, and other obligations of the [agency] corporation;
- (e) the establishment of reserves to secure the bonds, notes, and other obligations;
- (f) the making of mortgage loans;
- (g) the making of loans to mortgage lenders or other lending institutions with respect to multifamily residential rental housing under terms and conditions requiring the proceeds of these loans to be used by these mortgage lenders or other lending institutions for the making of loans for new multifamily residential rental housing or the acquisition or rehabilitation of existing multifamily

residential rental housing;

(h) the making of loans for the rehabilitation of residential housing; and

(i) all other expenditures of the [agency] corporation incident to and necessary or convenient to carry out its purposes and powers.

(2) (a) The [agency] corporation shall have the power to issue notes to renew notes and bonds to pay notes, including the interest thereon, and whenever it considers 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 of its corporate purposes.

(b) The refunding bonds may be [~~(a)~~]:

(i) sold and the proceeds applied to the purchase, redemption, or payment of the bonds to be refunded[;]; or [~~(b)~~]

(ii) exchanged for the bonds to be refunded.

(3) (a) Except as may otherwise be expressly provided by the [agency] corporation, every issue of its notes or bonds shall be general obligations of the [agency] corporation payable solely out of any revenues or monies of the [agency] corporation, subject only to any agreements with the holders of particular notes or bonds pledging any particular monies or revenues.

(b) These bonds or notes may be additionally secured by a pledge of any grant or contribution from the federal government or any corporation, association, institution, or person or a pledge of any monies, income, or revenues of the [agency] corporation from any source.

(4) (a) The notes and bonds shall be authorized by resolution or resolutions of the [agency] corporation, shall bear [~~such~~] the date or dates, and shall mature at [~~such~~] the time or times as [~~such~~] the resolution or resolutions may provide, except that no note, including any renewals thereof, shall mature more than five years from the date of its original issue, and no bond shall mature more than 50 years from the date of its issue, as the resolution may provide.

(b) The notes and bonds shall bear interest at [~~such~~] the rate or rates, including variations in [~~such~~] the rates, be in [~~such~~] denominations, be in [~~such~~] a form, either coupon or registered, carry [~~such~~] the registration privileges, be executed in [~~such~~] the manner, be payable in [~~such~~] a medium

of payment, at ~~such~~ the place or places, and be subject to ~~such~~ the terms of redemption, including redemption prior to maturity, as ~~such~~ the resolution or resolutions may provide.

(c) The notes and bonds of the ~~agency~~ corporation may be sold by the ~~agency~~ corporation at public or private sale, and at the price or prices as the ~~agency~~ corporation shall determine.

(d) (i) The notes and bonds may bear interest at a variable interest rate as ~~such~~ the resolution may provide. ~~Such~~

(ii) The resolution may establish a method, formula, or index pursuant to which the interest rate on the notes and bonds may be determined from time to time.

(e) In connection with the notes and bonds the ~~agency~~ corporation may authorize and enter into agreements or other arrangements with financial, banking, and other institutions for letters of credit, standby letters of credit, surety bonds, reimbursement agreements, remarketing agreements, indexing agreements, tender agent agreements, and other agreements with respect to securing the notes and bonds, with respect to enhancing the marketability and credit worthiness of the notes and bonds, with respect to determining a variable interest rate on the notes and bonds, and with respect to the payment from any legally available source (which may include the proceeds of the notes and bonds) of fees, charges, and other amounts coming due with respect to any such agreements.

(5) Any resolution or resolutions authorizing any notes or bonds or ~~any~~ their issue ~~thereof~~ may contain provisions, which shall be a part of the contract or contracts with ~~the~~ their holders ~~thereof~~, as to:

(a) pledging all or any part of the revenues to secure the payment of the notes or bonds or of any issue thereof, subject to ~~such~~ the agreements with noteholders or bondholders as may then exist;

(b) pledging all or any part of the assets of the ~~agency~~ corporation, including mortgages and obligations securing the same, to secure the payment of the notes or bonds or of any issue of notes or bonds, subject to the agreements with noteholders or bondholders as may then exist;

(c) the use and disposition of the gross income from mortgages owned by the ~~agency~~ corporation and payment of principal of mortgages owned by the ~~agency~~ corporation;

(d) the setting aside of reserves or sinking funds and ~~the~~ their regulation and disposition

[thereof];

(e) limitations on the purpose to which the proceeds of sale of notes or bonds may be applied and pledging the proceeds to secure the payment of the notes or bonds or of [any] their issue [thereof];

(f) limitations on the issuance of additional notes or bonds[;], including:

(i) the terms upon which additional notes or bonds may be issued and secured; and

(ii) the refunding of outstanding or other notes or bonds;

(g) the procedure, if any, by which the terms of any contract with noteholders or bondholders may be amended or abrogated, the amount of notes or bonds to which the holders [~~of which~~] must consent [~~hereto~~], and the manner in which the consent may be given;

(h) limitations on the amount of monies to be expended by the [agency] corporation for operating expenses of the [agency] corporation;

(i) vesting in a trustee or trustees [~~such~~] the property, rights, powers, and duties in trust as the [agency] corporation may determine, which may include any or all of the rights, powers, and duties of the trustee appointed by the noteholders or bondholders pursuant to this act and limiting or abrogating the right of noteholders or bondholders to appoint a trustee under this act or limiting the rights, powers, and duties of the trustee;

(j) defining the acts or omissions to act which shall constitute a default in the obligations and duties of the [agency] corporation to the holders of the notes or bonds and providing for the rights and remedies of the holders of the notes or bonds in the event of default, including as a matter of right the appointment of a receiver; but the rights and remedies [~~shall~~] may not be inconsistent with the general laws of the state and other provisions of this part; or

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

(6) (a) Any pledge made by the [agency] corporation shall be valid, enforceable, and binding from the time when the pledge is made and shall have a lien priority based on the time of grant or, if more than one lien is granted at a given time, as set forth in the resolution or instrument pursuant to which the pledge is made.

(b) The revenues, monies, or property so pledged and thereafter received by the [agency] corporation shall immediately be subject to the lien of [such] the pledge and shall constitute a perfected lien without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the [agency] corporation, irrespective of whether the parties have notice thereof.

(c) Neither the resolution nor any other instrument by which a pledge is created need be recorded.

(7) The [agency] corporation, subject to [such] the agreements with noteholders or bondholders as may then exist, shall have power out of any funds available for it to purchase notes or bonds of the [agency] corporation, which shall [~~thereupon~~] immediately be cancelled, at a price not exceeding:

(a) if the notes or bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment thereon; or

(b) if the notes or bonds are not then redeemable, the redemption price applicable on the first date after [such] the purchase upon which the notes or bonds become subject to redemption plus accrued interest to [such] the date.

(8) (a) The notes and bonds shall be secured by a trust indenture by and between the [agency] corporation and a corporate trustee, which may be any bank having the power of a trust company or any trust company within or without the state. [Such]

(b) The trust indenture may contain [such] provisions for protecting and enforcing the rights and remedies of the noteholders or bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the [agency] corporation in relation to the exercise of its corporate powers and the custody, safeguarding, and application of all monies.

(c) The [agency] corporation may provide by the trust indenture for the payment of the proceeds of the notes or bonds and the revenues to the trustee under the trust indenture or other depository, and for the method of their disbursement [~~thereof~~], with [such] any safeguards and restrictions as it may determine.

(d) All expenses incurred in carrying out the trust indenture may be treated as a part of the

operating expenses of the [agency] corporation.

(e) If the notes or bonds shall be secured by a trust indenture, the noteholders or bondholders ~~[shall]~~ may not have ~~[no]~~ authority to appoint a separate trustee to represent them.

(9) Whether or not the notes and bonds are of the form and character as to be negotiable instruments under the terms of the Uniform Commercial Code, the notes and bonds are ~~[hereby made]~~ negotiable instruments within the meaning of and for all the purposes of the Uniform Commercial Code, subject only to the provisions of the notes and bonds relating to registration.

(10) In the event that any of the ~~[members]~~ trustees or officers of the [agency] corporation shall cease to be ~~[members]~~ trustees or officers of the [agency] corporation prior to the delivery of any notes or bonds or coupons signed by them, their signatures or facsimiles ~~[thereof]~~ of their signatures shall nevertheless be valid and sufficient for all purposes, the same as if ~~[such members]~~ the trustees or officers had remained in office until ~~[such]~~ the delivery.

(11) Neither the ~~[members]~~ trustees of the [agency] corporation nor any other person executing the notes or bonds issued under this chapter are subject to personal liability or accountability by reason of the issuance thereof.

(12) The [agency] corporation shall have the power to provide for the replacement of lost, destroyed, or mutilated bonds or notes.

Section 15. Section **9-4-914** is amended to read:

**9-4-914. Capital reserve funds -- Capital reserve fund requirement -- Establishment of other funds.**

(1) (a) (i) The [agency] corporation may create and establish one or more reserve funds, herein referred to as "capital reserve funds", from: ~~[(i)]~~

(A) any proceeds of sale of notes or bonds, to the extent provided in the resolution or resolutions of the [agency] corporation authorizing the issuance thereof; ~~[(ii)]~~

(B) any monies appropriated and made available by the state for the purpose of the funds; ~~[(iii)]~~

(C) any monies directed by the [agency] corporation to be transferred to the funds; and ~~[(iv)]~~

(D) any other monies which may be made available to the [agency] corporation for the



purpose of the funds from any other source or sources.

(ii) All monies held in any capital reserve fund shall be used, as required, solely for the payment of the principal of bonds or of the sinking fund payments [~~hereinafter mentioned~~] with respect to the bonds, the purchase or redemption of bonds, the payment of interest on bonds, or the payment of any redemption premium required to be paid when the bonds are redeemed prior to maturity.

(b) (i) Monies in any [~~such~~] capital reserve fund [~~shall~~] may not be withdrawn [~~therefrom~~] from the fund at any time in an amount as would reduce the level of monies in [~~such~~] the fund to less than the capital reserve fund requirement [~~hereinafter defined~~], except for the purpose of paying principal and redemption price of and interest on bonds and the sinking fund payments [~~hereinafter mentioned~~], as the [~~same~~] payments become due and for the payment of which other monies of the [~~agency~~] corporation are not available.

(ii) Any income or interest earned by the investment of monies held in any [~~such~~] fund may be transferred by the [~~agency~~] corporation to other funds or accounts of the [~~agency~~] corporation to the extent that the transfer does not reduce the amount of the fund to below the [~~said~~] capital reserve fund requirement.

(c) The [~~agency~~] corporation may provide by resolution or resolutions that it [~~shall~~] may not issue bonds under a resolution or resolutions at any time if upon issuance the amount in the capital reserve fund which will secure the bonds shall be less than [~~said~~] the capital reserve fund requirement, unless the [~~agency~~] corporation at the time of issuance of the bonds shall deposit in the fund from the proceeds of the bonds to be so issued, or other sources, an amount which, together with the amount then in the fund, shall not be less than [~~said~~] the capital reserve fund requirement.

(d) In computing the amount of the capital reserve funds for the purpose of this part, securities in which all or a portion of the funds shall be invested shall be valued at par, cost, or by other method of valuation as the [~~agency~~] corporation may provide by resolution.

(e) (i) "Capital reserve fund requirement" means, as of any particular date of computation, and with respect to any particular issue of bonds, [~~such~~] an amount as the [~~agency~~] corporation may provide, or may have [~~heretofore~~] previously provided, by resolution, which amount may be in the

form of a sum certain or a formula.

(ii) In establishing reserves and setting capital reserve fund requirements, the [agency] corporation shall consider the following:

[(i)] (A) the qualifications for obtaining an investment grade rating from one or more nationally recognized bond rating agencies;

[(ii)] (B) the economic feasibility and marketability of the bonds being issued, taking into account all security for the bonds, including the capital reserve fund; and

[(iii)] (C) applicable requirements pertaining to reserve funds under federal and state income tax laws and regulations.

(f) (i) To assure the continued operation and solvency of the [agency] corporation for [the] carrying out of its corporate purposes, provision is made in Subsection (1)(b) for the accumulation in the capital reserve funds of an amount equal to the maximum capital reserve fund requirement.

(ii) The [chairman] president of the [agency] corporation shall annually, on or before December first, certify to the governor and to the director of finance the amount, if any, required to restore the capital reserve funds to the capital reserve fund requirement.

(iii) The governor may request from the Legislature an appropriation of the certified amount [~~so certified~~] to restore the capital reserve funds to the capital reserve fund requirement.

(g) Amounts appropriated, if any, shall be repaid to the General Fund of the state, from any monies in excess of the amounts which the [agency] corporation determines will keep it self-supporting.

(2) The [agency] corporation may create and establish any other funds as may be necessary or desirable for its corporate purposes.

Section 16. Section **9-4-915** is amended to read:

**9-4-915. Corporation moneys -- Depositing and paying out -- Power to contract with holders of notes and bonds -- Moneys held in trust.**

(1) (a) All moneys of the [agency] corporation, except as otherwise authorized or provided in this part, shall be deposited as soon as practicable in a separate account or accounts in banks or trust companies organized under the laws of the state or national banking association.

(b) The moneys in these accounts shall be paid out on checks signed by the [~~executive director~~] president or other officers or employees of the [agency] corporation as the [agency] corporation shall authorize.

(c) All deposits of moneys shall, if required by the [agency] corporation, be secured in a manner as the [agency] corporation determines to be prudent, and all banks and trust companies are authorized to give security for the deposits.

(2) (a) Notwithstanding the provisions of this section, the [agency] corporation shall have power to contract with the holders of any of its notes or bonds as to the custody, collection, securing, investment, and payment of any moneys of the [agency] corporation and of any moneys held in trust or otherwise for the payment of notes or bonds, and to carry out [~~such~~] that contract.

(b) Moneys held in trust or otherwise for the payment of notes or bonds or in any way to secure notes or bonds and deposits of moneys may be secured in the same manner as moneys of the [agency] corporation, and all banks and trust companies are authorized to give security for the deposits.

Section 17. Section **9-4-916** is amended to read:

**9-4-916. State pledge to holders of notes or bonds.**

(1) The state does hereby pledge to and agree with the holders of any notes or bonds issued under this act that the state will not limit or alter the rights hereby vested in the [agency] corporation to fulfill the terms of any agreements made with the holders thereof or in any way impair the rights and remedies of the holders until the notes and bonds, together with [~~the~~] their interest [~~thereon~~], with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders, are fully met and discharged.

(2) The [agency] corporation is authorized to include this pledge and agreement of the state in any agreement with the holders of the notes or bonds.

Section 18. Section **9-4-917** is amended to read:

**9-4-917. Notes, bonds, other obligations -- Not debt liability -- Expenses payable from funds provided -- Corporation without authority to incur liability on behalf of state -- Relationship to Governmental Immunity Act.**

(1) (a) Notes, bonds, and other obligations issued under this part ~~[shall]~~ do not constitute a debt or liability of this state or of any county, city, town, village, school district, or any other political subdivision of the state, nor shall the notes, bonds, or other obligations constitute the loaning of credit of the state or of any county, city, town, township, district, or any other political subdivision of the state, nor ~~[shall]~~ may the notes, bonds, or other obligations be payable from funds other than those of the ~~[agency]~~ corporation.

(b) All notes, bonds, or other obligations shall contain on ~~[the]~~ their face ~~[thereof]~~ a statement to the effect that:

(i) the ~~[agency]~~ corporation is obligated to pay the ~~[same]~~ note, bond, or obligation solely from the revenues or other funds of the ~~[agency and that]~~ corporation;

(ii) neither this state nor any political subdivision of it is obligated to pay the ~~[same]~~ note, bond, or obligation; and ~~[that]~~

(iii) neither the faith and credit nor the taxing power of this state or any political subdivision of it is pledged to the payment of principal, or redemption price of, or the interest on ~~[such]~~ the notes, bonds, or other obligations.

(2) All expenses incurred in carrying out this act shall be payable solely from funds provided under this part, and nothing in this part shall be construed to authorize the ~~[agency]~~ corporation to incur indebtedness or liability on behalf of or payable by this state or any political subdivision of it.

(3) (a) Title 63, Chapter 30, the Utah Governmental Immunity Act, shall apply to the corporation.

(b) Notwithstanding Subsection (3)(a), no claim may be brought against the state, any public official or employee of the state, another public entity, or any public official or employee of another public entity, based on or arising from:

(i) any failure or alleged failure to fulfill a contractual obligation of the corporation;

(ii) any act or failure to act of the corporation or any of its trustees, officers, employees, agents, or representatives; or

(iii) any failure of the corporation to comply with the requirements of any law or regulation.

(c) The provisions of Subsection (3)(b) do not apply to a claim of a current or former officer

or employee of the corporation for the retirement or insurance benefits.

Section 19. Section **9-4-918** is amended to read:

**9-4-918. Corporation property, notes, and bonds -- Tax exemption except corporate franchise tax.**

All property acquired or held by the [~~agency~~] corporation under this part is declared to be public property used for essential public and governmental purposes, and all the property, its income [~~therefrom~~], and notes and bonds issued under this part, the interest payable [~~thereon~~] on the notes and bonds, and income derived [~~therefrom~~] from the notes and bonds, shall at all times be exempt from all taxation of every kind and nature whatsoever imposed by the state [~~of Utah~~], any county, any municipality, or any other political subdivision of the state, except for the corporate franchise tax.

Section 20. Section **9-4-919** is amended to read:

**9-4-919. Corporation notes, bonds, obligations -- Legal investments.**

(1) The notes, bonds, and other obligations issued under the authority of this part are declared to be securities in which all public officers and public bodies of the state and its political subdivisions, all banks, bankers, savings banks, trust companies, credit unions, savings and loan associations, building and loan associations, investment companies, and other persons carrying on a banking business, all insurance companies and insurance associations, and others carrying on an insurance business, and all administrators, executors, guardians, trustees, and other fiduciaries, pension, profit-sharing and retirement funds, and all other persons [~~whosoever~~] who may now or may [~~hereafter~~] later be authorized to invest in notes, bonds, or other obligations of the state, may properly and legally invest any funds, including capital belonging to them or within their control.

(2) These notes, bonds, and other obligations are declared securities which may properly and legally be deposited with and received by any state, county, or municipal officer, or agency of the state for any purpose for which the deposit of notes, bonds, or other obligations of the state is now or may [~~hereafter~~] later be authorized by law.

Section 21. Section **9-4-920** is amended to read:

**9-4-920. Annual report to governor and Legislature -- Contents -- Audits.**

(1) (a) The ~~[agency]~~ corporation shall, following the close of each fiscal year, submit an annual report of its activities for the preceding year to the governor and the Legislature.

(b) Each report shall set forth a complete operating and financial statement of the ~~[agency]~~ corporation during the fiscal year it covers. ~~[The state auditor shall at]~~

(c) At least once [in] each year, an independent certified public accountant shall audit the books and accounts of the [agency or, if he elects, he shall contract with a nationally recognized independent certified public accountant for this audit] corporation. ~~[The agency shall reimburse the state auditor from available monies of the agency for the actual and necessary costs of that audit.]~~

(d) A complete copy of each annual audit report shall be:

(i) included in the report to the governor and the Legislature under Subsection (2); and

(ii) available for public inspection at the corporation's office.

(2) The ~~[agency]~~ corporation shall, each fiscal year, submit a budget of its operations to the Legislature and the governor.

(3) (a) The corporation shall form an audit committee consisting of no less than three trustees.

(b) The audit committee shall have exclusive authority to select and engage the independent certified public accountant to audit the corporation and to supervise the audit.

(4) The corporation shall provide additional information when requested by the governor, the Legislature, a legislative committee, the legislative auditor general, or the state auditor.

Section 22. Section **9-4-922** is amended to read:

**9-4-922. Act not restriction on powers of corporation -- Construed as alternative -- Bonds, notes, obligations issued need not comply with other laws.**

~~[Neither this]~~ (1) This part [nor anything contained herein] and its contents is not or [shall] may not be construed as a restriction or limitation upon any other powers which the [agency] corporation might otherwise have under any other law of this state, and this part is cumulative to [such] those powers.

(2) This part does and shall be construed to provide a complete, additional, and alternative method for the doing of the things authorized ~~[thereby]~~ in this part and shall be regarded as

supplemental and additional to powers conferred by other laws. [~~However, the~~]

(3) The issuance of bonds, notes, and other obligations under the provisions of this part need not comply with the requirements of any other state law applicable to the issuance of bonds, notes, and other obligations. [~~No proceedings~~]

(4) Proceedings, notice, or approval [~~shall be~~] are not required for the issuance of any bonds, notes, and other obligations or any instrument as security therefor, except as provided in this part.

Section 23. Section **9-4-923** is amended to read:

**9-4-923. Allocation to corporation of mortgage bonds qualified under Internal Revenue Code.**

(1) The entire amount of qualified mortgage bonds allowable to Utah pursuant to 26 U.S.C., Section 143, and the regulations issued under the code, is allocated to the Utah Housing [~~Finance Agency~~] Corporation which, for purposes of 26 U.S.C., Section 143 and the regulations under that section, has sole responsibility for issuing or approving the issuance of qualified mortgage bonds allowable to Utah.

(2) The [~~agency~~] corporation is not required to issue or approve the issuance of qualified mortgage bonds equal in amount to the amount allowed Utah.

(3) Housing authorities in counties, cities, and towns in Utah may apply under 26 U.S.C., Section 143 to the [~~agency~~] corporation for funding of housing programs within their respective jurisdictions.

Section 24. Section **9-4-924** is amended to read:

**9-4-924. Allocation of qualified mortgage bonds to counties, cities, and towns.**

(1) (a) The [~~agency~~] corporation is authorized to allocate all or part of the amount to one or more counties, cities, and towns within the state or to any authority or agency of any such entities that is authorized to issue qualified mortgage bonds. [~~No~~]

(b) An allocation may not be made under this section[~~, however,~~] unless the entity applies to the [~~agency~~] corporation for an allocation and the [~~agency~~] corporation finds that the proposed allocation would be in the best interest of [~~Utah~~] the state.

(c) The [~~agency~~] corporation shall take the following factors into consideration before

making its finding:

~~[(a)]~~ (i) the number of "low and moderate income persons," within the meaning of the Utah Housing [~~Finance Agency~~] Corporation Act, within a given area;

~~[(b)]~~ (ii) the likelihood that the proposed issuing entity would use the allocation to issue qualified mortgage bonds in a timely manner;

~~[(c)]~~ (iii) the cost to the proposed issuing entity to issue the bonds relative to the cost to the [~~agency~~] corporation to issue [~~such~~] the bonds;

~~[(d)]~~ (iv) any special costs or benefits which would result from the issuance of such bonds by the proposed issuing entity;

~~[(e)]~~ (v) the capability of the proposed issuing entity to administer an issuance of qualified mortgage bonds;

~~[(f)]~~ (vi) the needs of the proposed issuing entity relative to the needs of other counties, cities, and towns;

~~[(g)]~~ (vii) the effects of the proposed allocation on counties, cities, and towns which are not served by the proposed issuing entity; and

~~[(h)]~~ (viii) any other factors the [~~agency deems~~] corporation considers relevant to a determination of what is in the best interest of Utah with regard to single family housing.

(2) (a) The [~~agency~~] corporation shall specify the time within which an issuing entity must use the allocation.

(b) Any part of the allocation which is not used within the time prescribed automatically terminates.

(c) The [~~agency from time to time~~] corporation may~~[-, however,]~~ extend the time initially prescribed for use of the allocation.

Section 25. Section **9-4-925** is amended to read:

**9-4-925. Low-income housing tax credits.**

(1) The [~~agency~~] corporation is designated the "Housing Credit Agency" for the state within the meaning of 26 U.S.C. Sec. 42(h) and for the purposes of carrying out 26 U.S.C. Sec. 42 and any regulations promulgated under that section.



(2) The entire state housing credit ceiling for each calendar year is allocated to the [agency] corporation.

(3) The allocation of the state housing credit ceiling shall be made under the state's [“]qualified allocation plan[”] within the meaning of 26 U.S.C. Sec. 42(m), as amended, and as provided in Subsection (4).

(4) The [agency] corporation may amend the state's qualified allocation plan as necessary to comply with revisions to the low-income housing tax credit program under 26 U.S.C. Sec. 42, or as may be necessary to further the goals and purposes of the low-income housing tax credit program for the state.

(5) The [agency] corporation, or a subsidiary of the [agency] corporation, may have a direct or indirect ownership interest in, and may materially participate in the operation and management of, a housing development or program that has received an allocation of the state housing credit ceiling.

Section 26. Section **9-4-926** is enacted to read:

**9-4-926. Asset disposition upon dissolution of corporation.**

**Upon dissolution of the corporation:**

**(1) all liabilities and obligations of the corporation, including obligations to bondholders, shall be paid, satisfied, discharged, or adequately provided for; and**

**(2) all remaining funds, property, rights, claims, and interests of the corporation shall revert or be conveyed to the state.**

**Section 27. Repealer.**

This act repeals:

**Section 9-4-921, State grants.**

**Section 28. Effective date.**

**This act takes effect on July 1, 2001.**