

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 1002

S. P. 286

In Senate, March 11, 1975

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

HARRY N. STARBRANCH, Secretary

Presented by Senator Marcotte of York.

Cosponsor: Senator Gahagan of Aroostook.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FIVE

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.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the national economy has declined recently, causing serious economic dislocation in Maine and particularly serious difficulty to the housing construction industry in Maine; and

Whereas, by providing tax exempt financing for home construction, the State can help to stabilize the housing construction industry, making jobs available for workers and houses available for purchase on the private market; and

Whereas, in this economic situation, the State of Maine must also make immediate provisions for using the United States Housing and Community Development Act of 1974 to its fullest extent to house Maine families; and

Whereas, performing these functions at this time will arrest further economic deterioration and provide more housing for Maine's poor and elderly; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 30 MRSA § 4552, sub-§ 1, last sentence, as enacted by PL 1969, c. 470, § 1, is amended to read:

The area of operation of the ~~Maine Housing Authority~~ state authority is the entire State. The ~~Housing Authority~~ state authority shall not operate in any area in which an authority of a city or a town already established pursuant to chapter 239, subchapters II or III, is operating without the consent by resolution of the authority operating therein.

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:

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 and 17, 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. 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.

17. **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, including but not limited to mobile homes as defined in section 4773 of the Industrialized Housing Law, 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 improvements. "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 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, ¶ 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;

Sec. 10. 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. 11. 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, low income residents of housing, ~~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. 12. 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, however, 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 than one commissioner or advisory board member shall be serving beyond his original term, any new appointee shall be deemed to succeed the commissioner or advisory board member whose term expired first.

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.

The Governor shall determine appropriate compensation for the commissioners of the state authority. Except for the director of the state authority, the commissioners shall receive hourly or daily compensation in accordance with time actually spent on 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. Each commissioner attending any regular or special meeting of the authority shall receive at least $\frac{1}{2}$ of a day's pay for attending such meeting duly called for the purpose of conducting state authority business.

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 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 or materials or memberships or insurance protection as shall be appropriate and necessary to the performance of his duties.

Sec. 13. 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 in-

dustrialized 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. 14. 30 MRSA § 4651, sub-§ 2, is amended to read:

2. **Housing projects.** Within its area of operation: To prepare, carry out, acquire, 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;

Sec. 15. 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. 16. 30 MRSA § 4653, sub-§ 3, is repealed.

Sec. 17. 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.

§ 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, including but not limited to mobile homes as defined in section 4733 of the Industrialized Housing Law, 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

In addition to any other security, 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 collateral security in such amounts as the state authority may by resolution determine to be reasonable and necessary. Such collateral security shall include but not be limited to direct obligations of, or obligations guaranteed by, the United States of America; bonds, debentures, notes or other evidences of indebtedness, satisfactory to the agency, issued by any of the following federal agencies: Bank for Cooperatives, Federal Intermediate Credit Bank, Federal Home Loan Bank System, Export-Import Bank of the United States, Federal Land Banks, the Federal National Mortgage Association or the Government National Mortgage Association; direct obligations of or obligations guaranteed by the State; mortgages 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; 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. 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 filing or other action under Title II, 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 addi-

tions 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, 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. 18. 30 MRSA § 4751, 3rd ¶, as amended by PL 1969, c. 564, § 6, is further amended to read:

Bonds of an authority shall be authorized by its resolution and may be issued in one or more series and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates, ~~not exceeding 8% per year~~ be in such denomination or denominations, be in such form either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption with or without premium, as such resolution, its trust indenture or mortgage may provide.

Sec. 19. 30 MRSA § 4751, 5th ¶, is amended to read:

The bonds may be sold at public or private sale ~~at not less than par~~. Any provision of any law to the contrary notwithstanding, any bonds issued pursuant to this subchapter shall be fully negotiable.

Sec. 20. 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 mobile homes as defined in section 4773, if they are affixed to the land in accordance with regulations to be established by the state authority, 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.

Sec. 21. 30 MRSA § 4757, sub-§ 2, as enacted by PL 1969, c. 470, § 18, is amended to read:

2. That, when the obligation so sold is secured by land and improvements constituting a one-family to 4-family housing unit or has been held by the originator for more than one year since the completion of the construction of the securing structure, the proceeds of sale or its equivalent shall be reinvested in residential mortgages or notes within the State of Maine, or invested in short term obligations pending the purchase of such residential mortgages.

Sec. 22. 30 MRSA § 4758, first sentence, as enacted by PL 1969, c. 470, § 18, is repealed.

Sec. 23. 30 MRSA § 4767, last ¶, as enacted by PL 1973, c. 649, § 3, is amended by adding 2 new sentences at the end to read:

For purposes of this section only, the term "proceeds of the sale of bonds or income derived from bond proceeds" does not include: The principal of the Housing Reserve Fund or any Capital Reserve Fund established pursuant to this Article; income earned in the Housing Reserve Fund or any Capital Reserve Fund; and the scheduled amortization payments of principal and interest called for by mortgages or mortgage loans purchased pursuant to this Article.

The separate limitations imposed by the provisions of section 4761 on the use of moneys deposited in the Housing Reserve Fund or any Capital Reserve Fund shall not be affected by this section.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

STATEMENT OF FACT

This Act 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 Act will clarify the right of the state authority to finance experimental housing without regard to the income of the purchaser. The Act also makes certain technical amendments in the Maine Housing Authorities Act to allow the current Mortgage Purchase Program to operate more efficiently. In addition, this Act 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 development functions in connection with money available thereunder. Finally, a provision has been inserted which would allow the authority, with the approval of the Governor, to compensate its commissioners out of authority funds.