

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FOURTH LEGISLATURE

Legislative Document

No. 1219

S. P. 352

In Senate, March 5, 1969

Referred to Committee on State Government. Sent down for concurrence and 1,000 ordered printed.

JERROLD B. SPEERS, Secretary

Presented by Senator Stuart of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-NINE

AN ACT to Create a State Housing Authority.

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

R. S., T. 30, § 4552, sub-§ 1, amended. Subsection 1 of section 4552 of Title 30 of the Revised Statutes is amended by adding at the end thereof the following:

The area of operation of the Maine Housing Authority is the entire State. The Housing Authority shall not operate in any area in which an authority of a city or a town already established is operating without the consent by resolution of the authority operating therein.

Sec. 2. R. S., T. 30, § 4552, sub-§ 4-A, additional. Section 4552 of Title 30 of the Revised Statutes is amended by adding a new subsection 4-A, to read as follows:

4-A. Elderly. "Elderly" shall mean a person or family as defined in section 2 (2) of the Federal Housing Act of 1937, as amended.

Sec. 3. R. S., T. 30, § 4552, sub-§ 5, amended. Subsection 5 of section 4552 of Title 30 of the Revised Statutes is amended to read as follows:

5. Federal Government. "Federal Government" shall include the United States of America ~~the Public Housing Administration~~ or any other agency or instrumentality, corporate or otherwise, of the United States of America.

Sec. 4. R. S., T. 30, § 4552, sub-§ 11, amended. Subsection 11 of section 4552 of Title 30 of the Revised Statutes is amended to read as follows:

11. Persons of low income. "Persons of low income" shall mean persons or families, elderly or otherwise, 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.

Sec. 5. R. S., T. 30, § 4552, sub-§ 12, ¶ B, amended. Paragraph B of subsection 12 of section 4552 of Title 30 of the Revised Statutes is amended to read as follows:

B. To provide decent, safe and sanitary dwellings, apartments or other living accommodations for persons of low income and accommodations for elderly persons of low income; such work or undertaking may include buildings, land, equipment, facilities and other real or personal property for necessary, convenient or desirable appurtenances, streets, sewers, water service, utilities, parks, site preparation, landscaping, administrative, community, health, recreational, welfare or other purposes; or

Sec. 6. R. S., T. 30, § 4553, amended. Section 4553 of Title 30 of the Revised Statutes is amended to read as follows:

§ 4553. Declaration of necessity

It is declared that there exists in urban and rural areas in the State insanitary, unsafe and overcrowded dwelling accommodations, that in such urban and rural areas within the State there is a shortage of safe or sanitary dwelling accommodations available at rents or prices which persons, particularly veterans, of low income can afford and that such shortage forces such persons to occupy insanitary, unsafe and overcrowded dwelling accommodations; that such conditions, and the existence of blighted areas, impair economic values and tax revenues; that these conditions cause an increase in and spread of disease and crime and constitute a menace to the health, safety, morals and welfare of the residents of the State; that these conditions necessitate excessive and disproportionate expenditures of public funds for crime prevention and punishment, public health and safety, fire and accident protection and other public services and facilities; that these areas in the State cannot be cleared, nor can the shortage of safe and sanitary dwellings for persons of low income be relieved through the operation of private enterprise, and that the construction of housing projects for persons of low income would therefore not be competitive with private enterprise; that the construction of such projects would make housing available for returning veterans of low income who are unable to provide themselves with decent housing on the basis of the benefits heretofore made available to them through certain government guarantees if loans to veterans for the purchase of residential property; that the clearance, replanning and preparation for rebuilding of these areas, the prevention or the reduction of blight and its causes, and the providing of safe and sanitary dwelling accommodations for persons of low income are public uses and purposes for which public money may be spent and private property acquired and are governmental functions of state concern; that residential construction activity is closely correlated with general economic activity and that the undertaking authorized by this subchapter to aid the production of better housing and more desirable neighborhood and community development at lower costs will make possible a more stable and larger volume of residential construction which will assist materially in achieving and main-

taining full employment; and that it is in the public interest that advance preparations for such projects and activities **and for the purchasing and guaranteeing of mortgages** be made now, and that the necessity in the public interest for the provisions hereinafter enacted is declared as a matter of legislative determination.

It is further declared that there are serious problems relating to the occupants of existing substandard housing in this State in both urban and rural areas. Much of the existing housing in this State is in immediate need of major repair or replacement; and this subchapter is intended to encourage all existing local, state and federal agencies, public and private agencies, to recognize the needs for rehabilitation and new housing and to adopt such action and practices as to promote a concerted effort to upgrade housing conditions and standards within this State. It is further declared that this subchapter is intended to relieve those conditions which now exist and it is the policy of the State to assist in planning, coordinating and carrying out all existing programs that will encourage further participation by private investment and individual effort.

Sec. 7. R. S., T. 30, § 4601-A, additional. Title 30 of the Revised Statutes is amended by adding a new section 4601-A, to read as follows:

§ 4601-A. Creation of state authority

The Maine State Housing Authority is created. It is referred to in this subchapter as the "state authority". It is a public body corporate and politic and an instrumentality of the State.

Sec. 8. R. S., T. 30, § 4602, amended. The first paragraph of section 4602 of Title 30 of the Revised Statutes, as amended, is further amended to read as follows:

Each authority shall have 5 commissioners appointed. In the case of a city having a major-council form of government, appointment shall be by the mayor with the advice and consent of the council; in the case of a city having a manager-council form of government, appointment shall be by the council; in the case of a town, appointment shall be by the selectmen. No commissioner of a city or town shall be appointed until the authority is authorized to function as provided in section 4601. **In the case of the State, the 5 commissioners shall be appointed by the Governor. The commissioners** who are first appointed pursuant to this section shall be designated to serve for terms of one, 2, 3, 4 and 5 years, respectively, from the date of their appointment, and thereafter said commissioners shall be appointed **as aforesaid** for a term of 5 years except that all vacancies shall be filled for the unexpired term, all such appointments shall be made in the same manner as the original appointment. Those commissioners who were not appointed to terms of one, 2, 3, 4 and 5 years, but were instead all appointed to terms of 5 years under then existing law shall serve out their terms, and succeeding appointments shall be for terms of one, 2, 3, 4 and 5 years, respectively, and thereafter said 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 in the same manner as the original appointment.

Sec. 9. R. S., T. 30, § 4603, amended. The first sentence of section 4603 of Title 30 of the Revised Statutes is amended to read as follows:

During his tenure and for one year thereafter, no commissioner, officer, or employee of ~~the~~ each authority shall voluntarily 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 relating to any project.

Sec. 10. R. S., T. 30, § 4604, amended. Section 4604 of Title 30 of the Revised Statutes is amended to read as follows:

§ 4604. 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 city, ~~or the selectmen of the town, or by the Governor in the case of the state authority~~ as the case may be, provided 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, ~~or in the case of the state authority, in the office of the Secretary of State.~~

Sec. 11. R. S., T. 30, § 4651, sub-§ 10, amended. Subsection 10 of section 4651 of Title 30 of the Revised Statutes, as enacted by chapter 351 of the public laws of 1967, is amended to read as follows:

10. Coordination with governing body. The commissioners of a city, town authority or state authority shall establish procedures by which the governing body of the city or the regular, special or duly constituted meeting of the town, as the case may be, may review proposed projects and plans for financing same.

Sec. 12. R. S., T. 30, § 4651, sub-§ 11, additional. Section 4651 of Title 30 of the Revised Statutes is amended by adding a new subsection 11 to read as follows:

11. Mortgage credits. The state authority shall have the power to acquire from banks, life insurance companies, savings and loan associations and other financial institutions first mortgage loans and to guarantee the repayment of loans secured by home mortgages as provided in this subchapter.

Sec. 13. R. S., T. 30, § 4652, amended. The first paragraph of section 4652 of Title 30 of the Revised Statutes is amended to read as follows:

It is 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 or State. To this end, an authority shall fix the rentals or payments for dwellings in its projects at no higher rates than it shall find to be necessary in order to

produce revenues which, together with all other available moneys, revenues, income and receipts of the authority from whatever sources derived, will be sufficient:

Sec. 14. R. S., T. 30, § 4701, amended. Section 4701 of Title 30 of the Revised Statutes, as amended, is further amended to read as follows:

§ 4701. Federal aid

In addition to the powers conferred upon an authority by other provisions of this subchapter, 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 obligations 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, as defined in such contract, 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 the contract requires that, as soon as practicable after the Federal Government is satisfied that all defaults with respect to 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 subchapter 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 **and in the exercise by such authority of the other powers granted such authority in this subchapter.** No authority shall enter into any contract for loans, grants, any other law, may include in any contract for financial assistance with the Federal Government any conditions, which the Federal Government may attach to its financial aid of a project, not inconsistent with the purposes of this subchapter. No authority shall enter into any contract for loans, grants, contributions or other financial assistance with the Federal Government for any project unless or until the governing body of ~~its~~ the city, ~~after referendum duly held thereon, and a majority of the voters voting, having voted in favor thereof where the project is to be located, or any regular, special or other~~ duly constituted meeting of ~~its~~ the town where the project is to be located, as the case may be, shall, by resolution duly adopted, have approved its entering into such contract. ~~providing that no such referendum shall be required, unless initiated as provided, where the authority is of a city whose population is in excess of 60,000. In any city whose population is in excess of 60,000 the voters may require that such a referendum be held by submitting a written petition therefor to the governing body of the city signed by a~~

number of voters equal to at least 10% of the number of votes cast in the last gubernatorial election. The petition shall be presented within 30 calendar days after the initial approval by the governing body of the city of the entering into the contract. The governing body shall authorize and make the necessary provisions for the holding of said referendum, including phrasing of the referendum question, on a date not later than 60 calendar days from the date of receipt of the petition by the governing body. Nothing contained in this section shall require the holding of a referendum to authorize the housing authority of any city or town to enter into any contract for loans, grants, contributions, or other financial assistance with the Federal Government for the rehabilitation, alteration or repairs of any housing project already existing and in operation on the date of such contract. To accomplish this purpose an authority, notwithstanding any other law, may include in any contract for financial assistance with the Federal Government any conditions, which the Federal Government may attach to its financial aid of a project, not inconsistent with the purposes of this subchapter.

Sec. 15. R. S., T. 30, § 4751, amended. The first paragraph of section 4751 of Title 30 of the Revised Statutes is amended to read as follows:

An authority shall have power to issue bonds from time to time in its discretion for any of its corporate purposes. An authority shall have power to issue refunding bonds for the purpose of paying or retiring bonds previously issued by it. An authority may issue such types of bonds as it may determine, including without limiting the generality of the foregoing, bonds on which the principal and interest are payable; exclusively from the income and revenues of the project financed with the proceeds of such bonds; exclusively from the income and revenues of certain designated projects whether or not they are financed in whole or in part with the proceeds of such bonds; or from its revenues generally or in the case of the state authority, exclusively from the proceeds of mortgages held by the state authority. Any such bonds may be additionally secured by a pledge of any grant or contributions from the Federal Government or other source, or a pledge of any income or revenues of the authority or a mortgage of any project, projects, or other property of the authority.

Sec. 16. R. S., T. 30, § 4751, amended. The last paragraph of section 4751 of Title 30 of the Revised Statutes is amended to read as follows:

In any civil 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 the activities of the authority shall be deemed to have been issued for such a purpose, and such project activities shall be deemed to have been planned, located and carried out in accordance with the purposes and provisions of this subchapter.

Sec. 17. R. S., T. 30, § 4752, sub-§ 1, amended. Subsection 1 of section 4752 of Title 30 of the Revised Statutes is amended to read as follows:

1. Pledge of assets. 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, except the proceeds described in sections 4760, 4761, 4769 and 4770 which shall be applied as described in said sections.

Sec. 18. R. S., T. 30, c. 239, sub-c. II, article 6, additional. Subchapter II of chapter 239 of Title 30 of the Revised Statutes is amended by adding a new article 6, to read as follows:

ARTICLE 6. MORTGAGE CREDIT

§ 4756. Purchase of mortgages

The state authority shall have the power to purchase from banks, life insurance companies, savings and loan associations and other financial institutions lawfully doing business in the State of Maine, interest bearing obligations secured by mortgages which are a first lien on land and improvements constituting a one family or multi-family units if those obligations meet all the standards and requirements to qualify them as legal investments for banks incorporated and doing business under the laws of this State, except that an obligation shall not be eligible for purchase by the state authority after 60 days from the date of the note or other evidence of this obligation.

The state authority shall have the power to exercise all the rights and powers of a first mortgagee, including the power to acquire, sell, convey or otherwise dispose of any real or personal property acquired or owned by it.

§ 4757. Lenders certification

No obligation shall be eligible for purchase by the state authority hereunder unless at or before the time of transfer thereof to the authority, the originating bank, life insurance company, savings and loan association or other financial institution certifies that in its judgment the loan would in all respects be a prudent investment for its own account, and that its available loanable resources at the time of the transfer are not sufficient in relation to other reasonable demands upon it for home construction financing and mortgage financing to justify the retention of the obligation for its own account.

§ 4758. Authority not obligated

The state authority shall have the right at all times to decline to purchase any loan or obligation offered or submitted to it.

§ 4759. Consideration for loans purchased

The state authority shall pay for each loan or obligation purchased the outstanding principal balance, plus the accrued interest due thereon, on the date the loan or obligation is delivered to the state authority against payment therefor, and may allow a loan origination fee not in excess of 1% of such principal balance.

§ 4760. Bonds; use or proceeds

The state authority may authorize the issuance of bonds of the authority in the manner and as provided in section 4751 for the purchase of first mortgage

home loans. Proceeds from the sale of such bonds of the state authority shall be used only for the purchase of first mortgage home loans under the authority conferred by this subchapter, or to pay the interest and principal on such bonds falling due, except that pending disbursement of those funds the state authority may invest or reinvest all or such part of the same as the state authority determines in obligations issued or guaranteed by the United States of America.

§ 4761. Application of receipts

All proceeds received by the state authority in payment of sums due on mortgage loans held by it shall be placed in a special reserve account subject to withdrawal only to retire bonds of the state authority issued to purchase mortgage loans.

§ 4762. Limitations

The state authority shall not at any time hold by purchase loans exceeding \$20,000,000 in the aggregate principal amount thereof outstanding.

§ 4763. Authority to make and apply for guaranty of certain loans

Notwithstanding any other provision of law, a bank, savings and loan association, life insurance company or other financial institution, may make a loan on the security of a first mortgage on real estate in excess of 66 $\frac{2}{3}$ % of the appraised value thereof to finance home ownership, subject to other provisions of law and the following, if

1. Principal amount. The principal amount of the loan does not exceed the appraised value of the security as the same may be determined or approved by the state authority or \$20,000 in any event;
2. Security. The security is a one-family unit or 2-family unit dwelling house and the land appurtenant thereto;
3. Interest. There is a stated contractual provision at a fixed rate of interest, which shall be prescribed by the state authority, for substantially complete amortization of the loan in not over 30 years by payment of monthly installments thereon; and
4. Loan guaranteed. The loan is guaranteed as provided.

§ 4764. Guaranty by the state authority

Upon application from the lender in such form as the state authority may require, the state authority may issue, or commit itself to issue, to the lender or its assigns, the state authority's certificate of guaranty by it of the greater of:

1. Appraised value. That portion of the outstanding principal due on the loan which exceeds 75% of the appraised value of the security at the time the loan was made; or
2. Principal due. Fifteen percent of the outstanding principal due on the loan, but in no event shall the state authority's guaranty extend to any por-

tion of the loan below 50% of the appraised value of the security at the time the loan was made.

§ 4765. Guaranty certificate conclusive

The state authority's certificate of guaranty, in the hands of the original lender or of any assignee of the loan with respect to which the guaranty certificate was issued, shall be conclusive evidence of its validity, except for fraud.

§ 4766. Subrogation

Whenever the state authority pays to a lender any sum in discharge of its liability as guarantor, the state authority shall be to that extent subrogated to the lender's right, title and interest in any securities or recoveries incidental to the loan with respect to which the guaranty was issued.

§ 4767. Guaranty fee

The state authority shall collect from the lender a guaranty fee of $\frac{1}{2}$ of 1% to $1\frac{1}{2}$ % of the amount of the loan, which the lender may assess against the borrower as a permitted loan charge, anything to the contrary notwithstanding. The state authority shall segregate those fees into a special reserve account subject to withdrawal, to the extent that those reserves are available, to discharge any of the state authority's guaranty liabilities.

§ 4768. Liquidation of the security

Any amount derived through liquidation of the security by whatever means shall be applied in reduction of principal due on the loan, except that the state authority may agree to assume part or all of the costs of foreclosure, and may allow reimbursement for taxes paid which are a lien prior to the mortgage. The state authority may request the holder of the guaranty to liquidate the security by foreclosure, and the Superior Court shall upon request of the mortgagee or the state authority order liquidation of the security through sale thereof under its direction.

§ 4769. Guaranty fund

1. Amount of guaranty fund; items charged. There is created a Housing Project Guaranty Fund, hereinafter referred to as the "fund", which shall be used by the authority as a nonlapsing, revolving fund for carrying out this subchapter. This fund shall initially be the sum of \$50,000. To this sum shall be charged any and all expenses of the authority required by loan defaults, including interest and principal payments and to the sum shall be credited all income received under sections 4767 and 4768.

2. Deposited with Treasurer of State or invested. Moneys in the fund not needed currently to meet the obligations of the authority in the exercise of its responsibilities as provided for in this subchapter shall be deposited with the Treasurer of State to the credit of the fund, or may be invested in such manner as provided for by statute.

§ 4770. Guaranty; credit of State pledge

The full faith and credit of the State is pledged to support and redeem the certificates of guaranty issued by the state authority. In furtherance of that pledge if in the opinion of the authority the addition of moneys to the 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 such 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 at any one time outstanding the amount set forth in the Constitution, Article IX, section 14-D, as it may be amended from time to time, 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.

§ 477I. Rules and regulations

The state authority may make and promulgate such regulations as it may consider necessary or convenient to purchase and guarantee first mortgage loans, and specifically to:

1. Standards. Set and establish selection and evaluation standards, criteria and procedures under which it will purchase or agree to purchase loans or obligations, having regard among other things to property values, local economic conditions and expectancy, credit and employment, and to local housing conditions and needs and the availability of credit resources to meet the same relative to similar or competing conditions and needs in other localities in the State;

2. Procedures—servicing loans. Set and establish procedures for the servicing of loans and obligations acquired by it, including the allowance of servicing fees to participating lenders to whom the state authority may entrust such servicing;

3. —collection of money. Set and establish procedures for the collection of moneys due from persons liable for the payment of the same, as to any loan or obligation held by the state authority, by subrogation or otherwise, and to initiate and maintain any action at law or in equity, including foreclosure proceedings, to enforce such payment;

4. —liquidation of property. Set and establish procedures for the orderly liquidation and disposition of any property acquired by the state authority through foreclosure or otherwise in full or partial satisfaction of any debt or obligation held by it;

5. —claims. Set and establish procedures for the orderly payment of claims made against the state authority under its guaranty liability;

6. Reserves. Establish and maintain out of income or otherwise such reserves as the state authority from time to time determines to be necessary and prudent in addition to those specifically required.

§ 4772. Commissioners and employees not to profit

No commissioner or employee of the state authority may receive or be lawfully entitled to receive any pecuniary profit from the purchasing or guaranteeing of first mortgage loans by the state authority, except reasonable compensation for services in effecting one or more of its purposes set forth, except that the commissioners shall receive no salary or compensation for their services.

§ 4773. Farm dwellings

A house and its appurtenant land not exceeding one acre constituting a dwelling as part of a farm shall be considered to be a dwelling house for all purposes within the meaning of this subchapter.

§ 4774. Annual report

The state authority shall prepare and submit to the Governor annually a complete report and a complete financial report duly audited and certified by the auditor of accounts to be distributed in the same way as state departmental reports.