

# MAINE STATE LEGISLATURE

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# 121st MAINE LEGISLATURE

## SECOND REGULAR SESSION-2004

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Legislative Document

No. 1766

H.P. 1288

House of Representatives, December 22, 2003

### An Act To Simplify the Finance Authority of Maine Act

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Submitted by the Finance Authority of Maine pursuant to Joint Rule 204.

Received by the Clerk of the House on December 17, 2003. Referred to the Committee on Business, Research and Economic Development pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative KAELIN of Winterport.  
Cosponsored by Senator BROMLEY of Cumberland and  
Representatives: AUSTIN of Gray, PELLON of Machias, ROGERS of Brewer, SULLIVAN of  
Biddeford, Senator: SHOREY of Washington.

Be it enacted by the People of the State of Maine as follows:

2  
4       **Sec. 1. 10 MRSA §962, sub-§1**, as amended by PL 1985, c. 344,  
§5, is further amended to read:

6       **1. Loans.** Encourage the making of mortgage loans to  
8       finance the planning, development, acquisition, construction,  
10       improvement, expansion and placing in operation of industrial,  
manufacturing, recreational, fishing, agricultural and other  
business and natural resource enterprises;

12       **Sec. 2. 10 MRSA §962, sub-§4**, as amended by PL 1989, c. 559,  
14       §1, is further amended to read:

16       **4. Small businesses and veteran-owned small businesses.**  
Encourage the making of mortgage loans to small businesses and  
18       veteran-owned small businesses;

20       **Sec. 3. 10 MRSA §963-A, sub-§§6 and 8**, as enacted by PL 1985,  
c. 344, §7, are amended to read:

22       **6. Commitment to issue loan insurance.** "Commitment to issue  
24       mortgage loan insurance" means a commitment to provide insurance  
for mortgage loan payments subject to terms specified by the  
26       authority.

28       **8. Eligible collateral.** "Eligible collateral" means an  
eligible--project accounts, as-extracted collateral, chattel  
30       paper, commercial tort claims, consumer goods, deposit accounts,  
documents, equipment, farm products, fixtures, general  
32       intangibles, instruments, investment property, inventory, letter  
of credit rights, manufactured homes, money, real estate,  
34       supporting obligations and accessions to any of the foregoing and  
any other business assets.

36       **Sec. 4. 10 MRSA §963-A, sub-§10**, as corrected by RR 1999, c.  
38       1, §§7 to 9, is amended to read:

40       **10. Eligible project.** "Eligible project" or "eligible  
collateral" means any of the following:

42       A. Any real-property-located-within-the-State--including  
44       without---limitation---any---land,---buildings,---fixture,  
improvement,-easement,-right-of-way,-water-right,-land-lying  
under-water-or-air-right eligible enterprise;

46       B.--Any-personal-property,-including-without-limitation-any  
48       leasehold,-inventory,-account-receivable,-patent,-license,  
franchise,-machinery,-equipment,-merchandise,-raw-material,  
50       supply,-product,-work-in-process,-stock-in-trade,-capital

- 2        ~~stock, note, guaranty, insurance contract, bond, mortgage,~~  
3        ~~letter of credit or security agreement;~~
- 4        ~~C. Any fishing vessel documented or to be documented under~~  
5        ~~laws of the United States or registered or to be registered~~  
6        ~~under a state's law which is designed to be used for~~  
7        ~~catching, processing or transporting fish and any vessel~~  
8        ~~outfitted for any such activity;~~
- 10       D. Any vessel registered under the law of the United States  
11       or a state;
- 12       E. Any energy conservation project;
- 14       F. Any energy distribution system project;
- 16       G. Any energy generating system project;
- 18       H. Any pollution-control project;
- 20       I. Any water supply system project;
- 22       J. Any underground oil storage facility replacement  
24       project, including equipment installed to meet requirements  
25       for gasoline service station vapor control and petroleum  
26       liquids transfer vapor recovery;
- 28       K. Any overboard discharge replacement project;
- 30       L. Any hazardous waste or solid waste recycling or  
31       reduction project;
- 32       M. Any aboveground oil replacement or upgrade project,  
34       including equipment installed to meet requirements for  
35       gasoline service station vapor control and petroleum liquids  
36       transfer vapor recovery;
- 38       N. Any electric rate stabilization project;
- 40       O. Any major business expansion project;
- 42       P. Any workers' compensation residual market mechanism  
43       project;
- 44       Q. Any clean fuel vehicle project;
- 46       R. Any paper industry job retention project; and
- 48       S. Any transmission facilities project.
- 50

2 In addition to and without limiting this subsection, "eligible  
3 project" ~~or--"eligible--collateral"~~ also means any project ~~or~~  
4 ~~collateral~~, the financing of which through the issuance of  
5 revenue obligation securities would result in the interest on the  
6 revenue obligation securities qualifying, as of the date of  
7 issuance, as tax-exempt under the United States Code, Title 26,  
8 Section 103, as amended.

9  
10 **Sec. 5. 10 MRSA §963-A, sub-§15**, as enacted by PL 1985, c.  
11 344, §7, is amended to read:

12 **15. Facility.** "Facility" means an eligible project ~~or--any~~  
13 ~~eligible-collateral~~.

14  
15 **Sec. 6. 10 MRSA §963-A, sub-§27**, as enacted by PL 1985, c.  
16 344, §7, is amended to read:

17 **27. Loan.** "Loan" ~~or--"mortgage-loan"~~ means an extension of  
18 credit made in consideration of a written promise of repayment or  
19 any other conditions ~~which~~ that may be established by the  
20 authority, performance of which may be secured by mortgage.

21  
22 **Sec. 7. 10 MRSA §963-A, sub-§27-A**, as enacted by PL 1993, c.  
23 460, §2, is amended to read:

24  
25 **27-A. Loan insurance agreement.** "Loan insurance  
26 agreement," ~~"mortgage-insurance-agreement" or "mortgage-insurance~~  
27 ~~contract"~~ means an agreement pursuant to which the authority  
28 insures payment of a mortgage loan pursuant to ~~chapter--110,~~  
29 ~~subchapter II 2,~~ and also means an agreement pursuant to which  
30 the authority insures or guarantees an insured certificate, if  
31 the authority's loan insurance liability for insuring an insured  
32 certificate is in lieu of and not in addition to its liability  
33 for insuring that portion of a mortgage loan represented by the  
34 insured certificate.

35  
36 **Sec. 8. 10 MRSA §963-A, sub-§§30 and 31**, as enacted by PL 1985,  
37 c. 344, §7, are repealed.

38  
39 **Sec. 9. 10 MRSA §963-A, sub-§36**, as enacted by PL 1985, c.  
40 344, §7, is amended to read:

41  
42 **36. Loan Insurance Program.** "Mortgage Loan Insurance  
43 Program" means the program governed by subchapter ~~II~~ 2.

44  
45 **Sec. 10. 10 MRSA §963-A, sub-§37**, as enacted by PL 1985, c.  
46 344, §7, is repealed.

47  
48 **Sec. 11. 10 MRSA §963-A, sub-§38**, as enacted by PL 1985, c.  
49 344, §7, is amended to read:

2           **38. Loan payments.** "Mortgage Loan payments" means payments  
4 required by or received on account of a mortgage or any other  
financial document, including, but not limited to, payments  
6 covering interest, installments of principal, taxes, assessments,  
loan insurance premiums and hazard insurance premiums.

8           **Sec. 12. 10 MRSA §963-A, sub-§44,** as enacted by PL 1985, c.  
344, §7, is amended to read:

10           **44. Project.** "Project" means any eligible project or  
12 eligible-collateral.

14           **Sec. 13. 10 MRSA §964, sub-§1, ¶A,** as enacted by PL 1983, c.  
519, §6, is amended to read:

16           A. Mortgage Loan Insurance Program;

18           **Sec. 14. 10 MRSA §964, sub-§1, ¶D,** as enacted by PL 1983, c.  
20 519, §6, is repealed.

22           **Sec. 15. 10 MRSA §964, sub-§1, ¶E,** as amended by PL 1985, c.  
344, §8, is repealed.

24           **Sec. 16. 10 MRSA §969-A, sub-§5,** as amended by PL 1991, c.  
26 511, Pt. A, §3, is further amended to read:

28           **5. Loan transactions.** Purchase, sell, service, pledge,  
invest in, hold, trade, accept as collateral or otherwise deal  
30 in, acquire or transfer, on such terms and conditions as the  
authority may specify, any mortgage loan, mortgage pass-through  
32 certificate, pledge including any pledge of mortgage revenue,  
mortgage participation certificate, revenue obligation security  
34 or other mortgage-backed or mortgage-related security. Any such  
transaction may be conducted by public or private offering, with  
36 or without public bidding. In connection with the purchase or  
sale of a mortgage loan or of a beneficial interest or  
38 participation in a mortgage loan, the authority may enter into  
one or more agreements providing for the custody, control and  
40 administration of the mortgage loan. Any such agreement may  
provide that the authority, a financial institution or other  
42 person shall act as trustor, trustee or custodian under the  
agreement. Any such agreement may provide that, with respect to  
44 mortgage loans governed by the agreement, title to a mortgage  
loan, or to a beneficial interest or participation in a mortgage  
46 loan, is deemed to have been transferred on terms and to the  
extent specified in that agreement and that the effect of a sale  
48 of a beneficial interest or participation in a mortgage loan is  
the same as a sale of a mortgage loan.

50

2 The authority may issue or cause to be issued certificates or  
4 other instruments evidencing the holder's fractional interest in  
6 a pool of ~~m~~ortgage loans, which interest may be undivided or  
8 limited to one or more specific loans. Whether or not the  
10 certificates or instruments are of such form or character as to  
be negotiable instruments under Title 11, article 8 ~~3-A~~, the  
certificates or instruments are negotiable instruments within the  
meaning of and for all the purposes of Title 11, article 8 ~~3-A~~,  
subject only to such registration requirements as the authority  
may establish.

12 In connection with the exercise of the powers authorized in this  
14 subsection and those powers otherwise granted to the authority,  
16 the authority may create and operate a secondary market and  
18 warehousing facility or facilities for ~~m~~ortgage loans or the  
insured portion of ~~m~~ortgage loans that provide liquidity to  
lenders making ~~m~~ortgage loans;

20 **Sec. 17. 10 MRSA §975-A, sub-§1, ¶A**, as enacted by PL 1985, c.  
344, §25, is amended to read:

22 A. After filing of a written application or proposal for  
24 financial assistance or property transfer, in form specified  
by or acceptable to the authority:

26 (1) Names of recipients of or applicants for financial  
28 assistance, including principals, where applicable;

30 (2) Amounts, types and general terms of financial  
32 assistance provided to those recipients or requested by  
those applicants;

34 (3) Descriptions of projects and businesses benefiting  
or to benefit from the financial assistance;

36 (4) Names of transferors or transferees, including  
38 principals, of property to or from the authority, the  
general terms of transfer and the purposes for which  
transferred property will be used;

40 (5) Number of jobs and the amount of tax revenues  
42 projected or resulting in connection with a project;

44 (6) Upon the authority's satisfaction of its ~~m~~ortgage  
46 loan insurance liability, the amount of any ~~m~~ortgage  
insurance payments with respect to a ~~m~~ortgage loan  
insurance contract; and

48

2 (7) Names of financial institutions participating in  
3 providing financial assistance and the general terms of  
4 that financial assistance;

5 **Sec. 18. 10 MRSA §986, sub-§4**, as enacted by PL 1983, c. 519,  
6 §7, is amended to read:

7 **4. Procure insurance.** The authority may procure insurance  
8 from public or private entities against any loss in connection  
9 with its operations and property interests, including insurance  
10 for any loss in connection with any bonds or obligations held by  
11 it and any of its property or assets and for payment of any bonds  
12 or obligations issued by it. To the maximum extent possible, the  
13 authority shall use the mortgage loan insurance program  
14 established pursuant to subchapter II 2.

15 **Sec. 19. 10 MRSA §997, sub-§2, ¶C**, as amended by PL 1985, c.  
16 344, §36, is further amended to read:

17 **C. Mortgage Loan insurance for loans which that** satisfy the  
18 following requirements:

19 (1) The lender must be a seller of agricultural land  
20 and other eligible collateral:

21 (a) Who is a natural person; or

22 (b) ~~Which~~ That is a family farm corporation;

23 (2) The borrower must be an entrant to natural  
24 resource enterprises;

25 (3) The loan must be made for the purpose of financing  
26 all or part of the purchase price of agricultural land  
27 and other eligible collateral; and

28 (4) The interest rate on the loan must be  
29 significantly less than the market interest rate, if  
30 required by the authority; and

31 **Sec. 20. 10 MRSA §1023-D, sub-§3**, as amended by PL 2001, c.  
32 231, §3, is further amended to read:

33 **3. Application of fund.** Money in the fund may be applied  
34 to carry out any power of the authority under this section or  
35 under or in connection with section ~~1026-F~~ 1026-A, subsection 1,  
36 paragraph A, subparagraph (1), division (b), including, but not  
37 limited to, to pledge or transfer and deposit money in the fund  
38 as security for and to apply money in the fund in payment of  
39 principal, interest and other amounts due on insured loans.  
40



2 Except as otherwise prohibited under this subsection, money in  
the fund may be used for direct loans or grants for all or part  
4 of underground oil storage facility projects, underground oil  
storage tank projects, aboveground oil storage tank or facility  
6 construction or replacement projects or gasoline service station  
vapor control or petroleum liquids transfer vapor recovery  
8 projects when the authority determines that:

10 A. One or more of the following circumstances exists:

12 (1) The underground oil storage facility or tank is  
leaking or has been identified by the Department of  
14 Environmental Protection as posing an environmental  
threat, or removal is required by applicable law;

16 (2) The applicant is required to install equipment  
related to the improvement of air quality pursuant to  
18 requirements for gasoline service station vapor control  
and petroleum liquids transfer vapor recovery;

20 (3) The applicant is constructing, replacing or  
22 renovating a tank or facility used for the aboveground  
storage of oil and the work is supervised by a  
24 state-registered professional engineer with training  
and experience in aboveground oil storage facility  
26 installation; or

28 (4) The applicant is renovating an underground oil  
storage tank or facility, the work is supervised by an  
30 underground oil storage tank installer certified by the  
Board of Underground Storage Tank Installers under  
32 Title 32, chapter 104-A and the estimated cost of the  
work exceeds ~~\$1000~~ \$1,000;

34 B. The applicant, if the applicant is not a unit of local  
36 government, demonstrates financial need for the assistance;  
and

38 C. If the assistance includes a loan, there is a reasonable  
40 likelihood that the applicant will be able to repay the loan.

42 Applicants demonstrating the requirement to install equipment  
related to the improvement of air quality pursuant to section  
44 1026-F 1026-A, subsection 1, paragraph A, subparagraph (1),  
division (b) and who own fewer than 15 service stations, and who  
46 are not able to repay a loan, are eligible to receive no more  
than \$35,000 per service station in grants for the payment of  
48 expenses relating to the installation of this equipment.

2 The authority, pursuant to Title 5, chapter 375, subchapter II 2,  
shall adopt rules for determining eligibility, feasibility,  
4 terms, conditions and security for the loans and grants. In the  
case of loans, the authority may charge an interest rate that may  
6 be as low as 0% and may be greater, depending on the financial  
ability of the applicant to pay as determined by the authority,  
8 up to a maximum of the prime rate of interest charged by major  
New York banks. The maximum the authority may loan or grant to  
10 any one borrower, including related entities as determined by the  
authority, is \$600,000. Loans or grants for the purposes listed  
12 in paragraph A, subparagraph (3) may not exceed \$1,000,000 in a  
12-month period. Grants may not be made for the purpose listed  
14 in paragraph A, subparagraph (4). Money in the fund not needed  
currently to meet the obligations of the authority as provided in  
this section may be invested as permitted by law.

16 **Sec. 21. 10 MRSA §1023-D, sub-§5,** as enacted by PL 1987, c.  
18 521, §4, is amended to read:

20 **5. Revolving fund.** The fund shall--be is a nonlapsing,  
revolving fund. All money in the fund shall must be continuously  
22 applied by the authority to carry out this section and section  
1026-F 1026-A, subsection 1, paragraph A, subparagraph (1),  
24 division (b).

26 **Sec. 22. 10 MRSA §1023-E,** as enacted by PL 1987, c. 846, §5,  
is repealed.

28 **Sec. 23. 10 MRSA §1023-I, sub-§5,** as amended by PL 1993, c.  
30 722, Pt. B, §1 and affected by §3, is further amended to read:

32 **5. Revolving fund.** The fund is a nonlapsing, revolving  
fund. All money in the 1992 Bond Proceeds Account of the fund  
34 must be continuously applied by the authority to carry out this  
section and section 1026-J and all money in the 1994 Bond  
36 Proceeds Account of the fund must be continuously applied by the  
authority to carry out this section and-sections, section 1026-A,  
38 subsection 1, paragraph A, subparagraph (2) and section 1026-J  
and-1026-K.

40 **Sec. 24. 10 MRSA §1023-K, sub-§3,** as amended by PL 2001, c.  
42 714, Pt. JJ, §2, is further amended to read:

44 **3. Application of fund.** The fund may be applied to carry  
out any power of the authority under or in connection with  
46 section 1026-P 1026-A, subsection 1, paragraph A, subparagraph  
(1), division (c), including, but not limited to, the pledge or  
48 transfer and deposit of money in the fund as security for and the  
application of the fund to pay principal, interest and other  
50 amounts due on insured loans. The fund may be used for direct

2 loans to finance all or part of any clean fuel vehicle project  
when the authority determines that:

4 A. The applicant demonstrates a reasonable likelihood that  
the applicant will be able to repay the loan;

6 B. The applicant demonstrates a reasonable likelihood that  
8 the applicant will not be able to obtain the funds necessary  
10 to undertake all or any part of the project from any other  
12 source, including a loan insured under section 1026-P  
1026-A, subsection 1, paragraph A, subparagraph (1),  
division (c);

14 C. The project is technologically feasible; and

16 D. The project will contribute to a reduction of or more  
efficient use of fossil fuels.

18 The authority shall adopt rules for determining eligibility,  
20 project feasibility, terms, conditions and security for loans  
under this section. Rules adopted pursuant to this section are  
22 routine technical rules under Title 5, chapter 375, subchapter  
24 II-A 2-A. Money in the fund not currently needed to meet the  
obligations of the authority as provided in this section may be  
invested in such a manner as permitted by law.

26 **Sec. 25. 10 MRSA §1023-K, sub-§5**, as enacted by PL 1997, c.  
28 500, §5, is amended to read:

30 **5. Revolving fund.** The fund is a nonlapsing, revolving  
fund. The fund must be continuously applied by the authority to  
32 carry out this section and section 1026-P 1026-A, subsection 1,  
paragraph A, subparagraph (1), division (c).

34 **Sec. 26. 10 MRSA §1023-L, sub-§3-A**, as enacted by PL 2001, c.  
36 356, §6, is amended to read:

38 **3-A. Use of funds by authority.** The authority may use  
money in the fund to carry out any power of the authority under  
40 this section, ~~section 1023-M, section 1026-R~~ or section 1026-S  
1026-A, subsection 1, paragraph A, subparagraph (1), division (d)  
42 or (e), including, but not limited to, the pledge or transfer and  
deposit of money in the fund as security for and the application  
44 of money in the fund in payment of principal, interest and other  
amounts due on insured loans. Money in the fund not needed to  
46 meet the obligations of the authority as provided in this section  
or section 1023-M may be invested as permitted by law. Any costs  
48 incurred by the authority in administering this fund may be taken  
from interest from all sources of the fund.

50

2           **Sec. 27. 10 MRSA §1023-M, sub-§2**, as amended by PL 2003, c.  
129, §§1 and 2 and affected by §5, is further amended to read:

4           **2. Eligibility to participate in loan program.** The  
6 authority may use money in the fund to carry out any power of the  
authority under this section or under section 1026-S 1026-A,  
8 subsection 1, paragraph A, subparagraph (1), division (e),  
including, but not limited to, the pledge or transfer and deposit  
10 of money in the fund as security for and the application of money  
in the fund in payment of principal, interest and other amounts  
12 due on insured loans. Money in the fund may be used for direct  
loans or deferred loans for all or part of the costs of the  
14 Plymouth waste oil site remedial study, past cost settlement,  
implementation of institutional controls selected by the United  
States Environmental Protection Agency to prevent use of  
16 contaminated groundwater by nearby residents and time-critical  
removal action costs when the authority determines that:

18           A-1. The applicant has been identified by the United States  
20 Environmental Protection Agency as a potentially responsible  
party with respect to the waste oil disposal site and the  
22 applicant is alleged by the United States Environmental  
Protection Agency to have generated waste oil from an  
24 address or location within the State;

26           B. The applicant has signed the Administrative Order by  
Consent pursuant to United States Environmental Protection  
28 Agency Docket No. CERCLA 1-2000-0004;

30           B-1. The applicant has signed the West Site/Hows Corner  
RI/FS Group Agreement;

32           B-2. The applicant has entered into a consent decree with  
34 the United States and the State regarding past cost  
settlement at the Plymouth waste oil disposal site and the  
36 applicant is a participant in that consent decree or the  
applicant has entered into an inability-to-pay settlement  
38 with the United States Environmental Protection Agency;

40           C. The applicant is not a state or federal agency; and

42           D. There is a reasonable likelihood that the applicant will  
be able to repay the loan.  
44

46 Money in the fund may not be used for attorney's fees associated  
with costs of the Plymouth waste oil site remedial study, past  
cost settlement, implementation of institutional controls or  
48 time-critical removal action, except that money in the fund may  
be used for attorney's fees incurred for the preparation of  
50 restrictive covenants, including deed and title research, for the

2 properties within the area identified by the United States  
Environmental Protection Agency as the institutional control zone  
4 in order to implement the institutional controls selected by the  
United States Environmental Protection Agency.

6 A past cost settlement share may not be paid from the fund to a  
person if the United States Environmental Protection Agency has  
8 waived payment of the share based on the person's financial  
capacity. The authority may condition payments related to the  
10 Plymouth waste oil disposal site on receipt of an ability-to-pay  
determination from the agency.

12 The authority, pursuant to Title 5, chapter 375, subchapter II 2,  
14 shall adopt rules for determining eligibility, feasibility,  
terms, conditions, security and fees for the loans, including  
16 deferred loans. The authority shall adopt rules that provide for  
a simplified loan application process for loan requests of under  
18 \$2000 \$2,000. Rules adopted pursuant to this subsection are  
routine technical rules as defined in Title 5, chapter 375,  
20 subchapter II-A 2-A. The authority shall charge an interest rate  
of 0% on all loans. Loan repayment must be deferred until the  
22 United States Environmental Protection Agency determines that  
construction of the final remedy is complete. If the total  
24 amount of the loan requests exceeds funds available under section  
1023-L, the authority shall prorate the amount of the loan  
26 available to each applicant by the ratio of the funds available  
to the total loans requested.

28 **Sec. 28. 10 MRSA §1024, sub-§1**, as amended by PL 1989, c. 543,  
30 §4, is further amended to read:

32 **1. Request for funds.** If at any time the money in the  
Mortgage Insurance Fund and the money in the Loan Insurance  
34 Reserve Fund, exclusive of the money pledged or assigned as  
security for specific obligations of the authority, is  
36 insufficient to meet expenses and obligations of the authority,  
as these expenses and obligations are projected by the authority  
38 to become due and payable, the authority shall in writing request  
the Governor to provide the necessary money. The Governor shall  
40 transfer sufficient money to the Mortgage Insurance Fund or Loan  
Insurance Reserve Fund, as directed by the authority, from the  
42 State Contingent Account or the proceeds of bonds of the State  
issued pursuant to subsection 2. If at any time the money in the  
44 Underground Oil Storage Replacement Fund, exclusive of any  
amounts reserved by law for direct loans pursuant to section  
46 1023-D, subsection 3, is insufficient to meet the expenses and  
obligations of the authority incurred pursuant to section 1026-F  
48 1026-A, subsection 1, paragraph A, subparagraph (1), division  
(b), as these expenses and obligations are projected by the  
50 authority to become due and payable, the authority shall in

2 writing request the Governor to provide the necessary money.  
3 Within 30 days of receipt of the request, the Governor shall  
4 transfer sufficient money to the Underground Oil Storage  
5 Replacement Fund from the Ground Water Oil Clean-up Fund or the  
6 proceeds of bonds of the State issued pursuant to subsection 2.  
7 ~~If at any time the money in the Overboard Discharge Replacement  
8 Fund, exclusive of any amounts reserved by law or rule for direct  
9 loans pursuant to section 1023-E, subsection 3, is insufficient  
10 to meet the expenses and obligations of the authority incurred  
11 pursuant to section 1026-G, as these expenses and obligations are  
12 projected by the authority to become due and payable, the  
13 authority shall request, in writing, the Governor to provide the  
14 necessary money. Within 30 days of receipt of the request, the  
15 Governor shall transfer sufficient money to the Overboard  
16 Discharge Replacement Fund from the State Contingent Account or  
17 the proceeds of bonds of the State issued pursuant to subsection  
18 2.~~

19  
20 **Sec. 29. 10 MRSA §1026-A**, as amended by PL 1993, c. 319, §1,  
21 is further amended to read:

22 **§1026-A. Insurance of loans**

23  
24 1. **Insurance.** The authority may make commitments and  
25 agreements to insure mortgage loan payments. Any mortgage loan  
26 insurance shall must be subject to the following:

27  
28 A. ~~A mortgage payment may not be applied in a manner that  
29 would, for any one project, increase the percentage of  
30 mortgage payments insured by the authority, except that this  
31 paragraph does not apply when insurance payments for any one  
32 project may not in the aggregate exceed the lesser of 25% of  
33 the original principal amount of the mortgage loan or Loan  
34 insurance may not exceed:~~

35  
36 (1) ~~In the case of insurance provided pursuant to  
37 section 1026-B, \$250,000; One hundred percent of the  
38 principal amount of the loan made to any borrower  
39 including related entities for any of the following  
40 types of loans or projects:~~

41  
42 (a) Loans to veterans and wartime veterans,  
43 except that the authority may not at any time  
44 have, in the aggregate amount of the principal and  
45 interest outstanding, loan insurance obligations  
46 pursuant to this division exceeding \$5,000,000;

47  
48 (b) Underground and aboveground oil storage  
49 facility projects and projects to install  
50 equipment related to the improvement of air

2 quality pursuant to requirements for gasoline  
3 service station vapor control and petroleum  
4 liquids transfer vapor recovery, except that the  
5 authority may not at any time have, in the  
6 aggregate amount of the principal and interest  
7 outstanding, loan insurance obligations pursuant  
8 to this division exceeding \$5,000,000;

9  
10 (c) Clean fuel vehicle projects, except that the  
11 authority may not at any time have, in the  
12 aggregate amount of the principal and interest  
13 outstanding, loan insurance obligations pursuant  
14 to this division exceeding \$5,000,000;

15  
16 (d) Waste oil disposal site clean-up projects,  
17 except that the authority may not at any time  
18 have, in the aggregate amount of the principal and  
19 interest outstanding, loan insurance obligations  
20 pursuant to this division exceeding \$1,000,000; or

21  
22 (e) The Plymouth waste oil remedial study, except  
23 that the authority may not at any time have, in  
24 the aggregate amount of the principal and interest  
25 outstanding, loan insurance obligations pursuant  
26 to this division exceeding \$1,000,000; and

27  
28 (2) ~~In the case of insurance provided pursuant to~~  
29 ~~section 1026-C, \$25,000; or~~ Ninety percent of the  
30 principal amount of the loan made to any borrower,  
31 including related entities for any other manufacturing  
32 enterprise, industrial enterprise, recreational  
33 enterprise, fishing enterprise, agricultural  
34 enterprise, natural resource enterprise or any other  
35 eligible business enterprise;

36 (3) ~~In the case of insurance provided pursuant to~~  
37 ~~section 1026-D, \$1,000,000;~~

38  
39 B. The loan shall must be serviced as required by the  
40 authority; and

41  
42 ~~C. Such other terms as may be required by law or by the~~  
43 ~~authority.~~

44  
45 D. The authority must determine that there is a reasonable  
46 prospect that the loan will be repaid;

47  
48 E. The loan must be in compliance with the credit policy of  
49 the authority;

50

2           F. Loan insurance payments may not exceed the lesser of:

4                   (1) Principal, outstanding accrued interest and  
                  collection costs approved by the authority; and

6                   (2) The original insured amount; and

8           G. Terms other than those specified in paragraphs A to F as  
                  may be required by law or by rule of the authority.

10           The authority may provide insurance for related entities of up to  
12           \$7,000,000.

14           Notwithstanding any provision to the contrary in this chapter,  
16           the authority may provide special loan insurance benefits to  
18           veterans and wartime veterans determined by rule of the authority  
                  developed in consultation with the Department of Defense,  
                  Veterans and Emergency Management, Bureau of Maine Veterans'  
                  Services.

20           For all loan insurance liability in excess of \$1,000,000 and in  
22           other instances when the authority determines it is appropriate,  
24           the authority shall obtain a written assessment from the  
26           Department of Environmental Protection of the environmental  
28           conditions known by the department to exist at a project location  
30           so that the authority fully considers environmental risks when  
                  making its decisions. Environmental conditions posing risks that  
                  must be considered include, but are not limited to, licensing  
                  obligations, existing or historic regulatory noncompliance and  
                  site clean-up responsibilities.

32           **1-A. Coinsurance.** Notwithstanding subsection 1, paragraph  
34           A, and ~~section 1026-D, subsection 2,~~ with respect to mortgage  
36           insured loans securing revenue obligation securities of the  
38           authority issued under subchapter III 3, the authority may insure  
40           an amount not to exceed 50% of the original principal amount of  
42           the mortgage loan, plus 50% of accrued interest, and may provide  
44           that mortgage payments be applied so that the insured percentage  
46           of the loan increases and that proceeds of collateral are applied  
                  first to reduce the portion of the loan not insured by the  
                  authority, provided that that insurance shall does not exceed  
                  \$3,500,000 in original principal amount for any loan and that the  
                  authority shall does not issue that insurance unless it  
                  determines that the applicant is financially strong and credit  
                  worthy creditworthy and that the loan is adequately secured by  
                  collateral.

48           **2. Loan eligibility.** The authority may insure mortgage  
50           loan payments under this subchapter subject to the following  
                  requirements:



2 A. The ~~mortgage shall~~ loan must be secured by a lien on or  
4 a security interest in eligible collateral, subject to such  
encumbrances, including, without limitation, coordinate  
6 first liens, as are acceptable to the authority, ~~except~~  
that, ~~where the original principal amount of the mortgage~~  
8 ~~insurance exceeds \$1,000,000, the lien or security interest~~  
~~shall be a first lien or first security interest;~~

10 B. The eligible collateral shall must be owned, leased,  
used or held by or shall otherwise benefit an eligible  
12 enterprise;

14 C. The ~~mortgage and related~~ documents shall must contain  
provisions satisfactory to the authority pertaining to the  
16 payment of principal and interest and shall contain  
covenants and other provisions satisfactory to the authority  
18 pertaining to ~~real estate~~ taxes, assessments, repairs,  
maintenance, ~~hazard~~ insurance, ~~mortgage insurance~~, default,  
20 remedies, transfer or alteration of eligible collateral,  
change in management or control of the ~~mortgagor~~ business  
22 and such other matters as the authority may determine; and

24 D. Other conditions ~~which may have been~~ prescribed by law  
or by the authority must have been complied with.

26 **~~3. Mortgage insured loan limitation for small businesses.~~**  
28 ~~Whenever an applicant applies for mortgage insurance under~~  
~~sections 1026-B and 1026-C or sections 1026-C and 1026-K, the~~  
30 ~~authority may insure mortgage loans for which the combined~~  
~~principal amounts of mortgage insurance of both sections do not~~  
32 ~~exceed \$1,100,000.~~

34 **4. Ineligible for loan insurance.** The authority may not  
provide loan insurance for the following:

- 36 A. Investment real estate;
- 38 B. Religious organizations;
- 40 C. Fraternal organizations;
- 42 D. Residential housing; or
- 44 E. Consumer loans.

46 **5. Limitations on loan insurance.** The authority may  
48 establish a maximum insurance liability for particular sectors by  
rule. Rules adopted pursuant to this subsection are routine

2 technical rules as defined in Title 5, chapter 375, subchapter  
3 2-A.

4 **Sec. 30. 10 MRSA §1026-B**, as amended by PL 1999, c. 504, §9,  
5 is repealed.

6 **Sec. 31. 10 MRSA §1026-C**, as amended by PL 1997, c. 455, §6  
7 and c. 489, §6, is repealed.

10 **Sec. 32. 10 MRSA §1026-D**, as amended by PL 2001, c. 417, §15,  
11 is repealed.

12 **Sec. 33. 10 MRSA §1026-E, first ¶**, as amended by PL 1985, c.  
13 714, §25, is further amended to read:

16 In addition to its other powers under this chapter, subject  
17 to the limitations of this subchapter, ~~except section 1026-A,~~  
18 ~~subsection 1, paragraph A, and sections 1026-B, 1026-C and~~  
19 ~~1026-D,~~ the authority may insure mortgage payments with respect  
20 to mortgage loans designated as one or more pools or other  
21 segregated portfolios. Any such insurance shall may not exceed  
22 50% of the aggregate principal balances of the mortgage loans as  
23 of the date on which the mortgage loans are designated for  
24 inclusion in a pool. The authority shall, by rulemaking pursuant  
25 to Title 5, chapter 375, subchapter ~~¶~~ 2, establish requirements  
26 for demonstrating project feasibility and for collateral.

28 **Sec. 34. 10 MRSA §1026-F**, as amended by PL 1993, c. 601, §3,  
29 is repealed.

30 **Sec. 35. 10 MRSA §1026-G**, as enacted by PL 1987, c. 846, §9,  
31 is repealed.

34 **Sec. 36. 10 MRSA §1026-H, sub-§4, ¶¶B and C**, as enacted by PL  
35 1989, c. 552, §14, are amended to read:

36  
37 B. In the case of security for commercial loans, funds may  
38 be provided from the fund established under section ~~1026-G~~  
39 ~~1023-F~~ to the lender as collateral for the loan on such  
40 terms and conditions as may be established by the authority  
41 by rulemaking pursuant to the Maine Administrative Procedure  
42 Act, Title 5, chapter 375, subchapter ~~¶~~ 2, ~~provided that as~~  
43 long as funds deposited with the lender do not exceed 45% of  
44 the total loan. The authority may provide that the lender  
45 may apply the deposited money from the fund to the loan in  
46 the event of default prior to application of collateral to  
47 the loan. The authority may also provide funds to a lender  
48 as a deposit in the name of the authority at a reduced rate  
of interest ~~provided that~~ as long as the

2 interest savings to the lender is passed on to the borrower  
in the form of a lower interest rate on the loan.

4 C. In the case of security for equity investments, the  
6 authority may pledge or deposit money from the fund  
established under section ~~1026-G~~ 1023-F as security for up  
8 to 30% of a direct equity investment in an eligible borrower  
on terms and conditions established by the authority by  
10 rulemaking pursuant to the Maine Administrative Procedure  
Act, Title 5, chapter 375, subchapter ~~II~~ 2.

12 **Sec. 37. 10 MRSA §1026-K**, as enacted by PL 1993, c. 319, §2,  
14 is repealed.

**Sec. 38. 10 MRSA §1026-O**, as enacted by PL 1997, c. 217, §1,  
16 is repealed.

18 **Sec. 39. 10 MRSA §1026-P**, as enacted by PL 1997, c. 500, §6,  
20 is repealed.

**Sec. 40. 10 MRSA §1026-R**, as reallocated by RR 1999, c. 1,  
22 §14, is repealed.

24 **Sec. 41. 10 MRSA §1026-S**, as enacted by PL 1999, c. 713, §4,  
26 is repealed.

**Sec. 42. 10 MRSA §1029**, as amended by PL 1987, c. 846, §10,  
28 is further amended to read:

30 **§1029. Insurance of subchapter 3 loans**

32 **1. Eligible for insurance.** All payments required under a  
34 mortgage, a loan agreement or related documents for a project  
financed by revenue obligation securities issued pursuant to  
36 subchapter ~~III~~ 3, including revenue obligation securities ~~which~~  
may that provide full or partial financing for more than one  
project, ~~shall--be~~ are eligible for insurance to the extent  
38 permitted under this subchapter.

40 **2. Insurance payment.** In any case ~~where~~ when the authority  
42 becomes obligated by contract or other agreement to make an  
insurance payment with respect to any insured mortgage or other  
44 agreement issued with respect to insured subchapter ~~III~~ 3 loans,  
the authority shall:

46 A. Make the payment at the time and in the manner provided  
48 by the applicable contract or agreement, charging the  
payment to the Mortgage Insurance Fund, Loan Insurance  
Reserve Fund or, in the case of payments required under  
50 agreements issued ~~pursuant-to-section-1026-F~~ for aboveground

2 ~~and underground storage facility replacement projects, to~~  
the Underground Oil Storage Facility Replacement Fund ~~or, in~~  
3 ~~the case of payments required under agreements issued~~  
4 ~~pursuant to section 1026-G, to the Overboard Discharge~~  
Replacement Fund;

6 D. Take all reasonable steps to enforce the payment of  
8 amounts due from the mortgagor.

10 The trustee for any bond or note issued in anticipation of the  
bond, or, if there is no trustee, the holder of any bond or note  
12 shall ~~have~~ has the right to bring suit against the authority for  
payment in accordance with the contract or other agreement  
14 executed by the authority.

16 **Sec. 43. 10 MRSA §1030**, as amended by PL 1987, c. 846, §11,  
is further amended to read:

18 **§1030. Incontestability**

20 Any ~~mortgage~~ loan insurance commitment or contract executed  
22 and delivered by the authority under this subchapter ~~shall be~~ is  
conclusive evidence of the eligibility of the ~~mortgage~~ loan for  
24 insurance subject to satisfaction of any conditions set forth in  
the ~~mortgage~~ loan insurance contract or commitment and that the  
26 requirements of sections 1026-A ~~to 1026-G~~ and 1026-E have, to the  
extent determined applicable by the authority, been satisfied or  
28 made conditions of the ~~mortgage~~ loan insurance commitment or  
contract, and the validity of any ~~mortgage~~ loan insurance  
30 commitment or contract so executed and delivered ~~shall be~~ is  
incontestable in the hands of an insured except for fraud or  
32 misrepresentation on the part of the insured.

34 **Sec. 44. 10 MRSA §1031**, as amended by PL 1985, c. 344, §54,  
is further amended to read:

36 **§1031. Loans eligible for investment**

38 ~~Mortgages~~ Loans insured under this subchapter are made legal  
40 investments for all insurance companies, trust companies, banks,  
investment companies, savings banks, savings and loan  
42 associations, executors, trustees and other fiduciaries, public  
and private pension or retirement funds and other persons.

44 **Sec. 45. 10 MRSA §1032, sub-§3**, as amended by PL 1993, c. 410,  
46 Pt. EEEE, §2, is further amended to read:

48 **3. Security for loans.** With respect to any ~~mortgage~~ loans  
that may be insured under this subchapter, interest rate swap  
50 agreements benefiting eligible enterprises and loans to the

2 authority to be used for direct loans to eligible enterprises or  
students pursuing higher education, the authority may provide  
4 that such mortgage loans, interest rate swap agreements or loans  
to the authority must be secured by one or more capital reserve  
6 funds established pursuant to subsection 1 instead of or in  
addition to mortgage insurance provided under other sections of  
this subchapter. Limitations and requirements applicable to  
8 mortgage insurance under sections 1026-A to 1028 are applicable  
to mortgage loans, but not interest rate swap agreements or loans  
10 to the authority, to which one or more capital reserve funds  
apply as if the mortgage loans were backed by mortgage  
12 insurance. Capital reserve funds may secure interest rate swap  
agreements pertaining to eligible enterprises that demonstrate  
14 the ability to honor the swap agreement as determined by the  
authority and that do not have as a principal element space for  
16 retail sales or professional office space, as defined by the  
authority. Any commitment with respect to a mortgage loan  
18 executed and delivered pursuant to this section is conclusive  
evidence of the eligibility of the mortgage loan for insurance  
20 and the validity of any such commitment or contract is  
incontestable in the hands of a mortgage lender, swap  
22 counterparty or lender to the authority except for fraud or  
misrepresentation on the part of the mortgage lender, swap  
24 counterparty or lender to the authority. Mortgages Loans secured  
by capital reserve funds under this section are made legal  
26 investments for all insurance companies, trust companies, banks,  
investment companies, savings banks, savings and loan  
28 associations, executors, trustees and other fiduciaries, public  
and private pension or retirement funds and other persons.

30 **Sec. 46. 10 MRSA §1032, sub-§6**, as amended by PL 1997, c. 217,  
32 §2, is further amended to read:

34 **6. Obligations outstanding.** The authority may not have at  
any one time outstanding obligations to which this section is  
36 stated in any agreement of the authority to apply in principal  
amount exceeding \$150,000,000, less the amount of revenue  
38 obligation securities to which section 1053 is stated in the  
trust agreement or other document to apply. Amounts of revenue  
40 obligation securities that are not taken into account pursuant to  
section 1053, subsection 6, may not be taken into account for  
42 purposes of determining the amount that may be outstanding under  
this section. ~~Of the \$150,000,000, \$1,000,000 must be reserved~~  
44 ~~for loans insured pursuant to section 1026-0.~~ Notwithstanding  
the foregoing, the authority may additionally have outstanding at  
46 any one time up to \$3,500,000 of obligations relating to direct  
loans to students pursuing higher education.

48 **Sec. 47. 10 MRSA §1041-A, first ¶**, as enacted by PL 1991, c.  
50 606, Pt. F, §2, is amended to read:

2           The authority may not provide financing from proceeds of  
4 revenue obligation securities issued by the authority for any  
6 housing that is eligible for financing by the Maine State Housing  
8 Authority except with respect to property that the authority has  
acquired or may acquire on account or in anticipation of imminent  
or actual default under the mortgage insurance program.

10           **Sec. 48. 10 MRSA §1044. sub-§9**, as amended by PL 1985, c. 714,  
§31, is further amended to read:

12           **9. Credit not pledged.** Except as provided in this  
14 subsection, securities issued under this subchapter shall do not  
16 constitute any debt or liability of the State or of any  
18 municipality therein or any political subdivision thereof, or of  
the authority or a pledge of the faith and credit of the State or  
20 of any such municipality or political subdivision, but shall ~~be~~  
22 are payable solely from the revenues of the project or projects  
for which they are issued or from other eligible collateral or  
24 the revenues or proceeds of other eligible collateral pledged to  
the payment of the revenue obligation securities and all such  
26 securities shall must contain on their face a statement to that  
effect. The issuance of securities under this subchapter shall  
28 does not directly or indirectly or contingently obligate the  
State or any municipality or political subdivision to levy or to  
pledge any form of taxation whatever therefor or to make any  
30 appropriation for their payment. Under subchapter II 2, the  
authority may insure mortgage loans made with the proceeds of  
32 revenue obligation securities. To these ends, the faith and  
credit of the State may be pledged, under and consistent with the  
terms and limitations of the Constitution of Maine, Article IX,  
Section 14-A or 14-D, and such further limitations, if any, as  
may be provided by statute.

34           **Sec. 49. 10 MRSA §1048, 3rd ¶**, as enacted by PL 1993, c. 741,  
36 §2, is amended to read:

38           If, in connection with any outstanding revenue obligation  
40 securities issued under previous chapter 104, any predecessor to  
the authority financed or guaranteed more than 90% of the total  
42 value of a project, the authority, in connection with issuing its  
revenue refunding securities, may continue to finance or  
44 guarantee the corresponding percentage of the total value of the  
project financed or guaranteed by its predecessor,  
46 notwithstanding section ~~1026-D~~ 1026-A, subsection 2 1, paragraph  
B A, subparagraph (1).

48

## SUMMARY

2

4 This bill simplifies the Finance Authority of Maine Act by  
clarifying definitions and consolidating the loan insurance  
sections of law. This bill also corrects cross-references.