

*Mr. Denham*

## INVERCARGILL CITY HOUSING

[LOCAL BILL]

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### A BILL INTITULED

AN ACT to confer Further and Additional Powers on the Invercargill City Corporation in relation to Housing. Title.

5 BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Invercargill City Housing Act, 1945. Short Title.

10 2. In this Act, unless the context otherwise requires,— Interpretation.

“Building society” means a society formed under or subject to the Building Societies Act, 1908:

- “ City ” means the City of Invercargill:
- “ City Valuer ” means the officer or valuer appointed from time to time by the Council as valuer for the purposes of this Act:
- “ Corporation ” means the Corporation of the Mayor, Councillors, and Citizens of the City of Invercargill: 5
- “ Council ” means the Invercargill City Council:
- “ Estimated value ” means the value as estimated in a valuation made on behalf of the Council: 10
- “ Financial institution ” means any building society or any company or body corporate (whether incorporated in New Zealand or elsewhere) empowered to lend money on mortgage of land, and includes the State Advances Corporation of New Zealand and every other State or Government lending institution in New Zealand: 15
- “ House ” means any house, or part of a house, occupied as a separate dwelling, and includes outbuildings, paths, and fences. 20

Advances by Council towards loans for housing purposes.

3. (1) Where any person approved by the Council is desirous of erecting a house upon land in the city and applies to a financial institution for an advance by way of first mortgage upon the security of the land and proposed house the Council may, out of loan-moneys raised as hereinafter provided, pay to the financial institution such sum, not exceeding the limit provided by subsection *four* of this section as it may think fit, conditionally on that sum, together with the moneys to be advanced by the financial institution, being secured upon the land and proposed house by a first mortgage in favour of the financial institution containing such terms and provisions as the Council may approve. 35

(2) The Council and the financial institution may from time to time enter into such agreements in writing as they think fit in regard to the application and appropriation, as between the Corporation on the one hand and the financial institution on the other hand, of all payments made and sums recovered under any mortgage or mortgages as aforesaid and in regard to such other matters concerning any such mortgage 40

or mortgages as the Council and the financial institution may deem expedient. Every such agreement may from time to time be varied by agreement in writing between the Council and the financial institution.

5 (3) Before exercising in any case the power conferred on it by subsection *one* of this section, the Council shall be satisfied—

10 (a) That the applicant for the loan has provided or is able to provide towards the cost of the land and proposed house not less than one-tenth of the total estimated value of the land and of the proposed house when erected thereon:

15 (b) That the moneys to be advanced by the financial institution on first mortgage as aforesaid out of its own moneys (and not including the moneys to be paid by the Council to the financial institution under the said subsection *one*) amount to not less than two-thirds of the total estimated value of the land and of the proposed house when erected thereon:

20 (c) That the total principal moneys to be secured by the mortgage do not (after deduction therefrom of the moneys payable to the insurance fund as hereinafter provided) exceed nine-tenths of the total estimated value of the land and of the proposed house when erected thereon.

30 (4) The total principal moneys secured by any mortgage to which this section relates shall not exceed the sum of one thousand five hundred and fifteen pounds, and the amount to be paid by the Council to any financial institution for the purposes of being advanced by the financial institution upon the security of any such mortgage shall not exceed one-fourth of the total principal moneys secured by that mortgage.

40 4. (1) Where any person approved by the Council is desirous of erecting a house upon land in the city and applies to a financial institution for an advance by way of first mortgage upon the security of the land and proposed house the Council may, in the name of and on behalf of the Corporation, by deed or other instrument, guarantee to that financial institution repayment of any portion, not exceeding the limit

Guarantees by Council of portion of mortgages granted for housing purposes.

provided in subsection *four* of this section, of the moneys which such financial institution may so advance to that person.

(2) Every guarantee under this section shall contain such provisions as the Council and the financial institution may agree upon in regard to the application and appropriation, as between the portion of the moneys guaranteed by the Corporation and the other moneys secured by the mortgage, of all payments made and sums recovered under the mortgage and in regard to such other matters concerning the mortgage or the guarantee as the Council and the financial institution may deem expedient. Every such guarantee may from time to time be varied by deed or other instrument executed by the Council, in the name of and on behalf of the Corporation, and by the financial institution.

(3) Before exercising in any case the power conferred on it by subsection *one* of this section, the Council shall be satisfied—

(a) That the applicant for the loan has provided or is able to provide towards the cost of the land and proposed house not less than one-tenth of the total estimated value of the land and of the proposed house when erected thereon:

(b) That the moneys to be advanced by the financial institution on first mortgage as aforesaid amount to not less than two-thirds of the total estimated value of the land and of the proposed house when erected thereon, but do not (after deduction therefrom of the moneys payable to the insurance fund as hereinafter provided) exceed nine-tenths of such total estimated value.

(4) The principal moneys secured by any mortgage to which this section relates shall not exceed the sum of one thousand five hundred and fifteen pounds, and the portion of those moneys, repayment of which is guaranteed by the Corporation, shall not exceed one-third of the total principal moneys secured by the mortgage: Provided that in any case where the moneys secured by the mortgage include moneys by way of premiums payable by the mortgagor and no interest

is payable by the mortgagor, the total principal moneys secured by the mortgage may exceed the sum of one thousand five hundred and fifteen pounds by an amount not exceeding the amount of the premiums  
5 aforesaid.

(5) The Council shall not execute any guarantee under the powers conferred by this section if the liability to be assumed by the Corporation under the guarantee, together with the total liability originally  
10 assumed by the Corporation under all guarantees previously executed by the Council under the powers conferred by this section and under which the Corporation is or may be still liable, would exceed in the aggregate the sum of twenty-five thousand pounds.

15 **5.** (1) Subject to the provisions of subsection *two* of this section, where, in respect of any advance by way of first mortgage (in this section referred to as the original mortgage) granted under this Act to any person, the Council has, at the time of the giving of  
20 the original mortgage, entered into any guarantee under section *four* of this Act, and that person, for the purpose of repaying all moneys then secured by the original mortgage, applies to a financial institution for an advance by way of first mortgage (in this  
25 section referred to as the replacement mortgage) upon the security over which the original mortgage was given, the principal moneys secured by the replacement mortgage to be free of interest, but to include moneys by way of premiums payable by the mortgagor, the  
30 Council may guarantee to the financial institution making the advance under the replacement mortgage repayment of the moneys so advanced, or of any portion of those moneys.

Council may guarantee certain replacement mortgages.

(2) The principal moneys (exclusive of the moneys  
35 payable by way of premiums as aforesaid) secured by any replacement mortgage guaranteed by the Council under subsection *one* of this section shall not exceed the sum of one thousand five hundred and fifteen pounds, and the Council shall not guarantee in respect  
40 of the replacement mortgage repayment of any moneys in excess of the amount of the principal moneys secured by the original mortgage at the time of its repayment.

(3) Subject to the foregoing provisions of this section, the provisions of section *four* of this Act shall apply with respect to every guarantee given under this section.

Extending  
lending-powers  
of financial  
institutions.

6. Notwithstanding any rule of law or any statutory or other provision to the contrary, any financial institution may advance moneys by way of mortgage on the terms and conditions prescribed in or under this Act to an amount which does not (after deduction therefrom of the moneys payable to the insurance fund as hereinafter provided) exceed nine-tenths of the total estimated value of the land and of the proposed house when erected thereon. 5 10

Council may  
borrow for  
purposes of  
Act.

7. For the purposes of providing funds out of which the Council may make advances under section *three* of this Act and out of which the Council may pay any amounts payable in respect of any guarantee executed pursuant to section *four* or section *five* of this Act, the Council may from time to time raise moneys, not exceeding in the aggregate twenty-five thousand pounds, under the Local Bodies' Loans Act, 1926, by way of special loan by special order and without taking the steps prescribed in sections nine to thirteen of that Act, but the failure of the Council to raise such moneys, or the insufficiency of any of such moneys if raised, shall not in any way prejudice or affect the rights, powers, or remedies of any financial institution against the Corporation under any document purporting to be executed in pursuance of any of the provisions of this Act. 15 20 25 30

General  
provisions.

8. (1) The following provisions shall apply with respect to every mortgage to which the foregoing provisions of this Act relate:—

(a) The mortgage shall be for a period of not more than thirty years: 35

(b) The mortgage shall contain a covenant by the mortgagor that on any transfer or agreement for sale of the property encumbered by the mortgage he will reduce the principal moneys then secured by the mortgage to such sum as is the equivalent of seven-tenths of the principal moneys originally secured by 40

the mortgage, or to such less extent as the Council and the financial institution may approve in the circumstances of the particular case:

- 5 (c) Any person, firm, or company may join in or guarantee any of the covenants on the part of the mortgagor contained or implied in the mortgage:
- 10 (d) Collateral security may be taken by the financial institution, and, in particular, collateral security may be taken over any policy of life insurance, whether such policy be on the life of the mortgagor or on the life of any other person:
- 15 (e) If default is made under the mortgage, the Council shall while such default continues have the right, if it so desires, to call upon the financial institution to transfer the mortgage to the Corporation:
- 20 (f) If default is made under the mortgage and the default continues for a period of not less than three months, the financial institution may call upon the Council to elect whether or not it desires to call upon the financial institution to transfer the mortgage to the Corporation, and the Council shall make such election within two months of being called upon so to do:
- 25 (g) Where the Council, pursuant to paragraph (e) or paragraph (f) of this subsection, calls upon or elects to call upon the financial institution to transfer the mortgage to the Corporation,—
- 30 (i) The Council shall, within one month of the date upon which the Council calls upon or elects to call upon the financial institution to transfer the mortgage to the Corporation, pay to the financial institution all principal and other moneys secured by the mortgage (including all interest secured by the mortgage calculated down to the date of such payment):
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- 40

Provided that, except in cases where the Council and the financial institution have previously otherwise agreed, the Council shall not be liable to pay to the financial institution any interest which accrued due under the mortgage more than six months before the date upon which the Council called upon or elected to call upon the financial institution to transfer the mortgage to the Corporation: 5 10

(ii) The financial institution shall, on such payment being made by the Council, and on the Council paying all reasonable legal and other expenses incurred by the financial institution in so doing, transfer to the Corporation the mortgage and every guarantee thereof and security collateral therewith held by the financial institution: 15

(h) If default is made under the mortgage and the default continues for a period of not less than six months, the Council may (if the financial institution has not prior to the Council so doing called upon the Council under paragraph (f) of this subsection to make the election referred to in that paragraph) require the financial institution to apply (if it may lawfully do so) to the Registrar of the Supreme Court to conduct a sale of the mortgaged property under section one hundred and ten of the Land Transfer Act, 1915, but the Council shall pay to the financial institution all reasonable legal and other expenses incurred by the financial institution in and consequent upon the making of such application. 20 25 30 35

(2) Every agreement or guarantee entered into or purporting to be entered into by the Council in pursuance of any of the provisions of this Act shall be executed in the name of and under the seal of the Corporation, and every such agreement or guarantee shall, notwithstanding any non-compliance with any of the provisions of this Act, be valid and binding upon 40

the Corporation according to its tenor, and the production of any such document shall in all Courts and for all purposes be conclusive evidence of the validity thereof.

5 (3) Every resolution of the Council to advance moneys under section *three* of this Act shall, notwithstanding any non-compliance with any of the provisions of this Act, be conclusive evidence of the authority of the Council to make the advance.

10 9. To provide a fund for insuring the Corporation against losses arising out of mortgages to which the foregoing provisions of this Act relate, the Council may require the financial institution to deduct from the principal moneys to be advanced to the mortgagor  
15 upon any such mortgage so much thereof as may be the equivalent of one-hundredth of the remainder of the principal moneys after such deduction, and to pay the amount so deducted to the Council. Every such sum so deducted and paid to the Council shall for the  
20 purpose of the mortgage and any agreement or guarantee relating thereto be deemed to have been paid to the mortgagor, and all such sums so deducted and paid to the Council shall form part of a special fund to be invested and held by the Council as a fund to insure  
25 the Corporation against losses arising out of mortgages to which the foregoing provisions of this Act relate.

Insurance fund.

10. (1) The Council may lease to any person any land (other than public reserves) on which no buildings are erected and which it has power to lease under the  
30 Municipal Corporations Act, 1933, or any other Act, on the terms set out in section one hundred and fifty-eight of the Municipal Corporations Act, 1933, but the provisions of section one hundred and fifty-nine of that Act shall not apply to any such lease if there is  
35 a covenant therein that the lessee will erect one or more dwelling houses on the land not later than two years after the commencement of the lease.

Power to lease land for housing purposes.

(2) The rental for the term of any terminating lease, or for the first term of any renewable lease shall  
40 be not less than four pounds per centum of the unimproved value of the land to be fixed by the City Valuer and approved by the Council.

(3) The rentals for renewal terms of any such lease shall be fixed by valuation as provided in the said section one hundred and fifty-eight, but shall in no case be less than four pounds per centum of the unimproved value of such land according to the Government valuation roll for the time being in force. 5

(4) Any such lease may contain a provision whereby the lessee shall have the right at any time to purchase the fee-simple of the land comprised therein at a price equal to twenty-five times the annual rental payable under the lease at the time of the tenant's election to purchase. Every such purchase shall be completed within six months of the date of the election. 10

(5) Notwithstanding any rule of law or any statutory or other provision to the contrary, any financial institution may advance by way of mortgage to any person on the security of any such lease any sum not exceeding ninety per centum of the value of any house erected on the land so leased. 15

Extending  
powers of  
Council as to  
workers'  
dwellings.

**11.** The Council in exercising the powers conferred on it by Part XXVII of the Municipal Corporations Act, 1933, may expend any special loan or portion of any special loan raised under section three hundred and thirty-one of that Act in providing sewerage, drainage, electricity, gas, water-supply, or other services required for dwellings erected pursuant to the said Part XXVII. 25