

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIRST LEGISLATURE

Legislative Document

No. 239

S. P. 102

In Senate, January 16, 1963

Referred to Committee on Industrial and Recreational Development. Sent down for concurrence and ordered printed.

CHESTER T. WINSLOW, Secretary.

Presented by Senator Noyes of Franklin.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-THREE

AN ACT to Create the Maine Recreational Facilities Authority Act.

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

R. S., c. 38-C, additional. The Revised Statutes are amended by add a new chapter to be numbered 38-C, to read as follows:

‘Chapter 38-C.

Maine Recreational Facilities Authority Act.

Sec. 1. Title. This chapter shall be known and may be cited as the “Maine Recreational Facilities Authority Act.”

Sec. 2. Purpose. It is declared that there is a state-wide need for new recreational facilities to provide enlarged opportunities for 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 recreational expansion. Therefore, the Maine Recreational Facilities Authority is created to encourage the making of mortgage loans for the purpose of furthering recreational facilities expansion in the State.

Sec. 3. Credit of State pledged. The Maine Recreational Facilities Authority is authorized to insure the payment of mortgage loans, secured by recreational projects, and to this end the faith and credit of the State is hereby pledged, consistent with the terms and limitations of the Constitution of the State of Maine, Article IX, Section 14-A.

Sec. 4. Organization of authority. The Maine Recreational Facilities 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 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 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 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 fa-

cilitate the planning and financing of recreational projects.

VI. To make recommendations and reports in cooperation with the Department of Economic Development to the authority on the merits of any proposed recreational project, on the status of local recreational development corporations, and on meritorious recreational 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 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.

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 of fair market value of construction, land, 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 a recreational 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. "Recreational project" shall mean 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 recreational industry.

IV. "Local development corporation" shall mean any organization, incorporated under chapter 54, sections 1 to 16, for the purposes of fostering, encouraging and assisting the physical location, settlement and resettlement of recreational 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 a recreational 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.

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

I. To adopt bylaws 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 service of other governmental agencies; such employment shall be consistent with the Personnel Law;

VI. To enter into agreements with prospective mortgagees and mortgagors, for the purpose of planning, designing, constructing, acquiring, altering and financing recreational projects;

VII. 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;

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

IX. 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 recreational 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;

X. To do all acts and things necessary or convenient to carry out the powers expressly granted in this chapter.

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 recreational project, the authority, for the purpose of maintaining income from recreational 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.

Sec. 8. Mortgage insurance fund.

I. There is created a Recreational Facilities 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 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.

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 recreational 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 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. Involve a principal obligation, including initial service charges and appraisal, inspection and other fees approved by the authority, not to exceed \$1,000,000 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 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 11;

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.

Sec. 10. 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.

Sec. 11. Mortgage insurance premiums. The authority is authorized to fix mortgage insurance premiums for the insurance of mortgage payments under 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 $\frac{1}{2}$ 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.

Sec. 12. 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 recreational 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 recreational project for a use other than that specified in section 5, subsection III.

Sec. 13. 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 recreational 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 12 shall be credited to the fund.

Sec. 14. 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, executors, trustees and other fiduciaries, pension or retirement funds.

Sec. 15. Records of account. The authority shall keep proper records of accounts and shall make an annual report of its condition to the Bank Commissioner.

Sec. 16. 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.

Sec. 17. 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.'