

MAINE STATE LEGISLATURE

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OFFICE OF
THE GOVERNOR

NO. 16FY 84/85
DATE June 12, 1985

ALLOCATION
OF
FEDERAL CEILING
ON
PRIVATE ACTIVITY BONDS

WHEREAS, the Deficit Reduction Act of 1984, containing Division A, Section 621, Limitation on Aggregate Amount of Private Activity Bonds (the Act), imposes a \$200,000,000 per year limit on the amount of private activity bonds which may be issued by the State and any of its political subdivisions (the Federal Ceiling); and

WHEREAS, the Act allocates \$100,000,000 of the annual Federal Ceiling to State-level issuers of private activity bonds; and

WHEREAS, the Act allocates \$100,000,000 to municipalities as a group and further allocates the \$100,000,000 to individual municipalities on the basis of municipal population relative to total State population; and

WHEREAS, frequently, the amount of private activity bonds issued by a municipality for one project has exceeded the amount of the municipality's annual share of the Federal Ceiling; and

WHEREAS, interest on private activity bonds issued in excess of a municipality's annual share of the Federal Ceiling would not be exempt from Federal or State income taxation; and

WHEREAS, demand for private activity bonds may exceed the Federal Ceiling; and

WHEREAS, it is desirable to establish priorities for and limits on the use of such bonds; and

WHEREAS, in order to assure that the Act has the least possible impact on municipal issuance of private activity bonds and on the ability of private activity bond issuers to utilize this important economic development finance tool, it is necessary to revise the Federal formula for allocating the Federal Ceiling; and

WHEREAS, it is necessary to establish an effective and efficient means of monitoring issuance of private activity bonds pursuant to the revised allocation formula; and

WHEREAS, pursuant to Executive Order 1 FY 84/85, dated August 9, 1984, "Private Activity Bonds," as superseded by Executive Order 6 FY 84/85, dated February 21, 1985, "Private Activity Bonds," there was established a system for allocating the Federal Ceiling on a "first-come, first-serve" basis; and

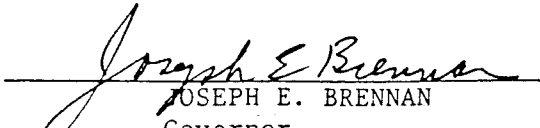
WHEREAS, it is desirable to modify Executive Order 6 FY 84/85;

NOW, THEREFORE, I, JOSEPH E. BRENNAN, Governor of the State of Maine, order as follows:

1. In lieu of the allocation of the Federal Ceiling provided under the Act, the Federal Ceiling shall be allocated to issuers of private activity bonds in order of the date of closing of the bonds in the amount of the issue (to the extent that amounts are available within the Federal Ceiling), provided that the Finance Authority of Maine (the Authority) may, on a "first-come, first-serve" basis, reserve specified amounts of the Federal Ceiling for limited periods for designated projects and provided further that the Authority may, for specified periods, reserve up to \$130,000,000 of the Federal Ceiling for private activity bond issues of more than \$10,000,000 for any one project and may, for specified periods, reserve the balance of the Federal Ceiling for private activity bond issues of \$10,000,000 or less for any one project.
2. With respect to any private activity bond issue of \$10,000,000 or less, where an inducement resolution was adopted or other official action was taken on or after the date of this Executive Order, bond proceeds may not be used for the following projects:
 - a. Motels, hotels or other facilities charging for overnight transient accommodations;
 - b. Projects consisting primarily of storage, warehouse or distribution facilities, unless, at the time application is made to the Authority for a certificate of approval, one or more persons has agreed in writing to use an entire facility for its intended purpose for the term of the bond issue in connection with the user's primary business;
 - c. Projects where firm commitments to occupy at least 75% of any building do not exist at the time of Authority approval of certain bond documents;
 - d. That portion of any project which consists of one or more stores primarily used in making retail

sales of consumer goods for household use to customers who personally visit the stores to obtain the goods, except in the case of reconstruction of existing building projects; and

- e. Reconstruction of existing building projects which have been rehabilitated within five years before the date of the bond issue.
3. With respect to any private activity bond issue of more than \$10,000,000 which has not received an Authority certificate of approval prior to the date of this Executive Order, any project other than one designed to convert solid waste to electricity or steam and to reduce substantially the use of solid waste landfills as determined by the Authority (solid waste energy projects) will not be eligible for an allocation, other than a carry-forward allocation, of the Federal Ceiling.
4. A process for monitoring issuance of private activity bonds shall be established. The Authority shall be responsible for design and implementation of the process and procedures for monitoring issuance of private activity bonds. The Authority may require private activity bond issuers to notify the Authority within a specified time after the issuance of private activity bonds.
5. To the extent that the Federal Ceiling amount is not fully used in any one year, the Authority may designate those projects which are eligible to utilize the "elective carry-forward" authorized by the Act, provided that any carry-forward allocation will be made first to solid waste energy projects and second for other carry-forward eligible projects. Projects may in turn be ranked on the basis of factors demonstrating that a bond issue will close within a stated time provided that solid waste energy projects may also be ranked based on priorities for landfill improvement or elimination.
6. The Authority may take such other actions and establish such other procedures as are necessary to implement this Order and the Act and to enable private activity bond issuers to utilize the Federal Ceiling effectively and efficiently.
7. Executive Order 6 FY 84/85, dated February 21, 1985, "Private Activity Bonds," is hereby rescinded.
8. This Executive Order will be repealed by any State statute or Authority rule so providing.


JOSEPH E. BRENNAN
Governor