

MAINE STATE LEGISLATURE

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STATE OF MAINE
SENATE
107TH LEGISLATURE

COMMITTEE AMENDMENT "A" to S.P. 286, L.D. 1002, Bill,
"AN ACT to Amend the Maine Housing Authorities Act by
Creating a Loans-to-Lenders Program and Making Changes to
Improve the Efficiency of Using Federal Housing Funds."

Amend said Bill by striking out everything after the enacting
and before the emergency clause
clause/and inserting in place thereof the following:

'Sec. 1. 30 MRSA §4552, sub-§1, as amended by PL 1969,

c. 470, §1, is repealed and the following enacted in place
thereof:

1. Area of ~~operation~~. "Area of operation" of an authority of
a town shall include all the town for which it is created, and
the area of operation of a housing authority of a city shall
include the city and the area within 10 miles outside the terri-
torial boundaries thereof. The area of operation of the housing
authority of a city shall not include any area which
lies within the territorial boundaries of any other city nor shall
it include any portion of a town for which a housing authority has
been organized, without the consent by resolution of the selectmen
of the town or the governing body of the other city. No authority
shall operate in any area in which an authority already established
is operating without the consent by resolution of the authority
already operating therein. The area of operation of the state
authority is the entire State. The state authority shall not operate
in any area in which an authority of a city or town already established
pursuant to chapter 239, subchapters II or III, is operating without
the consent by resolution of the authority operating therein. In
the case of the state authority, the requirements of coordination
and local approval specified in sections 4651, ^{subsection 10} and 4701 may be
complied with by passage by the local governing body of the follow-

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ing resolution:

The Maine State Housing Authority is authorized to seek and may contract for financial assistance from the Federal Government for the purpose of providing housing for low-income persons and families in (Name of Municipality).

Passage of such resolution shall be conclusive evidence of compliance with the referenced sections. The local governing body shall be entitled to repeal said resolution in the same manner as it was originally enacted, provided~~←~~that any contract for Federal assistance entered into between the Maine State Housing Authority and any person, firm or corporation in or with respect to the municipality in question after passage of the original resolution and prior to its repeal shall not be affected by said repeal.

Sec. 2. 30 MRSA § 4552, sub-§ 11, as last amended by PL 1973, c. 517, § 1, is further amended to read:

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 an authority, to enable them, without financial assistance, to live in or purchase decent, safe and sanitary dwellings, without overcrowding. Financial assistance shall include, but shall not be limited to, the following kinds of assistance: Mortgage insurance, interest subsidies, rent subsidies, public assistance payment or services, or such other assistance as may be provided by the state authority through the sale of bonds.

Sec. 3. 30 MRSA § 4552, sub-§ 12, ¶ B, as last amended by PL 1969, c. 470, § 5, is repealed and the following enacted in place thereof:

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B. To provide decent, safe and sanitary dwellings, apartments or other living accommodations for persons of low income. A project may include dwellings, apartments or accommodations occupied by persons other than persons of low income, provided that in the opinion of the responsible authority, a reasonable number of the dwellings, apartments or accommodations in such project shall be reserved for occupancy by 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, including private commercial activity compatible with residential use as determined by an authority, so long as development costs related to such activity do not exceed 20% of the amount of debt financing provided by an authority, and streets, sewers, water service, utilities, parks, site preparation, landscaping, administrative, community, health, recreational, welfare or other purposes; or

Sec. 4. 30 MRSA § 4552, sub-§§ 15, 16, 17 and 18, are enacted to read:

15. Conventional mortgage. "Conventional mortgage" shall mean an interest-bearing obligation secured by a mortgage and note which are a first lien on land and improvements constituting one-family to 4-family housing units, which obligations are not insured or guaranteed in any manner, in part or in full, by the United States or any instrumentality thereof, or by this State or any instrumentality thereof.

16. Privately insured mortgage. "Privately insured mortgage" shall mean an interest-bearing obligation secured by a mortgage

and note which are a first lien on land and improvements constituting one-family to 4-family units, which obligations are insured or guaranteed by a private mortgage insurer which is an "authorized insurer," as defined in Title 24-A § 8, as amended, and qualified to provide insurance on mortgages purchased by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

17. Financial institution. "Financial institution" shall mean any bank or trust company, savings bank, savings and loan association, industrial bank, national banking association, federal savings and loan association, mortgage banker, credit union or other such institution authorized to do business in this State, or a government agency which customarily provides service or otherwise aids in the financing of mortgage loans.

18. Mortgage loan. "Mortgage loan" shall mean an interest-bearing obligation secured by a mortgage or note constituting a first lien on land and improvements in the State constituting one-family or multi-family housing units, or a housing project, and improvements located on an Indian reservation in this State. In the case of an improvement on an Indian reservation, the requirement that the obligation be secured by a lien on the land shall be waived if the obligation is fully insured pursuant to the Housing Mortgage Insurance Law. When the authority is proceeding pursuant to section 4712, subsection 2, the foregoing definition notwithstanding, the term "mortgage loan" may apply to loans secured by a mortgage or note constituting liens junior to first lien on such land and improve-

ments. "Mortgage loans" may also include loans secured by land and such portion if any of any eligible improvements as may have been completed as of any given date provided that the mortgage so secured is made for the purpose of allowing completion of said improvements.

Sec. 5. 30 MRSA § 4553, sub-§ 1, as enacted by PL 1969, c. 470, § 6, is amended to read:

1. To reside in or purchase housing which is decent, safe, independently selected, designed and located with reference to their particular needs and available at costs which they can afford.

Sec. 6. 30 MRSA § 4553, sub-§ 4, as enacted by PL 1969, c. 470, § 6, is amended to read:

4. To have available from financial institutions in addition to their usually loanable resources for home construction, mortgages and notes, additional resources from the sale of mortgages to bonds by the state authority.

Sec. 7. 30 MRSA § 4601-A, sub-§ 1, ¶ A, as enacted by PL 1969, c. 470, § 7, is repealed and the following enacted in place thereof:

A. Serve as a clearinghouse for information related to housing and gather statistics on housing, utilizing existing sources of data to the fullest extent possible and to require reports and to obtain information from all state departments, agencies, boards, commissions, authorities and instrumentalities about their respective expenditures for housing and housing-related services and facilities, and about their respective functions and activities related to the financing, construction, leasing or regulation of housing and housing-related services and facilities;

Sec. 8. 30 MRSA § 4601-A, sub-§ 1, ¶ B, as enacted by PL 1969, c. 470, § 7, is amended to read:

B. Develop plans, finance, conduct and encourage in cooperation with other public and private national, state level, regional and local agencies, research and demonstration of model housing programs, whether or not such models or demonstrations are or will be occupied by persons or families of low income, dealing with but not limited to planning, styles of land use, types of building design, techniques of construction, municipal regulations and management procedures;

Sec. 9. 30 MRSA § 4601-A, sub-§ 1, ¶ G, as enacted by PL 1969, c. 470, § 7, is amended to read:

G. Carry out housing renewal projects and all other powers and duties of an authority in accordance with Article 3 subchapter III;

Sec. 10. 30 MRSA § 4601-A, sub-§ 1, ¶ H, as last repealed and replaced by PL 1969, c. 564, § 1, is repealed and the following enacted in place thereof:

H. Issue revenue bonds as hereafter provided in any of the Articles of this subchapter that make provision for the issuance of bonds. The authority for the issuance of bonds in any such Article shall constitute a complete, additional and alternative method for the issuance of bonds authorized thereby, and any limitation or restriction as to use of proceeds, total authorized amount of obligations or interest rate, or any other limitation or restriction, shall be applicable solely to bonds issued pursuant to the Article wherein such limitation or restriction appears;

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Sec. 11. 30 MRSA § 4601-A, sub-§ 1, ¶ I, as last repealed and replaced by PL 1969, c. 564, § 2, is repealed and the following enacted in place thereof:

I. To sell at public or private sale, with or without public bidding, any mortgage or other obligation held by the Authority;

Sec. 12. 30 MRSA § 4602, sub-§ 2, ¶ A, as enacted by PL 1969, c. 470, § 8, is amended to read:

A. The state authority shall have a 15-person advisory board, appointed by the Governor representing the several aspects of the housing industry. The advisory board at all times shall have members who represent each of the following: Municipal officials, financiers, builders, architects, ~~laborers~~ labor, sponsors of housing programs, administrators of local public and local private housing corporations, elderly residents of housing projects, low income residents of housing projects, ~~and the director of the state housing authority,~~ and who are not otherwise in the employ of the State of Maine ~~except the director of the state housing authority.~~

The state authority members shall elect a president and vice-president of the advisory board from among the advisory board members. The advisory board of the state authority shall advise and counsel the director and commissioners of the state authority on the policies concerning any and all of the powers and duties of the state authority. ~~Eight~~ Five advisory board members of the state authority shall constitute a quorum for the purpose of conducting business

of the board and exercising its powers, notwithstanding the existence of any vacancies. Action may be taken by the advisory board upon a vote of a majority of the members present, unless in any case its bylaws shall require a larger number.

The president of the advisory board may call such meetings of the board as he shall deem necessary. The president of the advisory board shall call at least one meeting of the board each year at a time which will allow the board to meet jointly with the commissioners of the state authority.

Sec. 13. 30 MRSA § 4602, sub-§ 2, ¶ D, as last amended by PL 1969, c. 564, § 3, is repealed and the following enacted in place thereof:

D. Any person may serve as a member of the advisory board, and any person who, at the time of his appointment, is a resident of Maine, may serve as a commissioner, provided
← that the director need not be a resident of the State prior to appointment. Commissioners and advisory board members shall serve 4-year terms from the date of their appointment. Any vacancy occurring as a result of death or resignation of a commissioner or advisory board member shall be filled as soon as practicable by a new gubernatorial appointee. The new appointee shall be appointed for a full 4-year term. Each advisory board member and commissioner shall continue to hold office after the expiration of his term until his successor shall have been appointed and, in the case of commissioners, confirmed by the Executive Council. In any instance in which more

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The Secretary of State shall prepare a certificate evidencing the appointment of each advisory board member and commissioner. An original of said certificate shall be furnished the appointee.

One authenticated copy shall be retained by the state authority and one by the Secretary of State. An authenticated certificate of appointment shall be conclusive evidence of said appointment.

Each commissioner attending any regular meeting of the authority shall receive \$50 pay for attending such meeting duly called for the purpose of conducting state authority business. Each commissioner attending any special meeting or any public hearing of the authority or otherwise performing official duties for the authority shall receive \$10 an hour pay, unless a commissioner's attendance at such special meeting or public hearing is for more than (four)

hours, in which case the commissioner shall receive \$50 pay for attending such special meeting or public hearing duly called for the purpose of conducting state authority business. The director shall be a full-time employee of the authority but shall be permitted to accept part-time employment not in conflict or inconsistent with his duties. In addition to any authorized compensation, the director shall be entitled to such employee benefits as may be made available to other employees of the state authority, including but not limited to authority contributions to any retirement plan,

insurance plan, deferred compensation plan or other similar benefits, and each commissioner and advisory board member shall be entitled to receive reimbursement for actual expenses incurred in the performance of state authority business and such equipment, materials, memberships or insurance protection as shall be appropriate and necessary to the performance of his duties.

Sec. 14. 30 MRSA § 4603, as last amended by PL 1971, c. 456, § 2, is repealed and the following enacted in place thereof:

§ 4603. Conflict of interest

No employee or commissioner of any authority shall, within 2 years of such service, voluntarily acquire any interest, direct or indirect, in any contract, project or property included or planned to be included in any project of that housing authority over which the employee or commissioner has exercised responsibility, control or decisions during his tenure with the authority. Nor shall any employee or commissioner, if he accepts employment with a firm, corporation, partnership, association or individual which has an interest in any contract, property or project included or planned to be included in any project of that authority, work directly on said contract, project or property for such firm, corporation, partnership, association or individual if the employee or commissioner has exercised responsibility, control or decisions over such contract, project or property. This provision shall not prohibit an industrialized housing inspector employed by the state authority from accepting employment by a firm, corporation, partnership, association or individual to work on industrialized

housing manufactured after the date such employment with the state authority has terminated. No employee or commissioner of the state authority shall participate in any decision on any contract or project entered into by the state authority if he has any interest, direct or indirect, in any firm, partnership, corporation or association which may be party to such contract or financially involved in any such project. This section shall not be applicable to the acquisition of any interest in notes or bonds of the state authority issued in connection with any project or otherwise or to the execution of agreements by banking institutions for the deposit or handling of funds in connection with any project or to act as trustee under any trust indenture, or to utility services, the rates for which are fixed or controlled by a governmental agency. Any violation of this section shall constitute a misdemeanor.

Sec. 15. 30 MRSA § 4651, sub-§ 2, is amended to read:

2. Housing projects. Within its area of operation: To ^{acquire,} prepare, carry out, ~~lease, and manage, maintain or operate~~ housing projects and to provide for the construction, reconstruction, improvement, extension, alteration or repair of any housing project or any part thereof. An authority may perform any of these listed functions singly or in combination with other functions with respect to any individual housing project, and may perform said functions full-time, part-time or in combination with other private persons, corporations or government agencies or other appropriate body;

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Sec. 16. 30 MRSA § 4653, sub-§ 1, is repealed and the following enacted in place thereof:

1. Rent to persons of low income. It shall rent or lease at least 20% of the dwelling units in any project only to persons or families of low income and at rentals within the financial reach of such persons or families of low income;

Sec. 17. 30 MRSA § 4653, sub-§ 3, is repealed.

Sec. 18. 30 MRSA Art. 4-A, is enacted to read:

ARTICLE 4-A. LOANS TO FINANCIAL INSTITUTIONS

§ 4711. Findings and purpose

It is hereby found and declared that economic conditions have, from time to time since the original enactment of the Maine Housing Authorities Act, created circumstances in which Maine residents have been unable to support financing costs for the purchase of new or substantially rehabilitated homes or for the purchase of existing housing. To provide mortgage funds to allow Maine citizens who are persons of low income to enjoy the benefits of home ownership or residency in privately-owned apartments, the expansion of the financial capacity of the Maine State Housing Authority as a source of additional loan money for housing in Maine is undertaken in this Article. It is further declared that the purposes of this Article are public purposes and uses for which public funds may be borrowed, loaned, advanced or expended.

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§ 4712. Institutional loans

The state authority may make loans to financial institutions in the State for the purpose of providing mortgage funds for the financing of housing units or housing projects for persons or families of low income, which loans shall be called in this Article "institutional loans." Financial institutions receiving or to receive such loans shall be called in this Article "participating financial institutions."

Eligible mortgage loans under this Article shall be:

1. Mortgage loans for the purpose of acquiring one-family or multi-family housing units, housing projects as defined in section 4552 and improvements located on an Indian reservation in this State;
2. Mortgage loans for the purpose of rehabilitating housing units or housing projects or for promoting the conservation of energy resources; and
3. Mortgage loans for the purpose of constructing, reconstructing or developing housing units or housing projects.

§ 4713. Issuance of bonds; rules and regulations

The state authority may issue bonds for the purpose of making institutional loans to participating financial institutions. The proceeds of such institutional loans shall be invested by participating financial institutions in mortgage loans for the financing of housing units or housing projects for persons of low income. Prior to the making of any institutional loan under this section, the state authority shall establish rules and regulations concerning the interest rate and terms of institutional

loans to be made to participating financial institutions; the time within which participating financial institutions must make commitments and disbursements for mortgage loans; the type and amount of collateral security to be pledged by participating financial institutions to assure repayment of institutional loans from the state authority as provided in section 4716; standards as to the construction or rehabilitation for the housing units or housing projects to be financed; procedures for the submission of requests or the invitation of proposals for institutional loans; schedules of fees and other charges to be made by the state authority or the participating financial institution, or both, in accepting, acting upon or renewing applications for institutional loans or mortgage loans under this section; limiting the rate of return on mortgage loans made by participating financial institutions; establishing the time within which participating financial institutions shall invest the proceeds of such institutional loans in mortgage loans; and any other matters related to such institutional loans or mortgage loans as the state authority may deem necessary.

§ 4714. Bonds; use of proceeds

Institutional loans made and rules or regulations established pursuant to this Article shall be designed to expand the supply of funds available in the State for residential mortgage loans and to provide funds to alleviate the shortage of decent, safe and sanitary living accommodations in the State for persons of low income and, in the case of rehabilitated housing units or housing projects, to improve and promote conservation of energy

resources or otherwise to improve the quality of existing housing.
§ 4715. Provisions of bonds

The indebtedness created by an institutional loan to a participating financial institution shall be a general obligation of that participating financial institution and shall bear such date or dates, shall mature at such time or times, shall be evidenced by such bond, note or other certificate of indebtedness, may be subject to prepayment with or without penalty, and shall contain such other provisions consistent with this section and with the rules or regulations established pursuant to this section by the state authority as the state authority deems necessary.

§ 4716. Bonds; collateral

The state authority shall require that institutional loans be secured as to payment of both principal and interest by a pledge of and lien upon qualified collateral security. Qualified collateral security includes direct obligations of, or obligations guaranteed by, the United States of America; bonds, debentures, notes or other evidences of indebtedness, satisfactory to the state authority, issued by any of the following: Bank for Cooperatives, Federal Financing Bank, Federal Intermediate Credit Bank, Federal Home Loan Bank System, Export-Import Bank of the United States, Tennessee Valley Authority, Farmers Home Administration, Federal Land Banks, the Federal National Mortgage Association or the Government National Mortgage Association, direct obligations of or obligations guaranteed by the State; bonds and other direct and general obligations of any other state of the United States of America or of any instrumentality or agency thereof, or bonds guaranteed by any such state or instrumentality

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rated in either of the (two) highest rating categories by a nation-
ally recognized rating agency and as shall be approved by the
Trustee as having an established national market; mortgages in-
sured or guaranteed, in any manner, in part or in full, by the
United States or any instrumentality thereof, or by this State
or any instrumentality thereof; privately insured mortgages;
conventional mortgages; certain municipal obligations as
determined by the state authority; new housing authority bonds,
preliminary loan notes, projects notes, all fully secured by
contract with the United States; or proceeds of any of the above.
All qualified collateral security shall be maintained by the
participating financial institution at an amount at least equal
to 115% of the unpaid principal amount of the institutional
loan; except that, if and to the extent that the qualified
collateral security consists of mortgages insured or guaranteed,
in any manner, in part or in full, by the United States or any
instrumentality thereof, such mortgage collateral shall be main-
tained at an amount at least equal to 125% of the unpaid principal
amount of the institutional loan or if such mortgage collateral
consists of privately insured mortgages, such mortgage collateral
shall be maintained at an amount at least equal to 150% of the
unpaid principal amount of the institutional loan. If
qualified collateral consists of conventional mortgages, such
mortgage collateral shall be maintained at an amount at least
equal to 200% of the unpaid principal amount of the institutional
loan. In addition, in the case of conventional mortgage collateral

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only, the financial institution pledging such collateral shall certify as follows:

"Each of the conventional mortgages pledged as qualified collateral to the Maine State Housing Authority has a face value of principal outstanding of no more than 66 2/3% of the appraised value of the land and improvements securing such mortgage and has been maintained, with an adequate payment history, by the current mortgagor for at least (three) years."

The state authority may require in the case of any or all participating financial institutions that such collateral be lodged with a bank or trust company designated by the state authority as custodian therefor. In the absence of such requirement, a participating financial institution shall, as a condition of receipt of the institutional loan proceeds from the state authority, enter into an agreement with the state authority containing such provisions as the state authority shall deem necessary or desirable to identify and maintain adequately such collateral and service the same and shall provide that such participating financial institution shall hold such collateral as an agent for the state authority and shall be held accountable as the trustee of an express trust for the application and disposition thereof and the income therefrom solely to the uses and purposes in accordance with the provisions of such agreement. A copy of each such agreement and any revisions or supplements thereto shall be filed with the Secretary of State and no further

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filing or other action under Title 11, Article 9, entitled the Uniform Commercial Code—Secured Transactions or any other law of the State shall be required to perfect the security interest of the state authority in such collateral or any additions thereto or substitutions therefor, and the lien and trust for the benefit of the state authority so created shall be binding from and after the time made against all parties having claims of any kind in tort, contract or otherwise against such participating financial institution. The state authority may also establish such additional requirements as it shall deem necessary with respect to the pledging, assigning, setting aside or holding of such collateral and the making of substitutions therefor or additions thereto and the disposition of income and receipts therefrom.

Notwithstanding any other provisions of law to the contrary, participating financial institutions are hereby authorized and empowered to make or do any acts required by the provisions of this Article.

§ 4717. Separability

In accordance with section 4601-A, ^{subsection 1,} paragraph H of this subchapter, the authority to issue bonds granted by this Article and the terms, conditions, purposes and uses therefor are separate from, and not limited or restricted by, the authority to issue bonds granted in the several separate Articles of this subchapter. The provisions of all other Articles of this subchapter shall be applicable to this Article except sections 4756 to 4762.

Sec. 19. 30 MRSA § 4756, as last amended by PL 1973, c. 625, § 205, is further amended by adding at the end a new paragraph to read:

Improvements constituting one-family or multi-family units shall include but not be limited to housing projects and improvements located on an Indian reservation in this State. In the case of an improvement on an Indian reservation, the requirement that the obligation be secured by land shall be waived if the obligation is fully insured pursuant to the Housing Mortgage Insurance Law.'

STATEMENT OF FACT

amendment

This / will make certain technical changes in the Maine Housing Authorities Act and will give the Maine State Housing Authority the power to lend money to financial institutions in the State of Maine, which those institutions may then relend to individual borrowers within this State at a fixed interest rate for the purpose of increasing money available for construction lending, permanent residential mortgage lending and home improvement lending to persons of low and moderate income. The authority will fix the interest rate at which lending institutions may make loans under this program as well as the maximum income limits for eligible borrowers under the program. The / will clarify the right of the state authority to finance experimental housing without regard to the income of the purchaser. The / also makes certain technical amendments in the Maine Housing Authorities Act to allow

12 the current Mortgage Purchase Program to operate more efficiently.
In addition, this ^{amendment} / includes amendments designed to bring the
Maine Housing Authorities Act into conformance with federal laws
as it has been amended by the Housing and Community Development
Act of 1974 and to clarify the state authority's community develop-
ment functions in connection with money available thereunder.
Finally, the ^{amendment} / provides compensation for the commissioners of
the state authority when on state authority business.

Reported by the Majority of the Committee on State Government.

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