

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

(New Title)  
New Draft of S. P. 558, L. D. 1722

---

---

ONE HUNDRED AND SIXTH LEGISLATURE

---

---

Legislative Document

No. 2033

S. P. 667

In Senate, June 13, 1973

Reported by Senator Speers of Kennebec from Committee on State Government and printed under Joint Rules No. 18.

HARRY N. STARBRANCH, Secretary

---

---

STATE OF MAINE

---

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-THREE

---

**AN ACT to Create the Maine Guarantee Authority and to Amend the Maine Industrial Building Authority and Maine Recreational Authority Statutes.**

---

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

**Sec. 1. R. S., T. 2, § 6, sub-§ 5, amended.** The 8th line from the end of subsection 5 of section 6 of Title 2 of the Revised Statutes is repealed as follows:

~~Manager of Industrial Building Authority;~~

**Sec. 2. R. S., T. 10, § 751, repealed and replaced.** Section 751 of Title 10 of the Revised Statutes, as amended, is repealed and the following enacted in place thereof:

**§ 751. Organization of authority**

The Maine Guarantee Authority, hereinafter in this chapter called the "authority", is established as a body corporate and politic and a public instrumentality of the State and the exercise by the authority of the powers conferred by this chapter, chapter 701 and Title 30, chapter 242, shall be deemed and held to be the performance of essential governmental functions. The authority shall consist of 9 members, including the Commissioner of the Department of Commerce and Industry 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. No person shall be appointed to serve for more than 2 full

consecutive terms on the authority. A vacancy in the office of an appointive member shall be filled in a like manner as an original appointment for a full term. 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 and one as vice-chairman, and shall employ a manager, who shall be secretary and treasurer. 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.

The chairman and the vice-chairman, when he is serving as chairman, shall receive the sum of \$100 per day for time actually spent in the performance of his duties in lieu of other compensation or reimbursement, except as provided in subsection 1 hereof. All other members of the authority, except for the Commissioner of Commerce and Industry, shall receive the sum of \$75 per day for time actually spent in the performance of their duties, in lieu of other compensation or reimbursement subject to the provisions of subsection 1.

1. When the duties of members of the authority are performed within or without the State, they shall receive, in addition to the per diem amount, an amount for their actual and necessary transportation expenses incurred at the same rate as paid to state employees.

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:

- A. Attend meetings and keep minutes. Attend all meetings of the authority, and to act as its secretary and keep minutes of all its proceedings;
- B. Approve accounts and expenses. 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;
- C. Appoint employees. Appoint, subject to 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;
- D. Reports. Make to the authority an annual report documenting the actions of the authority, and such other reports as the authority may request;
- E. Liaison with Department of Commerce and Industry. Maintain a close liaison with the Department of Commerce and Industry and provide

assistance to the various divisions of that department to facilitate the planning and financing of eligible projects;

F. Recommendations. Make recommendations and reports in cooperation with the Department of Commerce and Industry to the authority on the merits of any proposed eligible project, on the status of local development corporations, and on meritorious industrial locations;

G. Other duties. 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 use the property securing said loan.

The Maine Guarantee Authority shall administer and exercise the authority granted by chapters 103, 701 and chapter 242 of Title 30.

Sec. 3. R. S., T. 10, § 755, additional. Title 10 of the Revised Statutes is amended by adding a new section 755 to read as follows:

#### § 755. Indemnification

Each member of the authority shall be indemnified by the authority against expenses actually and necessarily incurred by him in connection with the defense of any action or proceeding in which he is made a party by reason of his being or having been a member of the authority, and against any final judgment rendered against him in such action or proceeding.

Sec. 4. R. S., T. 10, § 803, amended. The first sentence of the first paragraph of section 803 of Title 10 of the Revised Statutes, as amended, is further amended to read as follows:

The authority is authorized to insure a percentage of the mortgage payments required by a first mortgage on any eligible project upon receipt of application from of the proposed mortgagee to insure mortgage payments required by a first mortgage on any eligible project, at least 60 days prior thereto, such percentage as determined by the authority shall not be greater than 95% nor less than 75% of the first mortgage, such percentage to be determined as to require the uninsured portion of a first mortgage to be a material amount, otherwise, the first mortgage to be insured upon such additional terms and conditions as the authority may prescribe, provided the aggregate amount of the principal obligations of all mortgages so insured outstanding at any one time shall not exceed the amount set forth in the Constitution of Maine, Article IX, section 14-A, as it may be from time to time amended.

Sec. 5. R. S., T. 10, § 803, sub-§ 2, amended. The first sentence of subsection 2 of section 803 of Title 10 of the Revised Statutes, as repealed and replaced by section 11 of chapter 525 of the public laws of 1967 and as amended, is further amended to read as follows:

Involve a principal obligation not to exceed ~~\$4,000,000~~ \$2,500,000 for any one project and not to exceed 90% of the total amount loaned by the mortgagee which total amount shall not exceed 90% of the cost of project related to real estate, except 80% of the cost of project in the case of real estate in the form of documented fishing vessels, and 75% of the cost of project related to machinery and equipment except that the above limitation of 90% shall apply only to mortgages in excess of \$750,000.

Sec. 6. R. S., T. 10, § 803, sub-§ 5, amended. Subsection 5 of section 803 of Title 10 of the Revised Statutes is amended to read as follows:

5. **Other terms.** 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, and in the event of default, the terms shall prescribe that the authority shall not be required to pay interest during the period of the default at a rate in excess of the Federal Housing Authority's insured rate in effect at that time plus  $\frac{1}{2}$  of 1%.

Sec. 7. R. S., T. 10, § 5002, amended. The last sentence of section 5002 of Title 10 of the Revised Statutes is repealed and the following enacted in place thereof:

The Maine Guarantee Authority shall encourage the making of mortgage loans to applicants whose plans and programs serve these primary purposes.

Sec. 8. R. S., T. 10, § 5051, repealed. Section 5051 of Title 10 of the Revised Statutes, as enacted by section 1 of chapter 495 of the public laws of 1965, and as amended, is repealed.

Sec. 9. R. S., T. 10, § 5052, sub-§§ 1 - 5, repealed. Subsections 1, 2, 3, 4 and 5 of section 5052 of Title 10 of the Revised Statutes, as enacted by section 1 of chapter 495 of the public laws of 1965, are repealed.

Sec. 10. R. S., T. 10, § 5053, amended. Section 5053 of Title 10 of the Revised Statutes, as enacted by section 1 of chapter 495 of the public laws of 1965, is amended to read as follows:

#### § 5053. Credit of State pledged

The ~~Maine Recreation Authority~~ **Maine Guarantee 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 ~~section 14-B of Article IX of the Constitution of this State~~ **the Constitution, Article IX, section 14-B.**

Sec. 11. R. S., T. 10, § 6003, amended. The first sentence of the first paragraph of section 6003 of Title 10 of the Revised Statutes is amended to read as follows:

The authority is authorized to insure a percentage of the mortgage payments required by a first mortgage on any recreational project upon receipt of application from of the proposed mortgagee to insure mortgage payments required by a first mortgage on any recreational project at least 60 days prior

thereto, such percentage as determined by the authority shall not be greater than 95% nor less than 75% of the first mortgage, such percentage to be determined as to require the uninsured portion of a first mortgage to be a material amount, otherwise, the first mortgage to be insured 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 the amount set forth in ~~section 14-B of Article IX of~~ the Constitution, **Article IX, section 14-B**, as is may be amended from time to time.

**Sec. 12. R. S., T. 10, § 6003, sub-§ 2, amended.** Subsection 2 of section 6003 of Title 10 of the Revised Statutes, as enacted by section 1 of chapter 495 of the public laws of 1965, and as repealed and replaced by section 4 of chapter 481 of the public laws of 1967, and as amended, is further amended to read as follows:

2. **Principal obligation; limit.** Involve a principal obligation, including initial service charge and appraisals, inspection and other fees approved by the authority, the guaranteed portion of which is in an amount of not less than \$100,000 nor more than \$2,500,000 ~~20% of the amount set forth in the Constitution, Article IX, Section 14-B, as it may be amended from time to time~~ for any one project and not to exceed 75% of the cost of the project at the time the mortgage is executed; provided that the above \$100,000 minimum shall not prevent the authority from increasing an existing guaranteed loan to an amount less than \$100,000;

**Sec. 13. R. S., T. 10, § 6003, sub-§ 5, amended.** The first paragraph of subsection 5 of section 6003 of Title 10 of the Revised Statutes, as enacted by section 1 of chapter 495 of the public laws of 1965, is amended to read as follows:

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, **and in the event of default, the terms shall prescribe that the authority shall not be required to pay interest during the period of the default at a rate in excess of the Federal Housing Authority's insured rate in effect at that time plus ½ of 1%.**

**Sec. 14. R. S., T. 30, § 5327, repealed and replaced.** Section 5327 of Title 30 of the Revised Statutes, as enacted by section 1 of chapter 423 of the public laws of 1965, and as amended by section 2 of chapter 340 of the public laws of 1969, is repealed and the following enacted in place thereof:

#### § 5327. Municipal Securities Approval Board

**The Maine Guarantee Authority shall carry out the powers and duties conferred by this chapter and the performance of those powers and duties shall be deemed to be the performance of an essential governmental function.**

**Sec. 15. R. S., T. 30, § 5328, amended.** The first paragraph of section 5328 of Title 30 of the Revised Statutes, as enacted by section 1 of chapter 423 of the public laws of 1965, is amended to read as follows:

The ~~board~~ authority is authorized and empowered to:

**Sec. 16. R. S., T. 30, § 5328, sub-§ 1, repealed.** Subsection 1 of section 5328 of Title 30 of the Revised Statutes, as enacted by section 1 of chapter 423 of the public laws of 1965, is repealed.

**Sec. 17. R. S., T. 30, § 5328, sub-§ 3, amended.** The last 2 sentences of subsection 3, as repealed and replaced by section 114 of chapter 622 and as amended by section 12 of chapter 618, both of the public laws of 1971, are further amended to read as follows:

In any event no project shall be approved and no certificate of approval shall be issued until the ~~Board of Environmental Protection~~ Department of Environmental Protection has certified to the ~~board~~ authority that all licenses required from the commission with respect to the project have been issued or that none are required. This requirement of certification by the commission shall likewise apply to any subsequent enlargement of or addition to such project, for which approval is sought from the ~~board~~ authority.

**Sec. 18. R. S., T. 30, § 5328, sub-§ 4, amended.** The first paragraph, as enacted by section 1 of chapter 423 of the public laws of 1965 and the last paragraph, as enacted by section 8 of chapter 210 and as amended by section 12 of chapter 618, both of the public laws of 1971, of subsection 4 of section 5328 of Title 30 of the Revised Statutes, are further amended to read as follows:

It shall be the policy of the ~~board~~ authority in considering the propriety of issuing a certificate of approval to determine to its satisfaction that:

If the ~~board~~ authority is satisfied that the foregoing determinations can be made and that a certificate of approval can be issued upon receipt of the certificate of the ~~Board of Environmental Protection~~ Department of Environmental Protection required by subsection 3, the ~~board~~ authority may so advise the ~~Board of Environmental Protection~~ Department of Environmental Protection, which may treat such advice as the completion of arrangements for financing for purposes of Title 38, section 451, subsection 1, paragraph B.

**Sec. 19. R. S., T. 30, § 5328, sub-§ 5, amended.** Subsection 5 of section 5328 of Title 30 of the Revised Statutes, as enacted by section 1 of chapter 423 of the public laws of 1965, is amended to read as follows:

**5. Effect of certificate.** A certificate of approval issued ~~hereunder~~ under this chapter shall be conclusive proof that the ~~board~~ authority has made the determinations required by this section.

**Sec. 20. R. S., T. 30, § 5329, amended.** The first sentence of section 5329 of Title 30 of the Revised Statutes, as enacted by section 1 of chapter 423 of the public laws of 1965, is repealed.

**Sec. 21. Amendatory clause.** Wherever in the Revised Statutes there is a reference to the Maine Industrial Building Authority, the Maine Recreation Authority or the Maine Municipal Securities Approval Board, or to the "board" in the context of a reference to the Maine Municipal Securities Approval Board, it shall mean the Maine Guarantee Authority.

**Sec. 22. Assumption of liabilities and responsibilities.** The Maine Guarantee Authority shall assume all of the duties, powers, rights, functions, obligations, contracts, indebtedness and financial responsibilities of whatever kind and nature, of the former Maine Industrial Building Authority, Maine Recreation Authority, or the Maine Municipal Securities Approval Board.

**Sec. 23. Terms of Members.** The terms of the members of the Maine Industrial Building Authority, the Maine Recreation Authority and the Maine Municipal Securities Approval Board shall expire as of the effective date of this legislation.

**Sec. 24. Personnel.** All employees and personnel of the Maine Industrial Building Authority, the Maine Recreation Authority and the Maine Municipal Securities Approval Board necessary to the function of the Maine Guarantee Authority are transferred to the Maine Guarantee Authority.

**Sec. 25. Actions, suits or proceedings not to abate; maintenance by or against successors.** No suit, action or other proceeding, judicially or administratively lawfully commenced or which could have been lawfully commenced by or against the Maine Industrial Building Authority, the Maine Recreation Authority or the Maine Municipal Securities Approval Board, or any officer thereof, shall abate by reason of the enactment of this Act or action taken pursuant to its authority.

## STATEMENT OF FACT

This legislation reorganizes the Maine Industrial Building Authority, the Maine Recreation Authority and the Maine Municipal Securities Approval Board by putting them together under one centralized guarantee authority. It is designed in that regard to achieve efficiencies in operation and it is important to note that there are 25 members of the present authorities. These 25 members will be reduced to 9. Efficiencies will be realized by the utilization of staff from all three present agencies.

The legislation is also designed to make more effective the laws relating to the two authorities and board and the most important provisions of the legislation are those requiring bank participation in loan guarantees which will result in better policing of the loans by the banks, requirement of a waiting period before loan guarantee applications can be approved and a reduction in guarantee amounts to \$2,500,000 from a present high of \$4,000,000 and \$3,400,000 applicable to the MIBA and MRA, respectively. The legislation also provides that in case of default the authorities will not be required to pay high interest rates which have been negotiated by various borrowers but will rather pay a rate slightly in excess of the prime rate. This will save the State, in the aggregate, a good sum of money. It is contemplated under the bank participation provisions that the authority will require a greater percentage of participation in a smaller loan and a relatively smaller percentage as a loan increases in size.