

MAINE STATE LEGISLATURE

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House of Representatives, March 28, 1949.

Reported by Mr. Burgess from Committee on Judiciary and printed under Joint Rule 10.

HARVEY R. PEASE, Clerk.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-NINE

**AN ACT to Authorize the Creation of Public Bodies to be Known as
Housing Authorities.**

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

R. S., c. 81-A, additional. The revised statutes are hereby amended by adding thereto a new chapter to be numbered 81-A, to read as follows:

'CHAPTER 81-A.

MAINE HOUSING AUTHORITIES

Sec. 1. Title. This chapter may be referred to as the "Maine Housing Authorities Act".

Sec. 2. Finding and declaration of necessity. There exist in certain areas of the state insanitary, unsafe, crowded dwelling accommodations and a shortage of safe and sanitary dwelling accommodations for persons of low income, and especially veterans, at rents they can afford.

It is therefore found and declared that state assistance to overcome this situation is proper and that expenditure of public money and the acquisition of private property is theretofore proper and is a matter of state concern.

Sec. 3. Creation of municipal authorities. In each municipality, as herein defined, of the state there is hereby created a public body corporate and politic to be known as the "housing authority" of the municipality; provided, however, that such authority shall not transact any business or exercise its powers until the municipality, by vote of its inhabitants, shall declare that there is a need for an authority to function in such municipality.

The municipality, before such authority shall transact any business or exercise its powers, must, in annual or special town meeting or city election, by appropriate vote declare that there exists, within its limits, insanitary, unsafe, crowded dwelling accommodations and a shortage of safe and sanitary dwelling accommodations for persons of low income, and especially veterans, at rents they can afford; and shall continue in existence until by appropriate vote as aforesaid it shall declare that the above conditions cease to exist.

Sec. 4. Appointment, qualifications, tenure and meetings of commissioners. Each authority shall have 5 commissioners appointed in the case of a city by the mayor with the advice and consent of the governing body of the city, and in the case of a town by the governing body of the town; provided, that no commissioner shall be appointed until the adoption of an appropriate vote as provided in section 3. The commissioners who are first appointed pursuant to this chapter shall be designated to serve for terms of 1, 2, 3, 4 and 5 years, respectively, from the date of their appointment, and thereafter commissioners shall be appointed as aforesaid for a term of office of 5 years except that all vacancies shall be filled for the unexpired term, all such appointments to be made by the official or body making the original appointment.

Each authority shall elect a chairman and vice-chairman from among the commissioners. An authority may employ a secretary who shall be executive director and technical experts and such other officers, agents and employees, as it may require, and shall determine their qualifications, duties and compensation. An authority may call upon the chief law officer of the municipality or may employ its own counsel and legal staff. It may delegate to its agents or employees such powers or duties as it may deem proper.

A commissioner shall receive no compensation for his services, but shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of his duties. Each commissioner shall hold office until his successor has been appointed and has qualified. A certificate of the appointment or reappointment of any commissioner shall be filed with the authority

and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner.

Sec. 5. Interested commissioners or employees. No commissioner or employee of an authority shall acquire any interest direct or indirect in any project or in any property included or planned to be included in any project, or in any contract or proposed contract for materials or services to be furnished or used in connection with any project. If any commissioner or employee of an authority previously owned or controlled an interest direct or indirect in any property included or planned to be included in any project, he immediately shall disclose such interest in writing to the authority and such disclosure shall be entered upon the minutes of the authority. Failure so to disclose such commissioner or employee shall not participate in any action by the authority affecting such property.

Sec. 6. Removal of commissioners. For inefficiency or neglect of duty or misconduct in office, a commissioner may be removed after a hearing by the governing body of the municipality, provided that he shall have been given a copy of the charges at least 10 days prior to the hearing and had an opportunity to be heard in person or by counsel. In the event of the removal of a commissioner, a record of the proceedings, together with the charges and findings thereon, shall be filed in the office of the clerk.

Sec. 7. Powers of authority. An authority shall have such powers accorded corporations organized under the general law as are necessary to carry out the purposes of this chapter.

Sec. 8. Operation of housing not for profit. It is hereby declared to be the policy of this state that each authority shall manage and operate its housing projects in an efficient manner so as to enable it to fix the rentals or payments for dwelling accommodations at low rates consistent with its providing decent, safe and sanitary dwelling accommodations for persons of low income and that no authority shall construct or operate any housing project for profit, or as a source of revenue to the municipality.

Sec. 9. Limitation to certain persons for rent; preference to veterans. An authority shall not rent its housing accommodations to persons whose annual income is in excess of 5 times the annual rental of such accommodations, and, until this chapter is further amended, shall give preference, as between applicants of equal need and eligible for occupancy of the dwelling, to families of veterans who have been discharged, other than dishonorably, from the armed forces of the United States.

Nothing contained in this or the preceding section shall be construed as

limiting the power of an authority to vest in an obligee the right, in the event of a default by the authority, to take possession of a project or cause the appointment of a receiver thereof, free from all the restrictions imposed by this or the preceding section.

Sec. 10. Cooperation between authorities. Any 2 or more authorities may join or cooperate with one another in the exercise of any or all of the powers conferred hereby for the purpose of financing, planning, undertaking, constructing or operating a housing project or projects located within the area of operation of any 1 or more of said authorities.

Sec. 11. Tax exemption and payments in lieu of taxes. The property of an authority is declared to be public property used for essential public and governmental purposes and such property and authority shall be exempt from all taxes and special assessments of the city, the county, the state or any political subdivision thereof. In lieu of taxes on its property an authority may agree to make such payments to the city or county, the state or any political subdivision thereof as it finds consistent with the maintenance of the low-rent character of housing projects or the achievement of the purposes of this chapter.

Sec. 12. Planning, zoning and building laws. All projects of an authority shall be subject to the planning, zoning, sanitary and building laws, ordinances and regulations applicable to the locality in which the project is situated. In the planning and location of any project, an authority shall conform to any larger or long-range program for the development of the area in which the project is located.

Sec. 13. Bonds. An authority shall have the power to issue bonds from time to time in its discretion, for any of its corporate purposes, including the purpose of paying or retiring bonds previously issued by it. Bonds of an authority shall be authorized by its vote of the municipality's inhabitants and may be issued in such form and may contain such provisions as such vote of the municipality's inhabitants, its trust indenture or mortgage may provide.

The bonds may be sold at public or private sale at not less than par. Any provision of any law to the contrary notwithstanding, any bonds issued pursuant to this chapter shall be fully negotiable.

Neither the commissioners of an authority nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof. The bonds and other obligations of an authority, and such bonds and obligations shall so state on their face, shall not be a debt of the municipi-

pality, the state or any political subdivision thereof and neither the municipality, nor the state or any political subdivision thereof shall be liable thereon, nor in any event shall such bonds or obligations be payable out of any funds or properties other than those of said authority. The bonds shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction. Bonds of an authority are declared to be issued for an essential public and governmental purpose and to be public instrumentalities and, together with interest thereon and income therefrom, shall be exempt from taxes.

In any suit, action or proceedings involving the validity or enforceability of any bond of an authority or the security therefor, any such bond reciting in substance that it has been issued by the authority to aid in financing a project, as herein defined, shall be deemed to have been issued for such purpose, and such project shall be deemed to have been planned, located and carried out in accordance with the purposes and provisions of this chapter.

Sec. 14. Provisions of bonds, trust indentures and mortgages. In order to secure the payment of its bonds, an authority, in addition to its other powers, shall have power:

- I. To pledge all or any part of its gross or net rents, fees or revenues, including any grants or contributions from the federal government or other source, to which its right then exists or may thereafter come into existence.
- II. To mortgage all or any part of its real or personal property, then owned or thereafter acquired.
- III. To covenant against pledging all or any part of its rents, fees and revenues, or against mortgaging all or any part of its real or personal property, to which its right or title then exists or may thereafter come into existence or against permitting or suffering any lien on such revenues or property; to covenant with respect to its right to sell, lease or otherwise dispose of any housing project or any part thereof; and to covenant as to what other, or additional debts or obligations may be incurred by it.
- IV. To covenant against extending the time for the payment of its bonds or interest thereon, and to covenant for the redemption of the bonds and to provide the terms and conditions thereof.
- V. To prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given.

VI. To covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant, condition or obligation; and to covenant and prescribe as to events of default and terms and conditions upon which any or all of its bonds or obligations shall become or may be declared due before maturity, and as to the terms and conditions upon which such declaration and its consequences may be waived.

VII. To exercise all or any part or combination of the powers herein granted; to make such other covenants and to do such acts and things as may be necessary or desirable in order to secure its bonds, or, in the absolute discretion of said authority, as will tend to make the bonds more marketable, notwithstanding that such covenants, acts or things may not be enumerated herein.

Sec. 15. Remedies of an obligee. An obligee of an authority shall have the right in addition to all other rights which may be conferred on such obligee, subject only to any contractual restrictions binding upon such obligee:

I. By mandamus, suit, action or proceeding at law or in equity to compel said authority and the commissioners, officers, agents or employees thereof to perform each and every term, provision and covenant contained in any contract of said authority with or for the benefit of such obligee, and to require the carrying out of any or all such covenants and agreements of said authority and the fulfillment of all duties imposed upon said authority by this chapter.

II. By suit, action or proceeding in equity, to enjoin any acts or things which may be unlawful, or the violation of any of the rights of such obligee of said authority.

Sec. 16. Additional remedies conferrable by authority. An authority shall have power by its resolution, trust indenture, mortgage, lease or other contract to confer upon any obligee holding or representing a specified amount in bonds, the right, in addition to all rights that may otherwise be conferred, upon the happening of an event of default as defined in such resolution or instrument, by suit, action or proceeding in any court of competent jurisdiction:

I. To cause possession of any project or any part thereof to be surrendered to any such obligee.

II. To obtain the appointment of a receiver of any project of the authority or any part thereof and of the rents and profits therefrom.

III. To require said authority and the commissioners thereof to account as if it and they were the trustees of an express trust.

Sec. 17. Exemption of property from execution sale. All real property of an authority shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the same nor shall any judgment against an authority be a charge or lien upon its real property; provided, however, that the provisions of this section shall not apply to or limit the right of obligees to foreclose or otherwise enforce any mortgage or other security of an authority or the right of obligees to pursue any remedies for the enforcement of any pledge or lien given by an authority on its rents, fees or revenues or the right of the federal government to pursue any remedies conferred upon it pursuant to the provisions of this chapter.

Sec. 18. Aid from federal government. In addition to the powers conferred upon an authority by other provisions of this chapter, an authority is empowered to borrow money or accept contributions, grants or other financial assistance from the federal government for or in aid of any project within its area of operation, to take over or lease or manage any project or undertaking constructed or owned by the federal government, and to those ends, to comply with such conditions and enter into such mortgages, trust, indentures, leases or agreements as may be necessary, convenient or desirable. In any contract with the federal government for annual contributions to the authority, the authority may obligate itself, which obligation shall be specifically enforceable and shall not constitute a mortgage, notwithstanding any other laws, to convey to the federal government the project to which such contract relates, upon the occurrence of a substantial default with respect to the covenants or conditions to which the authority is subject; such contract may further provide that in case of such conveyance, the federal government may complete, operate, manage, lease, convey or otherwise deal with the project in accordance with the terms of such contract; provided, that the contract requires that, as soon as practicable after the federal government is satisfied that all defaults by reason of which it shall have acquired the project have been cured and that the project will thereafter be operated in accordance with the terms of the contract, the federal government shall reconvey to the authority the project as then constituted. It is the purpose and intent of this chapter to authorize every authority to do any and all things necessary or desirable to secure the financial aid or cooperation of the federal government in the undertaking, construction, maintenance or operation of any project by such authority.

Sec. 19. Eminent domain. An authority shall have the right to acquire

by the exercise of the power of eminent domain any real property which it may deem necessary for its purposes under this chapter after the adoption by it of a resolution declaring that the acquisition of the real property described therein is necessary for such purposes. An authority may exercise the power of eminent domain in the manner provided in sections 11 to 22 of chapter 48 and acts amendatory thereof or supplementary thereto; or it may exercise the power of eminent domain in the manner provided by any other applicable statutory provisions for the exercise of the power of eminent domain. Property already devoted to a public use may be acquired in like manner, provided that no real property belonging to the city, the county, the state or any political subdivision thereof may be acquired without its consent.

Sec. 20. Housing bonds legal investments and security. The state and all public officers, municipal corporations, political subdivisions and public bodies, all banks, bankers, trust companies, savings banks and institutions, investment companies, insurance companies, insurance associations and other persons carrying on a banking or insurance business, and all executors, administrators, guardians, trustees and other fiduciaries may legally invest any sinking funds, moneys or other funds belonging to them or within their control in any bonds or other obligations issued by a housing authority created by or pursuant to this chapter or issued by any public housing authority or agency in the United States, when such bonds or other obligations are secured by a pledge of annual contributions to be paid by the federal government, and such bonds and other obligations shall be authorized security for all public deposits and shall be fully negotiable in this state; it being the purpose of this chapter to authorize any of the foregoing to use any funds owned or controlled by them, including, but not limited to, sinking, insurance, investment, retirement, compensation, pension and trust funds, and funds held on deposit, for the purchase of any such bonds or other obligations; provided, however, that nothing contained in this chapter shall be construed as relieving any person, firm or corporation from any duty of exercising reasonable care in selecting securities. The provisions of this chapter shall apply notwithstanding any restrictions on investments contained in other laws.

Sec. 21. Cooperation in undertaking projects. Any state public body may upon such terms, with or without consideration, as it may determine:

I. Dedicate, sell, convey or lease any of its interest in any property, or grant easements, licenses or any other rights or privileges therein to a housing authority;

Sec. 23. Definitions. The following terms, wherever used or referred to in this chapter, shall have the following respective meanings, unless a different meaning clearly appears from the context:

I. "Authority" or "housing authority" shall mean any of the public corporations created or authorized to be created by this chapter.

II. "Municipality" shall mean any city or town having a population of 7,000 or more inhabitants, according to the last preceding federal or state census. "State Public Body" shall mean any city, town, district or other political subdivision of the state.

III. "Governing body" shall mean the city council, the board of selectmen, or other legislative body charged with governing the city or town. The "governing body" of any other state public body shall mean the board or other body having charge of the fiscal affairs of such state public body.

IV. "Mayor" shall mean the mayor of the city, the manager of the city, or if the city have no mayor or manager, the officer charged with the duties customarily imposed on the executive head thereof.

V. "Board of selectmen" shall mean the selectmen of the town, or if the town have no selectmen, the officers charged with the duties customarily imposed on the selectmen thereof.

VI. "Clerk" shall mean the clerk of the city or town or the officer charged with the duties customarily imposed on such clerk.

VII. "Area of operation" of an authority shall mean the area within the territorial boundaries of the municipality for which the authority is created.

VIII. "Federal government" shall include the United States of America, the Federal Public Housing Authority, or any other agency or instrumentality, corporate or otherwise of the United States of America.

IX. "Project" or "housing project" shall mean any work or undertaking to demolish, clear or remove insanitary, unsafe, crowded dwelling accommodations.

X. "Servicemen" shall mean persons in the military or naval services of the United States who served therein during World War II. "Veterans" shall mean persons who have served in the military or naval services of the United States during World War II.

II. Cause parks, playgrounds, recreational, community, educational, water, sewer or drainage facilities, or any other works which it is otherwise empowered to undertake, to be furnished adjacent to or in connection with any project;

III. Furnish, dedicate, close, pave, install, grade, regrade, plan or replan streets, roads, roadways, alleys, sidewalks or other places, in or adjacent to any project;

IV. Plan or replan, zone or rezone any part of such state public body; make exceptions from building regulations and ordinances; any city may change its map;

V. Cause services to be furnished to the housing authority of the character which such public body is otherwise empowered to furnish;

VI. Enter into agreements with respect to the exercise by such state public body of its powers relating to the repair, closing or demolition of unsafe, insanitary or unfit buildings;

VII. Agree with the housing authority with respect to the payment by the housing authority of such sums in lieu of taxes as are determined by the authority to be consistent with the maintenance of the low-rent character of housing projects or the achievement of the purposes of this chapter.

VIII. Do any and all things, necessary or convenient to aid and cooperate in the planning, undertaking, construction or operation of such projects;

IX. Enter into agreements, which may extend over any period, notwithstanding any provision or rule of law to the contrary, with a housing authority respecting action to be taken by such state public body pursuant to any of the powers granted by this chapter. Any sale, conveyance, lease or agreement provided for in this section may be made by a state public body without appraisal, public notice, advertisement or public bidding, notwithstanding any other laws to the contrary.

Sec. 22. Advances to housing authority. The municipality for which a housing authority is created shall have the power from time to time to lend or donate money to such authority. When such a loan is made to a housing authority to aid its initial organization or its planning and preparation for projects, the loan may be made upon the condition that the housing authority shall repay the loan out of any money which becomes available to it for the construction of the projects involved.

XI. "Persons of low income" shall mean persons or families who lack the amount of income which is necessary, as determined by the authority undertaking a project, to enable them, without financial assistance, to live in decent, safe and sanitary dwellings, without overcrowding.

XII. "Bonds" shall mean any bonds, notes, interim certificates, debentures or other obligations issued by an authority pursuant to this chapter.

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