

MAINE STATE LEGISLATURE

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STATE OF MAINE

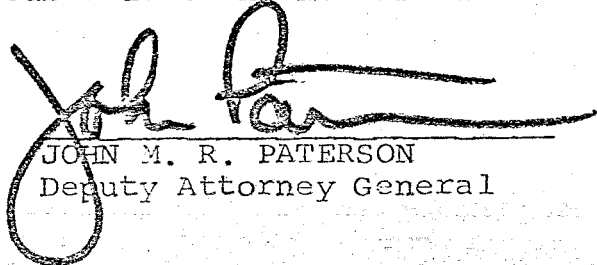
Inter-Departmental Memorandum Date May 6, 1976To Philip G. Clifford, ManagerDept. Maine Guarantee AuthorityFrom John M. R. Paterson, DeputyDept. Attorney GeneralSubject Construction of P.L. 1975, Ch. 728

Your memo of April 21, 1976, requests advice in construing certain of the provisions of P.L. 1975, c. 728. In particular, you inquired as to whether non-profit charitable organizations may issue revenue bonds under the provisions of the Municipal Securities Approval Act ("Act"), 30 M.R.S.A. § 5325, et seq. to finance a health care project. The answer is no.

The Act provides a means for issuance of municipal securities to finance various industrial-commercial, pollution control, recreational or health care projects. The inclusion of health care projects in the Act was effected by Chapter 728.

The fact that the Act includes in § 5328(4)(F)(1) a provision requiring the health care facility for eligibility purposes to be owned or operated by a municipality or a tax exempt charitable organization does not in any way effect the fundamental structure of the Act. Nor does the definition of "health care facility" in § 5326(2-B) change the purpose of the Act. The provision in § 5326(2-B) and § 5328(4)(F) exist solely for the purpose of defining the type of health care facility for which municipal securities may be issued. Thus, for example, a municipality could not issue securities to finance a profit-making health care facility.

Nothing in the Act or amendments purports to authorize any other type of organization to issue securities of any kind. The sole purpose of this Act is to define the powers of municipalities. While non-profit or charitable organizations may issue such securities, such authority is to be found in their particular corporate charters or applicable laws and not in this Act.



JOHN M. R. PATERSON
Deputy Attorney General

JMRP/ec