



Housing Act 1985

1985 CHAPTER 68

PART XIV

LOANS FOR ACQUISITION OR IMPROVMEENT OF HOUSING

Local authority mortgages

435 Power of local authorities to advance money.

- (1) A local authority may advance money to a person for the purpose of—
 - (a) acquiring a house,
 - (b) constructing a house,
 - (c) converting another building into a house or acquiring another building and converting it into a house, or
 - (d) altering, enlarging, repairing or improving a house,or for the purpose of facilitating the repayment of an amount outstanding on a previous loan made for any of those purposes.
- (2) The authority may make an advance notwithstanding that it is intended that some part of the premises will be used, or continue to be used, otherwise than as a dwelling if it appears to the authority that the principal effect of making the advance would be to meet the applicant's housing needs; and in such a case the premises shall be treated as a building to be converted into a house.
- (3) The authority may make advances whether or not the houses or buildings are in the authority's area.
- (4) An advance may be made in addition to assistance given by the authority in respect of the same house under any other Act or any other provision of this Act.

436 Terms of advance.

- (1) The provisions of this section have effect with respect to the terms of advances under section 435.
- (2) The advance, together with the interest on it, shall be secured by a mortgage of the land concerned; and an advance shall not be made unless the estate proposed to be mortgaged is either—
 - (a) an estate in fee simple absolute in possession, or
 - (b) an estate for a term of years absolute of which a period of not less than ten years in excess of the period fixed for the repayment of the advance remains unexpired on the date on which the mortgage is executed.
- (3) The amount of the principal of the advance shall not exceed the value of the mortgage security or, as the case may be the value which it is estimated the mortgaged security will bear when the construction, conversion, alteration, enlargement, repair or improvement has been carried out; and the advance shall not be made except after a valuation duly made on behalf of the authority.
- (4) Where the advance is for any of the purposes specified in section 435(1)(b) to (d) (construction, conversion, alteration, enlargement, repair or improvement) it may be made by instalments from time to time as the works progress.
- (5) The mortgage deed shall provide—
 - (a) for repayments of the principal either by instalments of equal or unequal amounts, beginning on the date of the advance or at a later date, or at the end of a fixed period (with or without a provision allowing the authority to extend the period) or on the happening of a specified event before the end of that period, and
 - (b) for the payment of instalments of interest throughout the period beginning on the date of the advance and ending when the whole of the principal is repaid; but subject to section 441 (waiver or reduction of payments in case of property requiring repair or improvement) and to section 446(1)(b) (assistance for first time buyers: part of loan interest-free for up to five years).
- (6) The mortgage deed shall also provide that, notwithstanding the provisions referred to in subsection (5), the balance for the time being unpaid—
 - (a) shall become repayable on demand by the authority in the event of any of the conditions subject to which the advance is made not being complied with, and
 - (b) may, in any event, be repaid on one of the usual quarter-days by the person for the time being entitled to the equity of redemption after one month's written notice of intention to repay has been given to the authority.

437 Power of local authority on disposal to leave amount outstanding on mortgage.

On the disposal of a house under section 32 (disposal by local authority of land held for purposes of Part II)—

- (a) by way of sale, or
- (b) by the grant or assignment of a lease at a premium

the local authority may agree to the price or premium, or part of it, and any expenses incurred by the purchaser, being secured by a mortgage of the premises.

438 Local authority mortgage interest rates.

- (1) Where after 3rd October 1980 a local authority—
 - (a) advance money for any of the purposes mentioned in section 435, or
 - (b) on the disposal of a house allow, or have to allow, a sum to be left outstanding on the security of the house, or
 - (c) take a transfer of a mortgage in pursuance of section 442 (agreement by local authority to indemnify mortgagee),the provision made by them with respect to interest on the sum advanced or remaining outstanding shall comply with the provisions of Schedule 16.
- (2) This section does not prevent a local authority from giving assistance in the manner provided by—
 - section 441 (waiver or reduction of payments in case of property requiring repair or improvement), or
 - section 446(1)(b) (assistance for first-time buyers: part of loan interest-free for up to five years).
- (3) This section does not apply to loans made by local authorities under—
 - section 228 (duty to make loans for improvements required by improvement notice), or
 - section 58(2) of the Housing Associations Act 1985 (financial assistance for housing associations).

439 Requirements as to fitness of premises, &c.

- (1) Before advancing money under section 435 for the purpose specified in subsection (1) (a) (acquisition of a house), the authority shall satisfy themselves that the house to be acquired is, or will be made, in all respects fit for human habitation.
- (2) Before advancing money for any of the purposes specified in subsection (1)(b) to (d) of that section (construction, conversion, alteration, enlargement, repair or improvement), the authority shall satisfy themselves that the house concerned will when the relevant works have been completed be in all respects fit for human habitation.
- (3) An advance shall not be made for the purpose specified in the closing words of section 435(1) (repayment of previous loan), unless the authority satisfy themselves that the primary effect of the advance will be to meet the housing needs of the applicant by enabling him either—
 - (a) to retain an interest in the house concerned, or
 - (b) to carry out such works in relation to the building or house concerned as would be eligible for an advance under paragraph (c) or (d) of that subsection (conversion, alteration, enlargement, repair or improvement).

440 Deposits in respect of maintenance or repair of mortgaged premises.

A local authority by whom has been advanced on the mortgage of a house in pursuance of any enactment may accept the deposit by the mortgagor of the sums estimated to be required for the maintenance or repair of the mortgaged premises, and may pay interest on sums so deposited.

441 Waiver or reduction of payments in case of property requiring repair or improvement.

- (1) Where a local authority—
 - (a) advance money for the acquisition of a house which is in need of repair or improvement, or
 - (b) on the disposal of a house which is in need of repair or improvement allow, or have to allow, a sum to be left outstanding on the security of the house, they may, if the conditions stated in subsection (2) are satisfied, give assistance in accordance with this section to the person acquiring the house.
- (2) The conditions are—
 - (a) that the assistance is given in accordance with a scheme which either has been approved by the Secretary of State or conforms with such requirements as may be prescribed, and
 - (b) that the person acquiring the house has entered into an agreement with the local authority to carry out, within a period specified in the agreement, such works of repair or improvement as are so specified.
- (3) The assistance shall take the form of making provision—
 - (a) for waiving or reducing the interest payable on the sum advanced or remaining outstanding, and
 - (b) for dispensing with the repayment of principal, for a period ending not later than five years after the date of the advance or, as the case may be, the date of the disposal.
- (4) In this section “prescribed” means prescribed by order of the Secretary of State made with the consent of the Treasury.
- (5) An order—
 - (a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and
 - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

*Local authority assistance in connection with mortgages***442 Agreement by local authority to indemnify mortgagee.**

- (1) A local authority may, with the approval of the Secretary of State, enter into an agreement with—
 - (a) a building society lending on the security of a house, or
 - (b) a recognised body making a relevant advance on the security of a house, whereby, in the event of default by the mortgagor, and in the circumstances and subject to conditions specified in the agreement, the authority binds itself to indemnify the society or body in respect of the whole or part of the mortgagor’s outstanding indebtedness and any loss or expense falling on the society or body in consequence of the mortgagor’s default.
- (2) The agreement may also, if the mortgagor is made party to it, enable or require the authority in specified circumstances to take a transfer of the mortgage and assume

rights and liabilities under it, the building society or recognised body being then discharged in respect of them.

- (3) The transfer may be made to take effect—
 - (a) on terms provided for by the agreement (including terms involving the substitution of a new mortgage agreement or modification of the existing one), and
 - (b) so that the authority is treated as acquiring (for and in relation to the purposes of the mortgage) the benefit and burden of all preceding acts, omissions and events.
- (4) The Secretary of State may approve particular agreements or give notice that particular forms of agreement have his approval, and in either case may make his approval subject to conditions.
- (5) The Secretary of State shall before giving notice that a particular form of agreement has his approval consult—
 - (a) in the case of a form of agreement with a building society, the Chief Registrar of Friendly Societies and such organisations representative of building societies and local authorities as the Secretary of State thinks expedient;
 - (b) in the case of a form of agreement with a recognised body, such organisations representative of recognised bodies and local authorities as he thinks expedient.

443 Local authority contributions to mortgage costs.

- (1) A local authority may contribute towards costs incurred by a person in connection with a legal charge which secures, or a proposed legal charge which is intended to secure, a relevant advance made or proposed to be made to him by a building society or recognised body.
- (2) The contribution shall not exceed such amount as may be specified by order of the Secretary of State.
- (3) An order shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

444 Recognised bodies and relevant advances for purposes of ss. 442 and 443.

- (1) The expression “recognised body” in sections 442 and 443 (agreements to indemnify mortgagees and contributions to mortgage costs) means a body specified, or of a class or description specified, by order of the Secretary of State made with the consent of the Treasury.
- (2) An order shall be made by statutory instrument.
- (3) Before making an order varying or revoking a previous order the Secretary of State shall give an opportunity for representations to be made on behalf of a body which, if the order were made, would cease to be a recognised body.
- (4) The expression “relevant advance” in those sections means an advance made to a person whose interest in the house on the security of which the advance is made is, or was, acquired by virtue of a conveyance of the freehold, or a grant or assignment of a long lease, by—

a local authority,
 a new town corporation,
 an urban development corporation,
 the Development Board for Rural Wales,
 the Housing Corporation, or
 a registered housing association.

Assistance for first-time buyers

445 Advances to recognised lending institutions to assist first-time buyers.

- (1) The Secretary of State may make advances to recognised lending institutions enabling them to provide assistance to first-time purchasers of house property in Great Britain where—
 - (a) the purchaser intends to make his home in the property,
 - (b) finance for the purchase of the property (and improvements, if any) is obtained by means of a secured loan from the lending institution, and
 - (c) the purchase price is within the prescribed limits.
- (2) In this section “prescribed” means prescribed by order of the Secretary of State.
- (3) An order—
 - (a) may prescribe different limits for properties in different areas, and
 - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the House of Commons.

446 Forms of assistance and qualifying conditions.

- (1) Assistance under section 445 (assistance for first-time buyers) may be given in the following ways—
 - (a) the secured loan may be financed by the Secretary of State to the extent of £600 (that amount being normally additional to that which the institution would otherwise have lent, but not so that the total loan exceeds the loan value of the property);
 - (b) £600 of the total loan may be made free of interest, and of any obligation to repay principal, for up to five years from the date of purchase; and
 - (c) the institution may provide the purchaser with a bonus on his savings (which bonus shall be tax-exempt) up to a maximum of £110, payable towards the purchase or expenses arising in connection with it.
- (2) The purchaser qualifies for assistance under subsection (1)(a) and (b) (interest-free loan) by satisfying the following conditions with respect to his own savings—
 - (a) that he has been saving with a recognised savings institution for at least two years preceding the date of his application for assistance,
 - (b) that throughout the twelve months preceding that date he had at least £300 of such savings, and
 - (c) that by that date he has accumulated at least £600 of such savings;
 and he qualifies for assistance under subsection (1)(c) (bonus on savings) by satisfying the conditions specified in paragraphs (a) and (b) above.

- (3) The Secretary of State may allow for the conditions to be relaxed or modified in particular classes of case.
- (4) No assistance shall be given in any case unless the amount of the secured loan is at least £1,600 and amounts to not less than 25 per cent. of the purchase price of the property.
- (5) The Secretary of State may by order made with the consent of the Treasury—
 - (a) alter any of the money sums specified in this section;
 - (b) substitute a longer or shorter period for either or both of the periods mentioned in subsection (2)(a) and (b) (conditions as to savings);
 - (c) alter the condition in subsection (2)(c) so as to enable the purchaser to satisfy it with lesser amounts of savings and to enable assistance to be given in such a case according to reduced scales specified in the order;
 - (d) alter the percentage mentioned in subsection (4) (minimum secured loan).
- (6) An order shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the House of Commons.

447 Recognised lending institutions.

- (1) The lending institutions recognised for the purposes of section 445 (assistance for first-time buyers) are—
 - designated building societies,
 - local authorities,
 - new town corporations,
 - the Development Board for Rural Wales,
 - trustee savings banks
 - banks,
 - insurance companies, and
 - friendly societies.
- (2) The Secretary of State may by order made with the consent of the Treasury—
 - (a) add to the list in subsection (1), or
 - (b) direct that a named body shall no longer be a recognised lending institution; but before making an order under paragraph (b) he shall give an opportunity for representations to be made on behalf of the body concerned.
- (3) An order shall be made by statutory instrument.

448 Recognised savings institutions.

- (1) The savings institutions recognised for the purposes of section 446 (qualifying conditions as to savings) are—
 - designated building societies
 - local authorities
 - trustee savings banks,
 - banks,
 - friendly societies,
 - the Director of Savings, and
 - the Post Office,

and savings institutions recognised for the purposes of the corresponding provisions in force in Scotland or Northern Ireland.

- (2) The Secretary of State may by order made with the consent of the Treasury—
- (a) add to the list in subsection (1), or
 - (b) direct that a named body shall no longer be a recognised savings institution; but before making an order under paragraph (b) he shall give an opportunity for representations to be made on behalf of the body concerned.
- (3) An order shall be made by statutory instrument.

449 Terms of advances and administration.

- (1) Advances to lending institutions under section 445 (assistance for first-time buyers) shall be on such terms as to repayment and otherwise as may be settled by the Secretary of State, with the consent of the Treasury, after consultation with lending and savings institutions or organisations representative of them; and the terms shall be embodied in directions issued by the Secretary of State.
- (2) The following matters, among others, may be dealt with in directions issued by the Secretary of State—
- (a) the cases in which assistance is to be provided;
 - (b) the method of determining the loan value of property for the purpose of section 446(1)(a) (limit on total loan);
 - (c) the method of quantifying bonus by reference to savings;
 - (d) the considerations by reference to which a person is or is not to be treated as a first-time purchaser of house property;
 - (e) the steps which must be taken with a view to satisfying the conditions in section 446(2) (conditions as to purchaser's own savings), and the circumstances in which those conditions are or are not to be treated as satisfied;
 - (f) the supporting evidence and declarations which must be furnished by a person applying for assistance, in order to establish his qualification for it, and the means of ensuring that restitution is made in the event of it being obtained by false representations;
 - (g) the way in which amounts paid over by way of assistance are to be repaid to the lending institutions and to the Secretary of State.
- (3) The Secretary of State may, to the extent that he thinks proper for safeguarding the lending institutions, include in the terms an undertaking to indemnify the institutions in respect of loss suffered in cases where assistance has been given.

450 Modifications of building society law.

- (1) The following provisions apply with respect to an advance by a building society which is partly financed under section 445 (assistance for first-time buyers) or the corresponding Scottish or Northern Ireland provisions—
- (a) so much of the advance as is so financed shall be treated as not forming part of the advance for the purpose of determining whether the advance, or any further advance made within two years of the date of purchase, is beyond the powers of the society.

- (b) the society, in complying with section 28(3) of the Building Societies Act 1962 (statutory notice to borrower where security taken from third party), shall state the amount of the basic advance without including the amount so financed, and
 - (c) section 41 of the Building Societies Act 1962 (statutory provisions to be set out in society's acknowledgement of loan) does not apply to an acknowledgement for such an advance.
- (2) The following provisions apply with respect to an undertaking of indemnity under section 449(3) or the corresponding Scottish or Northern Ireland provisions—
- (a) the undertaking shall not be treated for any purpose of the Building Societies Act 1962 as additional security for the advance, and
 - (b) section 28 of the Building Societies Act 1962 (statutory notice to borrower where security taken from third party) does not apply by reason only of such an undertaking having been given.

Miscellaneous

451 Loans by Public Works Loan Commissioners.

- (1) The Public Works Loan Commissioners may lend money for the purpose of constructing or improving houses, or facilitating or encouraging the construction or improvement of houses, to any person entitled to land for an estate in fee simple absolute in possession or for a term of years absolute of which not less than 50 years remains unexpired.
- (2) A loan for any of those purposes, and interest on the loan, shall be secured by a mortgage of—
- (a) the land in respect of which the purpose is to be carried out, and
 - (b) such other land, if any, as may be offered as security for the loan;
- and the money lent shall not exceed three-quarters of the value, to be ascertained to the satisfaction of the Public Works Loan Commissioners, of the estate or interest in the land proposed to be so mortgaged.
- (3) Loans may be made by instalments from time to time as the building or other work on land mortgaged under subsection (2) progresses (so, however, that the total amounts lent does not at any time exceed the amount specified in that subsection); and a mortgage may be accordingly made to secure such loans so made.
- (4) If the loan exceeds two-thirds of the value referred to in subsection (2), the Public Works Loan Commissioners shall require, in addition to such a mortgage as is mentioned in that subsection, such further security as they may think fit.
- (5) The period for repayment of the loan shall not exceed 40 years, and no money shall be lent on a mortgage of land or houses unless the estate proposed to be mortgaged is either a fee simple absolute in possession or an estate for a term of years absolute of which not less than 50 years are unexpired at the date of the loan.
- (6) This section does not apply to housing associations; but corresponding provision is made by section 67 of the Housing Associations Act 1985.

452 Vesting of house in authority entitled to exercise power of sale.

- (1) Where there has been a disposal of a house by a housing authority and—
- (a) the authority is a mortgagee of the house,
 - (b) the conveyance or grant contains a pre-emption provision in favour of the authority, and
 - (c) within the period during which the pre-emption provision has effect the authority becomes entitled as mortgagee to exercise the power of sale conferred by section 101 of the Law of Property Act 1925 or the mortgage deed.

the provisions of Schedule 17 apply with respect to the vesting of the house in the authority.

- (2) In subsection (1)—
- “disposal” means a conveyance of the freehold or a grant or assignment of a long lease;
 - “housing authority” means—
 - a local authority,
 - a new town corporation,
 - an urban development corporation,
 - the Development Board for Rural Wales,
 - the Housing Corporation, or
 - a registered housing association;
 - “pre-emption provision” means a covenant imposing a condition of the kind mentioned in section 33(2)(b) or (c) (right of pre-emption or prohibition of assignment), the limitation specified in section 157(4) (restriction on disposal of dwellings in National Parks, etc.), or any other provision to the like effect.

- (3) The vesting of a house under Schedule 17 shall be treated as a relevant disposal for the purposes of—
- (a) the provisions of Parts II and V relating to the covenant required by section 35 or 155 (repayment of discount on early disposal), and
 - (b) any provision of the conveyance or grant to the like effect as the covenant required by those sections.

- (4) Where a conveyance or grant executed before 26th August 1984 contains both—
- (a) a pre-emption provision within the meaning of subsection (1), and
 - (b) the covenant required by section 35 or 155 (repayment of discount on early disposal) or any other provision to the like effect.

the latter covenant or provision has effect as from that date with such modifications as may be necessary to bring it into conformity with the provisions of this section.

- (5) The preceding provisions of this section do not apply where the conveyance or grant was executed before 8th August 1980.

- (6) Where before 8th August 1980 a local authority sold property under the powers of section 104(1) of the Housing Act 1957 (disposal of houses provided under Part V of that Act) and—
- (a) part of the price was secured by a mortgage of the property,

- (b) such a condition was imposed on the sale as was mentioned in section 104(3) of that Act, and
 - (c) within the period during which the authority has the right to re-acquire the property they become entitled to exercise the power of sale conferred by section 101 of the Law of Property Act 1925 or by the mortgage deed,
- the provisions of Schedule 17 apply with respect to the vesting of the property in the authority, but subject to the modifications specified in paragraph 4 of that Schedule.

453 Further advances in case of disposal on shared ownership lease.

- (1) Where—
- (a) a lease of a house, granted otherwise than in pursuance of the provisions of part V (the right to buy) relating to shared ownership leases, contains a provision to the like effect as that required by paragraph 1 of Schedule 8 (terms of shared ownership lease: right of tenant to acquire additional shares), and
 - (b) a housing authority has, in the exercise of any of its powers, left outstanding or advanced any amount on the security of the house.

that power includes power to advance further amounts for the purpose of assisting the tenant to make payments in pursuance of that provision.

- (2) In subsection (1) “housing authority” means—
- a local authority,
 - a new town corporation,
 - the Development Board for Rural Wales, or
 - a registered housing association.

454 Exclusion of Restrictive Trade Practices Act: recommendations as to implementation of this Part.

Section 16(3) and (5) of the Restrictive Trade Practices Act 1976 (recommendations by services supply associations to members) do not apply to—

- (a) recommendations made to building societies or recognised bodies about the making of agreements under section 442 (local authority agreements to indemnify mortgagees) or the corresponding Northern Ireland provision, or
- (b) recommendations made to lending institutions and savings institutions about the manner of implementing sections 445 to 449 (assistance for first-time buyers) or the corresponding Scottish or Northern Ireland provisions.

provided that the recommendations are made with the approval of the Secretary of State, or, as the case may be, the Department of the Environment for Northern Ireland, which may be withdrawn at any time on one month’s notice.

455 Exclusion of Restrictive Trade Practices Act: agreements as to loans on security of new houses.

- (1) In determining for the purposes of the Restrictive Trade Practices Act 1976 whether an agreement between building societies is one to which that Act applies by virtue of an order made, or having effect as if made, under section 11 of that Act (restrictive agreements as to services), no account shall be taken of any term (whether or not subject to exceptions) by which the parties or any of them agree not to grant loans on the security of new houses unless they have been built by or at the direction of a

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person who is registered with, or has agreed to comply with the standards of house building laid down or approved by, an appropriate body.

(2) In subsection (1)—

“appropriate body” means a body concerned with the specification and control of standards of house building which—

- (a) has its chairman, or the chairman of its board of directors or other governing body, appointed by the Secretary of State, and
- (b) promotes or administers a scheme conferring rights in respect of defects in the condition of houses on persons having or acquiring interest in them; and

“new house” means a building or part of a building intended for use as a private dwelling and not previously occupied as such.

(3) The reference in subsection (1) to a term agreed to by the parties or any of them includes a term to which the parties or any of them are deemed to have agreed by virtue of section 16 of the Restrictive Trade Practices Act 1976 (recommendations of services supply associations).

456 Advances under the Small Dwellings Acquisition Acts.

The provisions of Schedule 18 have effect with respect to advances made under the Small Dwellings Acquisition Acts 1899 to 1923 before the repeal of those Acts by the Housing (Consequential Provisions) Act 1985.

Supplementary provisions

457 Meaning of “house” and “house property”.

In this Part “house” includes—

- (a) any yard, garden, outhouses and appurtenances belonging to the house or usually enjoyed with it, and
- (b) any part of a building which is occupied or intended to be occupied as a separate dwelling including, in particular, a flat;

and “house property” shall be construed accordingly.

458 Minor definitions.

In this Part—

“the corresponding Northern Ireland provisions” means—

- (a) in relation to section 442 (local authority agreements to indemnify mortgagees), Article 156 of the Housing (Northern Ireland) Order 1981;
- (b) in relation to sections 445 to 449 (assistance for first-time buyers), Part IX of that Order;

“the corresponding Scottish provisions”, in relation to sections 445 to 449 (assistance for first-time buyers), means the Home Purchase Assistance and Housing Corporation Guarantee Act 1978;

“designated building society” means a building society designated for the purposes of the Trustee Investments Act 1961;

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“long lease” means a lease creating a long tenancy within the meaning of section 115.

459 Index of defined expressions: Part XIV.

The following Table shows provisions defining or otherwise explaining expressions used in this Part (other than provisions defining or explaining an expression used in the same section or paragraph):—

bank	section 622
building society	section 622
corresponding Northern Ireland provisions	section 458
corresponding Scottish provisions	section 458
designated building society	section 458
district valuer	section 622
first time purchaser	section 449(2)(d)
fit for human habitation	section 604
friendly society	section 622
house	section 457
house property	section 457
housing association	section 5(1)
Housing Revenue Account	section 417
insurance company	section 622
local authority	section 4(e)
long lease	sections 115 and 458
new town corporation	section 4(b)
ownership and proprietor (in relation to an advance under the Small Dwellings Acquisition Acts)	paragraphs 9(2) and (3) of Schedule 18
recognised body	section 444(1)
recognised lending institution	section 447
recognised savings institution	section 448
registered housing association	section 5(4)
residence (in relation to an advance under the Small Dwellings Acquisition Acts)	paragraph 9(1) of Schedule 18
statutory conditions (in relation to an advance under the Small Dwellings Acquisition Acts)	paragraph 2 of Schedule 18

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trustee savings bank

section 622

urban development corporation

section 4(d)