

MAINE STATE LEGISLATURE

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REVISED STATUTES
OF THE
STATE OF MAINE
1954

1963 CUMULATIVE SUPPLEMENT

ANNOTATED

IN FIVE VOLUMES

VOLUME 2

Discard Previous Supplement

THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA
1963

board, derived from P. L. 1955, c. 471, § 1, which had been amended by P. L. 1963, c. 346, which provided for the duties and

privileges of the department of economic development advisory council.

State Museum.

Secs. 8-A, 8-B. Repealed by Public Laws 1963, c. 417, § 5.

Editor's note.—The repealed sections, which related to the state museum, derived from P. L. 1957, c. 376, § 1. See c. 36, § 34-B, for present provisions re a state museum.

P. L. 1957, c. 376, which inserted former §§ 8-A and 8-B, provided in § 2 thereof

as follows: "There is hereby appropriated from the general fund the sum of \$25,000 for the fiscal year ending June 30, 1958 and \$10,000 for the fiscal year ending June 30, 1959 to reestablish, equip and maintain the state museum."

Building at Eastern States Exposition.

Sec. 9. Repealed by Public Laws 1963, c. 417, § 5.

Editor's note.—The repealed section, which related to the operation and maintenance of the state of Maine building at the Eastern States Agricultural and In-

dustrial exposition, derived from P. L. 1955, c. 471, § 1. See § 7 of this chapter for present provisions re operation and maintenance of the building.

Persons of Baltic Origin.

Secs. 10, 11. Repealed by Public Laws 1963, c. 417, § 5.

Editor's note.—The repealed sections, which related to the settlement in this

state of persons of Baltic origin, derived from P. L. 1955, c. 471, § 1.

Chapter 38-B.

Maine Industrial Building Authority Act.

Editor's note.—P. L. 1957, c. 421, adding this chapter, provided in section 2 thereof as follows:

"Sec. 2. Appropriation. For the establishment of the mortgage insurance fund, there is hereby appropriated \$500,000 from the unappropriated surplus of the general fund.

Emergency clause. In view of the emergency cited in the preamble, this act shall take effect when approved." Approved October 31, 1957.

P. L. 1957, supplements the Enabling

Act. — Chapter 430 of P. L. 1957 supplements the M. I. B. A. Enabling Act, P. L. 1957, chapter 421 in matters of detail and has no life or purpose apart from the Enabling Act. *Martin v. Maine Savings Bank*, 154 Me. 259, 147 A. (2d) 131.

General plan not altered by chapter 430. —The general plan established by the legislature in the Enabling Act is not altered by chapter 430. *Martin v. Maine Savings Bank*, 154 Me. 259, 147 A. (2d) 131.

Sec. 1. Title.—This chapter shall be known and may be cited as the "Maine Industrial Building Authority Act." (1957, c. 421, § 1.)

Sec. 2. Purpose.—It is declared that there is a state-wide need for new industrial buildings to provide enlarged opportunities for gainful employment by the people of Maine and to thus insure the preservation and betterment of the economy of the state and its inhabitants. It is further declared that there is a need to stimulate a larger flow of private investment funds from banks, investment houses, insurance companies and other financial institutions including pension and retirement funds, to help satisfy the need for housing industrial expansion. Therefore, the Maine industrial building authority is created to encourage the making of mortgage loans for the purpose of furthering industrial expansion in the state. (1957, c. 421, § 1.)

Sec. 3. Credit of state pledged.—The Maine industrial building authority is authorized to insure the payment of mortgage loans, secured by industrial projects, and to this end the faith and credit of the state is hereby pledged, consistent with the terms and limitations of section 14-A of Article IX of the Constitution of the state of Maine. (1957, c. 421, § 1.)

Sec. 4. Organization of authority.—The Maine industrial building authority hereinafter in this chapter called the authority, hereby created and established a body corporate and politic, is constituted a public instrumentality of the state, and the exercise by the authority of the powers conferred by the provisions of this chapter shall be deemed and held to be the performance of essential governmental functions. The authority shall consist of 9 members, including the commissioner of economic development, and 8 members at large appointed by the governor with the advice and consent of the council for a period of 4 years, provided that, of the members first appointed, 2 shall be appointed for a term of one year, 2 for a term of 2 years, 2 for a term of 3 years and 2 for a term of 4 years. A vacancy in the office of an appointive member, other than by expiration, shall be filled in like manner as an original appointment, but only for the remainder of the term of the retiring member. Appointive members may be removed by the governor with the advice and consent of the council for cause. The authority shall elect one of its members as chairman, one as vice-chairman, one as treasurer, and shall employ a manager, who shall be secretary. The secretary and treasurer shall be bonded as the authority shall direct. Five members of the authority shall constitute a quorum. The affirmative vote of 5 members present and voting, shall be necessary for any action taken by the authority. No vacancy in the membership of the authority shall impair the right of the quorum to exercise all rights and perform all the duties of the authority.

All the members of the authority shall be reimbursed for their actual expenses necessarily incurred in the performance of their duties.

The manager shall be appointed by the authority and his tenure of office shall be at the pleasure of the authority. He shall receive such compensation as shall be fixed by the authority with the approval of the governor and council.

The manager shall be the chief administrative officer for the authority and as such shall direct and supervise the administrative affairs and technical activities of the authority in accordance with rules, regulations and policies as set forth by the authority. It shall be the duty of the manager among other things to:

I. To attend all meetings of the authority, and to act as its secretary and keep minutes of all its proceedings.

II. To approve all accounts for salaries, per diems, allowable expenses of the authority or of any employee or consultant thereof, and expenses incidental to the operation of the authority.

III. To appoint, under the provisions of the personnel law, such employees as the authority may require, and such assistants, agents or consultants as may be necessary for carrying out the purposes of this chapter.

IV. To make to the authority an annual report documenting the actions of the authority, and such other reports as the authority may request.

V. To maintain a close liaison with the department of economic development and provide assistance to the various divisions of that department to facilitate the planning and financing of industrial projects.

VI. To make recommendations and reports in cooperation with the department of economic development to the authority on the merits of any proposed industrial project, on the status of local industrial development corporations, and on meritorious industrial locations.

VII. To perform such other duties as may be directed by the authority in the carrying out of the purposes of this chapter.

No member of the authority shall participate in any decision involving in-

insurance of payments on a loan to a local development corporation if said member has any interest in or connection with said local development corporation or any firm, partnership, corporation or association which intends to rent, lease or otherwise occupy the property securing said loan. (1957, c. 421, § 1. 1959, c. 157, §§ 1, 2.)

Effect of amendments. — P. L. 1959, c. 157, amended this section twice. Section 1 of P. L. 1959, c. 157, divided the former seventh sentence into two sentences, and substituted the words “5 members” for the words “all the members of the quorum” in the new eighth sentence. Section 2 rewrote the last paragraph.

Sec. 5. Definitions.—As used in this chapter, the following words and terms shall have the following meanings unless the context shall indicate another or different meaning or intent:

I. “Cost of project” shall mean the cost or fair market value of construction, lands, property rights, easement, franchises, financing charges, interest, engineering and legal services, plans, specifications, surveys, cost estimates, studies and other expenses as may be necessary or incident to the development, construction, financing and placing in operation of an industrial project.

II. “Federal agency” shall mean and include the United States of America, the President of the United States of America, and any department of, or corporation, agency or instrumentality heretofore or hereafter created, designated or established by the United States of America.

III. Industrial project. “Industrial project” shall mean:

A. Any building or other real estate improvement and, if a part thereof, the land upon which they may be located, and all real properties deemed necessary to their use by any industry for the manufacturing, processing or assembling of raw materials or manufactured products and for the purposes of research and development for industrial and manufacturing enterprises;

B. Any ocean pier or terminal occupied by any industry engaged in the manufacturing, processing or assembling of materials or products and used for the storage or transshipment of such materials or products before or after being so manufactured, processed or assembled by such industry. Said pier or terminal shall not be used by any person, corporation, association or other entity in competition with the ferry service supplied under the resolves of 1953, chapter 105.

IV. “Local development corporation” shall mean any organization, incorporated under the provisions of chapter 54, sections 1 to 16, for the purposes of fostering, encouraging and assisting the physical location, settlement and resettlement of industrial and manufacturing enterprises within the state, and to whose members no profit shall enure.

V. “Maturity date” shall mean the date on which the mortgage indebtedness would be extinguished if paid in accordance with periodic payments provided for in the mortgage.

VI. “Mortgage” shall mean a mortgage on an industrial project and the term “first mortgage” means such classes of first liens as are commonly given to secure advances on, or the unpaid purchase price of, real estate under the laws of the state of Maine, together with the credit instruments if any, secured thereby.

VII. “Mortgagee” shall mean the original lender under a mortgage, and his successors and assigns approved by the authority and may include all insurance companies, trust companies, banks, investment companies, savings banks, executors, trustees and other fiduciaries, including pension and retirement funds.

VIII. “Mortgagor” shall mean the original borrower under a mortgage and his successors and assigns, and shall be limited to local development corporations.

IX. "Mortgage payments" shall mean periodic payments called for by the mortgage, covering interest, installments of principal, taxes and assessments, mortgage insurance premiums and hazard insurance premiums. (1957, c. 421, § 1. 1961, c. 341. 1963, c. 236.)

Effect of amendments.—The 1961 amendment designated the former definition in subsection III as paragraph A thereof and added paragraph B to that subsection.

The 1963 amendment added "and for the purposes of research and development for industrial and manufacturing enterprises" at the end of paragraph A of subsection III.

Constitution not abridged. — The provision of the Maine Constitution (sec. 14-A

of article IX) which provides that "the legislature by proper enactment may insure the payment of mortgage loans on the real estate within the state of such industrial and manufacturing enterprises" is not abridged by sec. 5, VIII of the enabling act which limits the mortgagors "to local development corporations." *Martin v. Maine Savings Bank*, 154 Me. 259, 147 A. (2d) 131.

Sec. 6. Powers.—The authority is authorized and empowered:

I. To adopt by-laws for the regulation of its affairs and the conduct of its business;

II. To adopt an official seal and alter the same at pleasure;

III. To maintain an office at such place or places within the state as it may designate;

IV. To sue and be sued in its own name, plead and be impleaded;

Service of process in any action shall be made by service upon the manager of said authority either in hand or by leaving a copy of the process at the office of the manager;

V. To employ such assistant, agents, consultants and other employees as may be necessary or desirable for its purposes and to fix their compensation; and to utilize the services of other governmental agencies; such employment shall be consistent with the personnel law;

V-A. To enter into agreements with prospective mortgagees and mortgagors, for the purpose of planning, designing, constructing, acquiring, altering and financing industrial projects; (1957, c. 430, § 1. 1959, c. 363, § 23.)

V-B. To acquire, hold and dispose of real and personal property and make and enter into all contracts, leases, agreements and arrangements necessary or incidental to the performance of its duties and the execution of its powers under this chapter; (1957, c. 430, § 2. 1959, c. 363, § 24.)

VI. To accept from a federal agency, loans or grants for the planning or financing of any industrial project, and to enter into agreements with such agency respecting any such loans or grants;

VII. In connection with the insuring of payments of any mortgage, to require for its guidance a finding of the planning board of the municipality, or if there is no planning board, a finding of the municipal officers of the municipality, in which the industrial project is proposed to be located, or of the regional planning board of which such municipality is a member, as to the expediency and advisability of such project;

VIII. To do all acts and things necessary or convenient to carry out the powers expressly granted in this chapter. (1957, c. 421, § 1; c. 430, §§ 1, 2. 1959, c. 363, §§ 23, 24.)

Effect of amendment.—P. L. 1959, c. 363 amended this section twice. Section 23 of P. L. 1959, c. 363, added subsection V-A. Section 24 added subsection V-B.

Editor's note.—Sections 1 and 2, c. 430, P. L. 1957, containing provisions similar to this section, were repealed by P. L. 1959, c. 363, § 51.

Sec. 7. Local development corporations.—When a local development corporation does not meet mortgage payments insured by the authority by reason of vacancy of its industrial project, the authority, for the purpose of maintaining income from industrial projects on which mortgage loans have been insured by

the authority and for the purpose of safeguarding the mortgage insurance fund, may grant the local development corporation permission to lease or rent the property to a responsible tenant for a use other than that specified in section 5, subsection III, such lease or rental to be temporary in nature and subject to such conditions as the authority may prescribe. (1957, c. 421, § 1.)

Sec. 8. Mortgage insurance fund.—

I. There is hereby created an industrial building mortgage insurance fund, hereinafter in this chapter referred to as the “fund,” which shall be used by the authority as a non-lapsing, revolving fund for carrying out the provisions of this chapter. This fund shall initially be the sum of \$500,000. To this sum shall be charged any and all expenses of the authority, including interest and principal payments required by loan defaults and to the sum shall be credited all income of the authority, including mortgage insurance premiums and sale, disposal, lease or rental proceeds.

II. Moneys in the fund not needed currently to meet the obligations of the authority in the exercise of its responsibilities as insurer as provided for in this chapter, shall be deposited with the treasurer of state to the credit of the fund, or may be invested in such manner as is provided for by statute. (1957, c. 421, § 1. 1959, c. 157, § 3.)

Effect of amendment.—The 1959 amendment deleted the words “from the” formerly appearing after the word “and” and before the word “sale”, and added the word “proceeds” at the end of subsection I.

Sec. 9. Insurance of mortgages.—The authority is authorized upon application of the proposed mortgagee to insure mortgage payments required by a first mortgage on any industrial project, upon such terms and conditions as the authority may prescribe, provided the aggregate amount of principal obligations of all mortgages so insured outstanding at any one time shall not exceed \$20,000,000. To be eligible for insurance under the provisions of this chapter a mortgage shall:

I. Be one which is to be made and held by a mortgagee approved by the authority as responsible and able to service the mortgage properly;

II. Principal obligation; limit. Involve a principal obligation, including initial service charges and appraisals, inspection and other fees approved by the authority, not to exceed \$2,000,000 for any one project and not to exceed 90% of the cost of project;

III. Have a maturity satisfactory to the authority but in no case later than 25 years from the date of the insurance;

IV. Contain complete amortization provisions satisfactory to the authority requiring periodic payments by the mortgagor which shall include principal and interest payments, cost of local property taxes and assessments, land lease rentals if any, and hazard insurance on the property and such mortgage insurance premiums as are required under section 10;

V. Contain such terms and provisions with respect to property insurance, repairs, alterations, payment of taxes and assessments, default reserves, delinquency charges, default remedies, anticipation of maturity, additional and secondary liens, and other matters as the authority may prescribe. (1957, c. 421, § 1. 1961, c. 249.)

Effect of amendment.—The 1961 amendment increased the limit in subsection II from \$1,000,000 to \$2,000,000.

Sec. 9-A. Contract of insurance.—Any contract of insurance executed by the authority under this chapter shall be conclusive evidence of the eligibility of the mortgage for insurance, and the validity of any contract of insurance so executed shall be incontestable in the hands of an approved mortgagee except

for fraud or misrepresentation on the part of the approved mortgagee. (1959, c. 157, § 4.)

Sec. 10. Mortgage insurance premiums.—The authority is authorized to fix mortgage insurance premiums for the insurance of mortgage payments under the provisions of this chapter, such premiums to be computed as a percentage of the principal obligation of the mortgage outstanding at the beginning of each year. Such insurance premiums shall not be less than one-half of 1% per year nor more than 2% per year of said outstanding principal obligation. Such premiums shall be payable by the mortgagees in such manner as shall be prescribed by the authority. (1957, c. 421, § 1.)

Sec. 10-A. Acquisition and disposal of property.—The authority may take assignments of insured mortgages and other forms of security and may take title by foreclosures or conveyance to any industrial project when an insured mortgage loan thereon is clearly in default and when in the opinion of the authority such acquisition is necessary to safeguard the mortgage insurance fund, and may sell, or on a temporary basis lease or rent, such industrial project for a use other than that specified in section 5, subsection III. (1957, c. 430, § 3. 1959, c. 363, § 25.)

Editor's note.—Section 3, c. 430, P. L. those of this section, was repealed by P. 1957, containing provisions similar to L. 1959, c. 363, § 51.

Sec. 11. Authority expenses.—The authority may in its discretion expend out of the fund such moneys as may be necessary for any expenses of the authority, including administrative, legal, actuarial and other services. All such expenses incurred by the authority shall be paid by the authority and when pertaining thereto shall be charged to the fund or to the appropriate industrial project or projects. Upon the issuance of mortgage insurance for any such project or projects, any expenses by the authority charged thereto shall be reimbursed to the authority by the mortgagee from the proceeds of the mortgage. All proceeds received by the authority from the disposal by sale or in some other manner of property it may have acquired in accordance with section 10-A shall be credited to the fund. (1957, c. 421, § 1; c. 430, § 4. 1959, c. 363, § 26.)

Effect of amendment.—The 1959 amendment added the last sentence to this section. 1957, containing provisions similar to those of this section was repealed by P. L. 1959, c. 363, § 51.

Editor's note.—Section 4, c. 430, P. L.

Sec. 12. Mortgages eligible for investment.—Mortgages insured by the authority of this chapter are made legal investments for all insurance companies, trust companies, banks, investment companies, savings banks, savings and loan associations, executors, trustees and other fiduciaries, pension or retirement funds. (1957, c. 421, § 1. 1963, c. 85, § 1.)

Effect of amendment.—The 1963 amendment inserted "savings and loan associations" in this section.

Sec. 13. Records of account.—The authority shall keep proper records of accounts and shall make an annual report of its condition to the state banking commissioner. (1957, c. 421, § 1.)

Sec. 13-A. Certain records confidential.—No member of the authority agent or employee thereof, shall divulge or disclose any information obtained from the records and files or by virtue of such person's office concerning the name of any tenant or information supplied by any tenant, mortgagee or local development corporation in support of an application for mortgage insurance. Annual returns filed with the authority by a mortgagee, tenant or local development corporation shall be privileged and confidential. (1959, c. 157, § 5.)

Sec. 14. Authority to provide funds.—If from time to time in the opinion of the authority the addition of moneys to the mortgage insurance fund may be required to meet obligations, the authority shall in writing request the governor and council to provide moneys in such amounts as may be necessary for the purpose. The governor and council shall transfer to said fund sufficient moneys for said purpose from the state contingent account or from the proceeds of bonds to be issued as provided in this section. If bonds are to be issued, the governor and council shall order the treasurer of state to issue bonds in the amount requested, but not exceeding in the aggregate \$20,000,000 at any one time outstanding, to mature serially or made to run for such periods as the governor and council may determine, but none of them shall run for a longer period than 20 years, and at such rates of interest and on such terms and conditions as the governor and council shall determine. The bonds so issued shall be deemed a pledge of the faith and credit of the state. (1957, c. 421, § 1.)

Chapter 38-C.

Public Facilities for Boats.

Sec. 1. Director of Maine state park and recreation commission; waters of state defined.—The director of the Maine state park and recreation commission, with the advice of the Maine state park and recreation commission, shall acquire, construct and maintain, within the funds available, public facilities for boats in the waters of the state, including but not limited to launching ramps, parking sites and access roads. Waters of the state means any waters within the territorial limits of the state, and the marginal sea adjacent to the state.

The director of the Maine state park and recreation commission shall decide where the facilities shall be located and which facilities shall be constructed by the highway department. (1963, c. 367, § 1.)

Sec. 2. Boating facilities fund.—There is hereby created within the Maine state park and recreation commission a boating facilities fund, to which shall be credited 3.5¢ of the tax paid on fuel used in pleasure motor boats which is not refunded under chapter 16, section 167. This fund shall be available to the director of the Maine state park and recreation commission in carrying out its duties. (1963, c. 367, § 1.)

Sec. 3. Fees.—The director of the Maine state park and recreation commission may charge reasonable fees for the services provided by this chapter. Such fees shall be used to supervise the facilities constructed. The director of the Maine state park and recreation commission may set aside no more than 10% of said fees per year as a reserve fund for repairs and maintenance of the facilities and for marking the waters where in its opinion a hazard to boating exists. (1963, c. 367, § 1.)

Sec. 4. Leases for restaurants, gift shops, marinas, etc.—The director of the Maine state park and recreation commission may lease, on such conditions as it deems necessary, for a period not exceeding 30 years, parking lots and nearby sites for the purpose of having, constructing and maintaining by the lessees restaurants, gift shops, marinas and the like. The income from such leases shall be credited to the boating facilities fund. (1963, c. 367, § 1.)