

**Part VIII  
Departments of Government**

**Chapter 86**

**THE DELAWARE STATE HOUSING AUTHORITY**

**§ 8601 Delaware State Housing Authority.**

There is hereby established in the Executive Department the Delaware State Housing Authority, hereinafter referred to as "DSHA," with the powers and duties specified in this chapter and Chapter 40 of Title 31.

(71 Del. Laws, c. 357, § 5.)

**§ 8602 Powers, duties and functions.**

The Delaware State Housing Authority is established having the powers, duties and functions as follows:

(1) DSHA shall serve as the Governor's staff agency in all general housing and community development matters.

(2) DSHA shall harmonize its activities with similar activities of other departments, boards, commissions, agencies or instrumentalities of federal, state, county or municipal government, and shall coordinate its activities, to the extent feasible, with nonprofit and limited profit housing sponsors.

(3) DSHA shall be responsible for the fulfillment of all duties and functions, and shall be vested with all powers, specified in Chapter 40 of Title 31.

(71 Del. Laws, c. 357, § 5.)

**§ 8603 Housing Director.**

(a) The administrator and head of DSHA shall be the Housing Director. The Housing Director shall be appointed by the Governor, with the advice and consent of the Senate, and shall serve at the Governor's pleasure. The Housing Director shall be a person qualified by training and experience to perform the duties of the office, and preference shall be given to a resident of this State, provided that resident is acceptable and equally qualified. If the Housing Director is not a resident of Delaware at the time of appointment to the position, the Director must become a resident within 6 months of appointment. The Housing Director shall be paid an annual salary established by the Governor within the limitation of the funds appropriated therefor.

(b) In the event of the death, resignation, temporary incapacity or removal of the Housing Director, and prior to the appointment of a successor, the Governor may appoint any qualified employee of DSHA to serve as Acting Housing Director. The Housing Director may, during an absence from the State, appoint any qualified employee of DSHA or any of its subdivisions to serve as Acting Housing Director during such absence. In either case, the Acting Housing Director shall have all the powers and shall perform all the duties and functions of the Housing Director during absence or incapacity or until a successor is duly appointed.

(c) The Housing Director shall be the Chairperson and issuing officer of DSHA. The powers of DSHA, as specified in Chapter 40 of Title 31, shall be vested in the Housing Director.

(d) The Housing Director shall not be subject to Chapter 59 of this title.

(71 Del. Laws, c. 357, § 5.)

**Part III  
Housing and Slum Clearance**

**Chapter 40**

**THE DELAWARE STATE HOUSING AUTHORITY**

**Subchapter I**

**Definitions, Purpose and Powers**

**§ 4001 Definitions.**

As used in this chapter, unless a different meaning appears from the context:

(1) "Area" means the State.

(2) "Authority" means a public body corporate or politic, organized in accordance with Chapter 43 or 45 of this title for a purpose, with the powers and subject to the restrictions set forth in those chapters, including a community exercising the powers and duties of a slum clearance and redevelopment authority; provided however, that "Authority" shall not mean the Delaware State Housing Authority.

(3) "Bonds" mean any bonds (including refunding bonds), notes, interim certificates, debentures or other obligations issued by DSHA pursuant to this chapter.

(4) "Community" means any municipality or county in this State.

(5) "Community facilities" include lands, buildings and equipment for recreation or social assembly, for educational, health or welfare activities and other necessary utilities primarily for use and benefit of the occupants of housing accommodations to be constructed and operated under this chapter.

(6) "Conservation" means the preservation of any area or section of a community and the supervision and care of such area or section, to prevent the reoccurrence or spread of slum conditions or conditions of blight.

(7) "Council" means the State Council on Housing.

(8) "DSHA" means the Delaware State Housing Authority created by § 4010 of this title.

(9) "Federal government" means the United States or any agency or instrumentality, corporate or otherwise, of the United States.

(10) "Federally insured mortgage" means a mortgage loan for land development or for residential housing insured or guaranteed by the United States or an instrumentality thereof, or a commitment by the United States or an instrumentality thereof to insure such a mortgage.

(11) "Federal mortgage" means a mortgage loan for land development or for residential housing made by the United States or an instrumentality thereof to make such a mortgage loan.

(12) "Fiscal year" means, in the case of DSHA, a period of 12 calendar months beginning and ending on such dates as DSHA shall determine prior to the issuance of its bonds, notes or other obligations pursuant to this chapter, and in the case of the State, shall mean the fiscal year of the State as may at any time be provided by law.

(13) "Governing body" means the city council, town council, commissioners or other legislative body charged with governing the municipality, or county council or Levy Court commissioners or other legislative body charged with governing the county.

(14) "Government" includes the State and federal governments and any subdivision, agency or instrumentality, corporate or otherwise, of either of them.

(15) "Housing development" means living accommodations provided or to be provided pursuant to this chapter for 2 or more families by a housing sponsor.

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

a. Cost of land acquisition and any building thereon, including payments for options, deposits or contracts to purchase properties on the proposed housing site or payments for the purchase of such properties;

b. Cost of site preparation, demolition and development;

c. Architectural, engineering, legal, accounting, DSHA and other fees paid or payable in connection with the planning, execution and financing of the housing development;

d. Cost of necessary studies, surveys, plans and permits;

e. Insurance, interest, financing, tax and assessment costs and other operating and carrying costs during construction;

f. Cost of construction, rehabilitation, reconstruction, fixtures, furnishings, equipment, machinery and apparatus related to the real property;

g. Cost of land improvements including, without limitation, landscaping and offsite improvements, whether or not such costs have been paid in cash or in a form other than cash;

h. Necessary expenses in connection with initial occupancy of the housing development;

i. A reasonable profit and risk fee, in addition to job overhead to the general contractor and, if applicable, a limited profit housing sponsor;

j. An allowance established by DSHA for working capital and contingency reserves, and reserves for any anticipated operating deficits during the first 2 years of occupancy;

k. The cost of such other items, including tenant relocation, as DSHA shall determine to be reasonable and necessary for the development of the housing development, less any and all net rents and other net revenues received from the operation of the real and personal property on the development site during construction.

(17) "Housing Director" means the Housing Director appointed pursuant to § 8603 of Title 29.

(18) "Housing sponsor" means individuals, public bodies, joint ventures, partnerships, limited partnerships, trusts, firms, associations or other legal entities or any combination thereof, corporations, cooperatives and condominiums, approved by DSHA, as qualified, either to own, construct, acquire, rehabilitate, operate, manage or maintain a housing development whether nonprofit or organized for limited profit and subject to the regulatory powers of DSHA and other terms and conditions set forth in this chapter.

(19) "Issuing officer" means the Housing Director.

(20) "Land development" means the process of acquiring land for residential housing construction, and of making, installing or constructing nonresidential housing improvements including, without limitation, waterlines and water supply installations, sewer lines and sewage disposal installations, steam, gas and electric lines and installations, roads, streets, curbs, gutters, sidewalks, whether on or off the site, which DSHA deems necessary or desirable to prepare such land for residential housing within this State.

(21) "Local authority or local housing authority" means a housing authority constituted under Chapter 43 of this title.

(22) "Mortgage" means any instrument which secures an obligation and constitutes a lien on real property or on a leasehold under a lease having a remaining term, at the time such mortgage is acquired, which does not expire for at least that number of years beyond the maturity date of the obligation secured by such mortgage as is equal to the number of years remaining until the maturity date of such obligation.

(23) "Mortgage lender" means any bank or trust company, savings bank, national banking association, savings and loan association, Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, approved mortgage banker, building and loan association or any insurance company authorized to transact business in the State.

(24) "Mortgage loan" means an interest-bearing obligation secured by a mortgage, and a note or bond which is a first lien on land and improvements in the State constituting single family or multi-family units.

(25) "Municipality" means any city, town or county in the State.

(26) "Obligee" includes any bondholder, agents or trustees for any bondholders or lessor demising to the property of DSHA used in connection with a project, or any assignee or assignees of such lessor's interest or any part thereof, and the federal government when it is a party to any contract with DSHA.

(27) "Persons of low- or moderate-income" means persons or families who lack the amount of income which is necessary, as determined by DSHA or the local authority undertaking a project, to enable them without financial assistance to live in decent, safe and sanitary dwellings, without overcrowding.

(28) "Public body" means the State or any municipality, county, township, board, commission, authority, district or any other subdivision or public body of this State.

(29) "Real property" includes all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto or used in connection therewith, and every estate, interest and right, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage or otherwise and the indebtedness secured by such liens.

(30) "Workable program" means an official community plan of action for using local public and private resources to eliminate and prevent slums and blight and to guide the community's orderly growth and development.

(71 Del. Laws, c. 357, § 6.)

### § 4002 Purpose.

(a) It is the purpose of this chapter that DSHA have the authority and capacity to:

(1) Efficiently provide, and to assist others to provide, quality affordable housing opportunities and appropriate supportive services to responsible low- and moderate-income Delawareans;

(2) Encourage persons and families benefiting from activities authorized in this chapter, to the maximum extent feasible, to become economically self-sufficient by assisting in the delivery of social, educational and other supportive services and programs which develop self-sufficiency and by facilitating economic and employment opportunities and similar benefits for persons assisted under this chapter;

(3) Coordinate the housing and redevelopment activities of state agencies and other public agencies and private bodies with such responsibilities within the State;

(4) Provide assistance in the rehabilitation of distressed or substandard housing in an effort to preserve current housing stock and strengthen communities;

(5) Serve as a resource where the housing and construction industries, local governments and the public may obtain information on affordable housing and community development programs, data and trends, including coordinating and promoting assistance to nonprofit housing sponsors who develop affordable housing opportunities for persons of low and moderate income;

(6) Assist the Office of State Planning and other state, local and regional planning authorities in the preparation and implementation of comprehensive plans and programs for rural and urban housing and improvement of housing within the State, especially regarding the planning and development of affordable housing;

(7) Confront adverse social conditions and to lessen the effects of drug and crime problems for residents of DSHA housing for low- and moderate-income persons and families by establishing and implementing policies and taking practical steps to mitigate such conditions and eliminate drug and crime problems;

(8) Carry out and enforce the State Housing Code;

(9) Advise and inform the Governor and the public on the affairs and problems relating to housing and community development and revitalization, and make recommendations to the Governor for proposed legislation pertaining thereto;

(10) Administer such provisions of the Downtown Development District Act as set forth in Chapter 19 of Title 22; and

(11) Operate DSHA's financial affairs in a prudent and sound manner.

(b) This section shall be construed according to the fair import of its terms and shall be liberally construed to further the general purposes stated in this section and the special purposes of the particular provisions involved.

(71 Del. Laws, c. 357, § 6; 79 Del. Laws, c. 240, § 7.)

### **§ 4003 Housing Director.**

The administrator and head of DSHA shall be the Housing Director as provided in Chapter 86 of Title 29.

(71 Del. Laws, c. 357, § 6.)

### **§ 4004 Powers and duties of the Housing Director.**

(a) The Housing Director is responsible for the fulfillment of the purposes outlined in § 4002 of this title.

(b) The Housing Director shall:

(1) Employ, in the Housing Director's discretion, planning, architectural and engineering consultants, attorneys, accountants, construction and financial experts and consultants, Superintendents, managers and such other officers, employees and agents as may be necessary in the Housing Director's judgment;

(2) Call to the assistance of the Council the services of such employees of any federal or state agency as it may require to conduct its investigative powers and as may be available for such purpose;

(3) Delegate any of the Housing Director's powers and duties, except those of an issuing officer, to employees of DSHA;

(4) Create and appoint members of advisory boards;

(5) Supervise the activities of the Council;

(6) Enter into any and all agreements or contracts on behalf of the State or DSHA, execute any and all instruments and do and perform any and all acts or things necessary, convenient or desirable for the implementation or the purposes of this chapter or to carry out any power or duty given in this chapter;

(7) Make an annual report to the Governor and the General Assembly regarding DSHA's operations and render such other reports as may be required by law;

(8) Make and enforce regulations to effectuate the purposes of this chapter; provided however, that no such regulation shall extend, modify or conflict with any laws of this State, or the reasonable implications thereof;

(9) Determine the terms and conditions for the allocation and grant of state funds authorized by this chapter;

(10) Coordinate with the federal government to implement and manage federally funded programs;

(11) Be the issuing officer for DSHA; and

(12) Advise the Governor on issues concerning housing and community development.

(71 Del. Laws, c. 357, § 6.)

### **§ 4005 Additional powers of Housing Director.**

Whenever the Housing Director determines that the purposes of this chapter and Chapter 43 of this title, will be better accomplished by a revision of the area of operations of any authority or by the consolidation of 2 or more authorities or by the performance of the functions of an authority by DSHA, the Housing Director may after due notice to all authorities affected and subsequent to a public hearing thereon and with the concurrence of the local governing bodies, make such revision, consolidation or perform such functions; provided, that adequate provision shall be made by the Housing Director for the protection of such authority, its creditors, contracting parties and tenants.

(71 Del. Laws, c. 357, § 6.)

**Subchapter II**  
**Delaware State Housing Authority**

**§ 4010 Creation.**

In accordance with Chapter 86 of Title 29, there is created in the Executive Department a public corporation of perpetual duration to be called the "Delaware State Housing Authority," hereinafter referred to as "DSHA." Chapter 43 of this title shall apply to DSHA and to its projects as fully as such provisions apply to a housing authority created by § 4303 of this title and to its housing projects; provided however, that DSHA shall not be subject to §§ 4303, 4304, 4306, 4307, 4314 and 4317 of this title.

(71 Del. Laws, c. 357, § 6.)

**§ 4011 DSHA to contract for labor or materials.**

DSHA shall contract for labor or materials (except labor or materials used in the maintenance or operation of projects) pursuant to the manner prescribed in Chapter 69 of Title 29, for departments and other agencies of the state government.

(71 Del. Laws, c. 357, § 6.)

**§ 4012 Seal of DSHA.**

DSHA shall have a corporate seal in the form of a circle bearing the arms of the State in the center and the name of DSHA in the border. All deeds, contracts or other obligations, certificates or other instruments executed, including bonds which are provided for in § 4017 of this title, made or issued on behalf of DSHA, shall bear the signature of the Housing Director and have impressed or imprinted thereupon the seal of DSHA, or facsimile thereof, and when so appearing shall be conclusively presumed in any judicial action or proceeding the valid act and deed of DSHA. The presumptions set forth in this provision shall also apply to all bonds executed pursuant to § 4016 of this title.

(71 Del. Laws, c. 357, § 6.)

**§ 4013 Powers of DSHA.**

In addition to its other powers, DSHA is hereby granted, has and may exercise all powers necessary or appropriate to carry out and effectuate its corporate purposes, including, without limitation, the following:

- (1) To sue and be sued in its own name;
- (2) To have perpetual succession;
- (3) To maintain an office at such place or places within this State as it may designate;
- (4) To adopt and from time to time, amend and repeal bylaws, rules and regulations, not inconsistent with this chapter, to carry into effect the powers and purposes of DSHA and the conduct of its business;
- (5) To acquire real or personal property, or any interest therein, on either a temporary or long-term basis in the name of DSHA by gift, purchase, transfer, in the manner prescribed by Chapter 61 of Title 10, foreclosure, lease or otherwise, including rights or easements; to hold, sell, assign, lease, encumber, mortgage or otherwise dispose of any real or personal property, or any interest therein, or mortgage lien interest owned by it or under its control, custody or in its possession and release or relinquish any right, title, claim, lien, interest, easement or demand, however acquired, including any equity or right of redemption in property foreclosed by it; and to do any of the foregoing by public or private sale, with or without public bidding, notwithstanding any other law;
- (6) To make mortgage loans on such terms and conditions as may be determined by the Housing Director, and in accordance with this chapter, for the construction, financing, refinancing or rehabilitation of housing for low- and moderate-income persons and families;
- (7) To insure mortgage loans to finance the building or rehabilitation of housing designed and planned to be available by sale or lease to low- or moderate-income persons and families;
- (8) To build or rehabilitate housing designed and planned to be sold or rented at prices which low- and moderate-income persons and families can afford, and to rent or otherwise dispose of such housing to persons and families of low- and moderate-income or to housing sponsors for the purpose of renting or selling such property to such persons and families;
- (9) To charge rents for the use of residential housing facilities in the amounts sufficient to comply with any agreements of DSHA, whether in connection with the issuance of bonds or otherwise including, but not limited to, reimbursement of all costs of financing by DSHA and such service charges as DSHA shall determine to be reasonable, and, in connection with its authorized programs, to make and collect such charges including, but not limited to, reimbursement of all costs of financing by DSHA and such service charges and insurance premiums as DSHA shall determine to be reasonable;
- (10) To lease or rent any dwellings, houses, accommodations, lands, buildings, structures or facilities from private or public parties to effectuate the purposes of this chapter;
- (11) To enter into agreements with the State or any agency thereof, municipalities of the State, the United States, public corporations or bodies and private corporations or individuals and to make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions including contracts or agreements with qualified mortgage lenders for the servicing and processing of mortgage loans pursuant to this chapter and to accept grants and the cooperation of the United States or any agency thereof or of the State or any agency thereof, or any public corporation or municipality in furtherance of the purposes of this chapter;

(12) To provide, contract or arrange for consolidated processing of any aspect of a housing development in order to avoid duplication thereof by either undertaking the processing in whole or in part for any department agency, or instrumentality of the United States or of this State, or, in the alternative, to delegate the processing in whole or in part to any such department, agency or instrumentality;

(13) To provide advice, technical information (including assistance in obtaining federal and state aid), training and educational services, as will assist the planning, construction, rehabilitation and operation of housing developments for persons and families of low- and moderate-income, including, but not limited to, assistance in community development and organization, home management and advisory services for the residents of housing developments and to encourage community organizations to assist in developing the same;

(14) To encourage research and demonstration projects in order to develop new and better techniques and methods for increasing the supply of housing for persons and families of low- and moderate-income, and to engage in such research and demonstration projects and to receive and accept contributions, grants or aid, from any source, public or private, including, but not limited to, the United States and this State, for carrying out this purpose;

(15) To employ architects, engineers, attorneys, accountants, housing construction and financial experts and such other advisors, consultants and agents as may be necessary in its judgment and to fix their compensation;

(16) To procure insurance against any loss in connection with its property and other assets, including mortgages and mortgage loans, in such amounts and from such insurers as it deems desirable;

(17) To invest any funds not needed for immediate use or disbursement including any funds held in reserve in the following:

a. Any bonds or other obligations which as to principal and interest constitute direct obligations of, or obligations guaranteed by, the United States or the State;

b. Obligations of the Federal National Mortgage Association;

c. Obligations of the Federal Intermediate Credit Corporation;

d. Obligations of Federal Land Banks;

e. Obligations of Federal Home Loan Banks;

f. Certificates of deposit of banks or trust companies, including the Trustee, organized under the laws of the United States or any state thereof which have a combined capital and surplus of at least \$15,000,000;

g. Bankers Acceptances;

h. Commercial paper, which has been classified for rating purposes by Dunn & Bradstreet, Inc., as Prime-1, or by Standard & Poor's Corporation as A-1;

i. Bonds, debentures, notes or other obligations issued by any of the following: Bank for Cooperatives, Export-Import Bank of the United States, Government National Mortgage Association, Federal Financing Bank, Small Business Administration or any other agency or instrumentality of the United States of America, created by an Act of Congress (substantially similar to the foregoing in its legal relationship to the United States of America);

j. Contracts for the purchase and sale of obligations described in paragraphs (17)a. through e. and in paragraph (17)i. of this section;

k. Interest-bearing notes issued by a bank, trust company, national banking association or other depository institution or by a bank holding company, an insurance company or other financial institution;

l. Shares of any investment company that:

1. Is registered under the Investment Company Act of 1940, as amended [15 U.S.C. § 80a-1 et seq.];

2. Invests substantially all of its assets in short-term high-quality money-market instruments;

3. Maintains a constant net asset value per share; and

4. Maintains a rating at least as high as DSHA's bonds;

m. Other investment arrangements made pursuant to an investment agreement authorized by a resolution of DSHA; and

n. Corporate debt obligations, rated at least as high as DSHA's bonds, which have a fixed par value and/or whose terms promise a fixed dollar amount at maturity or call date;

(18) To borrow money and issue bonds and notes or other evidence of indebtedness as hereinafter shown without regard to the treatment of interest thereon for federal income tax purposes; provided however, that DSHA shall not issue bonds and notes to exceed \$350,000,000 without General Assembly approval with respect to bonds and notes subject to the Capital Reserve Fund established under § 4020 of this title;

(19) To the extent permitted under its contract with the holders of bonds, bond anticipation notes and other obligations of DSHA, 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 DSHA is a party;

(20) To the extent permitted under its contract with the holders of bonds, bond anticipation notes and other obligations, to enter into contracts with any mortgagor containing provisions enabling such 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 from any department, agency or instrumentality of the United States or this State, such reductions can be made without jeopardizing the economic stability of housing being financed;

(21) To procure or agree to the procurement of insurance or guarantees from the federal government of the payment of any bonds or notes or any other evidence of indebtedness thereof issued by DSHA including the power to pay premiums on any such insurance;

(22) To acquire, lease, purchase, manage, operate, hold and dispose of real and personal property in the State, take assignments of leases and rentals, sell and convey such property on any terms, proceed with foreclosure actions, and enter into contracts, leases and other arrangements necessary or incidental to the performance of its corporate duties;

(23) To exercise any or all of the powers conferred upon it, either generally or with respect to any specific housing project or projects, through or by an agent or agents which it may designate including any corporation or corporations which are or shall be formed under the laws of this State, and for such purposes, DSHA may cause 1 or more corporations to be incorporated under the laws of this State or may acquire the capital stock of any corporation or corporations. Any corporate agent, all of the stock of which shall be owned by DSHA or its nominee or nominees, may to the extent permitted by the law, exercise any of the powers conferred by this chapter upon DSHA, or as shall be conferred upon it by DSHA, as agent;

(24) Fund the operation of any agents it may designate or any authority by advancing moneys appropriated pursuant to § 4030 of this title;

(25) To do any act necessary or convenient to the exercise of the powers herein granted or reasonably implied including all powers presently or hereafter granted to local housing authorities under Chapter 43 of this title;

(26) To agree to make such payments to the State or any political subdivisions thereof (which payments such bodies may accept) as DSHA finds consistent with the maintenance of the low- and moderate-income rent character of housing projects or the achievement of the purposes of this chapter;

(27) To establish and implement policies, and to take all actions deemed appropriate to mitigate adverse social conditions and to eliminate drug and crime problems at DSHA's sites; and

(28) To provide housing assistance as a benefit, not an entitlement, and to require the beneficiaries to recognize their responsibilities to DSHA and to their neighbors as conditions of continued assistance.

(71 Del. Laws, c. 357, § 6.)

### **§ 4014 Liberal construction.**

Neither this chapter nor anything herein contained is or shall be construed as a restriction or limitation upon any powers which DSHA might otherwise have under any laws of this State, and this chapter is cumulative to any such powers. This chapter shall be regarded as supplemental and additional to powers conferred by other laws. However, the issuance of bonds, notes and other obligations and refunding bonds under this chapter need not comply with the requirements of any other state law applicable to the issuance of bonds, notes and other obligations and contracts for the construction and acquisition of any housing developments undertaken pursuant to this chapter need not comply with any other state law applicable to contracts for the construction and acquisition of state-owned property. No proceedings, notice or approval shall be required for the issuance of any bonds, notes and other obligations or any instrument as security therefor, except as to an issue of bonds subject to the requirements of § 4020 of this title relating to the Capital Reserve Fund, and the issuing officer of DSHA shall coordinate any other issuance with the state bond issuing officers.

(71 Del. Laws, c. 357, § 6.)

### **§ 4015 Audit of books and accounts.**

The office of Auditor of Accounts shall cause an annual audit of the books and accounts of DSHA. The selection of the firm to perform the annual audit of the books and accounts of DSHA shall be mutually agreed upon by the office of the Auditor of Accounts and the Housing Director who shall consult and cooperate with each other in the selection, contract, employment and scope of professional services to be rendered, provisions in Chapter 29 of Title 29 notwithstanding. The audit shall be performed by a certified public accountant of recognized national standing and shall conform in all respects to the covenants contained in all bond resolutions entered into by DSHA for the benefit of its bondholders. DSHA shall transfer funds, as requested by the office of Auditor of Accounts, to cover the cost of the audit.

(71 Del. Laws, c. 357, § 6.)

### **§ 4016 Bonds.**

(a) DSHA may, with the approval of the issuing officer and subject to the authorization (if any) required by § 7402 of Title 29, issue bonds (including refunding bonds for the purpose of paying or retiring bonds previously issued by DSHA) from time to time in such amounts as it may deem advisable for any of its corporate purposes. DSHA may issue such types of bonds as it may determine, including bonds on which the principal and interest are payable:

- (1) Exclusively from the income and revenues of any undertaking financed in whole or in part with the proceeds of such bonds;
- (2) Exclusively from the income and revenues of certain designated housing projects whether or not they were financed in whole or in part with the proceeds of such bonds;
- (3) From its revenues generally; or
- (4) By grants, subsidies or other payments from the federal government.

Any of such bonds may be additionally secured by a pledge of any revenue or by a mortgage of any housing project, projects or other property of DSHA or any of its agents or designees.

(b) Neither the issuing officer nor any person executing the bonds shall be liable personally on the bonds.

(71 Del. Laws, c. 357, § 6.)

### **§ 4017 Forms and terms of bonds; disposition of proceeds.**

(a) All bonds issued under the authority of this chapter shall be dated, shall bear interest at such rate or rates payable semiannually or at such other time or times as shall be determined by resolution of DSHA, and shall mature at such time or times and may be made redeemable before maturity at such times and at such price or prices and under such terms and conditions as may be fixed by the issuing officer prior to the issuance of the bonds. The principal of and the interest upon such bonds may be made payable in any lawful medium. The issuing officer shall determine the form of the bonds, including any interest coupons to be attached thereto, and shall fix the denominations of the bonds. Both principal of and interest on the bonds shall be payable at such place or places as DSHA may designate.

(b) Bonds shall be signed by manual or facsimile signature of the Housing Director, and the seal of DSHA or a facsimile thereof shall be affixed thereto or imprinted thereon. In case any person whose signature or facsimile thereof shall appear on any bonds or coupons shall cease to be the Housing Director before the delivery of such bonds, such signature or facsimile shall, nevertheless, be valid for all purposes, the same as if the Housing Director had remained in office until delivery.

(c) All bonds issued under this chapter shall have and are declared to have all the qualities and incidents of negotiable instruments under the Uniform Commercial Code.

(d) Such bonds and the income therefrom shall be exempt from all taxation by this State or by any political subdivision, agency or authority thereof.

(e) The bonds may be issued in coupon or registered form, or both, as the issuing officer may determine, and provision may be made for the registration of any coupon bond as to principal alone or as to both principal and interest and for the reconversion of any bonds registered both as to principal and interest into coupon bonds.

(f) The issuing officer may sell such bonds, either at public or private sale, in such manner and for such price as they may determine to be for the best interest of DSHA.

(g) The proceeds of such bonds, exclusive of accrued interest, shall be used solely for the purposes specified in the resolution of DSHA authorizing the issuance thereof or as set forth in the indenture securing their payment, which purposes may include redemption premiums, interest on bonds to be refunded to the redemption date or date of maturity thereof and all legal and other expenses of their issuance and shall be disbursed under such restrictions, if any, as said resolution or trust indenture may provide.

(h) The proceeds of such bonds shall at no time revert to the General Fund of the State Treasury but shall at all times be available to DSHA for the aforesaid purposes; provided however, that if the proceeds of the bonds of any issue shall exceed the amount required for the purpose or purposes for which such bonds are authorized to be issued, the surplus may be used for any purpose of DSHA authorized in this chapter or for the payment of the principal of or interest on its outstanding bonds.

(i) Prior to the preparation of definitive bonds, the issuing officer may issue temporary bonds, with or without coupons, exchangeable for definitive bonds upon the issuance of the latter. The issuing officer may also provide for the replacement of any bond which shall become mutilated or be destroyed or lost. Such bonds may be issued without any other proceedings or conditions which are specified and required by this chapter.

(71 Del. Laws, c. 357, § 6.)

### **§ 4018 Bonds as legal investments for institutions and fiduciaries and as legal deposit.**

The bonds issued under the authority of this chapter are declared to be securities in which all state and municipal officers and administrative departments, boards and commissions of the State, all banks, bankers, savings banks, trust companies, savings and loan associations, investment companies and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business and all administrators, executors, guardians, trustees and other fiduciaries and all other persons whatsoever who now or may be authorized to invest in bonds or other obligations of this State, may properly and legally invest any funds, including capital belonging to them or within their control, and such bonds are declared securities which may properly and legally be deposited with and received by any state, county or municipal officer or agency of this State for any purpose for which the deposit of bonds or other obligations of this State is now or may hereafter be authorized by law.

(71 Del. Laws, c. 357, § 6.)

### **§ 4019 Credit of State not pledged.**

(a) Bonds issued under this chapter shall be payable exclusively from the revenues and other funds of DSHA and shall contain the following statement on their face:

"The State of Delaware is not obligated to pay the principal of this bond nor the interest thereon, nor are the faith and credit of the State pledged to the payment of the principal of, or interest on, this bond."



(b) The issuance of bonds under this chapter shall not directly or indirectly or contingently obligate the State to levy or pledge any form of taxation whatever therefor or to make any appropriation for their payment, and the bonds shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction; provided also that § 4020 of this title, relative to the Capital Reserve Fund, shall not be deemed to constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction.

(71 Del. Laws, c. 357, § 6.)

### **§ 4020 Capital Reserve Fund.**

(a) DSHA shall create and establish a special fund to secure the bonds, herein referred to as Capital Reserve Fund, and shall pay into the Capital Reserve Fund:

- (1) Any moneys appropriated and made available by the State for the purposes of such fund;
- (2) Any proceeds of the sale of bonds, to the extent provided in the resolution of DSHA, authorizing the issuance thereof; and
- (3) Any other moneys which may be made available to DSHA for the purpose of such fund from any other source or sources.

All moneys held in the Capital Reserve Fund, except as hereinafter provided, shall be used solely for the payment of the principal of bonds of DSHA as the same mature, the redemption or purchase of bonds of DSHA, the payment of interest on such bonds of DSHA or the payment of any redemption premium required to be paid when such bonds are redeemed prior to the maturity. Moneys in the Capital Reserve Fund shall not be withdrawn therefrom at any time in such amount as would reduce the amount of the Fund to less than the maximum amount of principal and interest maturing and becoming due in any succeeding fiscal year on all bonds of DSHA then outstanding, except for the purpose of paying principal and interest on bonds of DSHA maturing and becoming due and for the payment of which other moneys of DSHA are not available. Any income or interest earned by, or increment to, the Capital Reserve Fund due to the investment thereof may be transferred by DSHA to any other fund of DSHA to the extent it does not reduce the amount of Capital Reserve Fund below the maximum amount of principal and interest maturing and becoming due in any succeeding fiscal year on all bonds of DSHA then outstanding.

(b) Except with respect to an issue, or portion of an issue, of bonds designated by resolution of DSHA as not being subject to the requirements and provisions of this section, DSHA shall not issue bonds at any time if the maximum amount of principal and interest maturing and becoming due in a succeeding fiscal year on the bonds then to be issued and on all other bonds of DSHA then outstanding will exceed the amount of the Capital Reserve Fund at the time of issuance unless DSHA, at the time of issuance of such bonds, shall deposit in the Fund from the proceeds of the bonds so to be issued, or otherwise, an amount which, together with the amount then in the Fund, will be not less than the maximum amount of principal and interest maturing and becoming due in any succeeding fiscal year on the bonds then to be issued and on all other bonds of DSHA then outstanding.

(c) To assure the continued operation and solvency of DSHA for the carrying out of the public purposes of this chapter, provision is made for the accumulation in the Capital Reserve Fund of an amount equal to the maximum amount of principal and interest maturing and becoming due in any fiscal year on all bonds of DSHA then outstanding. In order to assure further such maintenance of the Capital Reserve Fund, there may be annually appropriated and paid to DSHA for deposit in the Capital Reserve Fund such sum, if any, as shall be certified by the Housing Director to the Governor and Director of the Office of Management and Budget, as necessary to restore the Capital Reserve Fund to an amount equal to the maximum amount of principal and interest maturing and becoming due in any fiscal year on the bonds of DSHA then outstanding. In any case where a deficiency occurs in the Capital Reserve Fund, the Housing Director shall promptly make and deliver to the Governor and Director of the Office of Management and Budget a certificate stating the amount required to restore the Capital Reserve Fund, and the Governor shall, as soon as practicable during the current fiscal year, request an appropriation of such amount, and the amount so requested may be appropriated and paid to DSHA for deposit into the Capital Reserve Fund.

(d) In computing the amount of the Capital Reserve Fund for the purposes of this section, securities in which all or a portion of the fund is invested shall be valued in the manner provided in the resolution authorizing the issuance of the trust indenture securing such bonds.

(e) Calculations of the amount of principal and interest maturing and becoming due in any succeeding fiscal year shall be based upon the assumption that bonds of DSHA will, after said date of computation, cease to be outstanding by reason of the payment of such bonds at their respective maturities or the payment of all moneys required to be paid into a sinking fund on account of such bonds as may be required by the terms of any resolution or indenture pursuant to which such bonds have been issued and the application of such sinking fund to the retirement of bonds in accordance with their terms.

(f) For the purposes of this section, the term "bonds" shall mean all obligations of DSHA bearing a maturity date more than 2 years after the date thereof, except any bonds, notes or other obligations of DSHA which are designated by resolution of DSHA prior to the issuance thereof as being not subject to this section.

(71 Del. Laws, c. 357, § 6; 75 Del. Laws, c. 88, § 21(14).)

### **§ 4021 Provisions of bonds and mortgages.**

In connection with the issuance of bonds or the incurring of any obligation under a lease and to secure the payment of such bonds or obligations, DSHA in addition to its other powers may:

- (1) Pledge all or any part of its rents, fees or revenues to which its right then exists or may thereafter come into existence;

- (2) Mortgage all or any part of its property, real or personal, then owned or thereafter acquired, including any of the public domain owned or acquired by it;
- (3) Covenant against mortgaging all or any part of its property, real or personal, then owned or thereafter acquired or against permitting or suffering any lien thereon;
- (4) Covenant with respect to limitations on its right to sell, lease or otherwise dispose of any project or any part thereof;
- (5) Covenant against pledging all or any part of its rents, fees and revenues to which its right then exists or may thereafter come into existence or against permitting or suffering any lien thereon;
- (6) Covenant as to the bonds to be issued and as to the issuance of such bonds in escrow or otherwise and as to the use and disposition of the proceeds thereof;
- (7) Covenant as to what other or additional debts may be incurred by it;
- (8) Covenant that DSHA warrants the title to the premises;
- (9) Covenant as to the rents and fees to be charged, the amount to be raised each year or other period of time by rents, fees and other revenues and as to the use and disposition to be made thereof;
- (10) Covenant as to the use of any or all of its property, real or personal;
- (11) Create or authorize the creation of special funds segregating the proceeds of any loans or grants, the revenues of any project or projects, reserves for principal and interest on its bonds and for operating contingencies and other reserves and covenant as to the use and disposal of the moneys held in such funds;
- (12) Redeem the bonds and covenant for their redemption and provide the terms and conditions thereof;
- (13) Covenant against extending the time for the payment of its bonds or interest thereon;
- (14) Prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given;
- (15) Covenant as to the maintenance of its property, the replacement thereof, the insurance to be carried thereon and the use and disposition of insurance moneys;
- (16) Vest in an obligee, in the event of a default by DSHA, the right to cure any such default and to advance any moneys necessary for such purpose and covenant that the moneys so advanced become an additional obligation of DSHA with such interest, security and priority as may be provided in any mortgage, lease or contract;
- (17) Covenant and prescribe as to the events of default and terms and conditions upon which any or all of its bonds shall become or may be declared due before maturity and as to the terms and conditions upon which such declaration and its consequences may be waived;
- (18) Covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant, condition or obligation;
- (19) Covenant to surrender possession of a project or projects or parts thereof upon the happening of an event of default and vest in an obligee the right, upon such default and without judicial proceedings, to take possession and use, operate, manage and control such projects or any parts thereof and to collect and receive rents, fees and revenues arising therefrom in the same manner as DSHA itself might do and to dispose of the moneys collected in accordance with the agreement of such obligee with DSHA;
- (20) Vest in a trustee or trustees the right to enforce any covenant to secure or pay the bonds or otherwise relating to such bonds, provide for the powers and duties of such trustee or trustees, limit the liabilities thereof and provide the terms and conditions upon which the trustee or trustees or the holders of bonds or any proportion of them may enforce any such covenant;
- (21) Vest in a government or in a trustee the right, upon the happening of an event of default, to foreclose the mortgage securing any bonds held by such government, through judicial proceedings or through the exercise of a power of sale without judicial proceedings;
- (22) Vest in other obligees the right, upon the happening of an event of default, to foreclose any mortgage through judicial proceedings;
- (23) Vest in any obligee the right to foreclose any such mortgage as to all or such part or parts of the property covered thereby as such obligee shall elect; the institution, prosecution and conclusion of any such foreclosure proceedings or the sale of any such parts of the mortgaged property shall not affect in any manner or to any extent the lien of the mortgage on the parts of the mortgaged property not included in such proceedings or not sold as aforesaid;
- (24) Make covenants other than, and in addition to, the covenants expressly authorized in this section of like or different character and execute all instruments necessary or convenient in the exercise of the powers granted in this chapter or in the performance of its covenants or duties, which may contain such covenants and provisions, in addition to those above specified, as the government or any purchaser of the bonds of DSHA may require;
- (25) Make such covenants and do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds or, in the absolute discretion of DSHA, tend to make the bonds more marketable, notwithstanding that such covenants, acts or things may not be enumerated in this section.

(71 Del. Laws, c. 357, § 6.)

### **§ 4022 Trust indenture.**

(a) At the discretion of the issuing officer each and any issue of such bonds may be secured by a trust indenture by and between the issuing officer and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without this State.

(b) Such trust indenture may pledge or assign the revenues of DSHA but shall not create a security interest in or convey or mortgage any real property owned, operated or maintained by DSHA. Either the resolution providing for the issuance of the bonds or such trust indenture may contain such provisions specifying, defining, protecting and enforcing the rights and not in violation of law, include covenants setting forth the duties of DSHA in relation to the acquisition, construction, improvement, maintenance, operation, repair and insurance of any facilities or additions thereto, and the custody, safeguarding and application of all moneys.

(c) It shall be lawful for any bank or trust company incorporated under the laws of this State to act as such depository and to furnish such indenture bonds or to pledge such securities as may be required by DSHA. Such indenture may set forth the rights and remedies of the bondholders and of the trustee and may restrict the individual right of action of bondholders as is customary in trust indentures securing bonds and debentures of corporation.

(d) In addition to the foregoing, such trust indenture may contain such other provisions as the issuing officer may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust indenture may be treated as a part of the cost of maintenance, operation and repairs of any facility to which such indenture is related or may be paid out of the revenues of DSHA.

(71 Del. Laws, c. 357, § 6.)

### **§ 4023 Remedies of bondholders and trustees.**

(a) Any holder of bonds issued under this chapter or any of the coupons attached thereto, and the trustee under the trust indenture, if any, except to the extent the rights given by this chapter may be restricted by resolution passed before the issuance of the bonds or by the trust indenture, may either at law or in equity by suit, action, mandamus or other proceedings protect and enforce any and all rights under the laws of the United States or of this State or granted under this chapter or under such resolution or trust indenture, and may enforce and compel performance of all duties required by this chapter, or by such resolution or trust indenture, to be performed by DSHA or any officer thereof, including the fixing, charging and collecting of fares or charges for the use of any facility operated by DSHA.

(b) Such resolution or trust indenture may contain provisions under which any holder of such bonds or the trustee under such trust indenture shall be entitled to the appointment of a receiver in the event of a default, and any receiver so appointed shall have and be entitled to exercise all the rights and powers of DSHA with respect to the facilities operated or maintained by DSHA and all of the appropriate rights and powers of a receiver in equity.

(71 Del. Laws, c. 357, § 6.)

### **§ 4024 Moneys as trust funds.**

All moneys received pursuant to the authority of this chapter, whether as proceeds from the sale of bonds or grants or other contributions from any person corporate or otherwise, or government, or as fees and revenues shall be deemed to be trust funds, to be held and applied solely as provided in this chapter. The issuing officer shall, in the resolution authorizing the issuance of bonds or in the trust indenture, provide for the payment of the proceeds of the sale of the bonds and the fees and revenues to be received, to any officer, agency, bank or trust company who shall act as trustee of such funds, and shall hold and apply the same to the purposes of this chapter, subject to such regulations as this chapter and such resolution or trust indenture may provide.

(71 Del. Laws, c. 357, § 6.)

### **§ 4025 Subordination of mortgage to agreement with government.**

DSHA may agree in any mortgage made by it that such mortgage shall be subordinate to a contract for the supervision by a government of the operation and maintenance of the mortgaged property and the construction of improvements thereon. In such event, any purchase or purchasers at a sale of the property of DSHA pursuant to a foreclosure of such mortgage or any other remedy in connection therewith shall obtain title subject to such contract.

(71 Del. Laws, c. 357, § 6.)

### **§ 4026 Powers relative to purchase of and sale to financial institutions of mortgage loans; loans to mortgage lenders.**

DSHA shall have all the powers necessary or convenient to carry out and effectuate the purposes of this chapter, including the following powers in addition to others herein granted:

(1) To invest in, purchase or to make commitments to purchase, and take assignments from mortgage lenders of notes and mortgages evidencing loans for the construction, rehabilitation, purchase, leasing or refinancing of housing for persons and families of low- and moderate-income in this State;

(2) To make loans to mortgage lenders upon terms and conditions requiring the proceeds thereof to be used by such mortgage lenders for the making of new residential mortgages, upon the terms set forth in § 4027 of this title;

(3) To make commitments to purchase, and to purchase, service and sell mortgages insured by any department, agency or instrumentality of the United States, and to make loans directly upon the security of any such mortgage; provided, that the underlying mortgage loans shall have been made and shall be continued to be used solely to finance or refinance the construction, rehabilitation, purchase or leasing of residential housing for persons and families of low- and moderate-income in this State;

(4) To sell, at public or private sale, with or without public bidding, any mortgage or other obligation held by DSHA;

(5) To enter into mortgage insurance agreements with mortgage lenders in connection with the lending of money by such institutions to persons and families of low- or moderate-income for the purchase of housing;

(6) Subject to any agreement with bondholders or noteholders, to collect, enforce the collection of, and foreclose on any collateral securing its loans to mortgage lenders and acquire or take possession of such collateral and sell the same at public or private sale, with or without public bidding, and otherwise deal with such collateral as may be necessary to protect the interest of DSHA therein.

(71 Del. Laws, c. 357, § 6.)

**§ 4027 Terms and conditions of the purchase and sale to financial institutions of mortgage loans; loans to mortgage lenders.**

(a) DSHA shall from time to time adopt, modify, amend or repeal rules and regulations governing the making of such loans to mortgage lenders and the application of the proceeds thereof.

Such rules and regulations shall be designed to effectuate the general purposes of this chapter and the following specific objectives:

1. The expansion of the supply of funds in the State available for new residential mortgages;
2. The provision of the additional housing needed to remedy the shortage of adequate housing in the State and eliminate the existence of a large number of substandard dwellings; and
3. The effective participation by mortgage lenders in the program authorized by this chapter and the restriction of the financial return and benefit thereto from such program to that necessary and reasonable to induce such participation.

(b) All new residential mortgages made as required by this section shall comply with the applicable provisions of the laws of the State, and, where federal law or the law of another jurisdiction governs the affairs of the mortgage lender, shall comply with applicable provisions of such law.

(71 Del. Laws, c. 357, § 6.)

**§ 4028 Notification of application for Low Income Housing Tax Credit Program.**

(a) Whenever a Low Income Housing Tax Credit Program application is submitted to the Delaware State Housing Authority, the Housing Director shall notify by certified and regular mail any state senators and representatives in whose districts any development project will be located. In addition, the Housing Director shall so notify the chief executive officer of any local government in whose jurisdiction any development project will be located.

(b) Whenever a preliminary ranking of Low Income Housing Tax Credit Program applications is made by the Delaware State Housing Authority, the Housing Director shall notify by certified and regular mail any state senators and representatives in whose districts any development project will be located. In addition, the Housing Director shall so notify the chief executive officer of any local government in whose jurisdiction any development project will be located.

(72 Del. Laws, c. 394, § 1.)

**Subchapter III**

**Housing Development Fund and Financing of Housing Developments**

**§ 4030 Housing Development Fund.**

(a) The "Housing Development Fund" shall be administered by the Housing Director as a revolving fund for carrying out the purposes of this chapter. DSHA shall report to the General Assembly on an annual basis any private contributions by gift or bequest received and/or deposited in the Housing Development Fund. Sums received from the General Fund, from dedicated sources of revenue, from private contributions by gift or bequest, and in repayment of loans made under this chapter shall be deposited in such Fund. DSHA, with the approval of the Secretary of Finance and the Council on Housing, may borrow from the Fund for any lawful purpose with respect to any housing program or financing with respect thereto, undertaken by DSHA, or for the purpose of investing borrowed funds in accordance with § 4013(17) of this title; any such borrowing to be upon such terms and conditions, and with such security, as the Secretary of Finance and the State's Council on Housing shall direct.

(b) In addition to any further appropriations which may not be reflected in subsection (a) of this section, and in addition to accrued interest on loans, the Housing Development Fund shall retain any interest or other earnings which accrue on uncommitted balances remaining in the Fund undisbursed, and such accrued interest shall not be deposited in the General Fund.

(c)(1) DSHA is hereby authorized to use up to \$750,000 of the interest income from the Housing Development Fund for the support of administrative functions associated with that Fund.

(2) DSHA may use appropriated special funds, less the Housing Development Fund line and \$750,000 given above, as discretionary operating expenses. Discretionary operating expenses include personnel costs, travel, contractual services, supplies and materials, and

other normal business expenses of DSHA which are not required to be made pursuant to bond resolutions, trust indentures, or agreements with the federal Department of Housing and Urban Development, or otherwise required by operating agreements of DSHA.

(3) Nothing herein shall be construed to require any prior approval for DSHA to meet its previously contracted obligations, including debt service requirements under bond resolution or trust indenture of DSHA, nor shall anything contained herein require any such prior approval for any expenditure by DSHA under any such bond resolution or trust indenture or under any agreement with the Federal Department of Housing and Urban Development.

(d) Any other law to the contrary notwithstanding, programs for the disbursement of funds from the Housing Development Fund, and disbursements pursuant to such programs, may include grants as well as loans, including grants to DSHA; provided however, that any program including grants shall not cause the Fund to lose entirely its character as a revolving fund.

(e) In allocating the resources of the Housing Development Fund over time, any program mix or targeting of funds shall account for the demographics of the population in need of housing, should balance the programs appropriately between rental assistance and ownership, and should apportion the available resources statewide according to local need.

(f) When any loan or grant application is submitted to the Housing Development Fund, the Housing Director of the Delaware State Housing Authority shall notify by certified and regular mail any state senators and representatives in whose districts any development project funded by said loan or grant will be located. In addition, the Housing Director shall so notify the chief executive officer of any local government in whose jurisdiction any development project will be located.

(g) When any loan or grant is awarded by the Housing Development Fund, the Housing Director of the Delaware State Housing Authority shall notify by certified and regular mail any state senators and representatives in whose districts any development project funded by said loan or grant will be located. In addition, the Housing Director shall so notify the chief executive officer of any local government in whose jurisdiction any development project will be located.

(71 Del. Laws, c. 357, § 6; 72 Del. Laws, c. 394, § 2; 73 Del. Laws, c. 307, § 1; 74 Del. Laws, c. 405, §§ 1, 2; 75 Del. Laws, c. 350, § 117; 78 Del. Laws, c. 290, § 89.)

### **§ 4031 Powers relative to making mortgage loans and temporary construction loans to housing sponsors and persons and families of low- and moderate-income.**

(a) DSHA shall have all the powers necessary or convenient to carry out and effectuate the purpose and provisions of this chapter, including the following powers in addition to others herein granted:

(1) To make and undertake commitments to make mortgage loans, including, without limitation, federally insured mortgage loans and to make temporary loans and advances in anticipation of permanent loans to housing sponsors to finance the construction or rehabilitation of housing designed and planned for persons and families of low- and moderate-income upon the terms and conditions set forth in § 4033 of this title;

(2) To make and undertake commitments to make first mortgage loans to persons of low- or moderate-income who may purchase residential housing, including, without limitation, persons and families of low- and moderate-income who are eligible, or potentially eligible, for federally insured mortgage loans or federal mortgage loans. Such loans shall be made only after a determination by DSHA that long-term first mortgage loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions;

(3) To make and publish rules and regulations respecting the grant of mortgage loans pursuant to this section, the regulations of borrowers, the admission of housing developments pursuant to this section, and the construction of ancillary commercial facilities;

(4) To enter into agreements and contracts with housing sponsors under this section;

(5) To institute any action or proceeding against any housing sponsor receiving a loan under this chapter, or owning any housing development hereunder in any court of competent jurisdiction in order to enforce this chapter, or to foreclose its mortgage, or to protect the public interest, persons and families of low- and moderate-income, stockholders or creditors of such sponsor. In connection with any such action or proceeding it may apply for the appointment of a receiver to take over, manage, operate and maintain the affairs of such housing sponsor and DSHA, through such agent as it shall designate, is hereby authorized to accept appointment as receiver of any such sponsor when so appointed by a court of competent jurisdiction.

(b) The reorganization of any housing sponsor shall be subject to the supervision and control of DSHA, and no such reorganization shall be had without the consent of DSHA. Upon any such reorganization the amount of capitalization, including therein all stocks, income debentures and bonds and other evidence of indebtedness shall be such as is authorized by DSHA, but not in excess of the fair value of the property received.

(c) In any foreclosure action involving a housing sponsor other than a foreclosure action instituted by DSHA, the municipality in which any tax exemption or abatement is provided, such housing sponsor and DSHA shall, in addition to other necessary parties, be made parties defendant. DSHA and the municipality shall take all steps in such action necessary to protect the interest of the public therein, and no costs shall be awarded against DSHA or the municipality.

(d) Subject to the terms of any applicable agreement, contract or other instrument entered into or obtained pursuant to this chapter, judgment of foreclosure shall not be entered against a housing sponsor unless the court to which application therefor is made shall be

satisfied that the interest of the lienholders or holders cannot be adequately secured or safeguarded except by the sale of the property; and in such proceeding the court shall be authorized to make an order increasing the rental or carrying charges to be charged for the housing accommodations in the housing development involved in such foreclosure, or appoint a member of DSHA or any officer of the municipality in which any tax exemption or abatement with respect to the development is provided, as a receiver of the property, or grant such other and further relief as may be reasonable and proper; and in the event of a foreclosure or other judicial sale, the property shall be sold only to a housing sponsor which will manage, operate and maintain the housing development subject to this chapter, unless the court shall find that the interest and principal on the obligations secured by the lien, which is the subject of foreclosure, cannot be earned under the limitations imposed by this chapter, and that the proceeding was brought in good faith, in which event the property may be sold free of limitations imposed by this chapter or subject to such limitations as the court may deem advisable to protect the public interest.

(e) In the event of a judgment against any housing sponsor in any action not pertaining to the foreclosure of a mortgage, there shall be no sale of any of the real property included in any housing development hereunder of such housing sponsor except upon 60 days' written notice to DSHA. Upon receipt of such notice DSHA shall take such steps as in its judgment may be necessary to protect the rights of all parties.

(71 Del. Laws, c. 357, § 6.)

### § 4032 Power to supervise housing sponsors.

DSHA shall have the power to supervise housing sponsors, including limited profit housing sponsors and their real and personal property, in the following respects:

(1) DSHA may prescribe uniform systems of accounts and records for housing sponsors and may require them to make reports and give answers to specific questions on such forms and at such times as may be necessary for the purposes of this chapter.

(2) Through its agents or employees, DSHA may enter upon and inspect the lands, buildings and equipment of a housing sponsor, including all parts thereof, and may examine all books and records with reference to capital structure, income, expenditures and other payments of a housing sponsor.

(3) DSHA may supervise the operation and maintenance of any housing development and may order such repairs as may be necessary to protect the public interest or the health, welfare or safety of the housing development occupants.

(4) DSHA may fix, and alter from time to time, a schedule of rents and charges for any housing development.

(5) DSHA may determine, for any housing development, standards for tenant selection by a housing sponsor.

(6) DSHA may require any housing sponsor to pay to DSHA such fees as it may prescribe in connection with the examination, inspection, supervision, auditing or other regulations of the housing sponsor.

(7) DSHA may order any housing sponsor to do, or to refrain from doing, such things as may be necessary to comply with the provisions of the law, the rules and regulations of DSHA, and the terms of any contract or agreement to which the housing sponsor may be a party.

(8) DSHA may regulate the retirement of any capital investment or the redemption of stock where any such retirement or redemption, when added to any dividend or other distribution, shall exceed in any 1 fiscal year 10% of the original face amount of any investment by any housing sponsor.

(9) DSHA may prescribe regulations specifying the categories of cost which shall be allowable in the construction or rehabilitation of a housing development. DSHA shall require any housing sponsor to certify the actual housing development costs upon completion of the housing development, subject to audit and determination by DSHA. Notwithstanding this subdivision, DSHA may accept, in lieu of any certification of housing development costs, as provided herein, such other assurances of the said housing development costs, in any form or manner whatsoever, as will enable DSHA to determine with reasonable accuracy the amount of said housing development costs.

(71 Del. Laws, c. 357, § 6.)

### § 4033 Loan terms and conditions.

Loans made by DSHA shall be subject to the following terms and conditions:

(1) No application for a loan for a housing development shall be processed unless the applicant is a housing sponsor as defined in § 4001 of this title.

(2) The ratio of loan to total housing development cost, and the amortization period of loans made under this chapter which are insured by FHA, shall be governed by the FHA mortgage insurance commitment for each housing development but in no event shall such amortization period exceed 50 years.

In the case of a mortgage loan not insured by FHA, the amount of the loan to: (i) limited profit housing sponsors shall not exceed 95% of the total housing development costs, as determined by DSHA, and (ii) other housing sponsors shall not exceed 100% of the total development cost, as determined by DSHA, and the amortization period of such loans shall be determined in accordance with regulations formulated and published by DSHA; provided however, that any such loan shall be subject to an agreement between DSHA and any such housing sponsor prohibiting the transfer of ownership or management responsibilities by such housing sponsor at any time prior to repayment of at least 5% of the original loan, unless the transfer of ownership or management responsibilities has been ordered by a court of competent jurisdiction to a different housing sponsor.

(3) A loan made hereunder may be prepaid to maturity after a period of 15 years with the consent of DSHA, provided DSHA finds that the prepayment of the loan will not result in a material escalation of rents charged to persons and families of low- and moderate-income in the housing development.

(4) DSHA shall have authority to set from time to time the interest rates at which it shall make loans and commitments therefor. Such interest rates shall be established by DSHA at the lowest level consistent with DSHA's cost of operation, and its responsibilities to the holders of its bonds, bond anticipation notes and other obligations. In addition to such interest charges, DSHA may make and collect such fees and charges, including, but not limited to, reimbursement of DSHA's financing costs, service charges, insurance premiums and mortgage insurance premiums, as DSHA determines to be reasonable.

(5) In considering any application for a loan, DSHA shall give first priority to applications for housing developments which will be well-planned, well-designed and which will be a part of or constructed in connection with a major redevelopment program; and shall also give consideration to:

- a. The comparative need for housing for persons of low-and moderate-income in the area to be served by the proposed development;
- b. The ability of the applicant to construct, operate, manage and maintain the proposed housing development;
- c. The existence of zoning or other regulations to protect adequately the proposed housing development against detrimental future uses which could cause undue depreciation in the value of the development; and
- d. The availability, where reasonably possible, of adequate parks, recreational areas, utilities, schools, transportation, parking, shopping facilities, churches and other community facilities.

(6) Each mortgage loan shall be evidenced by a mortgage note or bond and by a mortgage which shall be a lien on the housing development and which shall contain such terms and provisions and be in a form approved by DSHA. DSHA shall require the housing sponsor receiving a loan or its contractor to post performance and surety bonds in amounts related to the housing development cost as established by regulation and/or to execute such other assurances and guarantees as DSHA may deem necessary. It may also require the housing sponsors or the contractors to also execute such other assurances and guarantees as DSHA may deem necessary.

(7) Each loan shall be subject to an agreement between DSHA and the housing sponsor which will subject said sponsor and its principals or stockholders to limitations established by DSHA as to rentals and other charges, builders' and developers' profits and fees, and the disposition of its property and franchises to the extent more restrictive limitations are not provided by the law under which the borrower is incorporated or organized.

(8) As a condition of the loan, DSHA shall have the power at all times during the construction and rehabilitation of a housing development by a housing sponsor and the operation thereof:

- a. To enter upon and inspect any housing development, including all parts thereof, for the purpose of investigating the physical and financial condition thereof, and its construction, rehabilitation, operation, management and maintenance, and to examine all books and records with respect to capitalization, income and other matters relating thereto and to make such charges as may be required to cover the cost of such inspections and examinations;
- b. To order such alterations, changes or repairs as may be necessary to protect the security of its investment in a housing development or the health, safety, and welfare of the occupants thereof;
- c. To order any managing agent, housing development manager or owner of a housing development to do such acts as may be necessary to comply with the provisions of all applicable laws or ordinances of any agreement concerning the said development or to refrain from doing any acts in violation thereof and, in this regard, DSHA shall be a proper party to file a complaint and to prosecute thereon for any violations of laws or ordinances as set forth herein.

(9) A limited profit housing sponsor may not make distributions in any 1 year with respect to a housing development financed by DSHA in excess of 10% of a limited profit housing sponsor's equity in such development. Such sponsor's equity in a housing development shall consist of the difference between the mortgage and the total housing development cost. With respect to every housing development, DSHA shall, pursuant to regulations adopted by it, establish such sponsor's equity at the time of the making of the final mortgage advance, and for purposes of this subdivision, that figure shall remain constant during the life of DSHA's mortgage on such development.

(10) Whenever any housing sponsor accumulates earned surplus, in addition to reserves for maintenance, operation and replacement, as DSHA may require in excess of 10% of the initial annual rent roll for the housing development, rents in the housing development shall be reduced to the extent necessary to lower the earned surplus accumulation to such 10% figure in the following fiscal year. Every 10 years the housing sponsor may seek the approval of DSHA for increases in said reserves. To the extent warranted DSHA may grant such approval, if in its judgment there have been increased price levels or unusual maintenance and repayment requirements.

(71 Del. Laws, c. 357, § 6.)

### **§ 4034 Procedure prior to financing of housing developments undertaken by housing sponsors.**

Notwithstanding any other provisions of this chapter, DSHA is not empowered to finance any housing development undertaken by a housing sponsor pursuant to §§ 4031, 4032 and 4033 of this title, unless prior to the financing of any housing development hereunder DSHA finds:

- (1) That there exists a shortage of decent, safe and sanitary housing at rentals or prices which persons and families of low-income or moderate-income can afford within the general housing market area to be served by the proposed housing development;
  - (2) That private enterprise and investment have been unable, without assistance, to provide the needed decent, safe and sanitary housing at rentals or prices which persons or families of low- and moderate-income can afford or to provide sufficient mortgage financing for residential housing for occupancy by such persons or families;
  - (3) That the housing sponsor or limited-profit housing sponsor or sponsors undertaking the proposed housing development in this State will supply well-planned, well-designed housing for persons or families of low- and moderate-income and that such sponsors are financially responsible;
  - (4) That the housing development to be assisted pursuant to this chapter will be of public use and will provide a public benefit;
  - (5) That the housing development will be undertaken within the authority conferred by this chapter upon DSHA and the housing sponsor or sponsors.
- (71 Del. Laws, c. 357, § 6.)

### Subchapter IV Council on Housing

#### § 4040 Council on Housing.

(a) The Council on Housing is continued and shall serve in an advisory capacity to the Governor, Housing Director and the General Assembly and shall consider matters relating to housing in this State and such other matters as may be referred to it by the Governor, the Housing Director or the General Assembly. The Council shall study, research, plan and advise the Governor, Housing Director and the General Assembly on matters it deems appropriate to enable DSHA to function in the best possible manner.

(b) The Council shall review, advise and make recommendations on all DSHA programs.

(c) The Council on Housing shall be composed of 11 members to be appointed by the Governor. There shall be 2 members from each county, 2 members that reside in the City of Wilmington and 3 members at large, 1 of which is a member of a tenant organization. The term of appointment to the Council shall be 3 years. Members shall be eligible for reappointment. A member of the Council shall be suspended or removed by the Governor for misfeasance, nonfeasance, malfeasance, misconduct, incompetency, or neglect of duty. A member subject to disciplinary hearing shall be disqualified from Council business until the charge is adjudicated or the matter is otherwise concluded. A member may appeal any suspension or removal to the Superior Court.

(d) At least 5, but no more than 6, members of the Council shall be affiliated with one of the major political parties and at least 4, but no more than 5, members shall be affiliated with the other major political party; provided however, that there shall be no more than a bare majority representation of one major political party over the other major political party. Any person who declines to announce that person's own political affiliation shall also be eligible for appointment as a member of the Council.

(e) Members of the Council shall serve without compensation, except that they may be reimbursed for reasonable and necessary expenses incident to their duties as members of the Council.

(f) A Chairperson of the Council shall be chosen by the members of the Council from among its members and shall serve in that capacity for a term of 1 year. The Chairperson shall be eligible for reelection but may not serve as Chairperson for more than 3 consecutive 1-year terms.

(g) Any appointment pursuant to this section to replace a member whose position becomes vacant prior to the expiration of the member's term shall be filled only for the remainder of that term. Any person appointed to serve out the remainder of an unexpired term shall be eligible for reappointment.

(h) The Chairperson of the Council shall direct the Council's operations and shall perform such other duties as the Housing Director may direct.

(i) The Council shall have the authority to draft and adopt bylaws governing its operations, consistent with the provisions herein. The Housing Director may assign to employment on behalf of the Council such secretarial, clerical and other assistants in DSHA as the internal operation of the Council shall require and for such purposes as the Housing Director shall consider necessary.

(j) The Council shall issue an annual report to the Governor, the Housing Director and the General Assembly on its activities, as well as the housing needs of this State, key statistics and trends, Housing Development Fund expenditures and any recommendations for changes in law, policy and/or funding related to housing.

(71 Del. Laws, c. 357, § 6; 70 Del. Laws, c. 186, § 1; 76 Del. Laws, c. 191, §§ 2-8.)

#### § 4041 Investigative powers; power to compel assistance of witnesses and production of books.

(a) The Council may investigate the affairs of housing authorities and all urban renewal and rehabilitation activities by municipal, county and regional agencies and authorities and the dealings, transactions or relationships of such authorities with other persons. The Council may act through a committee of its members in conducting any of the investigations provided for in this chapter and the chairperson of any such committee shall have all the powers of the Council. Each member of the Council may administer oaths, take affidavits and



make personal inspections of all places to which that member's duties relate. The Council may subpoena and require the attendance of witnesses and the production of books and papers pertaining to the investigations and inquiries authorized in this chapter and examine them in relation to any matter it has power to investigate and issue commissions for the examination of witnesses who are out of the State or unable to attend before the Council or are excused from attendance.

(b) The Council may hold hearings at such places and at such times as shall be determined by the Council to hear complaints on housing by any aggrieved person as contemplated by this chapter. The procedure outlined in subsection (a) of this section shall apply to such hearings. Written reports shall be rendered in all cases to the Housing Director within 10 days after such hearing. The notice of complaint by any aggrieved person shall be in writing stating the nature thereof and may be made to any member of the Council.

(c) Upon the failure of any person to comply with a subpoena duly issued by the Council, the Council may seek an order from the Superior Court of the county in which the person subpoenaed resides, has a place of business or can be found, to show cause why that person should not be held in contempt for failure to comply with the subpoena.

(71 Del. Laws, c. 357, § 6; 70 Del. Laws, c. 186, § 1.)

### **Subchapter V**

#### **Delaware Housing Insurance Fund**

##### **§ 4050 Delaware Housing Insurance Fund.**

The Delaware Home Improvement Insurance Fund is renamed the Delaware Housing Insurance Fund. DSHA may insure upon such terms as it may prescribe, any mortgage consistent with the purposes of this chapter. Fees shall be established for said insurance in an amount sufficient to cover administrative costs accrued for this program as well as payments made where defaults on mortgages cause losses to lenders. DSHA, with approval of the Secretary of Finance and the Council on Housing, may borrow from the Delaware Housing Insurance Fund for any lawful purpose with respect to any housing program or financing with respect thereof.

(71 Del. Laws, c. 357, § 6.)

### **Subchapter VI**

#### **Delaware Interagency Council on Homelessness**

##### **§ 4060 Delaware Interagency Council on Homelessness.**

(76 Del. Laws, c. 404, § 1; 78 Del. Laws, c. 347, § 1; repealed by 81 Del. Laws, c. 345, § 2, eff. July 23, 2018.)

**Part III**  
**Housing and Slum Clearance**  
**Chapter 41**  
**DELAWARE STATE HOUSING CODE**  
**Subchapter I**  
**Applicability and Adoption**

**§ 4101 Title and scope.**

This chapter shall be known as the Delaware State Housing Code which establishes minimum property maintenance standards for structures covered by this chapter and is herein sometimes referred to as the "State Housing Code" or "Code" and shall apply to and include the entire State except as may be exempted by this chapter.

(65 Del. Laws, c. 153, § 1.)

**§ 4102 Purpose.**

This chapter is intended to protect the public safety, health and welfare in existing residential structures and on existing residential premises, as hereinafter provided by:

- (1) Establishing minimum maintenance standards for existing residential structures and premises for basic equipment and facilities for light, ventilation, heat and sanitation; for safety from fire; for space; and for safe and sanitary maintenance of existing structures and premises;
- (2) Fixing the responsibilities of owners, operators and occupants of all structures; and
- (3) Providing for administration, enforcement and penalties.

(65 Del. Laws, c. 153, § 1.)

**§ 4103 Applicability.**

The State Housing Code shall apply to existing residential structures used for human habitation. The provisions are designed to eliminate or prevent substandard conditions with respect to structures, protect against fire hazards, provide for adequate space for light and air, provide for proper heating and ventilating and eliminate unsanitary conditions and overcrowding. Every portion of a building or premises used or intended to be used for residential purposes shall comply with this chapter, except hotels and motels serving transient guests only, migratory labor housing, rest homes, convalescent homes, nursing homes, recreational campers and civil defense shelters. For the purpose of this chapter, regulations by the State Department of Health and Social Services for Migratory Labor Camps will apply to migrant housing.

(65 Del. Laws, c. 153, § 1.)

**§ 4104 Liberal interpretation.**

The entire chapter shall be liberally interpreted so as to minimize displacement of persons whose dwelling units may deviate from this chapter's specifications but do not pose an imminent threat to the health, safety and general welfare of the occupants and other persons. Additionally, this chapter is to be liberally interpreted so as to minimize hardships to persons that inhabit or own dwelling units which deviate from this chapter's specifications but do not pose an imminent threat to the health, safety and general welfare of the occupants and other persons.

(65 Del. Laws, c. 153, § 1.)

**§ 4105 Exemptions.**

- (a) This chapter does not replace or modify requirements otherwise established for the construction, repair, alteration or use of buildings and facilities related thereto.
- (b) Nothing in this chapter shall be deemed to abolish or impair existing rights or remedies of a county or municipality or its officers or agencies relating to the removal or demolition of any buildings which are deemed to be unsafe or unsanitary.
- (c) The Delaware State Housing Code shall not apply to any existing single family owner-occupied residential structure. The provisions shall become and remain applicable upon the rental or sale of such residential structure after July 17, 1990. The Delaware State Housing Code shall not apply to any existing resort residential structure with an occupancy limited to the months of May through September inclusively.
- (d) When there are practical difficulties involved in carrying out the provisions of this Code, such that the literal application of the requirements of the Code would cause undue hardship or the displacement of low income occupants with no affordable housing alternatives, the code official is permitted to vary or modify such provision or provisions upon written application of the owner or the owner's representative; provided, that the spirit and intent of the law shall be observed and public welfare and safety be assured.

(e) The State Housing Code shall not be administered in any community which has enacted its own code which contains minimum standards for the promotion and protection of the safety and health of the public which are equal to or exceed the standards established by subchapter II of this chapter and administration and enforcement procedures which are substantially equivalent to those set forth in subchapter III of this chapter, as determined by the Housing Director. At the request of any community which has adopted a housing code, the Housing Director shall provide written notice to the community of its determination, stating the reasons therefore. Provided, however, that if such community thereafter seeks to amend, alter or otherwise change its housing code, it shall provide the Housing Director with a copy of such proposed change. In such a case, the Housing Director shall notify such community in writing within 60 days of receipt of such proposed change of its determination whether such proposed change meets the standards set forth in this subsection, and, in such case, the State Housing Code shall not be administered in such community, notwithstanding such amendment or change.

(65 Del. Laws, c. 153, § 1; 67 Del. Laws, c. 386, §§ 1-3.)

### § 4106 Construction of terms; definitions.

(a) Words used in the present tense include the future; the singular includes the plural and the plural includes the singular. Unless otherwise expressly stated, where terms are not defined under this chapter, they shall have ascribed to them their ordinarily accepted meanings or such as the context herein may imply. Whenever the words "multi-family dwelling," "residence building," "dwelling unit," "mobile home" or "premises" are used in this chapter, they shall be construed as though they were followed by the words, "or any part thereof."

(b) The following terms are defined as listed below:

(1) Approved. — Approved, as applied to a material, device or method of construction, shall mean approved by the code official under this chapter or approved by other authority designated by law to give approval in the matter in question.

(2) Basement. — That portion of a building which is partly below and partly above grade, and having at least one half its height above grade (see "cellar").

(3) Cellar. — That portion of a building which is partly or completely below grade, and having at least one half its height below grade (see "basement").

(4) Central heating. — The heating system permanently installed and adjusted so as to provide the distribution of heat to all habitable rooms, bathrooms and water closet compartments from a source outside of these rooms.

(5) Code official. — The official who is charged with the administration and enforcement of this chapter, or any duly authorized representative. The Housing Director, or any duly authorized representative thereof, shall be the code official for the State.

(6) Community. — Any municipality or county in the State.

(7) Condemn. — To adjudge unfit for residential use or human occupancy.

(8) Condemnation. — The act of judicially condemning.

(9) Dwelling.

a. One-family dwelling. — A building containing 1 dwelling unit with not more than 5 lodgers or boarders.

b. Two-family dwelling. — A building containing 2 dwelling units with not more than 5 lodgers or boarders per family.

c. Multi-family apartment house. — A building or portion thereof containing more than 2 dwelling units and not classified as a 1 or 2 family dwelling.

d. Boarding house, lodging house and tourist house. — A building arranged or used for lodging, with or without meals, for compensation, by more than 5 and not more than 20 individuals.

e. Dormitory. — A space in a building where group sleeping accommodations are provided in 1 room, or in a series of closely associated rooms for persons not members of the same family group.

f. Hotel. — Any building containing 6 or more guest rooms intended or designed to be used, or which are used, rented or hired out to be occupied, or which are occupied for sleeping purposes by guests.

g. Mobile home. — A 1-family dwelling designed for transportation after fabrication on streets and highways on its own wheels or supported by other vehicles or trailers but which is not self-propelled, and arriving at the site where it is to be occupied complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, supported on jacks or other foundations and connected to utilities and the like.

(10) Dwelling unit. — A single unit providing complete, independent living facilities for 1 or more persons, including a mobile home, including permanent provisions for living, sleeping, eating, cooking and sanitation.

(11) Enforcement officer. — The official designated herein or otherwise charged with the responsibilities of administering this chapter, or the official's authorized representative.

(12) Exterior property areas. — The open space on the premises and on adjoining property under the control of owners or operators of such premises.

(13) Extermination. — The control and elimination of insects, rats or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poison spraying, fumigating, trapping or by any other approved pest elimination methods.

- (14) Family. — An individual or married couple and the children thereof with not more than 2 other persons, living together as a single housekeeping unit in a dwelling unit.
- (15) Garbage. — The animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.
- (16) Habitable space. — Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space, and similar areas are not considered habitable space.
- (17) Hotel. — See "dwellings."
- (18) Housing Director. — The Director of the Delaware State Housing Authority.
- (19) Infestation. — The presence, within or contiguous to a structure or premises, of insects, rats, vermin or other pests.
- (20) Junk vehicle. — Any vehicle which is without a currently valid license plate or plates and is in either a rusted, wrecked, discharged, dismantled, partly dismantled, inoperative or abandoned condition. A junk vehicle shall be classified as to its condition in 1 of the 2 following categories:
- a. Restorable. — A junk vehicle that is in a condition whereby repairs to same could be made to place it in operating condition without exceeding the estimated value when repaired.
  - b. Wreck. — A junk vehicle in such condition that it is economically unsound to restore same to operating condition considering the repairs to be made, age of the vehicle, market value of the vehicle if it were restored or in such condition that it warrants such classification.
- (21) Let for occupancy or let. — To permit possession or occupancy of a dwelling, dwelling unit, rooming unit, building or structure by a person who shall be legal owner or not be the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land.
- (22) Maintenance. — Conformance of a building and its facilities to the code under which the building was constructed.
- (23) Motel. — A hotel as defined in this chapter.
- (24) Multi-family (multiple) dwellings. — See "dwellings."
- (25) Occupant. — Any person over 1 year of age (including owner or operator) living and sleeping in a dwelling unit or having actual possession of said dwelling or rooming unit.
- (26) Openable area. — That part of a window or door which is available for unobstructed ventilation and which opens directly to the outdoors.
- (27) Operator. — Any person who has charge, care or control of a structure or premises which are let or offered for occupancy.
- (28) Overcrowded. — A dwelling shall be overcrowded when its occupancy exceeds the maximum number of persons permitted in subsections (k), (l) and (q) of § 4115 of this title.
- (29) Owner. — Any person, firm or corporation having a legal or equitable interest in the premises or any agent thereof.
- (30) Person. — Any individual, corporation or partnership.
- (31) Plumbing. — The labor, materials and fixtures used in the installation, maintenance, extension and alteration of all piping, fixtures, appliances and appurtenances.
- (32) Plumbing fixture. — A receptacle or device which is either permanently or temporarily connected to the water distribution system of the premises and demands a supply of water therefrom; or discharges used water, liquid-borne waste materials, or sewage either directly or indirectly to the drainage system of the premises; or which requires both a water supply connection and a discharge to the drainage system of the premises.
- (33) Premises. — A lot, plot or parcel of land including the buildings or structures thereon.
- (34) Public nuisance. — Includes the following:
- a. The physical condition, or use of any premises regarded as a public nuisance at common law; or
  - b. Any physical condition, use or occupancy of any premises or its appurtenances considered an attractive nuisance to children, including, but not limited to, abandoned wells, shafts, basements, excavations and unsafe fences or structures; or
  - c. Any premises designated as having unsanitary sewerage or plumbing facilities; or
  - d. Any premises designated as unsafe for human habitation or use; or
  - e. Any premises which are manifestly capable of being a fire hazard, or are manifestly unsafe or unsecure so as to endanger life, limb or property; or
  - f. Any premises from which the plumbing, heating or other facilities required by this chapter have been removed, or from which utilities such as water, sewer, gas and electricity have been disconnected, destroyed, removed or rendered ineffective, or the required precautions against trespassers have not been provided; or
  - g. Any premises which are unsanitary, or which are littered with rubbish or garbage, or which have an uncontrolled growth of weeds; or
  - h. Any structure or building that is in an advanced state of dilapidation, deterioration or decay; of faulty construction; overcrowded; open, vacant or abandoned; damaged by fire to the extent as not to provide adequate shelter; in danger of collapse or structural failure; and is dangerous to anyone on or near the premises.

(35) Renovation. — Work on a building and its facilities to make it conform to present day minimum standards of sanitation, fire and life safety.

(36) Residence building. — A building in which sleeping accommodations, toilet, bathing and cooking facilities as a unit are provided.

(37) Rooming house. — Any residence building, or any part thereof, containing 1 or more rooming units, in which space is let by the owner or operator to more than 5 persons who are not members of the family (see "dwellings": "boarding house").

(38) Rooming unit. — Any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

(39) Rubbish. — Combustible and noncombustible waste materials, except garbage, and the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials.

(40) Structure. — That which is built or constructed, including without limitation because of enumeration, buildings for any occupancy or use whatsoever, fences, signs, billboards, fire escapes, chute escapes, railings, water tanks, towers, open grade steps, sidewalks or stairways, tents or anything erected and framed to component parts which is fastened, anchored or rests on a permanent foundation or on the ground.

(41) Supplied. — Installed, furnished or provided by the owner or operator.

(42) Ventilation. — The process of supplying and removing air by natural or mechanical means to or from any space.

a. Mechanical. — Ventilation by power-driven devices.

b. Natural. — Ventilation by opening to outer air through windows, skylights, doors, louvers or stacks without wind-driven devices.

(43) Workmanlike. — Whenever the words "workmanlike state of maintenance and repair" are used in this chapter, they shall mean that such maintenance and repair shall be made in a reasonably skillful manner.

(44) Yard. — An open unoccupied space on the same lot with a building extending along the entire length of street, or rear or interior lot line.

(65 Del. Laws, c. 153, § 1; 67 Del. Laws, c. 386, §§ 4-6; 70 Del. Laws, c. 186, § 1.)

### **§ 4107 Adoption by reference.**

Any community in Delaware may adopt the State Housing Code as its own municipal or county housing code by reference to this title and chapter of the Delaware Code.

(65 Del. Laws, c. 153, § 1.)

### **§ 4108 Enforcement authority.**

It shall be the duty and responsibility of each community to enforce the State Housing Code throughout the confines of that municipality or county.

(65 Del. Laws, c. 153, § 1.)

### **§ 4109 Enforcement by State or community.**

In the event that after 3 years subsequent to the adoption of the State Housing Code by the General Assembly a community has not undertaken to enforce this chapter, the Housing Director, acting as the code official, may begin enforcement within that community, subject to this chapter. Any community may contract with another community to act on its behalf in the enforcement of this chapter.

(65 Del. Laws, c. 153, § 1; 67 Del. Laws, c. 386, § 7.)

### **§ 4110 Coordination of enforcement.**

Inspection of premises and the issuing of orders in connection therewith under this chapter shall be the exclusive responsibility of the code official. When, in the opinion of the code official, it is necessary or desirable to have inspections of any conditions by any other community or state agency, the code official shall arrange for this to be done in such a manner that the owners or occupants of the dwelling shall not be subjected to visits by numerous inspectors nor to multiple or conflicting orders. No order for correction of any violation under this section, when coordination of enforcement is required, shall be issued without the approval of the code official and, before issuing any such order, the code official shall obtain the concurrence of any other department or agency having jurisdiction thereover.

(65 Del. Laws, c. 153, § 1.)

## **Subchapter II**

### **Minimum Conditions of Premises and Buildings**

#### **§ 4111 General provisions.**

This subchapter shall describe the minimum conditions of residential premises and buildings to be used for human occupancy. Every residential building or structure occupied by humans, except as exempted by §§ 4103 and 4105 of this title and its premises shall comply

with the conditions and standards herein prescribed when a deviation from such conditions and standards poses an imminent threat to the health, safety and general welfare of the occupants and other persons. The code official may cause periodic inspections to be made of residential buildings and premises to secure compliance with these requirements.

(65 Del. Laws, c. 153, § 1.)

### § 4112 Premises conditions.

(a) *Responsibility of owner.* — The owner of buildings and premises shall maintain such buildings and premises in compliance with these requirements. A person shall not occupy as owner-occupant or let to another for occupancy or use premises which do not comply with the following requirements of this section.

(b) *Vacant structures and land.* — All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause blight or adversely affect the public health or safety.

(c) *Sanitation.* — All premises shall be maintained in a clean, safe and sanitary condition free from any accumulation of rubbish or garbage.

(d) *Containers.* — Garbage, vegetable wastes or other putrescible materials shall be stored in leakproof containers, provided with close-fitting covers, for the storage of such materials until removed from the premises for disposal.

(e) *Grading and drainage.* — All premises shall be graded and maintained so as to prevent the accumulation of stagnant water thereon, or within any structure located thereon.

(f) *Insect and rat control.* — All premises shall remain free of insects, rats, vermin or other pests in all exterior areas of the premises. An owner shall be responsible for extermination, except that the occupant shall be responsible for such extermination in the exterior areas of the premises of a single-family dwelling. Extermination in the shared or public parts of the premises of other than a single-family dwelling shall be the responsibility of the owner.

(g) *Noxious weeds.* — All premises in predominately residential areas shall be kept free from weeds or plant growth which are noxious or detrimental to the public health and welfare and shall be trimmed to a height of not more than 12 inches.

(h) *Exhaust vents.* — Except as to previously existing and operating exhaust systems, no person shall construct, maintain or operate pipes, ducts, conductors, fans or blowers discharging gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes so as to discharge directly upon abutting or adjacent public or private property or property of another tenant.

(i) *Accessory structures.* — All accessory structures, including detached garages, fences and walls, shall be maintained structurally sound and in compliance with §§ 4113 and 4114 of this title.

(j) *Motor vehicles.* — All premises, except as provided in other regulations, shall not contain any unregistered or uninspected or junk vehicle that poses a threat to the health, safety and general welfare of the occupants or other persons. Not more than 2 currently unregistered or uninspected vehicles, owned by the occupants, that do not pose a threat to the occupants or other persons' health and safety shall be parked in a predominantly residential area. Said vehicles shall not be in a state of disassembly or disrepair.

(65 Del. Laws, c. 153, § 1.)

### § 4113 Exterior structure.

(a) *In general.* — The exterior of a structure shall be maintained structurally sound and sanitary so as not to pose a threat to the health and safety of the occupants and so as to protect the occupants from the environment.

(b) *Structural members.* — All supporting structural members of all structures shall be maintained structurally sound, free of deterioration and capable of safely bearing the dead and live loads imposed upon them.

(c) *Exterior surfaces (foundations, walls and roof).* — Every foundation, exterior wall, roof and all other exterior surfaces shall be maintained in a workmanlike state of maintenance and repair and shall be kept in such condition so as to exclude rats.

(d) *Foundation walls.* — All foundation walls shall be maintained so as to carry the safe design and operating dead and live loads, plumb and free from open cracks and breaks, except as necessary to release excessive water pressure on the wall so as not to be detrimental to public safety and welfare.

(e) *Exterior walls.* — Every exterior wall shall be free of holes, breaks, loose or rotting boards or timbers and any other condition which might admit rain or dampness to the interior portions of the walls or to the occupied spaces of the building. All exterior surface materials, including wood, composition or metal siding, shall be maintained weatherproof so as to prevent deterioration.

(f) *Roofs.* — The roof shall be structurally sound, tight and not have defects which might admit rain, and roof drainage shall be adequate to prevent rain water from causing dampness in the walls or interior portion of the building.

(g) *Decorative features.* — All cornices, trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

(h) *Signs, marquees and awnings.* — All canopies, marquees, signs, metal awnings, stairways, fire escapes, standpipes, exhaust ducts and similar overhang extensions shall be maintained in good repair, shall be properly anchored so as to be kept in a safe and sound condition and shall be protected from the elements and against decay.

(i) *Chimneys.* — All chimneys, cooling towers, smokestacks and similar appurtenances shall be maintained structurally safe, sound and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay.

(j) *Stairs and porches.* — Every stair, porch, balcony and all appurtenances attached thereto shall be so maintained as to be safe to use and capable of supporting the loads to which it may be subjected and shall be maintained in sound condition and repair.

(k) *Windows, doors and frames.* — Every window, door and frame shall be maintained in such relation to the adjacent wall construction so as to exclude rain as completely as possible and to substantially exclude wind from entering the building.

(l) *Weathertight.* — Every window and exterior door shall be fitted reasonably in its frame and be weathertight. Weather stripping shall be used as necessary to exclude wind or rain from entering the dwelling or structure and shall be kept in sound condition and good repair.

(m) *Glazing.* — Every required window sash shall be fully supplied with glazing materials which securely hold in place window glass.

(n) *Openable windows.* — Every window, other than a fixed window, shall be capable of being opened and shall be held in position by window hardware.

(o) *Door hardware.* — Every exterior door, door hinge and door latch shall be maintained in good condition. Door locks in dwelling units shall be in good repair and capable of tightly securing the door.

(p) *Basement and window hatchways.* — Every basement or cellar hatchway or window shall be so maintained as to prevent the entrance of rats, rain and surface drainage into the structure.

(65 Del. Laws, c. 153, § 1; 70 Del. Laws, c. 186, § 1.)

### § 4114 Interior structure.

(a) *In general.* — The interior of a structure and its equipment shall be maintained structurally sound and in a sanitary condition so as not to pose a threat to the health and safety of the occupants and to protect the occupants from the environment.

(b) *Structural members.* — The supporting structural members of every building shall be maintained structurally sound, not showing any evidence of deterioration which would render them incapable of carrying the imposed loads.

(c) *Interior surfaces.* — Floors, walls, including windows and doors, ceilings and other interior surfaces shall be maintained in good, clean and sanitary condition.

(d) *Lead-based paint.* — Lead-based paint with a lead content of more than 0.5 percent shall not be applied to any interior or exterior surface of a dwelling or dwelling unit, including fences and outbuildings upon any premises.

(e) *Bathroom and kitchen floors.* — Every toilet, bathroom and kitchen floor surface shall be constructed and maintained so as to permit such floor to be easily kept in a clean and sanitary condition.

(f) *Free from dampness.* — Cellars, basements and crawl spaces shall be maintained free from standing water so as to prevent conditions conducive to decay or deterioration of the structure.

(g) *Sanitation.* — The interior of every structure shall be maintained in a clean and sanitary condition free from any accumulation of rubbish, refuse or garbage. Rubbish, garbage and other refuse shall be properly kept inside temporary storage facilities.

(h) *Public halls and stairways.* — Garbage or refuse shall not be allowed to accumulate or be stored in public halls or stairways.

(i) *Insect and rat harborage.* — All structures shall be kept free from insect and rat infestation, and where insects or rats are found they shall be promptly exterminated by acceptable processes which will not be injurious to human health. After extermination, proper precautions shall be taken to prevent reinfestation.

(j) *Exit doors.* — Every door available as an exit shall be capable of being opened easily from the inside.

(k) *Exit facilities — Adequacy.* — Stairs, porches, railings and other exit facilities shall be adequate for safety.

(l) *Same — Maintenance.* — All interior stairs and railings and other exit facilities of every structure shall be maintained in sound condition and good repair by replacing treads and risers that evidence excessive wear or are broken, warped or loose. Every inside stair shall be so constructed and maintained as to be safe to use and capable of supporting the anticipated loads.

(65 Del. Laws, c. 153, § 1.)

### § 4115 Light, ventilation and space requirements.

(a) *In general.* — All spaces or rooms shall be provided sufficient light so as not to endanger health and safety. All spaces or rooms shall be provided sufficient natural or mechanical ventilation so as not to endanger health and safety. Where mechanical ventilation is provided in lieu of the natural ventilation, such mechanical ventilating system shall be maintained in operation during the occupancy of any structure or portion thereof.

(b) *Light in habitable rooms.* — Every habitable room, except kitchens, toilet rooms, basement or cellar rooms and interior rooms of townhouses and row houses, shall have at least 1 window facing directly to the outdoors, a court or a porch. Every habitable room, except kitchens and toilet rooms, shall have at least 1 door or window which can be opened to adequately ventilate the room. Kitchens, toilet rooms without windows, basement or cellar rooms and interior rooms of townhouses and row houses shall have natural or mechanical ventilation.

(c) *Common halls and stairways.* — Every common hall and stairway in every building, other than 1-family dwellings, shall be adequately lighted at all times with an illumination of at least a 60 watt light bulb. Such illumination shall be provided throughout the normally traveled stairs and passageways.

(d) *Other spaces.* — All other spaces shall be provided with natural or artificial light of sufficient intensity and so distributed as to permit the maintenance of sanitary conditions and the safe use of the space and the appliances and fixtures.

(e) *Toilet rooms.* — Every bathroom and water closet compartment shall comply with the light and ventilation requirements for habitable rooms as required by subsection (b) of this section except that a window shall not be required in bathrooms or water closet compartments equipped with an approved mechanical ventilation system.

(f) *Cooking.* — Primary cooking facilities shall not be permitted in any sleeping room or dormitory unit, except for efficiency apartments.

(g) *Separation of unit.* — Dwelling units shall be separate and apart from each other. With the exception of cribsrooms or rooms accommodating persons with disabilities, sleeping rooms shall not be used as the only means of access to other sleeping rooms.

(h) *Privacy.* — Hotel units, lodging units and dormitory units shall be designed to provide privacy and be separate from other adjoining spaces.

(i) *Common access.* — A habitable room, bathroom or water closet compartment which is accessory to a dwelling unit shall not open directly into or be used in conjunction with a food store, barber or beauty shop, doctor's or dentist's examination or treatment room or similar room used for public purposes.

(j) *Basement rooms and cellar rooms.* — Basement and cellar rooms partially below grade shall not be used for sleeping purposes unless the basement and cellar room (or rooms) is (are) within the specifications for sleeping rooms as provided for in this chapter.

(k) *Dwelling units.* — Every dwelling unit shall contain a minimum gross floor area of not less than 150 square feet for the first occupant, and 100 square feet for each additional occupant. The floor area shall be calculated on the basis of the total area of all habitable rooms.

(l) *Area for sleeping purposes.* — Every room occupied for sleeping purposes by 1 occupant shall contain at least 64 square feet of floor area.

(m) *Overcrowding.* — If any room used for residential purposes is overcrowded as defined in § 4106(27) of this title, the code official may order the number of persons sleeping or living in said room to be reduced.

(n) *Prohibited use.* — It shall be prohibited to use for sleeping purposes any kitchen, nonhabitable space or public space.

(o) *Minimum ceiling heights.* — Habitable rooms shall have a clear ceiling height over the minimum area required by this chapter at not less than 7 feet, 4 inches, except that in attics, basements, or top half-stories the ceiling height shall be not less than 7 feet over not less than one-third of the minimum area required by this chapter when used for sleeping, study or similar activity. In calculating the floor area of such rooms, only those portions of the floor area of the room having a clear ceiling height of 5 feet or more may be included.

(p) *Minimum ceiling heights in mobile homes.* — Habitable space in a mobile home shall have a minimum ceiling height of 7 feet over 50 percent of the floor area, and the floor area where the ceiling height is less than 5 feet shall not be considered in calculating floor area.

(q) *Required space in mobile homes.* — Every mobile home shall contain a minimum gross floor area of not less than 150 square feet for the first 2 occupants, and 100 square feet for each additional occupant.

(65 Del. Laws, c. 153, § 1; 78 Del. Laws, c. 179, § 380.)

### § 4116 Plumbing facilities and fixtures requirements.

(a) *In general.* — Every dwelling unit shall include its own plumbing facilities which are in proper operating condition, can be used in privacy and are adequate for personal cleanliness and the disposal of human waste.

(b) *Water closet and lavatory.* — Every dwelling unit shall contain a lavatory and a water closet supplied with cold running water. The water closet shall not be located in a habitable room. The lavatory may be placed in the same room as the water closet, or, if located in another room, the lavatory shall be located in close proximity to the door leading directly into the room in which said water closet is located. The lavatory shall be supplied with hot and cold running water.

(c) *Bathtub or shower.* — Every dwelling unit shall contain a room which affords privacy to a person in said room and which is equipped with a bathtub or shower supplied with hot and cold running water.

(d) *Sink.* — Every dwelling unit shall contain a kitchen sink apart from the lavatory required under subsection (b) of this section and shall be supplied with hot and cold running water.

(e) *Rooming house.* — At least 1 water closet, lavatory basin and bathtub or shower properly connected to an approved water and sewer system and in good working condition shall be supplied for each 4 rooms within a rooming house, wherever said facilities are shared. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times.

(f) *Hotels.* — Where private water closets, lavatories, and baths are not provided, 1 water closet, 1 lavatory and 1 bathtub accessible from a public hallway shall be provided on each floor. Each lavatory, bathtub or shower shall be supplied with hot and cold water at all times.

(g) *Toilet rooms and bathrooms — Privacy.* — Toilet rooms and bathrooms shall be designed and arranged to provide privacy.

(h) *Toilet rooms and bathrooms — Direct access.* — Toilet rooms and bathrooms shall not be used as a passageway to a hall or other space or to the exterior. At least 1 toilet room or bathroom in a dwelling unit shall be accessible from any sleeping room without passing through another sleeping room.



(i) *Toilet rooms and bathrooms — Location on same story.* — Toilet rooms and bathrooms serving hotel units, lodging units or dormitory units, unless located within such respective units, or directly connected thereto, shall be provided on the same story with such units and be accessible only from a common hall or passageway.

(j) *Toilet rooms and bathrooms — Floors.* — Bathrooms and toilet rooms shall be provided with floors of moisture resistant material.

(k) *Connections.* — Water supply lines, plumbing fixtures, vents and drains shall be properly installed, connected and maintained in working order and shall be kept free from obstructions, leaks and defects and capable of performing the function for which they are designed.

(l) *Maintained clean and sanitary.* — All plumbing facilities shall be maintained in a clean and sanitary condition by the occupant so as not to breed insects and rats or produce dangerous or offensive gases or odors.

(m) *Access for cleaning.* — Plumbing fixtures shall be installed so as to permit easy access for cleaning both the fixtures and the areas about them.

(n) *Water conservation.* — Plumbing fixtures which are replaced shall be of water saving construction and use.

(o) *Contamination.* — The water supply shall be maintained free from contamination and all water inlets for plumbing fixtures shall be located above the overflow rim of the fixture.

(p) *Supply.* — The water supply systems shall be installed and maintained to provide at all times a supply of water to plumbing fixtures, devices and appurtenances in sufficient volume and at pressures adequate to enable them to function satisfactorily.

(q) *Water heating facilities.* — Water heating facilities shall be properly installed, properly maintained and properly connected with hot water lines to the fixtures required to be supplied with the hot water. Water heating facilities shall be capable of heating water to such a temperature so as to permit an adequate amount of water to be drawn at every required kitchen sink, lavatory basin, bathtub, shower and laundry facility or other similar units at a temperature of not less than 110 degrees F.

(r) *Connections.* — Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other facility shall be properly connected to either a public sewer system or to an approved private sewage disposal system.

(s) *Maintenance.* — Every plumbing stack, waste and sewer line shall be so installed and maintained as to function properly and shall be kept free from obstructions, leaks and defects to prevent structural deterioration or health hazards.

(t) *Storm drainage.* — An approved system of storm water disposal shall be provided and maintained for the safe and efficient drainage of roofs and paved areas, yards and courts and other open areas on the premises.

(65 Del. Laws, c. 153, § 1.)

### § 4117 Heating, cooking and refrigeration facilities.

(a) *Heating.* — Every dwelling unit and guest room shall be provided with heating facilities capable of maintaining a room temperature of 65° F., at a point 3 feet above the floor and 3 feet from an exterior wall in all habitable rooms, bathrooms and toilet rooms.

(b) *Cooking facilities.* — In every dwelling unit that contains cooking and baking facilities for the purpose of preparation of food, such facilities shall be properly installed by the owner and operated and kept in a clean and sanitary working condition by the occupant.

(c) *Refrigeration.* — In every dwelling unit that contains a refrigeration unit for the temporary preservation of perishable foods, such unit shall be capable of maintaining an average temperature below 45° F. and shall be properly installed by the owner and operated and kept in a clean and sanitary working condition by the occupant.

(d) *Cooking and heating equipment.* — All cooking and heating equipment, components and accessories in every heating, cooking and water heating device shall be maintained free from leaks and obstructions and kept functioning properly so as to be free from fire, health and accident hazards.

(e) *Installation.* — All mechanical equipment shall be properly installed and safely maintained in good working condition and be capable of performing the function for which it was designed and intended.

(f) *Flue.* — All fuel-burning equipment designed to be connected to a flue, chimney or vent shall be connected in an approved manner.

(g) *Clearances.* — All required clearances from combustible materials shall be maintained.

(h) *Safety controls.* — All safety controls for fuel-burning equipment shall be maintained in effective operation.

(i) *Combustion air.* — A supply of air for complete combustion of the fuel and for ventilation of the space shall be provided to the fuel-burning equipment.

(j) *Fireplaces.* — Fireplaces and other devices intended for use similar to a fireplace, including wood-and-coal-burning stoves, shall be stable and structurally safe and connected to approved chimneys.

(k) *Climate control.* — When facilities for interior climate control (heating, cooling or humidity) are integral functions of structures used as dwelling units, such facilities shall be maintained and operated in a continuous manner in accordance with the designed capacity.

(65 Del. Laws, c. 153, § 1.)

### § 4118 Electrical facilities.

(a) *Outlets required.* — Where there is electric service available to a structure, every habitable room of a dwelling unit and every guest room shall contain at least 2 separate and remote outlets, 1 of which may be a ceiling or wall type electric light fixture. In a kitchen, 3

separate and remote wall type electric convenience outlets or 2 such convenience outlets and 1 ceiling or wall type electric light fixture shall be provided. Every public hall, water closet compartment, bathroom, laundry room or furnace room shall contain at least 1 electric light fixture; in addition to the electric light fixture in every bathroom and laundry room, there shall be provided at least 1 electric outlet.

(b) *Installation.* — All electrical equipment, wiring and appliances shall be installed and maintained in a safe manner in accordance with all applicable laws. All electrical equipment shall be of an approved type.

(c) *Correction of defective system.* — Where it is found, in the opinion of the code official, that the electrical system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, improper fusing, insufficient outlets, improper wiring or installation, deterioration or damage or for similar reasons, the code official shall require the defects to be corrected to eliminate the hazard.

(65 Del. Laws, c. 153, § 1.)

### § 4119 Fire safety requirements.

(a) *In general.* — A safe, continuous and unobstructed means of egress shall be provided from the interior of a structure to the exterior at a street, or to a yard, court or passageway leading to a public open area at grade.

(b) *Direct exit.* — Every dwelling unit or guest room shall have access directly to the outside or to a public corridor.

(c) *Locked doors; exit through other units.* — All doors in the required means of egress shall be readily openable from the inner side. Exits from dwelling units, hotel units, lodging units and dormitory units shall not lead through other such units, or through toilet rooms or bathrooms.

(d) *Fire escapes.* — All required fire escapes shall be maintained in working condition and structurally sound.

(e) *Exit signs.* — All exit signs shall be maintained, illuminated and visible.

(f) *Accumulations of waste, etc., prohibited.* — Waste, refuse or other materials shall not be allowed to accumulate in stairways, passageways, doors, windows, fire escapes or other means of egress.

(g) *Flammable matter.* — Highly flammable or explosive matter, such as paints, volatile oils, and cleaning fluids, or combustible refuse, such as wastepaper, boxes and rags, shall not be accumulated or stored on residential premises except in reasonable quantities consistent with normal usage.

(h) *Residential unit.* — A dwelling unit or rooming unit shall not be located within a structure containing an establishment handling, dispensing or storing flammable liquids with a flash point of 110° F. or lower.

(i) *Fire alarms.* — Fire alarms and detecting systems shall be maintained and be suitable for their respective purposes.

(j) *Fire suppression system.* — Fire suppression systems shall be maintained in good condition, free from mechanical injury. Sprinkler heads shall be maintained clean, free of corrosion and paint and not bent or damaged.

(k) *Fire extinguishers.* — All portable fire extinguishers shall be visible and accessible, and maintained in an efficient and safe operating condition.

(65 Del. Laws, c. 153, § 1.)

### § 4120 Responsibilities of owners and occupants.

(a) *Cleanliness.* — Every occupant of a structure or part thereof shall keep that part of the structure or premises thereof which that occupant occupies, controls or uses in a clean and sanitary condition. Every owner of a dwelling containing 2 or more dwelling units shall maintain, in a clean and sanitary condition, the shared or public areas of the dwelling and premises thereof.

(b) *Disposal of rubbish.* — Every occupant of a structure or part thereof shall dispose of all rubbish in a clean and sanitary manner by placing it in rubbish containers equipped with tight fitting covers as required by this chapter.

(c) *Disposal of garbage.* — Every occupant of a structure or part thereof shall dispose of garbage in a clean and sanitary manner, securely wrapping such garbage and placing it in tight garbage storage containers as required by this chapter, or by such other disposal method as may be required by applicable laws or ordinances.

(d) *Rubbish storage facilities.* — Every dwelling unit shall be supplied with approved containers and covers for storage of rubbish, and the owner, operator or agent in control of such dwelling shall be responsible for the removal of such rubbish.

(e) *Food preparation.* — All spaces used or intended to be used for food preparation shall contain suitable space and equipment to store, prepare and serve foods in a sanitary manner. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage when necessary.

(f) *Fixtures and equipment — Supplied by owner.* — The owner or occupant of a structure or part thereof shall keep the supplied equipment and fixtures therein clean and sanitary and shall be responsible for the exercise of reasonable care in their proper use and operation.

(g) *Fixtures and equipment — Furnished by occupant.* — The equipment and fixtures furnished by the occupant of a structure shall be properly installed and shall be maintained in good working condition, kept clean and sanitary and free of defects, leaks or obstructions.

(65 Del. Laws, c. 153, § 1.)

**§ 4121 Extermination.**

(a) *Owner's responsibility.* — The owner of any structure shall be responsible for extermination of insects, rats, vermin or other pests within the structure prior to renting, leasing or selling the structure.

(b) *Tenant-occupant's responsibility.* — The tenant-occupant of any structure shall be responsible for the continued rat proof condition of the structure, and if the tenant occupant fails to maintain the rat-proof condition, the cost of extermination shall be the responsibility of the tenant-occupant.

(c) *Single unit occupant's responsibility.* — The occupant of a structure containing a single dwelling unit shall be responsible for the extermination of any insects, rats or other pests in the structure or on the premises.

(d) *Responsibility for common areas in multiple unit structures.* — Every owner, agent or operator of 2 or more dwelling units or multiple occupancies, or rooming houses, shall be responsible for the extermination of any insects, rats or other pests in the public or shared areas of the structure and premises.

(65 Del. Laws, c. 153, § 1.)

**Subchapter III**

**Administration and Enforcement**

**§ 4122 General provisions.**

This subchapter shall govern the administration and enforcement procedures of the State Housing Code. Any municipality or county that adopts the Code as its own may use these administrative and enforcement procedures as its own or may develop procedures which are similar in nature as determined by the Code official.

(65 Del. Laws, c. 153, § 1; 67 Del. Laws, c. 386, § 8.)

**§ 4123 Administrative liability.**

Except as may otherwise be provided by state statute, no officer, agent or employee of the State or any Delaware community charged with the enforcement of this chapter shall be rendered personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of duties under this chapter. No person who institutes, or assists in the prosecution of, a criminal proceeding under this chapter shall be liable for damage therefor unless such person acted with actual malice and without reasonable grounds for believing that the person accused or prosecuted was guilty of an unlawful act or omission. Any civil suit brought against any officer, agent or employee of the State or of any Delaware community as a result of any act required or permitted in the discharge of duties under this chapter shall be defended by the attorney-at-law of each jurisdiction and of the State until the final determination of the proceedings therein.

(65 Del. Laws, c. 153, § 1.)

**§ 4124 Conflict of interest.**

No officer or employee who has an official duty in connection with the administration and enforcement of this chapter shall be financially interested in the furnishing of labor, materials or appliances for the construction, alteration or maintenance of a building or in making the plans or specifications therefor, unless that person is the owner of such building. No such officer or employee shall engage in any activity which is inconsistent with the public interest and the officer's official duties.

(65 Del. Laws, c. 153, § 1; 67 Del. Laws, c. 386, § 9.)

**§ 4125 Records.**

The code official shall keep or cause to be kept records concerning the enforcement of this chapter's provisions, which records shall be open to public inspection.

(65 Del. Laws, c. 153, § 1.)

**§ 4126 Duties and powers of code official.**

(a) *In general.* — The code official shall enforce all the provisions of this chapter relative to the maintenance of structures and premises, except as may otherwise be specifically provided by other regulations.

(b) *Notices and orders.* — The code official shall issue all necessary notices and orders to abate illegal or unsafe conditions to insure compliance with the chapter requirements for the safety, health and general welfare of the public.

(c) *Inspections.* — In order to safeguard the safety, health and welfare of the public, the code official is authorized to enter any structure or premises at any reasonable time for the purpose of making inspections and performing duties under this chapter. The fee for inspections performed by the Housing Director, when acting as a code official for the enforcement of the Code in areas which have not adopted the Code shall be \$25 for the initial inspection and \$10 for each subsequent inspection related to the same complaint. At the discretion of the Housing Director and for good cause shown, such inspection fees may be waived.

(d) *Right of entry.* — If any owner, occupant or other person in charge of a structure subject to this chapter refuses, impedes, inhibits, interferes with, restricts or obstructs entry and free access to any part of the structure or premises where inspection authorized by this chapter is sought, the code official may seek, in a court of competent jurisdiction, an order that such owner, occupant or other person in charge cease and desist with such interference.

(e) *Access by owner or operator.* — Every occupant of a structure or premises shall give the owner or operator thereof, or agent or employee, access to any part of such structure or its premises at reasonable times for the purpose of making such inspection, maintenance, repairs or alterations as are necessary to comply with this chapter.

(f) *Credentials.* — The code official or the code official's authorized representative shall disclose proper evidence of the official's or representative's respective office for the purpose of demonstrating authority to inspect any and all buildings and premises in the performance of duties under this chapter.

(g) *Rulemaking authority.* — The code official shall have power, as may be necessary in the interest of public safety, health and general welfare, to adopt and promulgate rules and regulations to interpret and implement this chapter to secure the intent thereof and to designate requirements applicable because of local climatic or other conditions.

(h) *Annual report.* — At least annually, the code official shall submit to the chief executive of the community or State a written statement of activities in a form and content as shall be prescribed by the chief executive of that jurisdiction.

(65 Del. Laws, c. 153, § 1; 67 Del. Laws, c. 386, § 10; 70 Del. Laws, c. 186, § 1.)

### § 4127 Condemnation.

(a) *In general.* — When a structure is found by the code official to be unsafe, or when a structure or part thereof is found unfit for human occupancy or use, it may be condemned pursuant to this chapter and may be placarded and vacated. Such condemned structure shall not be reoccupied without approval of the code official, but such approval may not be withheld upon completion of specified corrections of violations.

(b) *Unsafe structure.* — An unsafe structure is one in which all or part thereof is found to be dangerous to life, health, property or the safety of the public or the structure's occupants because it is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation that it is likely to partially or completely collapse.

(c) *Unsafe equipment.* — Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that it is found to be a hazard to life, health, property or safety of the public or occupants of the premises or structure. Unsafe equipment may contribute to the finding that the structure is unsafe or unfit for human occupancy or use.

(d) *Structure unfit for human occupancy.* — A structure is unfit for human occupancy or use whenever the code official finds that it is unsafe or, because it lacks maintenance and is in extreme disrepair, is unsanitary, vermin- or rat-infested, contains filth and contamination or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this chapter.

(e) *Closing of vacant structures.* — If the structure or part thereof is vacant and unfit for human habitation, occupancy or use, and is not in danger of structural collapse, the code official may post a placard of condemnation on the premises and may order the structure closed up so it will not be an attractive nuisance to youngsters. Upon failure of the owner to close up the premises within the time specified in the order, the code official shall cause it to be closed through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate in accordance with § 4134 of this title.

(65 Del. Laws, c. 153, § 1.)

### § 4128 Notices and orders.

(a) *Notice to owner or to person or persons responsible.* — Whenever the code official determines that there has been a violation of this chapter or has reasonable grounds to believe that a violation has occurred, or whenever the code official has condemned any structure or equipment under § 4127 of this title, notice shall be given to the owner or the person or persons responsible therefor in the manner prescribed below. If the code official has condemned the property or part thereof, the code official shall give notice to the owner and to the occupants of the intent to placard and to order vacation of the premises or to order equipment out of service.

(b) *Form.* — Such notice shall:

- (1) Be in writing;
- (2) Include a description of the real estate sufficient for identification;
- (3) Include a statement of the reason or reasons why it is being issued;
- (4) Include a correction order allowing a reasonable time for the repairs and improvements required to bring the dwelling unit or structure into compliance with this chapter; and
- (5) Include state penalties for noncompliance.

(c) *Service.* — Such service shall be deemed properly served upon such owner and/or occupant if a copy thereof is delivered to the owner and/or occupant personally; or by leaving the notice at the usual place or abode, in the presence of someone in the family of suitable

age and discretion who shall be informed of the contents thereof; or by certified or registered mail service addressed to the owner and/or occupant at the last known address. If the owner, agent or person in control is not found, a copy of the notice posted in a conspicuous place on the premises shall be deemed the equivalent of personal service, upon posting. Any notice herein shall, if mailed, be deemed to be effective upon mailing.

(d) *Service on occupant.* — When a condemnation order is served on an occupant other than the owner or person responsible for such compliance, a reasonable time to vacate the property after noncompliance shall be stated. Owners or persons responsible for compliance must vacate at the time set for correction of defects if there is failure of compliance.

(e) *Penalties.* — Failure to comply with orders and notices shall be subject to the penalties set forth in § 4131(b) of this title.

(f) *Transfer of ownership.* — It shall be unlawful for the owner of any dwelling unit or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of such property to another until the compliance order or notice of violation has been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the code official and shall furnish to the code official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

(65 Del. Laws, c. 153, § 1; 67 Del. Laws, c. 386, §§ 11, 12; 70 Del. Laws, c. 186, § 1.)

### § 4129 Placarding.

(a) *Placarding of structure.* — After the condemnation notice required under this chapter has resulted in an order by virtue of failure to comply within the time given, the code official may post on the premises or structure or parts thereof, or on defective equipment, a placard bearing the words "Condemned as unfit for human occupancy or use," and a statement of the penalties provided for any occupancy or use or for removing the placard. The owner or the person or persons responsible for the correction of violations and all other occupants shall remove themselves from the property on failure to comply with the correction order in the time specified.

(b) *Use following placarding prohibited.* — Any person who shall occupy a placarded premises or structure or part thereof, or shall use placarded equipment, and any owner or any person responsible for the premises who shall let anyone occupy a placarded premises shall be subject to the penalties set forth in § 4131(b) of this title.

(c) *Removal of placard.* — The code official shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the code official shall be subject to the penalties provided by this chapter.

(65 Del. Laws, c. 153, § 1.)

### § 4130 Emergency orders.

(a) *In general.* — Whenever a code official finds that an emergency exists on any premises, or in any structure or part thereof or on any defective equipment which requires immediate action to protect the public's health and safety or that of the occupants thereof, the code official may, with proper notice and service in accordance with § 4128 of this title, issue an order reciting the existence of such an emergency and requiring the vacating of the premises or such action taken as the code official deems necessary to meet such emergency. Notwithstanding other provisions of this chapter, such order shall be effective immediately, and the premises or equipment involved shall be placarded immediately upon service of the order.

(b) [Repealed.]

(65 Del. Laws, c. 153, § 1; 67 Del. Laws, c. 386, § 13.)

### § 4131 Violations.

(a) *Unlawful acts.* — It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, remove, demolish, use or occupy any structure or equipment regulated by this chapter, or cause same to be done, contrary to or in conflict with or in violation of this chapter.

(b) *Penalty for violation; jurisdiction.* — Any person who shall violate this chapter or who fails to comply with any notice or order issued by a code official pursuant to this chapter, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than \$25 nor more than \$1,000 or imprisoned for a term not to exceed 30 days, or both. Each day of a separate and continuing violation shall be deemed a separate offense under this section. The Justice of the Peace Court in the county in which the property is located shall have exclusive jurisdiction over offenses prosecuted under this chapter.

(c) *Prosecution.* — In the event any violation order is not promptly complied with, a code official with constable powers pursuant to § 2901 of Title 10, may issue a citation, and in cases involving first offenders of this Code, may assess a fine of \$100 or, in the alternative, may direct that the owner or occupant appear in the court of law having jurisdiction over the alleged violation. In those jurisdictions in which the code officials do not have constable powers, the code official may institute an action in the appropriate court, or may request the city solicitor or community attorney-at-law to institute such action to seek the penalties provided in subsection (b) of this section.

(65 Del. Laws, c. 153, § 1; 67 Del. Laws, c. 93, § 1; 67 Del. Laws, c. 386, §§ 14, 15.)

## § 4132 Demolition.

(a) *In general.* — The code official may order the owner of premises upon which is located any structure or part thereof, which in the code official's judgment is so old, dilapidated or has become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation, occupancy or use, so that it would be unreasonable to repair the same, to raze and remove such structure or part thereof; or, if it can be made safe by repair, to repair and make safe and sanitary or to raze and remove at the owner's option; or, where there has been a cessation of normal construction of any structure for a period of more than 2 years, to raze and remove such structure or part thereof.

(b) *Order.* — The order shall specify a time in which the owner shall comply therewith and specify repairs, if any. It shall be served on the owner of record or an agent where an agent is in charge of the building and upon the holder of any lien in the manner provided for service of a summons by a court of record. If the owner or a holder of a lien of record cannot be found, the order may be served by posting it on the main entrance of the building and by publishing it once each week for 3 successive weeks in a newspaper of general circulation in accordance with the rules of the Justice of the Peace Court.

(c) *Restraining actions.* — Anyone affected by any such order may, within 30 days after service of such order, apply to a Justice of the Peace Court for an order restraining the code official from razing and removing such structure or parts thereof. The Court shall determine whether the order of the code official is reasonable, and if found unreasonable, the court may issue a restraining order.

(d) *Failure to comply.* — Whenever the owner of a property fails to comply with a demolition order within the time prescribed, the code official shall cause the structure or part thereof to be razed and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such razing and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate as provided in § 4134 of this title.

(e) *Salvage materials.* — When any structure has been ordered razed and removed the code official or other designated officer may sell the salvage and valuable materials resulting from such razing or removal, such materials to be sold at the highest price obtainable. The net proceeds of such sale, after deducting the expenses of such razing and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, for the use of the person who may be entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.

(65 Del. Laws, c. 153, § 1; 67 Del. Laws, c. 93, §§ 2, 3; 67 Del. Laws, c. 386, § 16.)

## § 4133 Creation of tax lien.

There is hereby created a tax lien on real property for moneys expended by the State, or a community, for razing, demolition, removal or repairs of buildings or abatement of other unsafe conditions constituting a threat to the public health and safety where the responsible party refuses or fails to comply with the lawful order of the code official after due notice thereof, either actual or constructive. Upon certification of a tax lien to the appropriate state or community official by the code official, the amount of such lien shall be recorded and collected in the same manner as other county real estate taxes, and paid to the State or community, when collected, by the appropriate county government.

(65 Del. Laws, c. 153, § 1; 67 Del. Laws, c. 386, § 16.)

## § 4134 Violation of existing ordinance, code or regulation.

This chapter shall not affect violations of any other ordinance, code or regulation of the State, county or municipality existing prior to July 12, 1985, and any such violation shall be governed and shall continue to be enforced to the full extent of the law under such ordinances, codes or regulations in effect at the time the violation was committed.

(65 Del. Laws, c. 153, § 1; 67 Del. Laws, c. 386, § 16.)

## § 4135 Violation of existing ordinance, code or regulation.

Transferred.

**Part III**  
**Housing and Slum Clearance**

**Chapter 42**

**UNIVERSAL DESIGN STANDARDS FOR AFFORDABLE HOUSING**

**§ 4201 Standards.**

All applications for public financial assistance to be used in the construction of new dwelling units shall include the extent of the proposed construction's use of the standards of universal design found in this chapter. This chapter does not apply to redevelopment or rehabilitation of existing structures, to multi-family housing as defined by the U.S. Department of Housing and Urban Development, or to public financial assistance in the form of grants, loans, or tax credits provided to individual homeowners using the dwelling unit as a residence. During the process of appropriating the public financial assistance, the extent of the proposed construction's use may constitute a basis of best value, and the invitation to bid must so indicate. This section is in addition to any requirements of any other statute or regulation governing the bidding and construction of dwelling units as defined.

(78 Del. Laws, c. 368, § 5.)

**§ 4202 Definitions.**

As used in this chapter, the following terms shall mean:

- (1) "Accessible level" shall mean the first floor of the dwelling unit.
- (2) "Accessible route" shall mean a continuous, unobstructed path that complies with § 4204 of this title. With the exception of ramped surfaces, all portions of an accessible route shall have a slope less than 5% parallel to travel, have a cross slope of less than 2%, and shall be at least 42 inches wide. An accessible route shall be free of any protruding object.
- (3) "Administering entity" shall mean any state agency, local government, municipality or any instrumentality thereof responsible for the process by which public financial assistance is allocated, distributed, conveyed, contracted, or appropriated or any entity performing those duties on behalf of any state agency, local government, municipality, or any instrumentality thereof.
- (4) "Dwelling unit" shall mean any single family residence and each individual living unit in a duplex or triplex, or semi-detached residential building which is constructed with public financial assistance.
- (5) "Point" or "points" shall mean the amount of credit given, out of a possible total of 41, for calculating an application's Universal Design Standards compliance for purposes of this chapter.
- (6) "Primary bathroom" shall mean a bathroom that provides a toilet, lavatory, and tub/shower or shower.
- (7) "Public financial assistance" shall mean:
  - a. A building contract or similar contractual agreement with any state agency;
  - b. Any real estate received by the owner through a donation by the State;
  - c. State tax credits;
  - d. Grant assistance from state funds;
  - e. State loan guarantees;
  - f. Federal funds administered by the State, a state agency, local government, or municipality; or
  - g. Funding by municipalities and other local governments or their agencies and instrumentalities;but does not include loans and grants from any public entity to individual homeowners.
- (8) "Ramp" shall mean a surface with a running slope more than 1:20 and equal to or less than 1:12, and a cross slope less than 1:50. Handrails shall be required on both sides of the ramp.

(78 Del. Laws, c. 368, § 5.)

**§ 4203 Dwelling unit no-step entry.**

- (a) The dwelling unit may provide at least 1 primary no-step entry, valued at 8 points if it complies with the following:
  - (1) A door width and type that is 36 inches wide, at a minimum, with a standard pivot or hinged door;
  - (2) A maximum threshold height that is 1/2 inch beveled or 1/4 inch squared; and
  - (3) The no-step entry may be achieved through the addition of a permanent ramp on the outside of the dwelling unit when grading prevents reasonable no-step entry otherwise.
- (b) A primary no-stop entry sheltered from weather with an overhang shall be valued at an additional 2 points.

(78 Del. Laws, c. 368, § 5.)

**§ 4204 Interior accessible route; interior doors, doorways, and hallways.**

The dwelling unit may provide for an accessible route running through the interior of the dwelling unit, valued at 8 points if it complies with the following:

(1) The accessible route shall be continuous through all spaces within the dwelling unit and shall connect to all primary living spaces, including, but not limited to, the living room, the family room, and the dining space;

(2) The interior doors and doorways, except for closets, of the dwelling unit shall provide a clear opening with a minimum width of 36 inches; and

(3) The hallways of the dwelling unit shall be at least 42 inches wide.

(78 Del. Laws, c. 368, § 5.)

### **§ 4205 Bathroom.**

(a) The bathroom shall be on an accessible level and be connected to the accessible route.

(b) The bathroom shall have at least a 60-inch diameter turning space, valued at 1 point.

(c) The bathroom shall have a barrier-free shower stall (2 points), raised toilet seat height of at least 16 inches (1 point), 29 inches of knee space under the lavatory (1 point), ADA compliant faucets (1 point), hand-held shower (1 point), and grab bars (2 points) or grab bar blocking for subsequently mounting a grab bar (allocated 1 point instead of 2 points for the actual grab bars in place).

(78 Del. Laws, c. 368, § 5.)

### **§ 4206 Bedrooms.**

The dwelling unit may provide at least 1 primary bedroom or room that can easily be converted to a primary bedroom within the dwelling unit on the accessible level and connected to the accessible route, valued at 7 points.

(78 Del. Laws, c. 368, § 5.)

### **§ 4207 Kitchen.**

(a) The kitchen shall be on an accessible level and be connected to the accessible route.

(b) The kitchen in the dwelling unit shall have at least a 60-inch diameter turning space valued at 1 point.

(c) The kitchen in the dwelling unit shall have all pull-out shelving valued at 1 point.

(78 Del. Laws, c. 368, § 5.)

### **§ 4208 Hardware.**

(a) With the exception of panel boxes and HVAC filter access panels, all door hardware, cabinet hardware, faucets, bath and shower valves, diverters, and similar items throughout the dwelling unit shall be lever and wire handles or D-pull handles. Such items shall operate easily by using a single closed fist and shall be valued at 2 points.

(b) Luminous rocker or toggle light switches, valued at 1 point, shall be mounted 36 to 42 inches above the finished floor throughout the dwelling unit, for a separate value of 1 point.

(78 Del. Laws, c. 368, § 5.)

### **§ 4209 Implementation of this chapter.**

The administering entity shall comply with this chapter by incorporating points as calculated herein into its process for approving the use of public financial assistance for the construction of new dwelling units. The points for Universal Design Standards may be scaled to fit the individual process but shall be given a significant weight as compared to other scoring categories. Tenths of a point may be awarded to account for compliance with this chapter for a corresponding portion of the total development. The administering entity shall enforce compliance with the standards included in the application for public financial assistance during construction of the dwelling unit. The administering entity may include universal design standards incentives or requirements in excess of the provisions of this chapter.

(78 Del. Laws, c. 368, § 5.)

### **§ 4210 Other applicable law or regulation.**

This chapter does not limit or supplant requirements, rights, or remedies which are otherwise applicable or available under any other building code, disabilities rights statute, or any other applicable law or regulation. To the extent any other applicable law or regulation contains more stringent standards and requirements, that law or regulation controls.

(78 Del. Laws, c. 368, § 5.)



**Part III**  
**Housing and Slum Clearance**  
**Chapter 43**  
**HOUSING AUTHORITY**

**§ 4301 Definitions.**

As used in this chapter, unless a different meaning appears from the context:

- (1) "Area" or "area of operation" means the county or part of the county in and with respect to which an authority shall be created.
- (2) "Authority" or "housing authority" means a corporate body organized in accordance with the provisions of this chapter for the purposes, with the powers and subject to the restrictions set forth in this chapter.
- (3) "Bureau" means the State Bureau of Housing.
- (4) "Commissioner" means 1 of the members of an authority appointed in accordance with the provisions of this chapter.
- (5) "Community facilities" includes lands, buildings and equipment for recreation or social assembly, for educational, health or welfare activities and other necessary utilities primarily for use and benefit of the occupants of housing accommodations to be constructed and operated under this chapter.
- (6) "DSHA" means the Delaware State Housing Authority.
- (7) "Government" includes the state and federal governments, and any subdivision, agency or instrumentality, corporate or otherwise, of either of them.
- (8) "Housing project" or "project" means any work or undertaking:
  - a. To demolish, clear or remove buildings from any slum area acquired by the authority;
  - b. To provide decent safe and sanitary urban or rural dwellings, apartments or other living accommodations for persons of low income; such work or undertaking may include buildings, land, equipment facilities, and other real or personal property for necessary, convenient or desirable appurtenances, streets, sewers, water service, utilities, parks, site preparation, landscaping, administrative, community, health, recreational, welfare or other purposes; or
  - c. To accomplish a combination of the foregoing. The term "housing project" or "project" also may be applied to the planning of the buildings and improvements, the acquisition of property, the demolition of existing structures, the construction, reconstruction, alteration and repair of the improvements and all other work in connection therewith; and the term shall include all other real and personal property and all tangible or intangible assets held or used in connection with the housing project.
- (9) "Persons of low income" means persons or families who lack the amount of income which is necessary, as determined by the authority undertaking a project, to enable them, without financial assistance, to live in decent, safe and sanitary dwellings, without overcrowding.
- (10) "Slum" means any area where dwellings predominate which by reason of dilapidation, overcrowding, faulty arrangement or design, lack of ventilation, light or sanitary facilities, or any combination of these factors, are detrimental to safety, health and morals. (39 Del. Laws, c. 16, § 2; Code 1935, § 5454; 48 Del. Laws, c. 117, §§ 1, 2; 31 Del. C. 1953, § 4301; 52 Del. Laws, c. 126, § 1; 56 Del. Laws, c. 293, § 2; 57 Del. Laws, c. 679, § 5A; 71 Del. Laws, c. 357, § 7.)

**§ 4302 Legislative purpose.**

It is as a matter of legislative determination that, in order to promote and protect the health, safety, morals and welfare of the public, it is necessary in the public interest to provide for the creation of public corporate bodies to be known as housing authorities, and to confer upon and vest in such housing authorities all powers necessary or appropriate in order that they may engage in low-rent housing and slum clearance projects, and that the powers herein conferred upon the housing authorities, including the power to acquire property, to remove unsanitary or substandard conditions, to construct and operate housing accommodations and to borrow, expend and repay moneys for the purposes set forth in this chapter are public objects essential to the public interest.

(39 Del. Laws, c. 16, § 3; Code 1935, § 5455; 31 Del. C. 1953, § 4302.)

**§ 4303 Creation of authority; appointment and removal of commissioners; area of operation.**

Whenever DSHA shall have determined that there is need for a housing authority in any county or in any part of a county of the State, it shall issue to each appointing officer named in this chapter a certificate of such determination, describing the area of operation of the proposed authority, and as soon as possible thereafter an authority shall be created by the appointment of commissioners who shall constitute the authority, all of whom shall be residents of the area in which the authority operates. In the case of a New Castle County housing authority, there shall be 7 commissioners who shall be appointed by the County Executive with the advice and consent of the County Council, no more than a bare majority of the commissioners shall be affiliated with any 1 major political party, 1 member shall serve as chairperson and shall serve at the pleasure of the County Executive, 6 members shall serve for terms of 3 years each; provided, that the terms of the original members shall be established in a manner that 2 shall expire each year, and that 1 member from each council

district shall be represented on the commission. Except as otherwise provided in this chapter, in the case of authorities other than a New Castle County housing authority, there shall be 6 commissioners who shall be appointed as follows: 3 by the Governor for initial terms of 6 years, 4 years and 3 years respectively, 3 by the mayor of the most populous incorporated city or town in the area of operation in accordance with the last federal census for initial terms of 5 years, 2 years and 1 year respectively. Not more than 2 appointees of the Governor or of the mayor at any 1 time shall be from the same political party or subdivision thereof. The terms of the commissioners appointed before July 1, 1959, shall continue until the expiration of the terms thereof, the first occurring appointment to succeed the appointee of the resident judge shall be made by the mayor, the second occurring appointment to succeed the appointee of the resident judge shall be made by the Governor.

Forthwith upon the appointment of the original commissioners, the appointing officers shall execute and file or cause to be filed in the office of the Secretary of State a certificate or certificates stating that such appointments have been duly made and setting forth the name and term of office of each commissioner. Such certificate or certificates shall be conclusive evidence of the due and proper creation of the authority. Each appointing officer shall execute and file or cause to be filed in the office of the Secretary of State a certificate with respect to each appointment of a successor commissioner stating the fact of such appointment and setting forth the name of the successor commissioner and the successor commissioner's term of office. The respective appointing officers shall appoint successors to commissioners appointed by them or by their respective predecessors in office. In the case of an authority other than a New Castle County housing authority, each successor commissioner shall be appointed to hold office in the case of a vacancy for the unexpired term, or, in the case of expiration, for a term of 6 years or until a successor shall have been appointed and qualified. In the case of a New Castle County housing authority, each successor commissioner shall be appointed to hold office in the case of a vacancy for the unexpired term, or, in the case of expiration of a term, for a term of 3 years from the date of expiration of such term or until a successor shall have been appointed and qualified.

In the case of an authority other than a New Castle County housing authority, the Governor and the mayor by unanimous vote may remove a commissioner of the authority for official misconduct, neglect of duty or incompetence, but only after the commissioner shall have been given a copy of the charges against the commissioner and an opportunity to be heard in person or by counsel in the commissioner's own defense; pending the determination of the charges against the commissioner, the Governor and the mayor by unanimous vote may suspend the commissioner from office. A copy of the charges and the result of the hearing shall be forwarded to DSHA.

In the case of a New Castle County housing authority, the County Executive, with the advice and consent of County Council, may remove a commissioner of the authority for official misconduct, neglect of duty or incompetence, but only after the commissioner shall have been given a copy of the charges against the commissioner and an opportunity to be heard in person or by counsel in the commissioner's own defense; pending the determination of the charges against the commissioner, the County Executive with the advice and consent of County Council by unanimous vote may suspend the commissioner from office. A copy of the charges and the result of the hearing shall be forwarded to the Department.

(39 Del. Laws, c. 16, § 4; Code 1935, § 5456; 48 Del. Laws, c. 339, § 1; 31 Del. C. 1953, § 4303; 52 Del. Laws, c. 126, §§ 2-4; 56 Del. Laws, c. 293, § 2; 57 Del. Laws, c. 679, § 5B; 58 Del. Laws, c. 161, § 2; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 340, § 1.)

### **§ 4304 Wilmington Housing Authority.**

The Wilmington Housing Authority shall consist of 9 commissioners, 7 of whom shall be appointed by the Mayor of the City of Wilmington, 1 of whom shall be appointed by the Governor and 1 of whom shall be appointed by the County Executive of New Castle County. Each commissioner shall serve for a term of 3 years unless replaced before 3 years by an interim commissioner. No more than 5 commissioners or interim commissioners shall be of the same political party.

Notwithstanding any provisions of this chapter to the contrary, a Wilmington Housing Authority commissioner or interim commissioner shall serve at the pleasure of the person who appointed that commissioner or interim commissioner, and may be removed, with or without cause, by the appointing person. In the event of death, disability, resignation, or removal of a commissioner or interim commissioner before the expiration of that commissioner's or interim commissioner's term, the appointing person may appoint an interim commissioner to complete the term.

(31 Del. C. 1953, § 4303A; 58 Del. Laws, c. 139; 59 Del. Laws, c. 323, § 1; 64 Del. Laws, c. 390, § 1; 70 Del. Laws, c. 186, § 1; 72 Del. Laws, c. 9, § 1.)

### **§ 4304A Newark Housing Authority.**

The Newark Housing Authority shall consist of 7 commissioners, 4 of whom shall be appointed by the Mayor of the City of Newark, and 3 of whom shall be appointed by the Governor. Each commissioner shall serve for a term of 3 years unless replaced by an interim commissioner before the expiration of the 3-year term.

A Newark Housing Authority commissioner or interim commissioner shall serve at the pleasure of the person who appointed the commissioner or interim commissioner, and may be suspended or removed by the appointing authority for misfeasance, nonfeasance, malfeasance, misconduct, incompetence, or neglect of duty. A commissioner may appeal any suspension or removal to the Superior Court by filing an appeal within 30 days of the suspension or removal decision.

A commissioner who is absent without adequate reason for 3 consecutive meetings, or who fails to attend at least half of all regular business meetings during any calendar year, shall be guilty of neglect of duty.

In the event of the death, disability, resignation, or removal of a commissioner or interim commissioner before the expiration of the commissioner's or interim commissioner's term, the appointing authority may appoint an interim commissioner to complete the term.

(77 Del. Laws, c. 340, § 2.)

### **§ 4305 Interest of authority member or employee in projects.**

No member or employee of an authority shall acquire any interest, direct or indirect, in a project or in any property then or thereafter included or planned to be included in a project, nor retain any interest direct or indirect in any property acquired subsequently to the member's or employee's appointment or employment which is later included or to the member's or employee's knowledge planned to be included in a project, nor shall the member or employee have any interest, direct or indirect, in any contract or proposed contract for materials or services to be furnished or used in connection with any project. If any member or employee of an authority owns or controls an interest, direct or indirect, in any property included in any project, which was acquired prior to the member's or employee's appointment or employment, the member or employee shall disclose such interest and the date of acquisition thereof in writing to the authority, and such disclosure shall be entered upon the minutes of the authority.

(39 Del. Laws, c. 16, § 5; Code 1935, § 5457; 31 Del. C. 1953, § 4304; 70 Del. Laws, c. 186, § 1.)

### **§ 4306 Organization by commissioners; quorum; employment of assistants.**

As soon as possible after the creation of an authority, the commissioners shall organize for the transaction of business by choosing from among their number a chairperson and vice-chairperson and by adopting bylaws and rules and regulations suitable to the purposes of this chapter. Three commissioners shall constitute a quorum for the purpose of organizing the authority and conducting the business thereof. The commissioners shall, from time to time, select and appoint such officers and employees, including a director to be ex officio secretary, and engineering, architectural and legal assistants, as they may require for the performance of their duties, and shall prescribe the duties and compensation of each officer and employee.

(39 Del. Laws, c. 16, § 6; Code 1935, § 5458; 31 Del. C. 1953, § 4305; 70 Del. Laws, c. 186, § 1.)

### **§ 4307 Compensation and expenses of commissioners.**

No commissioner shall receive any compensation, whether in form of salary, per diem allowances or otherwise, for or in connection with the commissioner's services as such commissioner. Each commissioner shall, however, be entitled to reimbursements, to the extent of appropriations or other funds available therefor, for any necessary expenditures in connection with the performance of the commissioner's general duties or in connection with the construction or operation of any project. The authority may allocate such expenses among its project in such manner as it may consider proper.

(39 Del. Laws, c. 16, § 7; Code 1935, § 5459; 31 Del. C. 1953, § 4306; 70 Del. Laws, c. 186, § 1.)

### **§ 4308 Powers of authority.**

(a) An authority shall constitute a body both corporate and politic, exercising public powers and having all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including the following powers in addition to others granted in this chapter:

(1) To investigate into living and housing conditions in its area of operations and into the means and methods of improving such conditions; to determine where unsanitary or substandard housing conditions exist; to study and make recommendations concerning the plans of the area of operations in relation to the problems of clearing, replanning and reconstruction of areas in which unsanitary or substandard conditions exist, and the providing of housing accommodations for persons of low income, and to cooperate with any city, regional or state planning agency;

(2) To prepare, carry out and operate projects; to provide for the construction, reconstruction, improvement, alteration or repair of any project or any part thereof; to take over by purchase, lease, or otherwise any project undertaken by any government; to act as agent for the federal government in connection with the acquisition, construction, operation or management of a project or any part thereof; to arrange with any government within the area of operation for the furnishing, planning, replanning, opening or closing of streets, roads, roadways, alleys, parks or other places or public facilities or for the acquisition by any government or any agency, instrumentality or subdivision thereof, including, specifically, the Federal Emergency Administration of Public Works and the Public Works Emergency Housing Corporation, of property, options or property rights or for the furnishing of property or services in connection with a project;

(3) To lease or rent any of the housing or other accommodations, or any of the lands, buildings, structures or facilities embraced in any project and to establish and revise the rents or charges therefor; to purchase, lease, obtain options upon, acquire by eminent domain or otherwise, sell, exchange, transfer, assign, mortgage or pledge any property, real or personal or any interest therein from any person, firm, corporation or any municipal state, or federal government or any agency, instrumentality or subdivision thereof, including specifically, the Federal Emergency Administration of Public Works and the Public Works Emergency Housing Corporation, by gift, grant, bequest or devise; to own, hold, clear and improve property; in its discretion to insure or provide for the insurance of the property or operations of the authority against such risks as the authority may deem advisable;

(4) To borrow money upon its bonds, notes, debentures or other evidences of indebtedness and to secure the same by mortgage upon property held or to be held by it or by pledge of its revenues, or in any other manner, and in connection with any loan by a government, to agree to limitations upon the exercise of any powers conferred upon the authority by this chapter; to invest any funds held in reserves or sinking funds, or in any funds not required for immediate disbursements in state or federal securities;

(5) To sue and be sued; to have a seal and to alter the same at pleasure; to have perpetual succession; to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the authority; to make and from time to time amend and repeal bylaws, rules and regulations not inconsistent with this chapter, and to carry into effect the powers and purposes of the authority;

(6) To enter upon any building or property in order to conduct investigations or to make surveys or soundings; to conduct examinations and investigations and to hear testimony and take proof under oath at public or private hearings on any matter material for its information; to issue subpoenas requiring the attendance of witnesses or the production of books and papers and to issue commissions for the examination of witnesses who are out of the State or unable to attend before the authority, or excused from attendance; and to do all things necessary or convenient to carry out the powers given in this chapter.

(b) Any of the investigations or examinations provided for in this chapter may be conducted by the authority or by a committee appointed by it, consisting of 1 or more commissioners, or by counsel, or by an officer or employee specially authorized by the authority to conduct it. Any commissioner, counsel for the authority, or any person designated by it to conduct an investigation or examination shall have power to administer oaths, take affidavits and issue subpoenas or commissions. Any authority may exercise any or all of the powers herein conferred upon it, either generally or with respect to any specific project or projects, through or by any agent or agents which it may designate.

(39 Del. Laws, c. 16, § 8; Code 1935, § 5460; 31 Del. C. 1953, § 4307.)

### **§ 4309 Agreements with federal government.**

An authority may, in connection with the borrowing of funds, or otherwise, enter into any agreement with the federal government or any agency or subdivision thereof providing for supervision and control of the authority of any project, and containing such covenants, terms and conditions as the authority may deem advisable.

(39 Del. Laws, c. 16, § 14; Code 1935, § 5466; 31 Del. C. 1953, § 4308.)

### **§ 4310 Transfer of property to authority by municipalities.**

Any city, village or incorporated town included in the area of operation of an authority may sell, convey or lease any of its interest in any property or grant easements, licenses or any other rights or privileges therein or with respect thereto to the authority, irrespective of the purposes for which such property or such interest therein may have been acquired. Such city, village or incorporated town is authorized to sell any such property, property rights or interest therein to the authority at private sale without advertisement or competitive bidding, and, in the case of property, property rights or interest therein devoted or dedicated to a public use, the city, village or incorporated town is authorized to make grants to the authority on such terms and under such conditions as it deems advisable. The authority may acquire and accept any such property, property rights or interest therein as it deems necessary or desirable in the development of a project pursuant to this chapter.

(39 Del. Laws, c. 16, § 9; Code 1935, § 5461; 42 Del. Laws, c. 162; 31 Del. C. 1953, § 4309.)

### **§ 4311 Condemnation procedure.**

Whenever the housing authority cannot agree with the owner of any land, building, franchise, easement or other property necessary to be taken or used in the construction, reconstruction or maintenance of any housing project or proposed housing project, which the housing authority constructs, reconstructs or otherwise improves, or proposes to construct, reconstruct or otherwise improve, for the purpose thereof, the housing authority may exercise the power of eminent domain by proceeding in accordance with Chapter 61 of Title 10.

(39 Del. Laws, c. 16, § 10; Code 1935, § 5462; 31 Del. C. 1953, § 4310.)

### **§ 4312 Property as public property.**

All property, both real and personal, acquired, owned, leased, rented or operated by an authority is deemed public property for public use.

(39 Del. Laws, c. 16, § 11; Code 1935, § 5463; 31 Del. C. 1953, § 4311.)

### **§ 4313 Projects subject to zoning regulations.**

All projects of an authority shall be subject to the comprehensive development plan, including the housing component thereof, planning, zoning, sanitary, and building laws, ordinances and regulations applicable to the locality in which the project is to be situated.

(39 Del. Laws, c. 16, § 12; Code 1935, § 5464; 31 Del. C. 1953, § 4312; 58 Del. Laws, c. 161, § 3.)

### **§ 4314 Issuance of evidences of indebtedness; rights of creditors.**

Subject to the restrictions set forth in this chapter, an authority may incur any indebtedness, issue any obligations and give any security therefor which it deems necessary or advisable in connection with any project undertaken by it under this chapter. Authorization for the issuance of bonds shall be made by resolution of the authority and the bonds shall be signed by any agent whom the authority designates.

The bonds, notes or other evidences of indebtedness executed by an authority shall not be a debt or charge against the State, county, municipality, or any subdivision or agency or instrumentality thereof other than the authority, and no individual liability shall attach for any lawful official act done by any commissioner, but a commissioner shall be liable for the commissioner's own malfeasance. The rights of creditors of an authority shall be solely against such authority as a corporate body and shall be satisfied only out of property held by it in its corporate capacity, and the enforcement of such rights shall be subject to all the provisions of Part III of this title.

(39 Del. Laws, c. 16, § 13; Code 1935, § 5465; 31 Del. C. 1953, § 4313; 70 Del. Laws, c. 186, § 1.)

### **§ 4315 Supervision of projects by the DSHA.**

Whenever any project of any agency, including public or private organizations or corporations, is financed in whole or in part by this State pursuant to Chapter 40 of this title, the Housing Director of DSHA may:

(1) Order any agency undertaking or operating a project to make, at its expense, such repairs and improvements as will preserve or promote the health and safety of the occupants of buildings and structures owned or operated by such agency;

(2) Order all such agencies to do such acts as may be necessary to comply with the law, the rules and regulations adopted by the Housing Director by the terms of any project approved by the Housing Director, or to refrain from doing any acts in violation thereof;

(3) Examine all such agencies and keep informed as to their general condition, their capitalization and the manner in which their property is constructed, leased, operated or managed;

(4) By the Housing Director's duly authorized agents, enter in or upon and inspect the property, equipment, buildings, plants, offices, apparatus and devices of any such agency, examine all books, contracts, records, documents and papers of any such agency and, by subpoena duces tecum issued by DSHA, compel the production thereof;

(5) In the Housing Director's discretion prescribe uniform methods and forms of keeping accounts, records and books to be observed by such agencies and to prescribe or order accounts in which particular outlays and receipts shall be entered, charged or credited;

(6) Require every such agency to file with DSHA an annual report setting forth such information as the Housing Director may require verified by the oath of a duly authorized representative of the agency. Such report shall be in the form, cover the period and be filed at the time prescribed by the Housing Director. The Housing Director may further require answers to questions upon which the Housing Director or DSHA may desire information and may also require such agency to file periodic reports in the form covering the period at the time prescribed by the Housing Director;

(7) From time to time make, amend and repeal rules and regulations for carrying into effect this chapter.

(31 Del. C. 1953, § 4314; 56 Del. Laws, c. 293, § 3; 57 Del. Laws, c. 679, §§ 5B, 5C; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 357, §§ 9-16.)

### **§ 4316 Material and labor contracts; bids.**

All materials furnished to and all labor for an authority in excess of the probable cost of \$500, except materials and labor used in the maintenance and operation of housing projects and employees directly under the authority, shall be supplied or done under contract made after competitive bids have been requested and submitted.

(39 Del. Laws, c. 16, § 18; Code 1935, § 5470; 31 Del. C. 1953, § 4317.)

### **§ 4317 Dissolution.**

Whenever an authority desires to discontinue its operations, it shall make application to DSHA for permission to dissolve. Permission to dissolve shall be given only upon the showing, satisfactory to DSHA, that all projects undertaken by the authority have been completed or abandoned with the approval of DSHA, that provision satisfactory to a majority of its creditors, holding a majority in the amount of claims, has been made, and that the continued existence of the authority would not serve the public interest. Notice of such application for permission to dissolve shall be given to all creditors of the authority in such manner as DSHA approves. If the application to dissolve is granted, DSHA shall either (1) designate an agent to take possession of the authority, to dispose of all of its property in the manner authorized herein, and, after paying or making provisions for the debts and liabilities of the authority and the expenses of dissolution, pay the balance remaining, if any, into the General Fund of the State; or (2) DSHA may, after proper provision has been made for paying or meeting the debts and liabilities of an authority and the expenses of dissolution, approve an agreement conveying the property of the authority to the State, provided that no debt or obligation of the authority shall become the debt or obligation of the State by virtue of such conveyance, unless expressly assumed by the State.

(39 Del. Laws, c. 16, § 19; Code 1935, § 5471; 31 Del. C. 1953, § 4318; 57 Del. Laws, c. 679, § 5B; 71 Del. Laws, c. 357, § 17.)

### **§ 4318 Tax exemption; payments in lieu of taxes.**

The property of an authority is declared to be public property used for essential public purposes, and such property and an authority shall be exempt from all taxes and assessments of the city, the county, the State or any political subdivision thereof. In lieu of such taxes an authority may agree to make annual payments to such city or county for improvements, services and facilities furnished by such city or county for the benefit of the housing project, in amounts not to exceed the regular taxes which would be levied on such projects by the aforesaid taxing bodies if the project were not exempt therefrom. Bonds and other obligations of an authority are declared to be issued for

an essential public and governmental purpose and to be public instrumentalities, and together with interest thereon and income therefrom, shall be exempt from taxes.

(Code 1935, § 5471A; 43 Del. Laws, c. 241, § 1; 31 Del. C. 1953, § 4319; 56 Del. Laws, c. 108, § 1.)

### **§ 4319 Exemption from execution sale.**

All real property of an authority shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the same nor shall judgment against an authority be a charge or lien upon its real property. This section shall not apply to or limit the right of bondholders or other obligees of an authority to pursue any remedies for the enforcement of any pledge or lien given to them on its rents, fees or revenues or any mortgage of or agreement to sell a project given as security for any bonds or other obligations of the authority.

(Code 1935, § 5471B; 43 Del. Laws, c. 241, § 1; 31 Del. C. 1953, § 4320.)

### **§ 4320 Form and sale of bonds.**

Bonds, notes and certificates of indebtedness of an authority may be issued in 1 or more series, may bear such date or dates, may mature at such time or times from their respective dates, may bear interest at such rate or rates not in excess of 4% over the discount rate charged by the Federal Reserve Board of Governors to its member banks, may be in such denomination or denominations, may be in such form, either coupon or registered, may carry such registration and conversion privileges, may be executed in such manner, may be payable in such medium of payment, at such place or places, may be subject to such terms of redemption, with or without a premium, may be declared or become due before the maturity date thereof, may provide for the replacement of mutilated, destroyed, stolen or lost bonds, may be authenticated in such manner and upon compliance with such conditions, may be payable from such income of the authority upon such terms, may be secured in such manner, may provide for such rights and remedies upon their default, and may contain such other covenants, terms and conditions (including, without being limited to the foregoing) as may be provided by resolution or resolutions of the authority or any trust indenture authorized thereby. Notwithstanding the former tenor thereof, and in the absence of an express recital on the face thereof that the bonds or notes are nonnegotiable, all bonds of an authority shall at all times be and shall be treated as negotiable instruments for all purposes. Such bonds, notes and certificates shall be sold at not less than par at public sale held after notice published once at least 5 days prior to such sale in a newspaper having a general circulation in the city or county and in a financial newspaper published in the City of Wilmington or in the City of New York, New York. Such bonds and other obligations may be sold to the federal government or any agency thereof at private sale at not less than par.

(Code 1935, § 5471C; 43 Del. Laws, c. 241, § 1; 31 Del. C. 1953, § 4321; 63 Del. Laws, c. 91, § 1.)

### **§ 4321 Authority to invest in bonds or other obligations of housing authorities.**

The State and all public officers, municipal corporations, political subdivisions, and public bodies, all banks, bankers, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all executors, administrators, guardians, trustees and other fiduciaries may legally invest any sinking funds, moneys or other funds belonging to them or within their control in any bonds or other obligations issued by a housing authority established pursuant to this chapter or issued by any public housing authority or agency in the United States, when such bonds or other obligations are secured by a pledge of annual contributions to be paid by the United States government, or any agency thereof, and such bonds and other obligations shall be authorized security for all public deposits and fully negotiable in this State. It is the purpose of this section to authorize any persons, firms corporations, associations, political subdivisions, bodies and officers, public or private, to use any funds owned or controlled by them, including (but not limited to) sinking, insurance, investment, retirement, compensation, pension and trust funds, and funds held on deposit, for the purchase of any such bonds or other obligations and that such bonds or other obligations shall be security for public deposits and negotiable in this State. Nothing contained in this section shall be construed as relieving any person, firm or corporation from any duty of exercising reasonable care in selecting securities.

(44 Del. Laws, c. 186, § 1; 31 Del. C. 1953, § 4322.)

### **§ 4322 Additional powers of Department.**

Repealed by 71 Del. Laws, c. 357, § 18, effective July 2, 1998.

### **§ 4323 Inspection of housing projects located within the City of Wilmington.**

(a) Every dwelling, apartment or other living accommodation owned or managed by the Wilmington Housing Authority and located within the City of Wilmington shall be subject to the comprehensive development plan, including the housing component thereof, and the planning, zoning, sanitary and building laws, ordinances and regulations of the City of Wilmington.

(b) No dwelling, apartment or other living accommodation owned or managed by the Wilmington Housing Authority and located within the City of Wilmington shall be given a Certificate of Occupancy after January 1, 2000, until such property has been determined to be in compliance with the applicable codes, ordinances and regulations of the City of Wilmington as determined by the Department of Licensing and Inspection.

(72 Del. Laws, c. 406, § 1.)

**Part III**  
**Housing and Slum Clearance**  
**Chapter 44**  
**CUSTODIANSHIP**

**§ 4400 Petition for custodianship.**

For any Delaware State Housing Authority financed housing development, as defined by § 4001(15) of this title, the Delaware State Housing Authority may petition for the establishment of a custodianship with the Court of Chancery upon the grounds that there has existed for 5 days or more after notice to the landlord and owner:

- (1) A lack of heat, lack of running water, lack of light, lack of electricity or lack of adequate sewage facilities and the rental agreement or any state or local statute, code, regulation or ordinance places a duty upon the landlord to so provide;
- (2) Unsound financial condition or conditions, such that operational needs are not being met, due to mismanagement and/or malfeasance or the transaction of business without proper authority in violation of Chapter 40 of this title, and/or the rules and regulations of the Delaware State Housing Authority; or
- (3) Any other condition or conditions imminently dangerous to the life, health or safety of the tenants.

(75 Del. Laws, c. 121, § 1.)

**§ 4401 Parties.**

(a) In a proceeding brought pursuant to § 4400 of this title, the Delaware State Housing Authority shall join as defendants:

- (1) The record owner or owners at the time of the filing of the petition and/or such owner's heirs, executors, administrators or successors as existing at the time petition is filed; and
- (2) Persons having an equitable or legal interest of record at the time the petition filed, including an interest to a judicial sale or a statutory sale pursuant to § 8771 et seq. of Title 9.

(b) Lien holders as persons whose real or equitable interests in the housing development may be adversely affected by a petition pursuant to this chapter shall not be deemed to be necessary parties and shall not be required to be joined as a defendants. Notice in writing, however, shall be given to the above classes of persons in the manner prescribed from time to time by the Rules of Civil Procedure of the Court of Chancery for the State.

(c) The Chancery Court may make all necessary rules respecting the form of process, the manner of issuance and return thereof, modes of proof and the manner of notice to persons having an interest in the housing development which relate to the custodian proceedings.

(75 Del. Laws, c. 121, § 1.)

**§ 4402 Defenses.**

It shall be a sufficient defense to this proceeding if any defendant of record establishes that:

- (1) The condition or conditions described in the petition do not exist at the time of the hearing;
- (2) The condition or conditions alleged in the petition have been caused by the negligent acts of 1 or more of the tenants or members of tenants' families, or by persons on the premises with his, her or their consent; or
- (3) Such condition or conditions would have been corrected, were it not for the refusal by tenant or tenants to allow reasonable access to the property in order for the landlord and/or the landlord's agent to take timely corrective action.

(75 Del. Laws, c. 121, § 1; 70 Del. Laws, c. 186, § 1.)

**§ 4403 Stay of judgment by defendant.**

(a) Upon filing with the Court of Chancery, the matter shall be expedited pursuant to the process established by the Chancery Court Rules of Civil Procedure. If, after the hearing, the Court determines that the petition should be granted, the Court shall immediately enter an order thereon and appoint a custodian as authorized herein; provided however, prior to the entry of an order and appointment of a custodian, the owner or any mortgagee or the lien or of record or other person having an interest in the property may apply to the Court to be permitted to remove or remedy the conditions specified in the petition. If such person demonstrates the ability to perform promptly the necessary work and posts security for the performance thereof within the time, and in the amount and manner, deemed necessary by the Court, then the Court may stay judgment and issue an order permitting such person to perform the work within a time fixed by the Court and requiring such person to report to the Court periodically on the progress of the work. The Court shall retain jurisdiction over the matter until the work is completed.

(b) If, after the issuance of an order under subsection (a) of this section, but before the time fixed in such order for the completion of the work prescribed therein, there is reason to believe that the work will not be completed pursuant to the Court's order or that the person permitted to do the same is not proceeding with due diligence, the Court or the petitioner, upon notice to all parties to the proceeding, may move that a hearing be held to determine whether judgment should be rendered immediately as provided in subsection (c) of this section.

(c)(1) If, upon a hearing authorized in subsection (b) of this section, the Court shall determine that such party is not proceeding with due diligence, or upon the actual failure of such person to complete the work in accordance with the provisions of the order, the Court shall appoint a custodian as authorized herein.

(2) Such order shall direct the custodian to apply the security posted to executing the powers and duties as described herein.

(3) In the event that the amount of such security should be insufficient to accomplish the above objectives, such order shall direct the custodian to collect the rents, profits and issues to the extent of the deficiency. In the event that the security should exceed the amount necessary to accomplish the above objectives, such order shall direct the custodian to return the excess to the person posting the security. (75 Del. Laws, c. 121, § 1.)

### **§ 4404 Custodianship procedures.**

(a) The Court shall appoint a custodian qualified to carry out the responsibilities of this chapter and such custodian may be the Delaware State Housing Authority, or its successor agency, by agreement of all parties of interest pursuant to subsection (b) of this section, or otherwise by order of the Court.

(b)(1) Upon its appointment, the custodian shall make within 15 days an independent finding and recommendation to the Court as to whether or not there is proper cause shown for the need for rent to be paid to it, and for the employment of a private contractor to correct the condition complained of in § 4400 of this title and found by the Court to exist.

(2) If the custodian makes such a finding and recommendation to the Court and the Court adopts the custodian's recommendation, the custodian shall file a copy of the Court's order with the recorder of deeds of the county where the property lies and it shall be a lien on that property where the violation complained of exists.

(3) Upon completion of the aforesaid contractual work and full payment to the contractor, the custodian shall file a certification of such with the Court and the recorder of deeds of the appropriate county, and this filing shall release the aforesaid lien.

(4) The custodian shall forthwith give notice to all lien-holders of record.

(5) If the custodian shall make a finding at such time or any other time that for any reason the appointment of the custodian may not be appropriate and/or is no longer necessary, it shall make application to the Court for discharge after notice to all interested parties and, if so ordered, shall make legal distribution of any funds in its possession, including the return of any security posted pursuant to this chapter.

(75 Del. Laws, c. 121, § 1.)

### **§ 4405 Powers and duties of custodian.**

The custodian shall have all the powers and duties accorded a custodian foreclosing a mortgage on real property, and all other powers and duties deemed necessary by the Court. Such powers and duties shall include, but are not necessarily limited to, collecting and using all rents and profits of the property, prior to and despite any assignment of rent, for the purposes of:

(1) Correcting the condition or conditions alleged in the petition;

(2) Materially complying with all applicable provisions of any federal, state, local statute, code, regulation or ordinance governing the maintenance, construction, use or appearance of the surrounding grounds;

(3) Paying all expenses reasonably necessary for the proper operation and management of the property including insurance, mortgage payments, taxes and assessments, and fees for the services of the custodian and any agent the custodian should hire;

(4) Paying the costs of the custodianship proceeding; and

(5) In accordance with the Delaware Landlord Tenant Code [Chapter 51 et seq. of Title 25], compensating the tenants for whatever deprivation of their rental agreement rights resulted from the condition or conditions alleged in the petition.

(75 Del. Laws, c. 121, § 1; 70 Del. Laws, c. 186, § 1.)

### **§ 4406 Discharge of custodian; costs.**

(a) In addition to those situations described in § 4404 of this title, the custodian may also be discharged when:

(1) The condition or conditions alleged in the petition have been remedied;

(2) The property materially complies with all applicable provisions of any state or local statute, code, regulation or ordinance governing the maintenance, construction, use or appearance of the surrounding grounds;

(3) The costs of the above work and any other costs as authorized herein have been paid or reimbursed from the rents and profits of the property; and

(4) The surplus money, if any, has been paid over to the owner.

(b) Upon paragraphs (a)(1) and (2) of this section being satisfied, the owner, mortgagee or any lien or may apply for the discharge of the custodian after paying to the custodian all moneys expended by the custodian and all other costs which have not been paid or reimbursed from the rents and profits of the property.

(c) If the Court determines that future profits of the property will not cover the cost of satisfying paragraphs (a)(1) and (2) of this section, the Court may discharge the custodian and order such action as would be appropriate in the situation, including but not limited to terminating the rental agreement; and may order the vacation of the development within a specified time.

(75 Del. Laws, c. 121, § 1.)



**Part III**  
**Housing and Slum Clearance**

**Chapter 45**

**SLUM CLEARANCE AND REDEVELOPMENT AUTHORITY LAW**

**§ 4501 Definitions.**

As used in this chapter, unless a different meaning is clearly indicated by the context:

(1) "Area of operation" means in the case of a municipality the area within such municipality and in the case of a county, the area within the county, except that the area of operation in such case shall not include any area which lies within the territorial boundaries of a municipality unless a resolution shall have been adopted by the governing body of such municipality declaring a need therefor; and in the case of a regional authority, shall mean the area within the communities for which such regional authority is created; provided, however, that a regional authority shall not undertake a redevelopment project within the territorial boundaries of any municipality or county unless a resolution shall have been adopted by the governing body of such municipality or county declaring that there is a need for the regional authority to undertake such redevelopment project within such municipality. No authority shall operate in any area of operation in which another authority already established is undertaking or carrying out a redevelopment project without the consent, by resolution, of such other authority.

(2) "Authority" or "slum clearance and redevelopment authority" means a public body, corporate and politic, created by or pursuant to § 4503 of this title or any housing authority or community exercising the powers, rights and duties of a slum clearance and redevelopment authority pursuant to § 4503 of this title.

(3) "Blighted area" means that portion of a municipality or community which is found and determined to be a social or economic liability to such municipality or community because of any of the following conditions:

a. The generality of buildings used as dwellings, or the dwelling accommodations therein, are substandard, unsafe, unsanitary, dilapidated or obsolescent, or possess any of such characteristics, or are so lacking in light, air or space, as to be conducive to unwholesome living;

b. The discontinuance of the use of any building previously used for commercial, manufacturing, residential or industrial purposes, the abandonment of a building, or allowing a building to fall into so great a state of disrepair as to render the building untenable and detrimental to the appraised market value of surrounding property;

c. Unimproved vacant land, which has remained so for a period of 10 years prior to the date of the public hearing as provided in § 4524 of this title, and which land by reason of its location, or remoteness from developed sections or portions of such municipality or community, or lack of means of access to such other parts thereof, topography, or nature of the soil is not likely to be developed through the instrumentality of private capital;

d. Areas (including slum areas) with buildings or improvements which by reason of dilapidation, obsolescence, deteriorated or deteriorating structures, overcrowding, faulty arrangement or design in relation to size, adequacy, accessibility or usefulness, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or obsolete layout, predominance or defective or inadequate street layout, or any combination of these or other factors are detrimental to the safety, health, morals, or welfare of the municipality or community;

e. A growing or total lack of proper utilization of areas caused by the condition of the title, diverse ownership of the real property therein, tax or special assessment delinquency exceeding the fair value of the land, or the existence of conditions which endanger life or property by fire or other causes and other conditions, resulting in a stagnant and unproductive condition of land potentially useful and valuable for contributing to and serving the public health, safety and welfare; and

f. Vacant or unimproved lot, parcel of ground or structure in a predominantly built-up-neighborhood, which by reason of neglect or lack of maintenance:

1. Has become a place for accumulation of trash and debris or a haven for rodents or other vermin;

2. Depreciates assessable and/or fair market value of the surrounding property, as certified by a licensed appraiser;

3. Is a public nuisance, as defined by common law or declaration in accordance with the local housing, building, plumbing, fire and related codes;

4. Is an attractive nuisance to children, as defined by common law;

5. Has had its utilities, plumbing, heating, sewerage or other facilities disconnected, destroyed, removed from the structure, or rendered ineffective so that the property is unfit for its intended use;

6. Requires a disproportionate expenditure of public funds for public health and safety, crime prevention, correction, and prosecution; and

7. Has contributed to a quantified disproportionate exodus of families and businesses from the surrounding neighborhood.

(4) "Bonds" mean any bonds (including refunding bonds), notes, interim certificates, debentures, or other obligations issued by an authority pursuant to this chapter.

(5) "Clerk" means the clerk or other official of the municipality or county who is the custodian of the official records of such municipality or county.

(6) "Community" means any municipality or county in this State.

(7) "Conservation" means the preservation of an area or section of a community, and the supervision and care of such area or section, to prevent the recurrence or spread of slum conditions or conditions of blight.

(8) "Federal government" includes the United States of America or any agency or instrumentality, corporate or otherwise, of the United States of America.

(9) "General neighborhood renewal plan" means a plan for an area of such size that it will encompass 2 or more projects that will entail renewal activities which may have to be spread over a period of up to 10 years, and for which programming of the entire area is desirable in advance of the planning and carrying out of specified projects.

(10) "Governing body" means the city council, town council, commissioners or other legislative body charged with governing the municipality or Levy Court commissioners or other legislative body charged with governing the county.

(11) "Housing authority" means any public body created by or pursuant to Chapter 43 of this title.

(12) "Mayor" means the mayor of a municipality or the officer or body having the duties customarily imposed upon the executive head of a municipality.

(13) "Municipality" means any incorporated city or town in this State.

(14) "Obligee" includes any bondholder, agents or trustees for any bondholders, or lessor demising to the authority property used in connection with a redevelopment project, or any assignee or assignees of such lessor's interest or any part thereof, and the federal government when it is a party to any contract with the authority.

(15) "Public body" means the State or any municipality, county, township, board, commission, authority, district or any other subdivision or public body of this State.

(16) "Real property" includes all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto or used in connection therewith, and every estate, interest and right, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage or otherwise and the indebtedness secured by such liens.

(17) "Redeveloper" means any person, partnership, or public or private corporation or agency which enters or proposes to enter into a redevelopment contract.

(18) "Redevelopment contract" means a contract entered into between an authority and a redeveloper for the redevelopment of an area in conformity with a redevelopment plan.

(19) "Redevelopment plan" means a plan other than a preliminary or tentative plan for the acquisition, clearance, reconstruction, rehabilitation or future use of a redevelopment project area.

(20) "Redevelopment project" means any work or undertaking to:

a. Acquire slum areas or blighted areas or portions thereof, including lands, structures or improvements the acquisition of which is necessary or incidental to the proper clearance, development or redevelopment of such slum or blighted areas or to the prevention of the spread or recurrence of slum conditions or conditions of blight;

b. Clear any such areas by demolition or removal of existing buildings, structures, streets, utilities or other improvements thereon and to install, construct or reconstruct streets, utilities and site improvements essential to the preparation of sites for uses in accordance with a redevelopment plan;

c. Sell, lease or otherwise make available land in such areas for residential, recreational, commercial, industrial or other use or for public use or to retain such land for public use, in accordance with a redevelopment plan;

and such term may also include the preparation of a redevelopment plan, the planning, survey and other work incident to a redevelopment project and the preparation of all plans and arrangements for carrying out a redevelopment project.

(21) "Rehabilitation" means the reconstruction, alteration or repair of improvements, structures and buildings in accordance with the requirements of the municipality or community in its codes, laws or regulations pertaining to building, fire prevention, health, housing, and zoning, and also the use of land, and the use and occupancy of buildings and improvements.

(22) "Related activities" means:

a. Planning work for the preparation of a general neighborhood renewal plan, or for the preparation or completion of a communitywide plan or program pursuant to § 4520 of this title, as amended, and

b. The functions related to the acquisition and disposal of real property pursuant to paragraph (11) of § 4516 of this title, as amended.

(23) "Slum area" means an area in which there is a predominance of buildings or improvements (or which is predominantly residential in character), and which, by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation, or open spaces, high density of population and overcrowding, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency and crime, and is detrimental to the public health, safety, morals or welfare.

(24) "Urban renewal area" means a slum area or a blighted area or any combination thereof which the local governing body designates as appropriate for an urban renewal project.

(25) "Urban renewal plan" means a plan, as it exists from time to time, for an urban renewal project, which plan:

- a. Shall conform to the general plan for the municipality or community as a whole; and
- b. Shall be sufficiently complete to indicate such land acquisition, demolition and removal of structures, redevelopment, improvements, rehabilitation and conservation as may be proposed to be carried out in the urban renewal area, zoning and planning changes, if any, land uses, maximum densities and building requirements.

The term "urban renewal plan" shall be also construed as including and meaning redevelopment plan wherever the context of this chapter requires.

(26)a. "Urban renewal project" means undertakings and activities of a municipality or community, in an urban renewal area, for the elimination and for the prevention of the development or spread of slums and blight, and may involve slum clearance and redevelopment in an urban renewal area, or rehabilitation in an urban renewal area, or any combination or part thereof in accordance with an urban renewal plan. Such undertakings and activities may include:

1. Acquisition of a slum area or a blighted area or portion thereof;
2. Clearance of any such areas by demolition or removal of existing buildings, structures, streets, utilities, parks, playgrounds or other improvements thereon;
3. Installation, construction or reconstruction of streets, utilities, parks, playgrounds and other improvements necessary for carrying out in the urban renewal area the urban renewal objectives of this chapter in accordance with the urban renewal plan;
4. Disposition of any property acquired in the urban renewal area (including sale, initial leasing or retention by the municipality or community itself) at its fair value for uses in accordance with the urban renewal plan;
5. Carrying out plans for a program of voluntary or compulsory repair, rehabilitation and conservation of buildings or other improvements in accordance with the urban renewal plan;
6. Acquisition of real property in the urban renewal area which, under the urban renewal plan, is to be repaired or rehabilitated for dwelling use or related facilities, repair or rehabilitation of the structures and resale of the property;
7. Acquisition of any other real property in the urban renewal area where necessary to eliminate unhealthful, insanitary or unsafe conditions, lessen density, eliminate obsolete or other uses detrimental to the public welfare, or otherwise to remove or prevent the spread of blight or deterioration, or to provide land for needed public facilities; and
8. Acquisition of slum areas or blighted areas or portions thereof including lands, structures, or improvements, the acquisition of which is necessary or incidental to the proper clearance, development or redevelopment or to the conservation or rehabilitation of such slum or blighted area or to the prevention of the spread or recurrence of slum conditions or conditions of blight.

b. "Urban renewal project" shall also be construed as including and meaning redevelopment project wherever the context of this chapter requires.

(48 Del. Laws, c. 345, § 3; 31 Del. C. 1953, § 4501; 55 Del. Laws, c. 292, §§ 1-4; 56 Del. Laws, c. 293, § 12; 74 Del. Laws, c. 395, §§ 1, 2.)

### **§ 4502 Declaration of necessity.**

It is found and declared that there exist in localities throughout the State slum and blighted areas (as defined in § 4501 of this title) which constitute a serious and growing menace, injurious and inimical to the public health, safety, morals and welfare of the residents of the State; that the existence of such areas contributes substantially and increasingly to the spread of disease and crime, necessitating excessive and disproportionate expenditures of public funds for the preservation of the public health and safety, for crime prevention, correction, prosecution, punishment and the treatment of juvenile delinquency and for the maintenance of adequate police, fire and accident protection and other public services and facilities, constitutes an economic and social liability, substantially impairs or arrests the sound growth of communities and retards the provision of housing accommodations; that this menace is beyond remedy and control solely by regulatory process in the exercise of the police power and cannot be dealt with effectively by the ordinary operations of private enterprise without the aids provided in this chapter; that the elimination of slum conditions or conditions of blight, the acquisition and preparation of land in or necessary to the development of slum or blighted areas and its sale or lease for development or redevelopment in accordance with general plans and redevelopment plans of communities and any assistance which may be given by any state public body in connection therewith are public uses and purposes for which public money may be expended and private property acquired; and that the necessity in the public interest for the provisions enacted in this chapter is declared as a matter of legislative determination.

It is found and declared that:

- (1) There exists in communities of this State blighted and deteriorated areas which constitute a serious and growing menace, injurious to the public health, safety, morals and welfare of the residents of the State, and the findings and declarations made in this section prior to December 27, 1965, are affirmed and restated,
- (2) Certain blighted, deteriorated, or deteriorating areas, or portions thereof, may require acquisition and clearance, as provided in this chapter, since the prevailing condition of decay may make impracticable the reclamation of the area by conservation or

rehabilitation, but other areas or portions thereof may, through the means provided in this chapter, be susceptible of conservation or rehabilitation in such a manner that the conditions and evils enumerated in this section may be eliminated, remedied or prevented, and to the extent feasible, salvable blighted, deteriorated, or deteriorating areas should be conserved and rehabilitated through voluntary action and the regulatory process, and

(3) All powers conferred by this chapter, as amended, are for public uses and purposes for which public money may be expended and such other powers exercised, and the necessity in the public interest for the provisions of this chapter is declared as a matter of legislative determination.

A municipality or community to the greatest extent it determines to be feasible in carrying out the provisions of this chapter shall afford maximum opportunity, consistent with the sound needs of the municipality or community as a whole, to the conservation or rehabilitation or redevelopment of areas by private enterprise.

(48 Del. Laws, c. 345, § 2; 31 Del. C. 1953, § 4502; 55 Del. Laws, c. 292, § 7.)

### **§ 4503 Creation of slum clearance and redevelopment authority.**

There is created in each community (as defined in § 4501 of this title) a public body corporate and politic, to be known as the "slum clearance and redevelopment authority" of the community. Such authority shall not transact any business or exercise its powers under this chapter until or unless the governing body shall approve (by resolution, as provided in this chapter) the exercise in such community of the powers, functions and duties of an authority under this chapter. If it deems such action to be in the public interest, the governing body may, instead of such resolution, adopt a resolution approving the exercise of such powers, functions and duties by the community itself or by a housing authority, and in such event, the community or housing authority, as the case may be, shall be vested with all the powers, functions, rights, duties and privileges of a slum clearance and redevelopment authority under this chapter.

(48 Del. Laws, c. 345, § 4; 31 Del. C. 1953, § 4503.)

### **§ 4504 Resolutions.**

The governing body of a community shall not adopt a resolution pursuant to § 4503 of this title unless it finds that:

- (1) One or more slum or blighted areas (as defined in § 4501 of this title) exist in such community; and
- (2) The redevelopment of such area or areas is necessary in the interest of the public health, safety, morals or welfare of the residents of such community.

(48 Del. Laws, c. 345, § 4; 31 Del. C. 1953, § 4504.)

### **§ 4505 Regional slum clearance and redevelopment authority.**

If the governing body of each of 2 or more communities declares, by resolution, that there is a need for 1 slum clearance and redevelopment authority to be created for all of such communities, and has made the findings required by § 4504 of this title, a public body, corporate and politic, to be known as a regional slum clearance and redevelopment authority (herein referred to as regional authority or authority) shall thereupon exist for all of such communities and may exercise the powers and other functions of an authority under this chapter in such communities.

(48 Del. Laws, c. 345, § 4; 31 Del. C. 1953, § 4505.)

### **§ 4506 Area of operation of regional authority.**

The area of operation of a regional authority shall be increased from time to time to include 1 or more additional communities if the governing body of each of such additional communities adopts the resolution described in § 4505 of this title and makes the findings required by § 4504 of this title, and the commissioners of the regional authority consent to the inclusion within its area of operation of such additional communities.

(48 Del. Laws, c. 345, § 4; 31 Del. C. 1953, § 4506.)

### **§ 4507 Board of commissioners; number; tenure of office; vacancies.**

When the governing body of a municipality adopts a resolution as provided in this chapter, it shall promptly notify the mayor of such adoption. If the resolution adopted is one approving the exercise of powers hereunder by a slum clearance and redevelopment authority, the mayor, by and with the advice and consent of the governing body, shall appoint a board of commissioners of the authority created for such municipality which shall consist of 5 commissioners, and when the governing body of a county adopts such a resolution, the body shall appoint a board of commissioners of the authority created for such county which shall consist of 5 commissioners. The commissioners who are first appointed pursuant to this chapter shall be designated to serve for terms of 1, 2, 3, 4 and 5 years, respectively, from the date of their appointment, but thereafter commissioners shall be appointed as aforesaid for a term of office of 5 years, except that all vacancies shall be filled for the unexpired term.

(48 Del. Laws, c. 345, § 4; 31 Del. C. 1953, § 4507.)

### **§ 4508 Appointment of commissioners for each additional community; tenure.**

If a regional authority is created as provided in this chapter, 1 person shall be appointed as a commissioner of such authority for each community for which such authority is created. When the area of operation of a regional authority is increased to include an additional

community or communities as provided in this chapter, 1 additional person shall be appointed as a commissioner of such authority for each such additional community. Each such commissioner appointed for a municipality shall be appointed by the mayor thereof, by and with the advice and consent of the governing body, and each such commissioner appointed for a county shall be appointed by the governing body thereof. The first appointment of commissioners of a regional authority may be made at or after the time of the adoption of the resolution declaring the need for such authority or declaring the need for the inclusion of such community in the area of operation of such authority. The commissioners of a regional authority and their successors shall be appointed as aforesaid for terms of 5 years except that all vacancies shall be filled for the unexpired terms.

(48 Del. Laws, c. 345, § 4; 31 Del. C. 1953, § 4508.)

### **§ 4509 Odd and even number of communities; tenure; certificate of appointment as evidence.**

If the area of operation of a regional authority consists at any time of an even number of communities, the commissioners of the regional authority already appointed in the manner described in this chapter shall appoint 1 additional commissioner whose term of office shall be as provided for a commissioner of a regional authority, except that such term shall end at any earlier time that the area of operation of the regional authority shall be changed to consist of an odd number of communities. The commissioners of such authority already appointed in the manner described in this chapter shall likewise appoint each person to succeed such additional commissioner. The term of office of such person begins during the terms of office of the commissioners appointing such person. A certificate of the appointment of any such additional commissioner of such regional authority shall be filed with the other records of the regional authority and shall be conclusive evidence of the due and proper appointment of such additional commissioner.

(48 Del. Laws, c. 345, § 4; 31 Del. C. 1953, § 4509; 70 Del. Laws, c. 186, § 1.)

### **§ 4510 Compensation; traveling expenses; certificate of appointment filed with municipal or county clerk; evidence.**

A commissioner of an authority shall receive no compensation for services, but shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of the commissioner's duties. Each commissioner shall hold office until a successor has been appointed and has qualified. A certificate of the appointment or reappointment of any commissioner shall be filed with the municipal or county clerk, as the case may be, and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner.

(48 Del. Laws, c. 345, § 4; 31 Del. C. 1953, § 4510; 70 Del. Laws, c. 186, § 1.)

### **§ 4511 Power of authority; quorum; meetings; qualifications for appointment as commissioner.**

The powers under this chapter vested in each slum clearance and redevelopment authority shall be exercised by the board of commissioners thereof. A majority of the commissioners shall constitute a quorum of such board for the purpose of conducting business and exercising the powers of the authority and for all other purposes. Action may be taken by the board upon a vote of a majority of the commissioners present, unless in any case the bylaws of the authority shall require a larger number. Meetings of the board of an authority may be held anywhere within the perimeter boundaries of the area of operation of the authority. Any persons may be appointed as commissioners of the authority if they reside within such area and are otherwise eligible for such appointments under this chapter.

(48 Del. Laws, c. 345, § 4; 31 Del. C. 1953, § 4511.)

### **§ 4512 Officers; employees; duties and compensation; legal services.**

The commissioners of an authority shall elect a chairperson and vice-chairperson from among the commissioners. An authority may employ an executive director, technical experts and such other officers, agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties and compensation. For such legal services as it may require, an authority may, with the approval of the governing body, call upon the chief law officer of the communities within its area of operation or it may employ its own counsel and legal staff. An authority may delegate to 1 or more of its agents or employees such powers or duties as it may deem proper.

(48 Del. Laws, c. 345, § 4; 31 Del. C. 1953, § 4512; 70 Del. Laws, c. 186, § 1.)

### **§ 4513 Removal; hearing; filing of proceedings in office of municipal or county clerk's office.**

For inefficiency or neglect of duty or misconduct in office, a commissioner of an authority may be removed by the official or public body which appointed such commissioner, but a commissioner shall be removed only after a hearing and after the commissioner shall have been given a copy of the charges at least 10 days prior to such hearing and have had an opportunity to be heard in person or by counsel. In the event of the removal of any commissioner, a record of the proceedings, together with the charges and findings thereon, shall be filed in the office of the municipal or county clerk, as the case may be.

(48 Del. Laws, c. 345, § 4; 31 Del. C. 1953, § 4513; 70 Del. Laws, c. 186, § 1.)

### **§ 4514 Actions or proceedings; proof of adoption of resolutions as evidence.**

In any suit, action or proceeding involving the validity or enforcement of or relating to any contract of or bonds issued by an authority, the authority shall be conclusively deemed to have become established and authorized to transact business and exercise its powers under this chapter upon proof of the adoption of the appropriate resolution prescribed in § 4503 or § 4505 of this title. Each such resolution shall be deemed sufficient if it authorizes the exercise of powers under this chapter by the authority or other public body and finds in

substantially the terms provided in § 4504 of this title (no further detail being necessary) that the conditions therein enumerated exist. A copy of such resolution duly certified by the municipal or county clerk, as the case may be, shall be admissible in evidence in any suit, action or proceeding.

(48 Del. Laws, c. 345, § 4; 31 Del. C. 1953, § 4514.)

### § 4515 Interest in contracts; disclosure of interest; violations.

No commissioner or employee of an authority shall voluntarily acquire any interest, direct or indirect, in any redevelopment project or in any property included or planned by the authority to be included in any such project, or in any contract or proposed contract in connection with any such project. Where the acquisition is not voluntary, such commissioner or employee shall immediately disclose such interest in writing to the authority and such disclosure shall be entered upon the minutes of the authority. If any commissioner or employee of an authority presently owns or controls or owned or controlled within the preceding 2 years an interest, direct or indirect, in any property included or planned by the authority to be included in any redevelopment project, the commissioner or employee immediately shall disclose such interest in writing to the authority and such disclosure shall be entered upon the minutes of the authority. Upon such disclosure such commissioner or employee shall not participate in any action by the authority affecting such property. Any violation of this section shall constitute misconduct in office.

(48 Del. Laws, c. 345, § 4; 31 Del. C. 1953, § 4515; 70 Del. Laws, c. 186, § 1.)

### § 4516 Powers of an authority.

An authority shall constitute a public body corporate and politic, exercising public and essential governmental functions, and having all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including the following powers in addition to others granted in this chapter:

(1) To sue and to be sued; to have a seal and to alter the same at pleasure; to have perpetual succession; to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the authority; and to make and from time to time amend and repeal bylaws, rules and regulations, not inconsistent with this chapter, to carry out the provisions of this chapter;

(2) To prepare or cause to be prepared and recommend redevelopment plans to the governing body of the community or communities within its area of operation and to undertake and carry out redevelopment projects within its area of operation;

(3) To arrange or contract for the furnishing or repair, by any person or agency, public or private, of services, privileges, works, streets, roads, public utilities or other facilities for or in connection with a redevelopment project; and (notwithstanding anything to the contrary contained in this chapter or any other provision of law), to agree to any conditions that it may deem reasonable and appropriate attached to federal financial assistance and imposed pursuant to federal law relating to the determination of prevailing salaries or wages or compliance with labor standards, in the undertaking or carrying out of a redevelopment project, and to include in any contract let in connection with such a project, provisions to fulfill such of said conditions as it may deem reasonable and appropriate;

(4) Within its area of operation, to purchase, lease, obtain options upon, acquire by gift, grant, bequest, devise, eminent domain or otherwise, any real or personal property or any interest therein, together with any improvements thereon, necessary or incidental to a redevelopment project; to hold, improve, clear or prepare for redevelopment any such property; to sell, lease, exchange, transfer, assign, subdivide, retain for its own use, mortgage, pledge, hypothecate or otherwise encumber or dispose of any real or personal property or any interest therein; to enter into contracts with redevelopers of property containing covenants, restrictions and conditions regarding the use of such property for residential, commercial, industrial, recreational purposes or for public purposes in accordance with the redevelopment plan and such other covenants, restrictions and conditions as the authority may deem necessary to a recurrence of slum or blighted areas or to effectuate the purposes of this chapter; to make any of the covenants, restrictions or conditions of the foregoing contracts covenants running with the land, and to provide appropriate remedies for any breach of any such covenants or conditions, including the right in the authority to terminate such contracts and any interest in the property created pursuant thereto; to borrow money and issue bonds and provide security for loans or bonds; to insure or provide for the insurance of any real or personal property or operation of the authority against any risks or hazards, including the power to pay premiums on any such insurance; and to enter into any contracts necessary to effectuate the purposes of this chapter. No statutory provision with respect to the acquisition, clearance or disposition of property by other public bodies shall restrict an authority or other public body exercising powers hereunder, in such functions, unless the General Assembly shall specifically so state;

(5) Within its area of operation, to enter into any building or property in any urban renewal area in order to make inspections, surveys, appraisals, soundings or test borings, and to obtain an order for this purpose from a court of competent jurisdiction in the event entry is denied or resisted;

(6) To invest any funds held in reserves or sinking funds or any funds not required for immediate disbursement, in property or securities in which savings banks may legally invest funds subject to their control; to redeem its bonds at the redemption price established therein or to purchase its bonds at less than redemption price, all bonds so redeemed or purchased to be cancelled;

(7) To borrow money and to apply for and accept advances, loans, grants, contributions and any other form of financial assistance from the federal government, the State, county, municipality or other public body or from any sources, public or private, for the purposes of this chapter, to give such security as may be required and to enter into and carry out contracts in connection therewith; an authority,

notwithstanding the provisions of any other law, may include in any contract for financial assistance with the federal government for a redevelopment project such conditions imposed pursuant to federal law as the authority may deem reasonable and appropriate and which are not inconsistent with the purposes of this chapter;

(8) Acting through 1 or more commissioners or other persons designated by the authority, to conduct examinations and investigations and to hear testimony and take proof under oath at public or private hearings on any matter material for its information; to administer oaths, and to issue commissions for the examination of witnesses who are outside of the State or unable to attend before the authority, or excused from attendance; to make available to appropriate agencies or public officials (including those charged with the duty of abating or requiring the correction of nuisances or like conditions or of demolishing unsafe or insanitary structures or eliminating slums or conditions of blight within its area of operation) its findings and recommendations with regard to any building or property where conditions exist which are dangerous to the public health, safety, morals or welfare;

(9) Within its area of operation, to make or have made all surveys, appraisals, studies and plans (but not including the preparation of a general plan for the community) necessary to the carrying out of the purposes of this chapter and to contract or cooperate with any and all persons or agencies, public or private, in the making and carrying out of such surveys, appraisals, studies and plans;

(10) To prepare plans and provide reasonable assistance for the relocation of families displaced from a redevelopment project area to permit the carrying out of the redevelopment project, to the extent essential for acquiring possession of and clearing such area or parts thereof;

(11) With the approval of the local government body:

a. Prior to approval of an urban renewal plan, or by approval of any modification of the plan, to acquire real property in an urban renewal area, demolish and remove any structures on the property, and pay all costs related to the acquisition, demolition, or removal, including any administrative or relocation expenses; and

b. To assume the responsibility to bear any loss that may arise as the result of the exercise of authority under this paragraph in the event that the real property is not made part of the urban renewal project;

(12) Within its area of operation, to make or have made all surveys and plans necessary to the carrying out of the purposes of this chapter, as amended, and to contract with any person, public or private, in making and carrying out such plans and to adopt or approve, modify and amend such plans, which plans may include, but are not limited to:

a. Plans for carrying out a program of voluntary or compulsory repair and rehabilitation of buildings and improvements,

b. Plans for the enforcement of state and local laws, codes and regulations relating to the use of land and the use and occupancy of buildings and improvements and to the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements, and

c. Appraisals, title searches, surveys, studies and other plans and work necessary to prepare for the undertaking of urban renewal projects and related activities; and to develop, test and report methods and techniques, and carry out demonstrations and activities for the prevention and the elimination of slums and urban blight, and to apply for, accept and utilize grants of funds from the federal government for such purposes;

(13) To engage in rehabilitation and conservation activities as defined in § 4501 of this title, as amended;

(14) To make such expenditures as may be necessary to carry out the purposes of this chapter; and to make expenditures from funds obtained from the federal government without regard to any other laws pertaining to the making and approval of appropriations and expenditures;

(15) To exercise all or any part or combination of powers herein granted.

(48 Del. Laws, c. 345, § 5; 31 Del. C. 1953, § 4516; 55 Del. Laws, c. 292, § 6.)

### **§ 4517 Approval of redevelopment plans.**

An authority shall not acquire real property for a redevelopment project unless the governing body of the community in which the redevelopment project area is located has approved the redevelopment plan, as prescribed in § 4525 of this title.

(48 Del. Laws, c. 345, § 6; 31 Del. C. 1953, § 4517.)

### **§ 4518 Finding of necessity by local governing body.**

An authority shall not exercise the authority conferred upon municipalities or communities by this chapter until after the local governing body shall have adopted a resolution finding that:

(1) One or more slum or blighted areas shall exist in such municipality or community; and

(2) The rehabilitation, conservation, redevelopment or a combination thereof, of such area or areas is necessary in the interest of the public health, safety, morals or welfare of the residents of such municipality or community.

(48 Del. Laws, c. 345, § 6; 31 Del. C. 1953, § 4518; 55 Del. Laws, c. 292, § 5.)

### **§ 4519 General plan prior to recommendation of redevelopment plan.**

An authority shall not recommend a redevelopment plan to the governing body of the community in which the redevelopment project area is located until a general plan for the development of the community has been prepared.

(48 Del. Laws, c. 345, § 6; 31 Del. C. 1953, § 4519.)

### **§ 4520 Preparation of redevelopment plan; contents.**

(a) The authority may itself prepare or cause to be prepared a redevelopment plan or any person or agency, public or private, may submit such a plan to an authority. A redevelopment plan shall be sufficiently complete to indicate its relationship to definite local objectives as to appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities and other public improvements and the proposed land uses and building requirements in the redevelopment project area and shall include without being limited to:

- (1) The boundaries of the redevelopment project area, with a map showing the existing uses and condition of the real property therein;
- (2) A land use plan showing proposed uses of the area;
- (3) Information showing the standards of population densities, land coverage and building intensities in the area after redevelopment;
- (4) A statement of the proposed changes, if any, in zoning ordinances or maps, street layouts, street levels or grades, building codes and ordinances;
- (5) A site plan of the area; and
- (6) A statement as to the kind and number of additional public facilities or utilities which will be required to support the new land uses in the area after redevelopment.

(b) The authority, or any public body authorized to perform planning work, may prepare a general neighborhood renewal plan for urban renewal areas which may be of such scope that urban renewal activities may have to be carried out in stages over an estimated period of up to 10 years. Such plan may include, but is not limited to, a preliminary plan which (1) outlines the urban renewal activities proposed for the area involved, (2) provides a framework for the preparation of urban renewal plans, and (3) indicates generally the land uses, population density, building coverage, prospective requirements for rehabilitation and improvement of property and portions of the area contemplated for clearance and redevelopment. A general neighborhood renewal plan shall, in the determination of the local governing body, conform to the general plan of the locality as a whole and to the workable program of the municipality.

(c) The authority, or any public body authorized to perform planning work, may prepare or complete a communitywide plan or program for urban renewal which shall conform to the general plan for the development of the municipality or community as a whole and may include, but shall not be limited to, identification of slum or blighted areas, measurement of blight, determination of resources needed and available to renew such areas, identification of potential project areas and types of action contemplated and scheduling of urban renewal activities.

(48 Del. Laws, c. 345, § 6; 31 Del. C. 1953, § 4520; 55 Del. Laws, c. 292, § 9.)

### **§ 4521 Submission of plan for review and recommendations.**

Prior to recommending a redevelopment plan to the governing body for approval, an authority shall submit such plan to the planning commission of the community in which the redevelopment project area is located for review and recommendations as to its conformity with the general plan for the development of the community as a whole. The planning commission shall submit its written recommendations with respect to the proposed redevelopment plan to the authority within 30 days after receipt of the plan for review. Upon receipt of the recommendations of the planning commission or, if no recommendations are received within the 30 days, then without such recommendations, an authority may recommend the redevelopment plan to the governing body of the community for approval.

(48 Del. Laws, c. 345, § 6; 31 Del. C. 1953, § 4521.)

### **§ 4522 Considerations prior to recommendation of plan.**

Prior to recommending a redevelopment plan to the governing body for approval, an authority shall consider whether the proposed land uses and building requirements in the redevelopment project area are designed with the general purpose of accomplishing, in conformance with the general plan, a coordinated, adjusted and harmonious development of the community and its environs which will, in accordance with present and future needs, promote health, safety, morals, order, convenience, prosperity and the general welfare, as well as efficiency and economy in the process of development, including, among other things, adequate provision for traffic, vehicular parking, the promotion of safety from fire, panic and other dangers, adequate provision for light and air, the promotion of the healthful and convenient distribution of population, the provision of adequate transportation, water, sewerage and other public utilities, schools, parks, recreational and community facilities and other public requirements, the promotion of sound design and arrangement, the wise and efficient expenditure of public funds, the prevention of the recurrence of insanitary or unsafe dwelling accommodations, slums, or conditions of blight and the provision of adequate, safe and sanitary dwelling accommodations.

(48 Del. Laws, c. 345, § 6; 31 Del. C. 1953, § 4522.)

### **§ 4523 Statement of proposed costs; revenue, finances and relocation of displaced families.**

The recommendation of a redevelopment plan by an authority to the governing body shall be accompanied by the recommendations, if any, of the planning commission concerning the redevelopment plan, a statement of the proposed method and estimated cost of the acquisition and preparation for redevelopment of the redevelopment project area and the estimated proceeds or revenues from its disposal to redevelopers, a statement of the proposed method of financing the redevelopment project and a statement of a feasible method proposed for the relocation of families to be displaced from the redevelopment project area.

(48 Del. Laws, c. 345, § 6; 31 Del. C. 1953, § 4523.)



### **§ 4524 Public hearing; notice; publication.**

The governing body of the community shall hold a public hearing on any redevelopment plan or substantial modification thereof recommended by the authority, after reasonable public notice thereof by publication at least once a week for 2 consecutive weeks in a newspaper of general circulation in the community, the time of the hearing to be at least 10 days from the last publication. The notice shall describe the time, date, place and purpose of the hearing and shall also generally identify the area to be redeveloped under the plan. All interested parties shall be afforded at such public hearing a reasonable opportunity to express their views respecting the proposed redevelopment plan.

(48 Del. Laws, c. 345, § 6; 31 Del. C. 1953, § 4524.)

### **§ 4525 Approval of plan; required findings.**

(a) Following the hearing required by § 4524 of this title, the local governing body may approve an urban renewal project and the plan therefor if it finds that:

(1) A feasible method exists for the location of families who will be displaced from the urban renewal area, in decent, safe and sanitary dwelling accommodations within their means and without undue hardship to such families;

(2) The urban renewal plan conforms to the general plan of the municipality or community as a whole;

(3) The urban renewal plan gives due consideration to the provision of adequate park and recreational areas and facilities that may be desirable for neighborhood improvement, with special consideration for the health, safety and welfare of children residing in the general vicinity of the site covered by the plan; and

(4) The urban renewal plan will afford maximum opportunity, consistent with the sound needs of the municipality or community as a whole, for the rehabilitation or redevelopment of the urban renewal area by private enterprise.

(b) If the urban renewal area consists of an area of open land to be acquired by the municipality or community, such area shall not be so acquired unless:

(1) If it is to be developed for residential uses, the local governing body shall determine that a shortage of housing of sound standards and design which is decent, safe and sanitary exists in the municipality or community, that the need for housing accommodations has been or will be increased as a result of the clearance of slums in other areas, that the conditions of blight in the area and the shortage of decent, safe and sanitary housing cause or contribute to an increase in and spread of disease and crime, and constitute a menace to the public health, safety, morals, or welfare, and that the acquisition of the area for residential uses is an integral part of and essential to the program of the municipality or community; or

(2) If the area is to be developed for nonresidential uses, the local governing body shall determine that such nonresidential uses are necessary and appropriate to facilitate the proper growth and development of the community in accordance with sound planning standards and local community objectives, which acquisition may require the exercise of governmental action as provided in this chapter, because of defective or unusual conditions of title, diversity of ownership, tax delinquency, improper subdivisions, outmoded street patterns, deterioration of site, economic disuse, unsuitable topography or faulty lot layouts, the need for the correlation of the area with other areas of a municipality or community, by streets and modern traffic requirements, or any combination of such factors or other conditions which retard development of the area.

(48 Del. Laws, c. 345, § 6; 31 Del. C. 1953, § 4525; 55 Del. Laws, c. 292, § 8.)

### **§ 4526 Modification of plan; notice; objections.**

An urban renewal plan which has not been approved by the governing body when recommended by the authority may again be recommended to it with any modifications deemed advisable. A redevelopment plan may be modified at any time by the authority; provided, that, if modified after the lease or sale of real property in the urban renewal project area, the modification must be consented to by the redeveloper or redevelopers, or his or her successor or their successors who acquired 75% of the land in the project area and whose interest may be affected by the proposed modification.

The notice of the proposed modification shall be sent by certified mail to the last known address of the redeveloper or redevelopers of the real property, or his or her successor or successors, who shall have 30 days from the date of the notice to state objections to the modification. These objections will be submitted to the governing body at the time of the hearing. If no objections are made within the 30 days from the date of the notice, then the authority may recommend the plan and state to the governing body that there were no objections.

(48 Del. Laws, c. 345, § 6; 31 Del. C. 1953, § 4526; 57 Del. Laws, c. 565, § 1; 70 Del. Laws, c. 186, § 1.)

### **§ 4527 Disposal of property in redevelopment project.**

(a) An authority may sell, lease, exchange or otherwise transfer real property or any interest therein in a redevelopment project area to any redeveloper for residential, recreational, commercial, industrial or other uses or for public use in accordance with the redevelopment plan, subject to such covenants, conditions and restrictions as it may deem to be in the public interest or to carry out the purposes of this chapter. Such sale, lease, exchange or other transfer, and any agreement relating thereto, may be made only after, or subject to, the approval of the redevelopment plan by the governing body of the community. Such real property shall be sold, leased or transferred at its fair value for uses in accordance with the redevelopment plan, notwithstanding such value may be less than the cost of acquiring and

preparing such property for redevelopment. In determining the fair value of real property for uses in accordance with the redevelopment plan, an authority shall take into account and give consideration to the uses and purposes required by such plan, the restrictions upon, and the covenants, conditions and obligations assumed by the redeveloper of, such property, the objectives of the redevelopment plan for the prevention of the recurrence of slum or blighted areas and such other matters as the authority shall specify as being appropriate. In fixing rentals and selling prices, an authority shall give consideration to appraisals of the property for such uses made by land experts employed by the authority.

(b) An authority shall, by public notice by publication once each week for 2 consecutive weeks in a newspaper having a general circulation in the community, prior to the consideration of any redevelopment contract proposal, invite proposals from, and make available all pertinent information to private redevelopers or any persons interested in undertaking the redevelopment of an area, or any part thereof, which the governing body has declared to be in need of redevelopment. Such notice shall identify the area and shall state that such further information as is available may be obtained at the office of the authority. The authority shall consider all redevelopment proposals and the financial and legal ability of the prospective redevelopers to carry out their proposals and may negotiate with any redevelopers for proposals for the purchase or lease of any real property in the redevelopment project area. The authority may accept such redevelopment contract proposal as it deems to be in the public interest and in furtherance of the purposes of this chapter; provided, that the authority has, not less than 30 days prior thereto, notified the governing body in writing of its intention to accept such redevelopment contract proposal. Thereafter, the authority may execute such redevelopment contract in accordance with the provisions of subsection (a) of this section and deliver deeds, leases and other instruments and take all steps necessary to effectuate such redevelopment contract. At its discretion, the authority may, without regard to the foregoing provisions of this paragraph, dispose of real property in a redevelopment project area to private redevelopers for redevelopment under such reasonable competitive bidding procedures as it shall prescribe, subject to the provisions of subsection (a) of this section. Further the authority may, at its discretion, dispose of real property in a redevelopment project area to public, quasi-public, charitable and religious corporations by negotiation without resorting to the provisions of this subsection.

(c) An authority may temporarily operate and maintain real property in a redevelopment project area pending the disposition of the property for redevelopment without regard to the provisions of subsections (a) and (b) of this section, for such uses and purposes as may be deemed desirable even though not in conformity with the redevelopment plan.

(48 Del. Laws, c. 345, § 7; 31 Del. C. 1953, § 4527; 57 Del. Laws, c. 564, § 1.)

### **§ 4528 Eminent domain.**

An authority may acquire by the exercise of the power of eminent domain any real property which it may deem necessary for a redevelopment project or for its purposes under this chapter after the adoption by it of a resolution declaring that the acquisition of the real property described therein is necessary for such purposes. An authority may exercise the power of eminent domain in the manner prescribed by Chapter 61 of Title 10. Property already devoted to a public use may be acquired in like manner. No real property belonging to the municipality, the county or the State may be acquired without its consent. When an authority has found and determined by resolution that certain real property described therein is necessary for a redevelopment project or for its purposes under this chapter, the resolution shall be conclusive evidence that the acquisition of such real property is necessary for the purposes described therein.

(48 Del. Laws, c. 345, § 8; 31 Del. C. 1953, § 4528.)

### **§ 4529 Acquisition and development of undeveloped vacant land.**

Upon a determination by resolution of the governing body of the community in which such land is located that the acquisition and development of undeveloped vacant land, not within a slum or blighted area, is essential to the proper clearance or redevelopment of slum or blighted areas or a necessary part of the general slum clearance program of the community, the acquisition, planning, preparation for development or disposal of such land shall constitute a redevelopment project which may be undertaken by the authority in the manner provided in this chapter. The determination by the governing body shall be in lieu of the declaration required by § 4518 of this title, but shall not be made until the governing body finds that there is a shortage of decent, safe and sanitary housing in the community, that such undeveloped vacant land will be developed for predominantly residential uses, and that the provision of dwelling accommodations on such undeveloped vacant land is necessary to accomplish the relocation, in decent, safe and sanitary housing in the community of families to be displaced from slum or blighted areas which are to be redeveloped. In the undertaking of redevelopment projects on a regional or unified metropolitan basis, involving the acquisition and development of undeveloped vacant land in 1 community as an adjunct to the redevelopment of slum or blighted areas in another community, each determination or finding required in this section shall be made by the governing body of the community with respect to which the determination or finding relates.

(48 Del. Laws, c. 345, § 9; 31 Del. C. 1953, § 4529.)

### **§ 4530 Issuance of bonds.**

(a) An authority may issue bonds from time to time at its discretion for any of its corporate purposes including the payment of principal and interest upon any advances for surveys and plans for redevelopment projects. An authority may also issue refunding bonds for the purpose of paying or retiring or in exchange for bonds previously issued by it. An authority may issue such types of bonds as it may determine, including (without limiting the generality of the foregoing) bonds on which the principal and interest are payable:

(1) Exclusively from the income, proceeds and revenues of the redevelopment project financed with the proceeds of such bonds; or

(2) Exclusively from the income, proceeds and revenues of any of its redevelopment projects whether or not they are financed in whole or in part with the proceeds of such bonds.

Any such bonds may be additionally secured by a pledge of any loan, grant or contributions, or parts thereof, from the federal government or other source, or a mortgage on any redevelopment project or projects of the authority.

(b) Neither the commissioners of an authority nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof. The bonds and other obligations of the authority (and such bonds and obligations shall so state on their face) shall not be a debt of the municipality, the county or the State, nor in any event shall such bonds or obligations be payable out of any funds or properties other than those of such authority acquired for the purposes of this chapter. The bonds shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction. Bonds of an authority are declared to be issued for an essential public and governmental purpose and to be public instrumentalities and, together with interest thereon and income therefrom, shall be exempt from all taxes.

(c) Bonds of an authority shall be authorized by its resolution and may be issued in 1 or more series and shall bear such date or dates, be payable upon demand or mature at such time or times, bear interest at such rate or rates, not exceeding 6% per annum, be in such denomination or denominations, be in such form either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places and be subject to such terms of redemption (with or without premium) as such resolution, its trust indenture or mortgage may provide.

(d) The bonds shall be sold at not less than par at public sale held after notice published once at least 10 days prior to such sale in a legal newspaper having a general circulation in the area of operation and in such other medium of publication as the authority may determine. Such bonds may be sold to the federal government at private sale at not less than par, and, in the event less than all of the bonds authorized in connection with any project or projects are sold to the federal government, the balance of such bonds may be sold at private sale at not less than par at an interest cost to the authority of not to exceed the interest cost to the authority of the portion of the bonds sold to the federal government.

(e) In case any of the commissioners or officers of the authority whose signatures appear on any bonds or coupons shall cease to be such commissioners or officers before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if such commissioners or officers had remained in office until such delivery. Any provision of any law to the contrary notwithstanding, any bonds issued pursuant to this chapter shall be fully negotiable.

(f) In any suit, action or proceedings involving the validity or enforceability of any bond of an authority or the security therefor, any such bond reciting in substance that it has been issued by the authority to aid in financing a redevelopment project, as defined in § 4501 of this title, shall be conclusively deemed to have been issued for such purpose and such project shall be conclusively deemed to have been planned, located and carried out in accordance with this chapter.

(48 Del. Laws, c. 345, § 10; 31 Del. C. 1953, § 4530.)

### **§ 4531 Powers in connection with issuance of bonds.**

(a) In connection with the issuance of bonds or the incurring of obligations under leases and in order to secure the payment of such bonds or obligations, an authority, in addition to its other powers, may:

(1) Pledge all or any part of its gross or net rents, fees or revenues to which its right then exists or may thereafter come into existence;

(2) Mortgage all or any part of its real or personal property, then owned or thereafter acquired;

(3) Covenant against pledging all or any part of its rents, fees and revenues, or against mortgaging all or any part of its real or personal property, to which its right or title then exists or any thereafter come into existence or against permitting or suffering any lien on such revenues or property, covenant with respect to limitations on its right to sell, lease or otherwise dispose of any redevelopment project or any part thereof, and covenant as to what other, or additional debts or obligations may be incurred by it;

(4) Covenant as to the bonds to be issued and as to the issuance of such bonds in escrow or otherwise, and as to the use and disposition of the proceeds thereof, provide for the replacement of lost, destroyed or mutilated bonds, covenant against extending the time for the payment of its bonds or interest thereon, and covenant for the redemption of the bonds and provide the terms and conditions thereof;

(5) Covenant (subject to the limitations contained in this chapter) as to the amount of revenues to be raised each year or other period of time by rents, fees and other revenues, and as to the use and disposition to be made thereof, create or authorize the creation of special funds for moneys held for operating costs, debt service, reserves or other purposes and covenant as to the use and disposition of the moneys held in such funds;

(6) Prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given;

(7) Covenant as to the use, maintenance and replacement of any or all of its real or personal property, the insurance to be carried thereon and the use and disposition of insurance moneys, and warrant its title to such property;

(8) Covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenants, condition or obligation, and covenant and prescribe as to events of default and terms and conditions upon which any or all of its bonds or obligations shall become or may be declared due before maturity and as to the terms and conditions upon which such declaration and its consequences may be waived;

(9) Vest in any obligees of the authority the right to enforce the payment of the bonds or any covenants securing or relating to the bonds, vest in any obligee or obligees holding a specified amount in bonds the right, in the event of a default by the authority, take possession of and use, operate and manage any redevelopment project or any part thereof, title to which is in the authority, or any funds connected therewith, and collect the rents and revenues arising therefrom and dispose of such moneys in accordance with the agreement of the authority with such obligees, provide for the powers and duties of such obligees and limit the liabilities thereof, and provide the terms and conditions upon which such obligees may enforce any covenant or rights securing or relating to the bonds; and

(10) Exercise all or any part or combination of the powers herein granted, make such covenants (other than and in addition to the covenants herein expressly authorized) and do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds, or, at the absolute discretion of the authority, as will tend to make the bonds more marketable notwithstanding that such covenants, acts or things may not be enumerated herein.

(b) An authority may by its resolution, trust indenture, mortgage, lease or other contract confer upon any obligee holding or representing a specified amount in bonds, the right (in addition to all rights that may otherwise be conferred), upon the happening of an event of default as defined in such resolution or instruments, by suit, action or proceeding in any court of competent jurisdiction:

(1) To cause possession of any redevelopment project or any part thereof, title to which is in the authority, to be surrendered to any such obligee;

(2) To obtain the appointment of a receiver of any redevelopment project of such authority or any part thereof, title to which is in the authority and of the rents and profits therefrom. If such receiver be appointed, the receiver may enter and take possession of, carry out, operate and maintain such project or any part thereof and collect and receive all fees, rents, revenues or other charges thereafter arising therefrom and shall keep such moneys in a separate account or accounts and apply the same in accordance with the obligations of such authority as the court shall direct; and

(3) To require such authority and the commissioners, officers, agents and employees thereof to account as if it and they were the trustees of an express trust.

(48 Del. Laws, c. 345, § 11; 31 Del. C. 1953, § 4531; 70 Del. Laws, c. 186, § 1.)

### **§ 4532 Rights of obligees.**

An obligee of an authority may, in addition to all other rights which may be conferred on such obligee, subject only to any contractual restrictions binding upon such obligee:

(1) By mandamus, suit, action or proceeding at law or in equity compel such authority and the commissioners, officers, agents or employees thereof to perform each and every term, provision and covenant contained in any contract of such authority with or for the benefit of such obligee and require the carrying out of any or all such covenants and agreements of such authority and the fulfillment of all duties imposed upon such authority by this chapter;

(2) By suit, action or proceeding in equity, enjoin any acts or things which may be unlawful or the violation of any of the rights of such obligee of such authority.

(48 Del. Laws, c. 345, § 12; 31 Del. C. 1953, § 4532.)

### **§ 4533 Bonds as legal investments.**

All public officers, municipal corporations, political subdivisions and public bodies, all banks, trust companies, bankers, savings banks and institutions, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all executors, administrators, curators, trustees and other fiduciaries may legally invest any sinking funds, moneys or other funds belonging to them or within their control in any bonds or other obligations issued by an authority pursuant to this chapter or by any public housing or redevelopment authority or commission or agency or any other public body in the United States for redevelopment purposes, when such bonds and other obligations are secured by an agreement between the issuing agency and the federal government in which the issuing agency agrees to borrow from the federal government and the federal government agrees to lend to the issuing agency, prior to the maturity of such bonds or other obligations, moneys in an amount which (together with any other moneys irrevocably committed to the payment of interest on such bonds or other obligations) will suffice to pay the principal of such bonds or other obligations with interest to maturity thereon, which moneys under the terms of such agreement are required to be used for the purpose of paying the principal of and the interest on such bonds or other obligations at their maturity and such bonds and other obligations shall be authorized security for all public deposits. It is the purpose of this section to authorize any persons, political subdivisions and officers, public or private, to use any funds owned or controlled by them for the purchase of any such bonds or other obligations. However, nothing contained in this section with regard to legal investments shall be construed as relieving any person of any duty of exercising reasonable care in selecting securities.

(48 Del. Laws, c. 345, § 13; 31 Del. C. 1953, § 4533.)

### **§ 4534 Conveyance to federal government on default.**

In any contract for financial assistance with the federal government the authority may obligate itself (which obligation shall be specifically enforceable and shall not constitute a mortgage, notwithstanding any other laws) to convey to the federal government

possession of or title to the redevelopment project and land therein to which such contract relates which is owned by the authority, upon the occurrence of a substantial default (as defined in such contract) with respect to the covenants or conditions to which the authority is subject, such contract may further provide that in case of such conveyance, the federal government may complete, operate, manage, lease, convey or otherwise deal with the redevelopment project in accordance with the terms of such contract; provided, that the contract requires that, as soon as practicable after the federal government is satisfied that all defaults with respect to the redevelopment project have been cured and that the redevelopment project will thereafter be operated in accordance with the terms of the contract, the federal government shall reconvey to the authority the redevelopment project as then constituted.

(48 Del. Laws, c. 345, § 14; 31 Del. C. 1953, § 4534.)

### **§ 4535 Property of authority exempt from taxes, from levy and sale by virtue of an execution.**

(a) All property including funds of an authority shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the same nor shall judgment against an authority be a charge or lien upon its property. The provisions of this section shall not apply to or limit the right of obligees to foreclose or otherwise enforce any mortgage of an authority or the right of obligees to pursue any remedies for the enforcement of any pledge or lien given by an authority on its rents, fees, grants or revenues.

(b) The property of an authority is declared to be public property used for essential public and governmental purposes and such property and an authority shall be exempt from all taxes of the municipality, the county, the State or any political subdivision thereof. With respect to any property in a redevelopment project, the tax exemption provided in this section shall terminate when the authority sells, leases or otherwise disposes of such property to a redeveloper for redevelopment.

(48 Del. Laws, c. 345, § 15; 31 Del. C. 1953, § 4535.)

### **§ 4536 Cooperation by public bodies.**

(a) For the purpose of aiding and cooperating in the planning, undertaking or carrying out of a redevelopment project located within the area in which it is authorized to act, any public body may, upon such terms, with or without consideration, as it determines:

(1) Dedicate, sell, convey or lease any of its interest in any property, or grant easements, licenses or any other rights or privileges therein to an authority;

(2) Cause parks, playgrounds, recreational, community, educational, water, sewer or drainage facilities, or any other works which it is otherwise empowered to undertake, to be furnished in connection with a redevelopment project;

(3) Furnish, dedicate, close, vacate, pave, install, grade, regrade, plan or replan streets, roads, sidewalks, ways or other places, which it is otherwise empowered to undertake;

(4) Plan or replan, zone or rezone any part of the public body or make exceptions from building regulations and ordinances if such functions are of the character which the public body is otherwise empowered to perform;

(5) Cause administrative and other services to be furnished to the authority of the character which the public body is otherwise empowered to undertake or furnish for the same or other purposes;

(6) Incur the entire expense of any public improvements made by such public body in exercising the powers granted in this section;

(7) Do any and all things necessary or convenient to aid and cooperate in the planning or carrying out of a redevelopment plan;

(8) Lend, grant or contribute funds to an authority;

(9) Employ any funds belonging to or within the control of such public body, including funds derived from the sale or furnishing of property, service, or facilities to an authority, in the purchase of the bonds or other obligations of an authority and, as the holder of such bonds or other obligations, exercise the rights connected therewith; and

(10) Enter into agreements (which may extend over any period, notwithstanding any provision or rule of law to the contrary), with an authority respecting action to be taken by such public body pursuant to any of the powers granted by this chapter and if at any time title to, or possession of, any redevelopment project is held by any public body or governmental agency, other than the authority, authorized by law to engage in the undertaking, carrying out or administration of redevelopment projects, including any agency or instrumentality of the United States of America, the provisions of such agreements shall inure to the benefit of and may be enforced by such public body or governmental agency.

(b) Any sale, conveyance, lease or agreement provided for in this section may be made by a public body without appraisal, public notice, advertisement or public bidding.

(48 Del. Laws, c. 345, § 16; 31 Del. C. 1953, § 4536.)

### **§ 4537 Grant of funds by community.**

Any community located in whole or in part within the area of operation of an authority may grant funds to an authority for the purpose of aiding such authority in carrying out any of its powers and functions under this chapter. To obtain funds for this purpose, the community may levy taxes and may issue and sell its bonds. Any bonds to be issued by the community pursuant to the provisions of this section shall be issued in the manner and within the limitations prescribed by the laws of this State for the issuance and authorization of bonds by a community for any public purpose.

(48 Del. Laws, c. 345, § 17; 31 Del. C. 1953, § 4537.)

### **§ 4538 Cooperation between authorities.**

Any 2 or more authorities may join or cooperate with one another in the exercise if any or all of the powers conferred for the purpose of planning, undertaking or financing a redevelopment project or projects located within the area or areas of operation of any 1 or more of such authorities. When a redevelopment project or projects are planned, undertaken or financed on a regional or unified metropolitan basis, the terms "governing body" and "community" as used in this chapter shall mean the governing bodies of the appropriate communities and the appropriate communities cooperating in the planning, undertaking or financing of such project or projects.

(48 Del. Laws, c. 345, § 18; 31 Del. C. 1953, § 4538.)

### **§ 4539 Annual report.**

An authority shall at least once a year file with the governing body of the community a report of its activities for the preceding year and shall make any recommendations with reference to any additional legislation or other action that may be necessary in order to carry out this chapter.

(48 Del. Laws, c. 345, § 19; 31 Del. C. 1953, § 4539.)

### **§ 4540 Title of purchaser.**

Any instrument executed by an authority and purporting to convey any right, title or interest in any property under this chapter shall be conclusive evidence of compliance with this chapter insofar as title or other interest of any bona fide purchasers, lessees or transferees of such property is concerned.

(48 Del. Laws, c. 345, § 20; 31 Del. C. 1953, § 4540.)

### **§ 4541 Preparation of general plan by local governing body.**

The governing body of any community which is not otherwise authorized to create a planning commission with power to prepare a general plan for the development of the community may prepare such a general plan prior to the initiation and carrying out of a redevelopment project under this chapter.

(48 Del. Laws, c. 345, § 21; 31 Del. C. 1953, § 4541.)

### **§ 4542 Powers conferred as additional.**

The powers conferred by this chapter shall be in addition and supplemental to the powers conferred by any other law.

(48 Del. Laws, c. 345, § 24; 31 Del. C. 1953, § 4542.)

### **§ 4543 Inconsistent provisions.**

Insofar as this chapter is inconsistent with any other law, this chapter shall be controlling.

(48 Del. Laws, c. 345, § 23; 31 Del. C. 1953, § 4543.)

**Part III**  
**Housing and Slum Clearance**

**Chapter 46**

**MOBILE HOME SAFETY ACT**

**§§ 4600 -4612. Short title; definitions; requirement for compliance with Safety Code; requirement for seal; issuance of seal; prohibition against alteration; reciprocity; compliance with other requirements; fees; delegation of authority to Department; repossession of seal; limitation of liability; penalties; jurisdiction.**

Repealed by 61 Del. Laws, c. 415, § 1, effective July 8, 1978.

**Part III**  
**Housing and Slum Clearance**

**Chapter 47**

**THE DELAWARE NEIGHBORHOOD CONSERVATION AND LAND BANKING ACT**

**§ 4701 Short title.**

This chapter shall be known and may be cited as the "Delaware Neighborhood Conservation and Land Banking Act."  
(80 Del. Laws, c. 155, § 1.)

**§ 4702 Legislative findings and purpose.**

The General Assembly finds and declares as follows:

(1) Delaware's communities are important to the social and economic vitality of Delaware. Whether urban, suburban, or rural, many Delaware communities are struggling to cope with unoccupied properties or properties incapable of lawful occupation. These vacant and abandoned properties represent lost revenue to local governments and significant expenses associated with demolition, safety hazards, increased calls for emergency services, and deterioration of neighborhoods.

(2) The need exists to strengthen and revitalize Delaware's economy and address the associated harms that result from high numbers of vacant and abandoned properties. Solving these problems requires a coordinated effort to foster the development of such property back into productive use and promote economic growth. Such problems may include multiple taxing jurisdictions lacking common policies; ineffective property inspection; code enforcement and property rehabilitation support; lengthy or inadequate collection proceedings; depressed real estate markets; and lack of coordination and resources to support economic revitalization.

(3) There is an overriding public need to confront the problems caused by vacant, abandoned, and delinquent properties through the creation of new tools to be available to communities throughout Delaware enabling them to turn vacant spaces into vibrant places.

(4) Land banks are one of the tools currently utilized by other communities to facilitate the return of vacant, abandoned and delinquent properties to productive use. This chapter enables the creation of land banks in order to return dilapidated and blighted properties to productive use in Delaware.

(80 Del. Laws, c. 155, § 1.)

**§ 4703 Definitions.**

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

(1) "Board of directors" or "board" means the board of directors of the land bank.

(2) "Foreclosing governmental unit" means any political subdivision of the State of Delaware, where such political subdivision has the power to cause the sale of real property located within its respective jurisdiction for the collection of liens inuring to that political subdivision.

(3) "Land bank" means a land bank established under this chapter and in accordance with the provisions of this chapter.

(4) "Large jurisdictional land bank" means a land bank established under this chapter and in accordance with the provisions of this chapter that serves one of the following:

a. An entire county.

b. A foreclosing governmental unit, or a combination of foreclosing governmental units that have formed a single land bank by intergovernmental agreement pursuant to § 4705(b) of this title, that in total covers an area with a population in excess of 30,000 persons.

(5) "Liens" means any lien set forth in § 2901(a)(1) of Title 25.

(6) "Vacancy rate" means the percentage of residential structures that have been uninhabited for 6 months or more within a given jurisdiction.

(80 Del. Laws, c. 155, § 1.)

**§ 4704 Applicability of Delaware law.**

(a) This chapter shall apply only to any land bank created pursuant to this chapter.

(b) Chapters 94 and 95 of Title 29 shall not apply to any land bank created pursuant to this chapter.

(c) If any provision of this chapter conflicts with any other provisions of Delaware law, the provisions of this chapter shall prevail.

(80 Del. Laws, c. 155, § 1.)

**§ 4705 Creation and existence.**

(a) A foreclosing governmental unit may create a land bank by the adoption of a local law, ordinance, or resolution, as appropriate to such foreclosing governmental unit. The foreclosing governmental unit, prior to the adoption of a local law, ordinance, or resolution



creating a land bank, must make a finding that residential structures within its jurisdiction have a vacancy rate at or above 3%. Each county in this State shall have the ability to create a land bank without making such a finding. The local law, ordinance, or resolution creating the land bank shall specify all of the following:

(1) The name of the land bank.

(2) The number of members of the board of directors, which shall consist of an odd number of members, and shall be not less than 7 members. For large jurisdictional land banks, the board of directors shall consist of an odd number of members and shall not be less than 11 members nor more than 15 members.

(3) The names of the initial individuals to serve as members of the board of directors, and the length of terms for which they are to serve.

(4) The qualifications, manner of selection or appointment, and terms of office of members of the board of directors.

(b) Two or more foreclosing governmental units may enter into an intergovernmental cooperation agreement which creates a single land bank to act on behalf of such foreclosing governmental units, which agreement shall be authorized by each of the respective foreclosing governmental units in accordance with subsection (a) of this section. Such intergovernmental agreement shall include provisions for the dissolution of such land bank. In the event that a land bank is created pursuant to an agreement in accordance with this subsection, such agreement shall also specify the matters identified in subsection (a) of this section.

(c) In the event a county creates a land bank, such land bank shall have the power to acquire real property only in those portions of such county located outside of the geographical boundaries of any other land bank created by any other foreclosing governmental unit located partially or entirely within such county.

(80 Del. Laws, c. 155, § 1.)

### § 4706 Board of directors.

(a) The initial size of the board of directors shall be determined in accordance with § 4705(a)(2) of this title. Unless restricted by the agreement specified in § 4705(b) of this title, and subject to the limits set forth in this section, the size of the board of directors may be adjusted in accordance with the adopted bylaws of the land bank and by adoption of a local law, ordinance, or resolution, as appropriate, of the applicable foreclosing governmental unit.

(b) Notwithstanding any law to the contrary, any public officer shall be eligible to serve as a board member and the acceptance of the appointment to the board shall neither terminate nor impair such public office. For purposes of this section, "public officer" shall mean a person who is elected to a state, county, or municipal office. Any state, county, or municipal employee shall also be eligible to serve as a board member. No more than half of the members of the board of a land bank shall be public officials or municipal employees.

(c) All board members of a land bank must either live in or work in a jurisdiction within the area covered by the land bank. The board shall include at least 1 voting member who maintains a membership with a recognized civic organization within the jurisdiction of the foreclosing governmental unit.

(d) Large jurisdictional land banks shall reserve 1 board seat for a member to be appointed by the Governor, 1 board seat for a member to be appointed by the President Pro Tempore of the Senate, and 1 board seat for a member to be appointed by the Speaker of the House of Representatives.

(e) The members of the board of directors shall select annually from among themselves a chair, a vice chair, a treasurer, and such other officers as the board may determine, and shall establish their duties as set forth in the bylaws of the land bank.

(f) The bylaws of the land bank shall establish rules and requirements relative to the attendance and participation of board members in board meetings, whether regular or special. Such bylaws may prescribe a procedure whereby, should any member fail to comply with such rules and regulations, such member may be disqualified and removed from office by no less than a majority vote of the remaining members of the board, and that member's position shall be vacant as of the first day of the next calendar month. Any person removed under the provisions of this subsection shall be ineligible for reappointment to the board, unless such reappointment is confirmed by the board.

(g) A vacancy on the board shall be filled by the adoption of a local law, ordinance, or resolution, as appropriate, of the applicable foreclosing governmental unit and as provided in the bylaws of the land bank.

(h) Board members shall serve without compensation. Board members shall have the power to organize and reorganize the executive, administrative, clerical, and other departments of the land bank and to fix the duties, powers, and compensation of all employees, agents, and consultants of the land bank in the manner provided in the bylaws. The board may reimburse any board member for expenses actually incurred in the performance of his or her duties on behalf of the land bank.

(i) The board shall meet in regular session according to a schedule adopted by the board and may also meet in special session as convened by any officer of the board or upon written notice signed by a majority of the members of the board. The presence of a majority of the board's total membership, not including vacancies, shall constitute a quorum.

(j) All actions of the board shall be approved by the affirmative vote of a majority of the board members present and voting at the applicable meeting. However, no action of the board shall be authorized on any of the following matters unless approved by a majority of the total board membership:

(1) Adoption of bylaws and other rules and regulations for conduct of the land bank's business.

(2) Hiring or firing of any employee or contractor of the land bank. This function may, by majority vote, be delegated by the board to a specified officer or committee of the land bank, under such terms and conditions, and to the extent, that the board may specify.

(3) The incurring of debt.

(4) Adoption or amendment of the annual budget.

(5) Sale, lease, encumbrance, or alienation of real property, improvements, or personal property with a value of more than \$50,000.

(k) Vote by proxy shall not be permitted. Any board member may request a recorded vote on any resolution or action of the land bank. Board members may participate in board meetings by telephone or video conference to the extent permitted by the bylaws of the land bank.

(80 Del. Laws, c. 155, § 1; 70 Del. Laws, c. 186, § 1.)

### § 4707 Staff.

A land bank may employ a secretary, an executive director, its own counsel and legal staff, technical experts, and such other agents and employees, permanent or temporary, as it may require, and may determine the qualifications and fix the compensation and benefits of such persons. A land bank may also enter into contracts and agreements with foreclosing governmental units or nonprofit entities designated by the foreclosing governmental unit for staffing services to be provided to the land bank by those foreclosing governmental units, designated nonprofit entities or departments thereof, or for a land bank to provide such staffing services to such foreclosing governmental units, designated nonprofit entities, or departments thereof.

(80 Del. Laws, c. 155, § 1.)

### § 4708 Powers.

A land bank shall possess all powers necessary or appropriate to carry out and effectuate the purposes and provisions of this chapter, including the following powers in addition to those herein otherwise granted:

(1) To adopt, amend, and repeal bylaws for the regulation of its affairs and the conduct of its business.

(2) To sue and be sued in its own name and plead and be interpleaded in all civil actions, including actions to clear title to property of the land bank.

(3) To adopt a seal and to alter the same at pleasure.

(4) To borrow from private lenders, from municipalities, from a county, from the State, or from federal government funds, as may be necessary, for the operation and work of the land bank.

(5) To borrow and issue bonds according to the provisions of this chapter.

(6) To procure insurance or guarantees from municipalities, counties, the State, or the federal government of the payments of any debts or parts thereof incurred by the land bank and to pay premiums in connection therewith.

(7) To enter into contracts and other instruments necessary, incidental, or convenient to the performance of its duties and the exercise of its powers, including intergovernmental agreements provided for in § 4705(b) of this title for the joint exercise of powers under this chapter.

(8) To make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the land bank.

(9) To procure insurance against losses in connection with the real property, assets, or activities of the land bank.

(10) To invest money of the land bank, at the discretion of the board of directors, in instruments, obligations, securities, or property determined proper by the board of directors, and name and use depositories for its money.

(11) To enter into contracts for the acquisition, management, collection of rent, leasing, or sale of real property of the land bank.

(12) To design, develop, construct, demolish, reconstruct, rehabilitate, renovate, relocate, and otherwise improve real property or rights or interests in real property.

(13) To fix, charge, and collect rents, fees, and charges for the use of real property of the land bank and for services provided by the land bank.

(14) To grant or acquire a license, easement, lease, or option with respect to real property of the land bank.

(15) To enter into partnership, joint ventures, and other collaborative relationships with foreclosing governmental units and other public and private entities for the ownership, management, development, and disposition of real property.

(16) To solicit and accept donations to support the objectives and purposes of the land bank.

(17) To do all other things necessary or convenient to achieve the objectives and purposes of the land bank or other laws that relate to the purposes and responsibility of the land bank.

(80 Del. Laws, c. 155, § 1.)

### § 4709 Acquisition of property.

(a) The land bank may acquire real property or interests in real property by gift, devise, transfer, exchange, foreclosure, purchase, or otherwise on terms and conditions and in a manner the land bank considers proper.

(b) The land bank shall not own or hold real property located outside the jurisdictional boundaries of the foreclosing governmental unit or units that created the land bank; provided, however, that a land bank may be granted authority pursuant to an intergovernmental

cooperation agreement with another foreclosing governmental unit to manage and maintain real property located within the jurisdiction of such other foreclosing governmental unit.

(c) Notwithstanding any other provision of law to the contrary, any foreclosing governmental unit may convey to a land bank real property and interests in real property on such terms and conditions, form and substance of consideration, and procedures, all as determined by the transferring foreclosing governmental unit in its discretion.

(d) The land bank shall maintain and make available for public review and inspection a complete inventory of all property owned by the land bank. Such inventory shall include: the location of the parcel; the purchase price, if any, for each parcel; the identity of the transferor to the land bank; and any conditions or restrictions applicable to the property.

(e) The land bank shall hold in its own name all real property acquired by the land bank irrespective of the identity of the transferor of such property.

(80 Del. Laws, c. 155, § 1.)

### **§ 4710 Disposition of property.**

(a) The land bank shall determine and set forth in policies and procedures adopted by the board of directors the general terms and conditions for consideration to be received by the land bank for the transfer of real property and interests in real property, which consideration may take the form of monetary payments and secured financial obligations, covenants and conditions related to the present and future use of the property, contractual commitments of the transferee, and such other forms of consideration as determined by the board of directors to be in the best interest of the land bank.

(b) The land bank may convey, exchange, sell, transfer, lease, grant, release, demise, pledge, mortgage, and hypothecate any and all interests in, upon, or to real property of the land bank.

(c) A foreclosing governmental unit may, in its local law, resolution, or ordinance creating a land bank, or in the applicable intergovernmental cooperation agreement in the case of multiple foreclosing governmental units creating a single land bank under § 4705(b) of this title, establish a hierarchical ranking of priorities for the use of real property owned by a land bank. Any hierarchical ranking of priorities for the use of such real property that is established may include any of the following:

- (1) Use for purely public spaces and places.
- (2) Use for affordable housing.
- (3) Use for retail, commercial, and industrial activities.
- (4) Use as wildlife conservation areas.
- (5) Such other uses in such hierarchical order as determined by the applicable foreclosing governmental unit.

(d) The priorities established under subsection (c) of this section may be for the entire jurisdiction of the foreclosing governmental unit or may be set according to the needs of different neighborhoods, municipalities, or other locations within the jurisdiction, or according to the nature of the real property.

(e) A land bank shall consider all duly adopted land use plans and shall coordinate the disposition of land bank real property with such land use plans.

(f) A foreclosing governmental unit may, in its local law, resolution, or ordinance creating a land bank, or in the applicable intergovernmental cooperation agreement in the case of multiple foreclosing governmental units creating a single land bank under § 4705(b) of this title, require that any particular form of disposition of real property, or any disposition of real property located within specified jurisdictions, be subject to specified voting and approval requirements of the board of directors. Except and unless restricted or constrained in this manner, the board of directors may delegate to officers and employees the authority to enter into and execute agreements, instruments of conveyance, and all other related documents pertaining to the disposition of real property by the land bank.

(g) All property disposition records of the land bank shall be made available for public inspection as required by Chapter 100 of Title 29.

(80 Del. Laws, c. 155, § 1.)

### **§ 4711 Maintenance of property.**

(a) The land bank shall maintain all of its real property in accordance with the laws and regulations of the jurisdiction in which the real property is situated.

(b) Notwithstanding subsection (a) of this section, the foreclosing governmental unit may elect to reduce or waive monetary fines for violations of any housing codes or ordinances if the land bank is diligently pursuing a correction or remedy for such violation.

(c) Where real property held by the land bank is found to be in violation of a housing code or ordinance, the enforcing jurisdiction shall timely notify the land bank and, subject to subsection (b) of this section, proceed in accordance with the applicable county or municipal property code provisions, or any other applicable law.

(d) Any fire or other casualty to real property held by the land bank shall be immediately remediated and adequately secured to prevent against further loss or damage or, in the event of total loss to the property, the lost property shall be demolished.

(80 Del. Laws, c. 155, § 1.)

### § 4712 Delinquent property enforcement.

(a) *All powers of foreclosing governmental units preserved.* — A foreclosing governmental unit may bring to public sale any real property within its jurisdiction that has liens inuring to the foreclosing governmental unit in accordance with applicable laws.

(b) *Sale of liens and assessments to land banks permitted.* — A foreclosing governmental unit may enter into a contract to sell some or all of its liens to a land bank, subject to all of the following conditions:

(1) The consideration to be paid may be more or less than the face amount of the liens.

(2) Property owners that are subject to a lien that is proposed for sale shall be given at least 30 days advance notice of the proposed sale by the foreclosing governmental unit. Failure to provide such notice or the failure of the addressee to receive the same shall not in any way affect the validity of any sale of a lien or the underlying validity of the lien.

(3) The foreclosing governmental unit shall set the terms and conditions of the sale of its liens.

(4) A land bank must notify the foreclosing governmental unit that sold the lien to the land bank at least 30 days prior to commencing any judicial action to acquire property that is subject to such lien. The foreclosing governmental unit may, at its sole option and discretion, elect to repurchase the lien from the land bank by delivering a notice of such election to the land bank within 30 days of receiving the land bank's notice. The repurchase price shall be the amount of the lien plus any accrued interest and collection fees incurred by the land bank. If the foreclosing governmental unit shall fail to elect to repurchase the lien, the land bank shall have the right to commence a judicial action to acquire property that is subject to such lien.

(5) The sale of a lien pursuant to this section shall not operate to shorten the otherwise applicable redemption period or change the otherwise applicable interest rate for such lien.

(6) A land bank which has purchased any lien may execute or foreclose on such lien in the same manner as the foreclosing governmental unit in whose favor the lien originally arose. At any time following the commencement of an action to execute or foreclose on a lien by a land bank, the amount required to redeem such lien shall include those reasonable and necessary collection costs, attorneys' fees, legal costs, allowances, and disbursements that would have been collectible by the foreclosing governmental unit in whose favor the lien originally arose.

(c) *Credit bids by land banks permitted.* — If any property is submitted for sheriff's sale due to an outstanding lien, a land bank may bid on such property at the sheriff's sale with the same credit that would be afforded to the foreclosing governmental unit that initiated the sale of such property. If the land bank is the successful bidder for such property, the property shall be deemed sold to the land bank and the bid of the land bank shall be paid as to its form, substance, and timing according to such agreement as is mutually acceptable to the foreclosing governmental unit and the land bank.

(80 Del. Laws, c. 155, § 1.)

### § 4713 Expedited quiet title proceedings.

(a) As provided under § 6502 of Title 10, the land bank shall:

(1) Be authorized to file an action to quiet title as to any real property in which the land bank has standing to file such an action.

(2) Prior to the filing of an action to quiet title, the land bank shall conduct an examination of title to determine the identity of any and all persons and entities possessing a claim or interest in or to the real property. Service of the complaint to quiet title shall be provided to all such interested parties by all of the following methods:

a. Registered or certified mail to such identity and address as reasonably ascertainable by an inspection of public records.

b. In the case of occupied real property by registered or certified mail, addressed to "Occupant."

c. By posting a copy of the notice on the real property.

d. By publication in a newspaper of general circulation in the geographic location in which the property is located.

e. Such other methods as the Court may order.

(b) As part of the complaint to quiet title, the land bank shall file an affidavit identifying all parties potentially having an interest in the real property, and the form of notice provided.

(c) If the land bank moves for expedited proceedings the Court shall schedule a hearing on the complaint within 90 days following filing of the complaint, and as to all matters upon which an answer was not filed by an interested party, the Court shall issue its final judgment within 120 days of the filing of the complaint.

(d) Notwithstanding Court of Chancery Rule 19, a land bank shall be authorized to join in a single complaint to quiet title to 1 or more parcels of real property.

(80 Del. Laws, c. 155, § 1.)

### § 4714 Taxing and financing of land bank operations.

(a) A land bank shall have no shareholders and may not be structured as a for-profit entity. A land bank may receive and retain payments for services rendered, for rents and leasehold payments received, for consideration for disposition of real and personal property, for proceeds of insurance coverage for losses incurred, for income from investments, and for any other asset and activity lawfully permitted to a land bank under this chapter. A reasonable operating reserve may be established to facilitate operations. However, all revenues received

by a land bank in excess of expenses must be utilized to address and remediate blight, for neighborhood conservation, or to improve housing within the foreclosing governmental unit.

(b) The real property held by a land bank, and its income, are exempt from all taxation by the State and by any of its political subdivisions. Dispositions of property into or out of a land bank are exempt from realty transfer taxes.

(c) In creating a land bank, a foreclosing governmental unit may elect to dedicate up to 50% of the real property taxes that would inure to the foreclosing governmental unit following the disposition of real property by the land bank, excluding any amounts allocated to school districts, for remittance to the land bank. Such allocation of property tax revenues shall commence with the first taxable year following the date of disposition of the property by land bank and shall continue for a period of 5 years.

(d) Notwithstanding any law to the contrary, a foreclosing governmental unit creating a land bank may levy or impose such additional taxes, fees, assessments, fines, or penalties as are needed to support the operations of the land bank. Any tax, fee, assessment, fine, or penalty imposed by a foreclosing governmental unit pursuant to this subsection must be reauthorized by the foreclosing governmental unit every 5 years and appropriately adjusted so that the revenues from such tax, fee, assessment, fine, or penalty do not exceed the projected operating costs and expenses of the land bank. Any failure to reauthorize such tax, fee, assessment, fine, or penalty shall be deemed an election by the foreclosing governmental unit to cease imposing or levying such tax, fee, assessment, fine, or penalty at the end of the applicable 5-year period.

(e) The Delaware Auditor of Accounts shall have the authority to audit any land bank created pursuant to this chapter.

(80 Del. Laws, c. 155, § 1.)

### § 4715 Public records and public meetings.

(a) The board shall cause minutes and a record to be kept of all its proceedings. Except as otherwise provided in this section, the land bank shall be subject to the provisions of Chapter 100 of Title 29.

(b) A land bank shall schedule and hold a public hearing prior to financing or issuance of bonds.

(c) In addition to any other report required by this chapter, the land bank, through its chair, shall annually deliver a report to the foreclosing governmental unit. Such report shall be presented in the manner required by the governing body or board of the foreclosing governmental unit. The report shall describe in detail the projects undertaken by the land bank during the past year; the financial statements of the land bank during the past year, including a balance sheet and an income statement; and the administrative activities of the land bank during the past year.

(d) A land bank shall be required to maintain a publicly-available website, which shall set forth the inventory required in § 4709(d) of this title.

(80 Del. Laws, c. 155, § 1; 81 Del. Laws, c. 79, § 48.)

### § 4716 Dissolution of land bank.

(a) A land bank may be dissolved within 60 calendar days after the adoption of an affirmative resolution approved by 2/3 of the membership of the board of directors authorizing such dissolution. Sixty calendar days' advance written notice of consideration of a resolution of dissolution shall be given to the foreclosing governmental unit that created the land bank, shall be published in a local newspaper of general circulation, and shall be sent by certified mail to the trustee of any outstanding bonds of the land bank.

(b) The foreclosing governmental unit or units that created the land bank may dissolve the land bank by repeal of the local law, ordinance, resolution, or intergovernmental cooperation agreement that created the land bank under § 4705(a) or (b) of this title. Dissolution shall be effective no sooner than 60 calendar days after such repeal. Prior to dissolution, the land bank shall publish notice of the dissolution in a local newspaper of general circulation, and shall provide notice by certified mail to the trustee of any outstanding bonds of the land bank. In the event that 2 or more foreclosing governmental units created a land bank under § 4705(b) of this title, the withdrawal of 1 or more foreclosing governmental units shall not result in the dissolution of the land bank unless the intergovernmental cooperation agreement entered into under § 4705(b) of this title so provides and there is no foreclosing governmental unit that desires to continue the existence of the land bank.

(c) Upon dissolution of the land bank, all real property, personal property, and other assets of the land bank shall become assets of the foreclosing governmental unit that created the land bank.

(80 Del. Laws, c. 155, § 1.)

### § 4717 Conflicts of interest.

(a) No member of the board or employee of a land bank shall acquire any interest, direct or indirect, in real property of the land bank, in any real property to be acquired by the land bank, or in any real property to be acquired from the land bank. No member of the board or employee of a land bank shall have any interest, direct or indirect, in any contract or proposed contract for materials or services to be furnished or used by a land bank.

(b) Board members of any land bank shall provide, prior to appointment and annually after appointment, a report identifying all real property interests owned, directly or indirectly, by such board member or by his or her immediate family, within the land bank jurisdiction. The report shall be submitted to the foreclosing governmental unit and shall be made available to the public upon request.

(c) The board may adopt supplemental rules and regulations addressing potential conflicts of interest and ethical guidelines for members of the board and land bank employees.

(80 Del. Laws, c. 155, § 1; 70 Del. Laws, c. 186, § 1.)

### **§ 4718 Construction, intent, and scope of chapter.**

This chapter shall be construed liberally to effectuate the legislative intent and purposes and all powers granted by this chapter shall be broadly interpreted to effectuate such intent and purposes. Except as otherwise expressly set forth in this chapter, in the exercise of its powers and duties under this chapter and its powers relating to property held by the land bank, the land bank shall not be subject to restrictions imposed by the charter, ordinances, or resolutions of a foreclosing governmental unit with respect to contracts, procurement, or property disposition.

(80 Del. Laws, c. 155, § 1.)

### **§ 4719 Duration and termination.**

Any land bank created pursuant to this chapter shall have permanent and perpetual duration until terminated and dissolved in accordance with § 4716 of this title and subchapter X, Chapter 1 of Title 8.

(80 Del. Laws, c. 155, § 1.)