

the mayor and council] shall constitute the charter commission: Provided, That if a majority of those voting on said question shall vote against the election of a charter commission, none of the candidates shall be elected. If two or more candidates shall be equal and greatest in number of votes, they shall draw lots to determine which one shall be elected.

APPROVED—The 14th day of August, A. D. 1963.

WILLIAM W. SCRANTON

No. 471

AN ACT

To promote the welfare of the people of the Commonwealth of Pennsylvania by creating throughout the Commonwealth a program of industrial mortgage insurance whereby industrial mortgages given by industrial development agencies to secure loans made by banks, trust companies, insurance companies, fiduciaries and others are insured, to the extent of forty per cent of project cost for a premium to be determined by the authority; delegating to the Pennsylvania Industrial Development Authority the responsibility of administering the act; empowering said authority to transfer interest and principal received in repayment of outstanding mortgages to the Industrial Mortgage Insurance Fund when such fund is insufficient to pay defaulted mortgages insured by the authority; to purchase, lease, sell and convey industrial development projects where the loans insured are in default, pledging the assets of the Pennsylvania Industrial Development Authority to the payment of contracts of mortgage insurance; creating an account to be known as the Industrial Mortgage Insurance Fund and making an appropriation to said fund for the use of the authority to carry out the purposes of this act.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Pennsylvania
Industrial Mortgage Insurance
Act.

Section 1. This act shall be known and may be cited as the "Pennsylvania Industrial Mortgage Insurance Act."

Legislative finding.

Section 2. It is hereby determined and declared as a matter of legislative finding:

(1) That the Commonwealth of Pennsylvania suffers from chronic unemployment and under-employment which is a serious menace to health, safety, morals and general welfare of the people of the Commonwealth.

(2) That unemployment in the Commonwealth of Pennsylvania has consistently been above the national average of unemployment, resulting in the migration of thousands of residents and their families to other states, which has adversely affected the tax basis of all segments of State and municipal government and has

seriously impaired the ability to maintain high education standards and the necessary governmental services expected in a thriving community.

(3) That the Pennsylvania Industrial Development Authority through its efforts of assisting in the financing of industrial development projects has been successful in critical economic areas of the Commonwealth in reversing the economic deterioration of such areas, but that the need to encourage and promote the making of mortgage loans to further industrial expansion and diversification in all areas of the Commonwealth has been recognized for some time in order to improve the public welfare, to create additional employment opportunities, and provide a larger tax base for the economy of the Commonwealth.

(4) That the activities of the Commonwealth of Pennsylvania and the communities thereof, which have engaged in the financing of new and expanded industrial projects, must be re-enforced and assisted by providing a new program of mortgage insurance which will utilize normal banking and other sources of mortgage loans and which will not cause a serious drain on the resources of the Commonwealth and of local industrial development organizations.

Therefore, it is declared to be the policy of the Commonwealth of Pennsylvania to promote the health, safety, morals, gainful employment, business opportunities and general welfare of the inhabitants thereof by the enactment of the Pennsylvania Industrial Mortgage Insurance Act which shall be administered by the Pennsylvania Industrial Development Authority for the public purpose of alleviating unemployment and economic stagnation by the promotion and development of industrial and manufacturing enterprises throughout the Commonwealth of Pennsylvania. Such purpose is hereby declared to be a public purpose for which public money may be spent.

Policy.

Section 3. As used in this act:

Definitions.

(1) The term "authority" shall mean the Pennsylvania Industrial Development Authority created under the act of May 17, 1956 (P. L. 1609), known as the "Pennsylvania Industrial Development Authority Act."

(2) The term "industrial development agency" shall mean a nonprofit corporation or a foundation or association organized and existing under the laws of this Commonwealth regardless of the particular name to whose members or shareholders no profit shall inure and which shall have as a purpose the promotion, encouragement, construction, development, and expansion of new or existing industrial development projects.

(3) The term "industrial development project" shall mean any land, site, structure, facilities or undertaking comprising or being connected with or being a part of (i) an industrial enterprise, (ii) a manufacturing enterprise, or (iii) a research and development enterprise established or to be established by an industrial development agency.

(4) The term "industrial enterprise" shall mean an enterprise other than a mercantile, commercial or retail enterprise, which by virtue of its size requires substantial capital and which by its nature and size has created or will create substantial employment opportunities. The term "industrial enterprise" may include warehouse and terminal facilities provided they require substantial capital and have or will create substantial employment opportunities.

(5) The term "manufacturing enterprise" shall mean an enterprise which is engaged in the giving of new shapes, new qualities, or new combinations to matter by the application of skill and labor thereto.

(6) The term "research and development enterprise" shall mean an enterprise for the discovery of new and the refinement of known substances, processes, products, theories and ideas, but shall not include activities directed primarily to the accumulation or analysis of commercial, financial or mercantile data.

(7) The term "cost of project" shall mean the actual cost of construction of a new industrial development project or the cost of acquisition and renovation of an existing plant, including but not limited to land, property rights, easements and franchises, construction costs, financing charges, interest during construction, surveys, engineering and legal charges and such other costs as are necessary to the project, but shall not include the cost of machinery, equipment, or the cost of its installation, transportation or maintenance.

(8) The term "fair market value" shall mean the appraised value of an existing plant which is purchased or acquired by an industrial development agency as an industrial development project established by not less than two appraisals satisfactory to the authority.

(9) The term "Industrial Mortgage Insurance Fund" shall mean the fund created and described by sections 8, 9 and 10 of this act.

(10) The term "mortgage insurance" shall mean insurance as created and authorized under the provisions of this act.

(11) The term "mortgage" shall mean (i) that part of a first mortgage in excess of fifty per cent of the cost or fair market value of an industrial development

project, or (ii) a second mortgage covering forty per cent or less of the cost or fair market value of an industrial development project. In no event, shall the mortgage insurance on any project exceed the lesser of forty per cent of the cost or fair market value of the project financed under (i) or (ii) above.

(12) The term "mortgagee" shall mean the original lender under a mortgage, his successors and assigns who shall be approved by the authority and may include, but is not limited to, a person, insurance companies, banks, savings banks, building and loan companies, investment companies, fiduciaries, including employe benefit funds, but shall not mean the Federal government or any agency or department thereof.

(13) The term "mortgagor" shall mean the industrial development agency, its successors and assigns, which borrows the funds from the mortgagee to construct a new industrial development project or expand or acquire, renovate, remodel or repair an existing industrial development project.

(14) The term "Industrial Development Fund" shall mean the account created by section 8 of the act of May 17, 1956 (P. L. 1609), known as the "Pennsylvania Industrial Development Authority Act."

Section 4. In addition to the powers heretofore granted it, the authority as a public corporation and governmental instrumentality exercising public powers of the Commonwealth shall have and may exercise all powers necessary or appropriate to carry out and effectuate the purposes of this act, including the powers to:

Powers.

(1) Insure mortgage payments of any mortgage which is given by a mortgagor to the mortgagee for an industrial development project upon such terms and conditions as the authority may prescribe and as provided herein.

(2) Adopt rules for the conduct of its business.

(3) Contract for and engage consultants, and utilize the services of other governmental agencies.

(4) Accept from a Federal agency loans or grants for use in carrying out its purpose, and enter into agreement with such agency respecting any such loans or grants.

(5) Transfer funds from the Industrial Development Fund to the Industrial Mortgage Insurance Fund and from the latter fund back to the Industrial Development Fund pursuant to this act.

(6) Enter into agreements with prospective mortgagees and mortgagors for the purpose of planning, designing, constructing, acquiring, altering and financing industrial projects.

(7) When it becomes feasible for the authority to safeguard itself from losses, acquire, purchase, manage and operate and hold and dispose of real and personal property, take assignments of rentals and leases and make and enter into all contracts, leases, agreements and arrangements necessary or incidental to the performance of its duties.

(8) In order to further the purpose of this act or to safeguard the Industrial Mortgage Insurance Fund, purchase, acquire and take assignments of notes, mortgages, and other forms of security and evidence of indebtedness, purchase, acquire, attach, seize, accept or take title to any industrial project by conveyance or, when an insurance mortgage thereon is clearly in default, by foreclosure, and sell, lease or rent an industrial project for a use approved by the authority.

(9) Do all acts and things necessary or convenient to carry out the powers expressly granted in this act.

Insurer.

Section 5. The authority may, upon application of the proposed mortgagor and mortgagee of an industrial development project, insure and make commitments to insure mortgage payments required by a mortgagee on an industrial development project in an amount not to exceed the lesser of forty per cent of the cost or fair market value of said project and upon such other terms and conditions as the authority may prescribe, provided the aggregate amount of the principal obligations of all mortgages so insured outstanding at any one time shall not exceed ten times the then balance of the Industrial Mortgage Insurance Fund, as last determined pursuant to this act. The authority shall determine monthly the balance of the Industrial Mortgage Insurance Fund and the principal amount of the unpaid balance due on mortgages insured by the authority. Any contract of insurance executed by the authority under this section shall be conclusive evidence of eligibility for such mortgage insurance, and the validity of any contract of insurance so executed shall be incontestable in the hands of an approved mortgagee from the date of the execution of such contract, except for fraud or misrepresentation on the part of such approved mortgagee. To be eligible for insurance under the provisions of this act, a mortgage shall:

(1) Be one which is made and held by a mortgagee approved by the authority as responsible and able to service the mortgaged property.

(2) Involve a principal obligation approved by the authority not less than forty thousand dollars (\$40,000) and not in excess of two million five hundred thousand dollars (\$2,500,000) for any one industrial project and

not to exceed forty per cent of the cost or fair market value of such project.

(3) Have a maturity satisfactory to the authority but in no case later than three-quarters of the authority's estimate of the remaining useful life of the industrial project, or twenty-five years from the date of the issuance of the insurance, whichever is earliest, but in no case shall the maturity exceed the life of the authority.

(4) Contain complete amortization provisions satisfactory to the authority requiring periodic mortgage payments by the mortgagor sufficient to repay the mortgage within a term not exceeding twenty-five years.

(5) Contain provisions for interest payments at no more than the legal rate of interest.

(6) Be in such form and contain such terms and provisions with respect to property insurance, repairs, alterations, payment of taxes and assessments, default reserves, delinquency charges, default remedies, anticipation of maturity, additional and secondary liens and other matters as the authority may prescribe.

Section 6. In the case of default by the mortgagor, the mortgagee shall take reasonable steps to effect an orderly disposition of the property. Default.

(a) Upon a default by the mortgagor, the authority shall pay to the mortgagee the amount due it pursuant to the contract of insurance, provided (i) the mortgagee has foreclosed on the property or has otherwise taken title thereto and possession thereof, which action has become final and is not appealable, and (ii) the mortgagee has agreed with the authority to hold the property for the benefit of itself and the authority for a period of not less than one year so as to permit the recovery by the mortgagee and the authority of all or so much of the loss sustained by each of them from a subsequent sale or lease of said property.

The amount paid by the authority to an insured mortgagee shall be the full unpaid balance of the mortgage to the extent insured. If the unpaid balance of the mortgage is equal to or less than the amount of insurance, then the payment by the authority to the mortgagee shall be conditioned upon an assignment to the authority by the mortgagee of any deficiency judgment it may hold against the mortgagor.

(b) The authority may, when it is deemed advisable to protect any liability incurred by it pursuant to this act, (i) make amortization payments of both principal and interest on the mortgage insured by it and on a mortgage, the lien of which is superior to the mortgage insured by the authority, or agree to revised terms of financing the industrial development project, and (ii)

acquire by purchase or otherwise any mortgage on an industrial development project in respect of which a contract of mortgage insurance has been entered into by the authority, and (iii) purchase or otherwise acquire the industrial development project in respect of which a contract of mortgage insurance has been entered into by the authority.

Moneys necessary to carry out the purpose of this subsection (b) shall be withdrawn from the Industrial Development Fund. The authority may lease or sell any property acquired pursuant to subsection (b) of this section 6 upon such terms and conditions as it deems advisable and the proceeds thereof shall be deposited to the Industrial Development Fund.

(c) The authority may at any time, under such equitable terms and conditions as it may prescribe, consent to the release of the mortgagor from his liability under the mortgage or consent to the release of parts of the mortgaged property from the lien of the mortgage.

(d) When vacancies in an industrial development project are deemed by the authority to prejudice mortgage payments insured by the authority, the authority may grant to the mortgagor permission to lease or rent the mortgaged property to a tenant for any use, such lease or rental to be temporary in nature and subject to such conditions as the authority and mortgagee may prescribe.

Insurance premiums.

Section 7. The authority shall fix mortgage insurance premiums for the insurance of mortgage payments under the provisions of this act, such premiums to be computed as a percentage of the principal obligation of the mortgage outstanding to the extent insured at the beginning of each mortgage year. Such insurance premiums shall not be less than one per cent nor more than two per cent per year of said outstanding principal obligation as insured. Such premiums shall be payable by the mortgagors or the mortgagees in such manner as shall be prescribed by the authority. The amount of premium need not be uniform among the various loans insured and shall be determined by the authority within its sole discretion. All premiums received shall be deposited in the Industrial Mortgage Insurance Fund.

Industrial Mortgage Insurance Fund account.

Section 8. There is hereby created a special account in the Treasury of the Commonwealth to be known as the Industrial Mortgage Insurance Fund, to which there is hereby specifically appropriated five hundred thousand dollars (\$500,000) for the purpose of this act.

Additional receipts of fund.

Section 9. (a) The Industrial Mortgage Insurance Fund, in addition to the above appropriated sum, shall receive and include:

(1) All subsequent appropriations thereto.

(2) All mortgage insurance premiums paid pursuant to the provisions of this act.

(3) All sums received pursuant to section 10 hereof.

(4) All income, profits and earnings of any kind whatsoever accruing to the fund.

(b) The Treasurer of the Commonwealth shall invest, and keep invested, all moneys in said fund in direct obligations of the United States. The moneys in said fund are irrevocably pledged to the payment of mortgages insured by the authority pursuant to the terms of this act, subject, however, to sections 10 and 11 hereof.

Section 10. (a) In the event that the moneys in the Industrial Mortgage Insurance Fund are insufficient to pay the insurance on mortgages in default, the authority shall deposit in the Industrial Mortgage Insurance Fund all sums received by it representing repayment of interest and principal on outstanding mortgage loans made by the authority pursuant to the act of May 17, 1956 (P. L. 1609), known as the Pennsylvania Industrial Development Authority Act, less expenses of the authority, until such time as all obligations arising out of mortgage insurance in default are repaid and the Industrial Mortgage Insurance Fund balance is equal to one-tenth of the unpaid balance of outstanding mortgages insured by the authority.

In event more money is required, additional moneys to be deposited.

(b) The Treasurer of the Commonwealth is hereby authorized and directed to make transfers between the Industrial Development Fund and the Industrial Mortgage Insurance Fund as hereinabove authorized and to make payments out of either of said funds pursuant to the terms hereof upon requisition of the chairman or executive director of the authority.

Section 11. Mortgages insured by the authority under this act and participations therein shall be legal investments for all insurance companies, trust companies, banks, investment companies, savings banks, building and loan associations, savings and loan associations, executors, administrators, guardians, conservators, trustees and other fiduciaries, and pension, profit-sharing and retirement funds, provided such mortgages shall be treated similarly to loans insured by the Federal housing administrator for the purpose of determining the percentage of capital, surplus, assets or deposits which may be invested therein by an institution under the supervision of the Secretary of Banking.

Legal investments

Section 12. (a) Prior to committing for insurance on any mortgage, the authority shall have first received an application from the mortgagor approved by the mortgagee, the form of which application shall contain, without being limited to, the following:

Application contents.

(1) A general description of the industrial development project, a survey thereof and a copy of the plans and specifications therefor.

(2) A general description of the proposed occupant thereof, its history, job opportunities, past and present financial condition and statements, market prospects and management ability and integrity.

(3) An affidavit as to the cost of project broken down into all elements or categories of cost.

(4) An affidavit that all project costs have been paid or will be paid concurrently with the approval by the authority of the mortgage insurance requested.

(5) Evidence satisfactory to the authority that the mortgagee will make the loan requested by the industrial development agency and that such agency has invested, contributed or otherwise expended in the project not less than ten per cent of the cost of the project.

(6) Evidence that the project is not the removal of an industrial development project from one area of the Commonwealth to another area of the Commonwealth.

(b) Upon approval of the application, the reports of the engineering, financial and legal consultants as the authority may retain, and such other investigations, hearings and examinations as the authority may deem necessary, and having due regard to the public purpose of this act, the authority may contract to commit for and may insure the mortgage as requested subject to the terms of this act.

(c) No mortgage shall be approved for insurance unless the authority has first determined that (i) there is a reasonable assurance of repayment of the mortgage loan, and (ii) the project will provide gainful employment for the people of the Commonwealth, and (iii) will increase the tax base of the economy. Approval of any application for mortgage insurance shall be by a majority of the full membership of the authority.

Credit of Commonwealth not pledged, and obligation of authority not impaired.

Section 13. The authority shall have no power to borrow money or in any manner to pledge the credit or taxing power of the Commonwealth or any of its political subdivisions nor shall any of its obligations be deemed obligations of the Commonwealth or any of its political subdivisions. All mortgage insurance contracts, approved by the authority pursuant to the terms of this act, shall be obligations of the authority payable solely out of the funds of the authority as herein provided and appropriations made from time to time to the authority by the Legislature for the purposes of this act. The Commonwealth does hereby pledge to and agree with any bank, trust company, insurance company or other lending institution or person holding a mortgage in-

sured by the authority pursuant to the terms of this act that it will not alter, limit or modify the power of the authority in any manner which would impair or change its obligations with respect to any mortgage insured hereunder.

Section 14. The provisions of this act shall be severable and if any of the provisions thereof shall be held unconstitutional, such decision shall not affect the validity of any of the remaining provisions of this act. It is hereby declared as the legislative intent that this act would have been adopted had such unconstitutional provision not been included therein.

Severability.

APPROVED—The 14th day of August, A. D. 1963, except as to the appropriation of five hundred thousand dollars (\$500,000) set forth in section 8. I withhold my approval from this appropriation because an appropriation in like amount and for the same purpose has already been made by Act No. 32-A approved July 30, 1963.

WILLIAM W. SCRANTON

No. 472

AN ACT

Authorizing the Department of Property and Supplies, with the approval of the Governor, to sell and convey 8.75 acres of land, more or less, together with improvements erected thereon, situate in the City of Lancaster, Lancaster County.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Real property.

Section 1. The Department of Property and Supplies, with the approval of the Governor, is hereby authorized on behalf of the Commonwealth of Pennsylvania to sell at public sale and convey a tract of land situate in the City and County of Lancaster, Commonwealth of Pennsylvania, bounded and described as follows:

Department of Property and Supplies, with approval of Governor, authorized to sell certain land in Lancaster, Lancaster County.

Beginning at the northwest corner thereof and being the southeast corner of the intersection of South Ann Street and East End Avenue, formerly Chester Street; thence south along the east side of South Ann Street a distance of 524.8 feet, more or less, to a point in line of land now or late of Phares Shenk and Mary L. Shenk, his wife; thence eastwardly along north line of said premises now or formerly of Shenk a distance of 160 feet to a point being the northeast corner of the said property now or late of Phares Shenk and Mary L. Shenk, his wife; thence in and along the eastern side

Description.