

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 1820

H. P. 1398

House of Representatives, April 7, 1975

On Motion of Mr. Cooney of Sabattus, referred to Committee on State Government. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Martin of Eagle Lake.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FIVE

AN ACT to Provide for more Effective Debt Management and for more Effective Administration of the State's Development Financing Capability.

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

Sec. 1. 10 MRSA cc. 101 to 103, as amended, are repealed.

Sec. 2. 10 MRSA Pt. 15, cc. 1421, 1423 and 1425, are enacted to read:

PART 15

CHAPTER 1421

MAINE DEVELOPMENT AUTHORITY

SUBCHAPTER I

ORGANIZATION

§ 13201. Title

This Act shall be known and may be cited as the Maine Development Authority Act.

§ 13202. Declaration of necessity

It is declared to be in the public interest and to be the policy of the State of Maine to foster and promote the most effective administration of the development financing capability of the State and its instrumentalities, and to provide the most effective administration of the State's development assistance capability. It is in the public interest to promote, by all reasonable means, adequate capital markets for the public and private sectors, facilities for borrowing money by instrumentalities of the State and certain private enterprises, and to insure mortgage loans to investors in certain public or

private enterprise. It is in the public interest to provide technical and promotional assistance to public and private development. The state resources to serve these interests are required to be coordinated and consolidated in one agency to be utilized and administered most effectively. The Maine Development Authority is established to meet these requirements.

§ 13203. Creation and organization

There is established the "Maine Development Authority." The authority is constituted as an instrumentality of the State exercising public and essential governmental functions, and the exercise by the authority of the powers conferred by this Part shall be deemed and held to be an essential governmental function of the State.

§ 13204. Corporate powers

1. Powers. The authority is constituted a public body corporate and politic and an instrumentality of the State and shall have perpetual succession and, for carrying out the purposes of this Part, shall have the following powers:

- A. To sue and be sued;
- B. To adopt and have an official seal and alter the same at pleasure;
- C. To make and enforce bylaws, rules and regulations for the conduct of its affairs and business and for use of its services and facilities;
- D. To maintain an office at such place or places within the State as it may determine;
- E. To acquire, hold, use and dispose of its income, revenue, funds and moneys;
- F. To acquire, rent, lease, hold, use and dispose of other personal property for its purposes;
- G. To fix and revise from time to time and charge and collect fees and charges for the use of its services or facilities;
- H. To accept gifts or grants of property, funds, money, materials, labor, supplies or services from the United States of America or the State or any other state or agencies or departments thereof, or from any governmental unit or any person, firm, corporation, and to carry out the terms or provisions or make agreements with respect to any such gifts or grants, and to do any and all things necessary, useful, desirable or convenient in connection with procurement, acceptance or disposition of such gifts or grants;
- I. To carry out the powers set forth in this chapter, chapter 1423, and Title 30, chapter 241, subchapter II, Article 3-A.
- J. To do and perform any acts and things authorized by this chapter under, through or by means of its officers, agents or employees or by contracts with any person, firm or corporation.

§ 13205. Commissioners

The authority shall have 7 commissioners appointed by the Governor with the advice and consent of the Council, subject to removal for cause. The Governor shall designate one commissioner to be the executive director and chairman of the Maine Development Authority. The Governor shall designate one commissioner to be the Director of the Maine Municipal Bond Bank and one commissioner to be the Director of the Maine Industrial Finance Bank. Four commissioners shall be members of the general public. The commissioners shall be appointed to 4-year terms and shall serve until their successors are appointed and qualified, except that of the public members first appointed, one shall be appointed to a 4-year term, one to a 3-year term, one to a 2-year term, and one to a one-year term. That commissioner first designated to be the Director of the Maine Industrial Finance Bank shall be appointed to a 3-year term, and that commissioner first designated to be Director of the Maine Municipal Bond Bank shall be appointed to a 2-year term. A vacancy shall be filled in like manner as the original appointment for a full term.

The commissioners shall elect a vice-chairman of the commissioners from among their number who shall serve in the absence of the chairman.

The commissioners shall receive such compensation as the Governor shall determine. They shall also receive an amount for their actual and necessary expenses incurred at the same rate as paid to state employees.

Four commissioners of the authority shall constitute a quorum, provided that the affirmative vote of 4 commissioners present and voting shall be necessary for any action taken by the authority. No vacancy in the office of commissioner of the authority shall impair the right of a quorum of the commissioners to exercise all the powers and perform all the duties conferred upon them.

§ 13206. Powers and duties

The commissioners shall have the power and duty.

1. **Employees.** To approve the employment by the executive director of a controller, a budget officer and a treasurer of the authority.

2. **Policy.** To establish and revise from time to time policies of the authority relative to the following particular matters:

A. The priorities for the utilization of the research and promotional services of the authority;

B. The administration and direction of the development insurance program; and

C. The administration and direction of the community industrial building program.

3. **Budgets.** To approve budgets presented by the executive director regarding the authority's research and promotional services, the development insurance program, and the community industrial building assistance program.

4. Assessments. To approve the assessment of or withdrawal of funds from the Maine Industrial Finance Bank and the Maine Municipal Bond Bank as provided in section 13207, subsection 2, provided that such assessment or withdrawal is consistent with any bond resolution outstanding.

5. Program funds. To approve the amount of moneys to be taken by the executive director from a program under this chapter and the general purposes for which they are to be used.

6. Conferred powers. To perform those powers and duties conferred upon them by the Maine Industrial Finance Bank, chapter 1423, and the Maine Municipal Bond Bank, Title 30, chapter 241, subchapter II, Article 3-A.

§ 13207. Executive director; duties

The executive director of the authority shall be a full time employee of the authority and shall be responsible for the general administration of the authority and shall administer the research and promotional services of the authority, the development insurance program and the community industrial building assistance program, in accordance with the policies established by the commissioners, and shall exercise all powers and duties not specifically delegated to the commissioners.

1. Employees. The executive director may employ such persons as shall be required to carry out the purposes of the authority, and shall determine their qualifications, terms of office, duties, compensation and other conditions of employment. This section shall not apply to persons required for the performance of duties related exclusively to the Maine Municipal Bond Bank or the Maine Industrial Finance Bank, except that the executive director, with the approval of the commissioners, shall employ a controller, a budget officer and a treasurer who shall serve the authority, the Maine Municipal Bond Bank and the Maine Industrial Finance Bank in their respective offices.

2. Assessment; use of funds. The executive director shall assess the Maine Municipal Bond Bank and the Maine Industrial Finance Bank such sums as shall be necessary and appropriate to support that portion of the operating expenses of the authority reasonably attributable to the functions performed by those banks, subject to the approval of the commissioners and provided that such assessment is consistent with any bond resolution outstanding. In addition, to the extent those banks generate surplus operating revenue over and above the amount needed to operate those banks, the executive director may withdraw operating funds from said banks to be applied to the general operating expenses of the authority, subject to the approval of the commissioners, and provided that such withdrawal is consistent with any bond resolution outstanding.

Moneys in other programs under this chapter not currently needed to meet the obligations of such programs may be utilized by the executive director for other purposes of the authority. The commissioners shall approve the amount of moneys to be taken from such a program and the purposes for which they are to be used.

§ 13208. 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 civil 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, and against expenses actually and necessarily incurred by him in connection with the defense of any criminal action or proceeding in which he is made a party by reason of his being or having been a member of the authority, if and only if he is finally adjudged not guilty of all such charges brought against him.

§ 13209. Conflict of interest

No commissioner of the authority shall participate in any decision on any contract entered into by the authority, if he has any pecuniary interest, direct or indirect in any firm, partnership, corporation or association that is or may be a party thereto.

Any decision made by the authority with the participation of a commissioner who knew or ought to have known that a conflict of interest within the meaning of this section existed shall be voidable upon the vote of a majority of the remaining commissioners not having a conflict of interest.

Intentional involvement in a conflict of interest within the meaning of this section shall be cause for removal from office and for a fine of not more than \$1,000 and imprisonment for not more than 11 months.

§ 13210. Public records

All records of the authority not otherwise classified as confidential by this section shall be public records and shall be available for public inspection and reproduction as provided by Title 1, section 405. Public records shall include any writing, printing or other such material made under, or required to be made or received by, any statute or rule or regulation of the authority.

The authority shall maintain and protect as privileged and confidential information deemed by the commissioners to be a trade secret or proprietary information. Working papers of the authority or working papers submitted to the authority shall be privileged and confidential only where the release of the working papers would unfairly jeopardize the competitive position of any one party or group of parties having dealings with the authority or effect adversely, in the opinion of the commissioners, the authority's legal position in potential or actual litigation.

§ 13211. Annual report

The authority shall choose a fiscal year. Within 90 days after the end of said fiscal year the authority shall make an annual report of its activities for the preceding fiscal year to the Governor. Each such report shall set forth a complete operating and financial statement covering its operations during the year. The authority shall cause an audit of its books and accounts to be made at least once in each year by certified public accountants; a copy thereof shall be filed with the Treasurer of State.

§ 13212. Budget

Not later than 30 days prior to the beginning of its fiscal year, the authority shall prepare and file in the office of the Bureau of the Budget, a budget of its operating expenses and anticipated income for the ensuing fiscal year. The authority shall submit requests to the Legislature for such appropriations as may be needed to carry out its assigned tasks. Such budget shall be prepared on the basis of quarterly requirements so that it will be possible to determine from such budget the operating expenses and income for each quarter of the year, and shall set forth the general categories of anticipated expenditures, the general sources of anticipated income and the amount on account of each and shall include provision for reserve for contingencies and for overexpenditures. Such budget may set forth such additional material as the authority may determine. The authority shall file all amendments to this budget in the office of the Bureau of the Budget, provided that no more than \$250,000 shall be spent annually for the purposes set forth in section 13251, subsections 1 through 4, without the approval of the Governor.

§ 13213. Liberal construction of Act

This chapter shall be construed liberally to effectuate the legislative intent and the purposes of this chapter as complete and independent authority for the performance of each and every act and thing herein authorized and all powers granted in this chapter shall be broadly interpreted to effectuate such intent and purposes and not as a limitation of powers.

§ 13214. Separability

If any section, subsection, paragraph, clause or provision of this chapter shall be adjudged unconstitutional or to be ineffective in whole or in part, to the extent that it is not adjudged unconstitutional or is not ineffective, it shall be valid and effective and no other section, subsection, paragraph, clause or provision of this chapter shall on account thereof be deemed invalid or ineffective, and the inapplicability or invalidity of any section, subsection, paragraph, clause or provision of this chapter in any one or more instances or under any one or more circumstances shall not be taken to affect or prejudice in any way its applicability or validity in any other instance or under any other circumstances.

SUBCHAPTER II**RESEARCH AND PROMOTIONAL SERVICES****§ 13251. Research and promotional services**

The authority shall have the power and duty to.

1. Research and planning

A. Compile and maintain information useful to the development of all industries of the State concerning resources, sites, space, equipment, adequate housing, contracts, materials, transportation, markets, labor supply, vocational education needs and opportunities, population trends and other economic considerations.

B. Study specific problems peculiar to the industry and economy of Maine with a view towards the broader utilization of the State's human and natural resources and the development of new and improved industrial products and techniques, which studies shall be advanced by coordination of research with existing private and governmental agencies and educational institutions, and may be advanced by contractual relations with persons or organizations familiar with the problem and equipped to conduct the needed research.

C. Study specific problems relating to agriculture and sea and shore fisheries, cooperating with the Department of Agriculture and Marine Resources and other existing governmental and private agencies in the development of new products and techniques which will tend to improve the economic condition of those engaged in these 2 endeavors.

D. Assist in the preparation of reports upon request from the Governor.

E. Cooperate with any state department or instrumentality to carry out joint studies and projects.

2. Industrial promotion

A. Implement a program designed to determine which kinds of industry will be most beneficial to Maine's future development while causing the least possible despoliation of Maine's nonrenewable natural, scenic, and historic resources, and to promote and attract such new industry and coordinate these activities with the efforts of public, private and other agencies.

B. Devise, initiate and prosecute an aggressive system of solicitation of and assistance for such industrial prospects without the State, utilizing field representatives and technicians in cooperation with citizens' groups, service organizations, chambers of commerce, and regional and municipal agencies and officials.

C. Maintain, if necessary, an office or offices without the State for the receipt and dissemination of information concerning the attraction of such new industries to the State.

D. Promote such industrial development efforts of local communities by assisting in the formation of industrial foundations and local development corporations in cooperation with local agencies.

E. Negotiate directly with existing industries seeking expansion within the State and provide them with technical assistance, with special emphasis on aiding the retention of an existing industry which might relocate outside of Maine.

F. Help existing businesses to find markets, domestic or foreign, for their products, utilizing trade missions, exhibits, brochures, specialists, and export-import agents and to coordinate these activities with the efforts of public, private and other agencies.

G. Utilize such publicity and promotion as needed to attract desirable new industries to Maine.

H. Prepare and print such brochures, pamphlets and all like materials as are deemed necessary to assist in the attraction of out-of-state industrial prospects.

3. Vacation travel promotion

A. Advertise and publicly set forth and display the recreational resources, attractions and activities of the State, to the extent this activity appears to be economically and socially beneficial to Maine residents.

B. Upon determination that such activity is economically and socially beneficial to Maine residents, encourage and assist in the development and promotion of the recreational resources and facilities of the State by cooperating with other state agencies and public and private organizations.

4. General promotion

A. Disseminate information setting forth the industrial, commercial, agricultural, recreational, fisheries, natural resources, cultural, labor market, educational, governmental, mineral resources and other facilities and advantages of the State.

B. When it appears advisable to achieve a specifically determined goal, advertise and publicly set forth and display the resources, attractions and activities of the State, with special emphasis on factors of livability, economic growth and natural beauty in the State.

C. Encourage and assist in the promotion and development of the resources and facilities of the State by cooperating with and assisting other state agencies, and public and private organizations.

D. Prepare and print or have printed such brochures, pamphlets and all like materials, including photographs and motion pictures, as are deemed necessary to the authority's activities, with special emphasis on free public service promotional materials.

5. Training

A. Assist in the training of workers for industry using such federal and state resources as may be available.

B. Support the location of desirable new industry by coordinating efforts of Maine's educational, social, and worker training services and other services and facilities to prepare workers for specific new industries at public expense when possible and appropriate.

SUBCHAPTER III

DEVELOPMENT INSURANCE PROGRAM

§ 13301. Purpose

It is declared that there is a state-wide need to provide enlarged opportunities for gainful employment by the people of Maine and to thus insure the preservation and betterment of the economy of the State and its inhabitants. It is further declared that there is a need to stimulate a larger flow of private

investment funds from banks, investment houses, insurance companies and other financial institutions, including pension and retirement funds, to help finance industrial, manufacturing, fishing and agricultural and recreational enterprises. The Maine Development Authority shall encourage the making of mortgage loans for the purpose of furthering expansion of such enterprises in the State.

§ 13302. Definitions

As used in this subchapter, the following words and terms shall have the following meanings unless the context shall indicate another or different meaning or intent.

1. Cost of project. "Cost of project" shall mean the cost or fair market value of lands, buildings, real estate, improvements, fishing vessels, new machinery and equipment, including the installation thereof, used machinery and equipment, property rights, easements, franchises, financing charges, interest, engineering and legal services, plans, specifications, surveys, cost estimates, studies and other expenses as may be necessary or incident to the development, construction, financing and placing in operation of an eligible project.

2. Eligible project. "Eligible project" shall mean:

A. Any lands, buildings, real estate improvements or machinery and equipment, with auxiliary real and personal property, used by an industrial, manufacturing, fishing or agricultural enterprise for the manufacturing, processing, assembling or preparing for market of raw materials or other products, not including farm machinery or machinery used on a farm, including, but not limited to, an industry constructing sea-going ships and vessels, or for the purposes of research and development for such enterprises;

B. Any ocean pier or terminal used by an industrial, manufacturing, fishing or agricultural enterprise for manufacturing, processing, assembling or preparing for market raw materials or other products or used for the storage or transshipment of such materials or products before or after being so manufactured, processed, assembled or prepared for market by such enterprises;

C. Any building or other real estate improvement and, if a part thereof, the land upon which it may be located or any interest in land, by lease or otherwise, or any machinery or equipment used or usable in connection with public recreational facilities, consisting of a combination of such improvements as approach roads, parking facilities, marinas, swimming pools, golf courses, campgrounds, picnic areas, hotels, motels, lodges, ski resorts, arenas or similar recreational development furthering the stated purposes of this subchapter and for which a comprehensive plan has been prepared;

D. Any fishing vessel documented or to be documented as a fishing vessel under the laws of the United States which is designed to be used for catching, processing or transporting fish or any vessel outfitted for such activity, and

E. Any project eligible for financing pursuant to Title 30, chapter 242.

3. Federal agency. "Federal agency" shall mean and include the United States of America, the President of the United States of America, and any department of, or corporation, agency or instrumentality heretofore or hereafter created, designated or established by the United States of America.

4. Local development corporation. "Local development corporation" shall mean any organization, incorporated under Title 13, chapter 81, for the purposes of fostering, encouraging and assisting the physical location, settlement and resettlement of industrial, manufacturing, fishing, agricultural, recreational and other business enterprises within the State and to whose members no profit shall enure.

5. Maturity date. "Maturity date" shall mean the date on which the mortgage indebtedness would be extinguished if paid in accordance with periodic payments provided for in the mortgage.

6. Mortgage. "Mortgage" shall mean a first lien on an eligible project, such as commonly given to secure advances on, or the unpaid purchase price of, real estate or personal property under the laws of the State of Maine or, in the case of liens on fishing vessels, under the laws of the United States, together with the credit instruments, if any, secured thereby, and shall also mean a revenue obligation security issued under Title 30, chapter 242.

7. Mortgagee. "Mortgagee" shall mean the original lender under a mortgage and his successors and assigns approved by the authority and may include all insurance companies, trust companies, banks, investment companies, savings banks, savings and loan associations, executors, trustees and other fiduciaries, including pension and retirement funds, and shall further mean holders of securities issued under Title 30, chapter 242.

8. Mortgage payments. "Mortgage payments" shall mean periodic payments called for by the mortgage, including, but not limited to, payments covering interest, installments of principal, taxes and assessments, mortgage insurance premiums and hazard insurance premiums, and shall further mean rents under Title 30, chapter 242.

9. Mortgagor. "Mortgagor" shall mean the original borrower under a mortgage and his successors and assigns and shall be limited to local development corporations, except that this limitation may be waived at the sole discretion of the authority when deemed necessary for compliance with the terms and conditions of governmental grants, loans or subsidies made, or to be made, for the planning or financing of eligible projects, and shall further mean a lessee under Title 30, chapter 242.

§ 13303. Powers. The authority shall have the power and duty:

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

2. Use of property; powers and duties. To acquire, hold and dispose of real and personal property and make and enter into all contracts, leases,

agreements and arrangements necessary or incidental to the performance of its duties and the execution of its powers under this chapter;

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

4. Advisability of eligible project. In connection with the insuring of payments of any mortgage of industrial, agricultural or recreational real estate, to require, for its guidance, a finding of the planning board of the municipality or, if there is no planning board, a finding of the municipal officers of the municipality in which the eligible project is proposed to be located or of the regional planning board of which such municipality is a member as to the expediency and advisability of such project;

5. Criteria for projects. To require, before issuance of any conditional mortgage agreement:

A. Evidence that the applicant project will serve the purpose of the subchapter in increasing or retaining income and employment in the State;

B. Evidence of the economic feasibility of the project;

C. Evidence of financial capability of the applicant, including effective commitments for equity, interim financing and final mortgage financing for the project;

D. Evidence of management planning capability of the applicant;

E. A comprehensive plan to be submitted by the applicant that demonstrates, to the satisfaction of the authority, that the project, with proper management, will be capable of achieving the revenue and employment goals set forth by the applicant.

6. Express powers. To do all acts and things necessary or convenient to carry out the powers expressly granted in this subchapter.

§ 13304. Credit of State pledged

The authority is authorized to insure the payment of mortgage loans secured by eligible projects or by revenue obligations issued pursuant to Title 30, chapter 242. To this end, the faith and credit of the State is pledged, consistent with the terms and limitations of the Constitution, Article IX, Sections 14-A and 14-B, and such other limitations as may be provided by statute.

§ 13305. Authority to manage

In connection with insuring of payments of any mortgage for an eligible project, the authority is authorized to recommend business practices to be followed to avoid default and to operate and manage any project acquired by foreclosure or by agreement to avoid foreclosure.

§ 13306. Mortgage insurance funds

1. Amount of funds; items charged. An Industrial Building Mortgage Insurance Fund, as established in the initial amount of \$500,000, and a Recrea-

tional Project Mortgage Insurance Fund, as established in the initial amount of \$50,000, shall be used by the authority as nonlapsing, revolving funds for carrying out the purposes of this subchapter. All expenses of the authority under this subchapter, including interest and principal payments required by loan defaults and all income of the authority, including mortgage insurance premiums and sale, disposal, lease or rental proceeds under this subchapter shall be charged or credited to the appropriate fund.

2. Deposits and investments. Moneys in the funds not needed currently to meet the obligations of the authority in the exercise of its responsibilities as insurer as provided for in this subchapter shall be deposited by the treasurer of the authority to the credit of the funds. Such funds may be invested in the same manner as permitted for investment of funds belonging to the State or held in the State Treasury.

The executive director may utilize such moneys for other purposes of the authority. The commissioners shall approve the amount of moneys to be taken from the funds and the purposes for which they are to be used.

§ 13307. Expenses

The authority may, in its discretion, expend out of the funds under this subchapter, such moneys as may be necessary for any expenses of the authority, including administrative, legal, actuarial and other services. All such expenses incurred by the authority under this subchapter shall be paid by the authority and shall be charged to the appropriate fund. Upon the issuance of mortgage insurance for any such project or projects, any expenses by the authority charged thereto may at the authority's discretion be reimbursed to the authority by the mortgagee from the proceeds of the mortgage. The authority may, in its discretion, require payments to it, in advance, in anticipation of expenses, investigation and development to be incurred in connection with a proposed project. All proceeds received by the authority from the disposal, by sale or in some other manner, of property it may have acquired in accordance with section 13312, shall be credited to the appropriate fund.

§ 13308. —additions to

If, from time to time, in the opinion of the commissioners, the addition of moneys to the Industrial Building Mortgage Insurance Fund or the Recreational Project Mortgage Insurance Fund may be required to meet obligations, the commissioners 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 the appropriate 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 of Maine, Article IX, section 14-A or 14-B, whichever is applicable, as it may from time to time be amended, and such further limitations as may be provided by statute to mature serially or to run for such periods as the Governor and Council may

determine, but none to run for a longer period than 20 years, and at such rates of interest and on such terms and conditions as the Governor and Council shall determine. The bonds so issued shall be deemed a pledge of the faith and credit of the State.

In no case shall an amount from bond proceeds of state general obligation bonds issued under this subchapter greater than \$250,000 per year be utilized by the authority for administrative expenses.

§ 13309. Insurance of mortgages

The authority is authorized to insure fully the mortgage payments required by a first mortgage on any eligible project when the proposed mortgagee is the Industrial Finance Bank, provided that the mortgage payments insured shall not exceed the maximum or be less than the minimum dollar amounts for any one project as set forth in this section. In all other respects, the insurance of mortgage payments required by a first mortgage on any eligible project when the proposed mortgagee is the Industrial Finance Bank shall be conditional upon meeting the requirements of this subchapter for the insurance of mortgage payments.

Where the proposed mortgagee is not the Industrial Finance Bank, 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 the proposed mortgagee at least 60 days prior thereto. Such percentage, as determined by the authority, shall not be greater than 95%, of the first mortgage, such percentage to be determined as to require the uninsured portion of a first mortgage to be a material amount.

The first mortgage is 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 of authorized and unissued bonds for this purpose. To be eligible for insurance under this subchapter a mortgage shall.

1. Mortgagee. Be one which is to be made and held by a mortgagee approved by the authority as responsible and able to service the mortgage properly.

2. Principal obligation; limit; exception.

A. For industrial manufacturing, fishing or agricultural projects, involve a principal obligation not to exceed \$2,500,000 for any one project and not to exceed 90% of the cost of the project related to real estate, except 80% of the cost of project in the case of documented fishing vessels, and 75% of the cost of a project related to machinery and equipment.

B. For recreational projects, involve a principal obligation, including initial service charges and appraisals, inspection and other fees approved by the authority, the guaranteed portion of which is not less than \$100,000 nor more than \$2,500,000 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.

In computing the allowable amount of any eligible project, the amount of mortgages insured for, or for the benefit of, any subsidiary or affiliate of the proposed lessee or tenant of the person seeking the mortgage insurance shall be included.

3. **Maturity; limit.** Have a maturity satisfactory to the authority but in no case later than 25 years from the date of the insurance on industrial, agricultural and recreational real estate mortgages, 20 years from the date of insurance on securities for documented fishing vessels, 10 years from the date of insurance on securities for industrial and agricultural machinery and equipment, and 25 years from the date of the insurance on securities for recreational machinery and equipment.

4. **Amortization.** Contain complete amortization provisions satisfactory to the authority requiring periodic payments by the mortgagor which shall include principal and interest payments, cost of local property taxes and assessments, land lease rentals, if any, and hazard insurance on the property and such mortgage insurance premiums as are required under section 13311.

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%.

In any event no mortgage may be insured by the authority until the mortgagee, the mortgagor or any proposed lessee or assignee, as appropriate, shall have secured from the Board of Environmental Protection a certificate that all applicable licenses from the board for the project for which such mortgage insurance is sought have been obtained. This certificate requirement shall likewise apply to any subsequent enlargement of, or addition to, such project for which mortgage insurance is sought from the authority.

The authority shall have the power at all reasonable times and places to make an examination of the books and records of the mortgagor and its lessee, tenant or assignee during the duration of the mortgage.

With respect to insured mortgages relating to manufacturing, industrial, fishing and agricultural real estate, the same proportion of insurance by the authority and participation by the mortgagee shall be maintained until the mortgage is fully paid.

§ 13310. Contract of insurance

Any contract of insurance executed by the authority under this subchapter shall be conclusive evidence of the eligibility of the mortgage for insurance, and the validity of any contract of insurance so executed shall be incontestable in the hands of an approved mortgagee except for fraud or misrepresentation on the part of the approved mortgagee.

§ 13311. Mortgage insurance premiums

The authority is authorized to fix mortgage insurance premiums for the insurance of mortgage payments under this subchapter, such premiums to be computed as a percentage of the principal obligation of the mortgage outstanding at the beginning of each year. Such insurance premiums shall not be less than $\frac{1}{2}$ of 1% per year nor more than 2% per year of said outstanding principal obligation. Such premium shall be payable by the mortgagees in such manner as shall be prescribed by the authority.

§ 13312. Acquisition and disposal of property

The authority may take assignments of insured mortgages and other forms of security and may take title by foreclosure or conveyance to any eligible project when an insured mortgage loan thereon is clearly in default and when, in the opinion of the authority, such acquisition is necessary to safeguard the Industrial Building Mortgage Insurance Fund or Recreational Project Mortgage Insurance Fund, as applicable, and may sell or, on a temporary basis, lease or rent such eligible project for a use other than that specified in section 13302, subsection 2.

§ 13313. Mortgages eligible for investment

Mortgages insured by the authority of this chapter are made legal investments for all insurance companies, trust companies, banks, investment companies, savings banks, savings and loan associations, executors, trustees and other fiduciaries, pension or retirement funds.

§ 13314. Default; temporary lease or rental

When a local development corporation does not meet mortgage payments insured by the authority by reason of default under the terms of the lease of its eligible project, the authority, for the purpose of maintaining income from eligible projects on which mortgage loans have been insured by the authority and for the purpose of safeguarding the mortgage insurance fund, may grant the local development corporation permission to lease or rent the property to a responsible lessee or tenant for a use other than that specified in section 13302, subsection 2, such lease or rental to be temporary in nature and subject to such conditions as the authority may prescribe.

§ 13315. Safeguarding the mortgage insurance funds

When a manufacturing, industrial, fishing, agricultural or recreational loan insured under this subchapter is clearly in default, the authority may assent to the extension of the time of payment of such insured loan beyond 25 years, may extend the insurance thereon accordingly and may waive mortgage insurance premiums thereon, when, in the opinion of the authority, such action is necessary to safeguard the Industrial Mortgage Insurance Fund or the Recreational Project Mortgage Insurance Fund.

§ 13316. Guarantees to the Industrial Finance Bank

The authority may insure payment to the Industrial Finance Bank of loans based on fees or revenues of projects which meet the standards and requirements of loans under this subchapter.

The authority may insure bonds purchased by the Industrial Finance Bank pursuant to the powers of that bank to purchase bonds sold pursuant to Title 30, chapter 235 or chapter 242, provided that nothing in this section shall provide for the insurance of bonds issued for purposes not provided for in the Constitution of Maine.

§ 13317. Limitation

The authority shall not insure or guarantee in the aggregate more than \$40,000,000 in loans made by the Industrial Finance Bank nor \$10,000,000 in recreational loans nor \$30,000,000 of other loans.

SUBCHAPTER IV

COMMUNITY INDUSTRIAL ASSISTANCE PROGRAM

§ 13351. Policy and purposes

It is declared to be the policy of this State to promote the economic and social well-being of its inhabitants by assisting municipalities in providing modern manufacturing buildings and attractive industrial sites to meet the needs of modern industry. Economic conditions require that certain communities, either because of size or remote location, have modern manufacturing buildings and attractive industrial sites if they are to provide new job opportunities for the people of that area. It is the purpose of this subchapter to provide financial aid and technical assistance to municipalities through their local development corporations for industrial park planning and development and for the construction of modern industrial buildings in planned industrial parks providing expanding job opportunities for Maine people.

§ 13352. Definitions

As used in this subchapter, unless the context otherwise requires, the following words shall have the following meanings.

1. Community industrial building. "Community industrial building" shall mean a building of flexible design erected and financed pursuant to this subchapter for the purpose of creating new jobs in a municipality through availability on the open market by sale or lease to a purchaser or tenant requiring industrial building facilities.

2. Industrial park. "Industrial park" shall mean an area of land planned and designed as a location for one or more industrial buildings, including a community investment building complete with adequate access roads, water supply, sewers, utilities and other services necessary for modern manufacturing facilities.

3. Local development corporation. "Local development corporation" hereinafter in this subchapter called the "development corporation", shall mean any organization incorporated under Title 13, chapter 81, for the purpose of fostering, encouraging and assisting the physical location, settlement or resettlement of industrial, manufacturing and other business enterprises within the State, and to whose members no profit shall inure, but limited to those created by a municipality as defined by this subchapter. A municipality shall

be authorized to create a local development corporation for the purpose of carrying out the intent of this subchapter by a majority vote of the municipal officers, and a majority of the municipal officers shall be sufficient to form such a local development corporation notwithstanding any provision of Title 13, chapter 81, to the contrary.

4. Municipality. "Municipality" shall mean any county, city or town in the State.

§ 13353. Powers and duties

The authority shall have the following powers and duties.

1. To provide financial and technical assistance to development corporations for the purpose of creating community industrial buildings and industrial parks and to make charges for its assistance against development corporations payable solely out of the proceeds of sale or rental of community industrial buildings or all or part of industrial parks assisted by this subchapter to cover the expenses of the authority incurred under this subchapter, including all interest charges.

2. To adopt, and from time to time, amend bylaws covering its procedures, rules and regulations governing the use of community industrial buildings and industrial parks assisted by this subchapter and cause records of its proceedings to be kept.

3. To do all other lawful things necessary and incidental to the foregoing powers.

§ 13354. Community Industrial Development Fund

There is created the Community Industrial Development Fund, hereinafter in this subchapter called "the fund", which shall be used by the authority as a nonlapsing revolving fund for the purposes of this subchapter. To it shall be charged all operating expenses of the authority required to be paid under any section of this subchapter, and all expenses incurred by the authority in the promotion and development of a community industrial building or industrial park which has received a loan pursuant to this subchapter. To it shall be credited all payments required by this subchapter.

Money in the fund not currently needed to meet the obligations of the authority under this subchapter shall be deposited with the treasurer of the authority to the credit of the fund with all interest earned by such deposit credited to the fund. The executive director may utilize such moneys for other purposes of the authority. The commissioners shall approve the amount of moneys to be removed from the fund and the purposes for which they are to be used.

§ 13355. Assistance to development corporations

A. Community industrial buildings. Upon application of the development corporation, the authority may loan to the development corporation an amount not to exceed the cost of the project, upon such terms and conditions as it may prescribe, for the purpose of constructing a com-

munity industrial building on land owned or held on long-term lease by the development corporation. Before the development corporation receives such funds for the construction of a community industrial building from the authority, it shall give to the authority security for repayment of the funds and security shall be in such form and amounts as the executive director may determine and shall, in each instance, include a first mortgage on the land, or the leasehold, building and appurtenances financed by such funds. Loans by the authority to the development corporation for the construction of a community industrial building shall be repaid in full, including interest and other charges within 90 days after the building is occupied. The authority shall not finance more than one unoccupied community industrial building project in a county at one time.

No community development corporation which has obtained a loan from the authority for the construction of a community industrial building shall sell or lease such building without the express approval by the authority of the purchaser or lessee of said building.

B. Industrial parks. Upon application of the development corporation, the authority may loan to the development corporation an amount not to exceed \$200,000 for the planning, design and development of an industrial park on land owned or held on long-term lease by the development corporation. The loan shall be on such terms and conditions as the authority may prescribe. Before the development corporation receives such funds, it shall give to the authority security for repayment of the funds in such form and amounts as the executive director may determine.

No community development corporation which has a loan outstanding from the authority for the planning, design and development of an industrial park shall sell or lease such park in whole or in part without the express approval by the authority of the purchasers or lessees of said industrial park.

C. Requirements. Before issuing any loan under this subchapter for construction of a community industrial building or the development of an industrial park, the executive director shall determine that:

- (1) The project is within the scope of this subchapter, will be of public use and benefit and may reasonably be expected to create new employment opportunities;
- (2) The development corporation is responsible and has presented evidence to demonstrate its ability to carry out the project as planned;
- (3) The proposed site for the community industrial building or the industrial park shall be located on adequate land owned by the development corporation or leased by the development corporation on terms satisfactory to the authority;
- (4) An adequate access road from a public highway is provided to the proposed site and that such utilities as water, sewer and power facilities are available, or will be available when the project is completed, financed with funds other than those provided by the authority, and further that

this access road shall be maintained by the development corporation. The development corporation will also be responsible for keeping the project site plowed out at all times and attractively landscaped until such time as the project is occupied by an industrial tenant or tenants;

(5) Project plans comply with applicable zoning, planning and sanitary regulations in the municipality where it is to be located and, in any event no loan shall be approved and no certificate of approval shall be issued until the Board of Environmental Protection has certified to the authority that all licenses required from the board with respect to the project have been issued or that none are required. This requirement of certification by the board shall likewise apply to any subsequent enlargement or addition to such project for which approval is sought from the authority;

(6) The development corporation has made adequate provisions for insurance protection of the project while it is unoccupied in whole or in part and that suitable arrangements have been made for fire protection and maintenance while it is unoccupied in whole or in part.

§ 13356. Promotion and development

The authority shall undertake promotional and publicity activities on behalf of community industrial buildings and industrial parks to properly market such projects to prospective purchasers or tenants. The authority shall maintain a constant and continual effort to secure suitable tenants or purchasers for such projects and shall prepare such advertising and promotional material as is necessary. All expenses necessarily incurred by the authority in carrying out the purposes of this section shall be charged to the Community Industrial Building Fund.

§ 13357. Taxes

While the community industrial building remains unoccupied and a first mortgage is held by the authority, it is declared to be property held for a legitimate public use and benefit and shall be exempt from all taxes and special assessments of the State or any political subdivision thereof.

§ 13358. Economically deprived areas

The authority shall give preference to economically deprived areas within labor market districts declared to be in need of economic development assistance by the Department of Manpower Affairs.

CHAPTER 1423

MAINE INDUSTRIAL FINANCE BANK

§ 13401. Declaration of necessity

It is declared to be in the public interest and to be the policy of the State of Maine to foster and promote by all reasonable means the provision of adequate capital markets and facilities for borrowing money by both instrumentalities of the State and certain private enterprises. It is further

declared that current credit and bond market conditions require the exercise of the powers of the State to further and implement such policies by authorizing a state instrumentality to be created as a body corporate and politic to have full powers to borrow money and to issue its bonds and notes to make funds available at reduced rates and on more favorable terms for borrowing by state instrumentalities and certain private enterprises and by granting broad powers to such instrumentality to accomplish and to carry out the aforesaid policies of the State which are in the public interest of its people.

§ 13402. Creation of bank; corporate powers

The Maine Industrial Finance Bank is established. The bank is constituted a public body corporate and politic and an instrumentality of the State exercising public and essential governmental functions. The bank shall have perpetual succession and, for carrying out the purposes of this chapter, shall have the following powers:

- A. To sue and be sued;
- B. To adopt and have an official seal and alter the same at pleasure;
- C. To make and enforce bylaws, rules and regulations for the conduct of its affairs and business and for use of its services and facilities;
- D. To maintain an office at such place or places within the State as it may determine;
- E. To acquire, hold, use and dispose of its income, revenue, funds and moneys;
- F. To acquire, rent, lease, hold, use and dispose of other personal property for its purposes;
- G. To borrow money and to issue its negotiable bonds or notes and to provide for and secure the payment thereof and to provide for the rights of the holders thereof, and to purchase, hold and dispose of any of its bonds or notes;
- H. To fix and revise from time to time and charge and collect fees and charges for the use of its services or facilities;
- I. To accept gifts or grants of property, funds, money, materials, labor, supplies or services from the United States of America or the State or any other state or agencies or departments thereof, or from any governmental unit or any person, firm or corporation, and to carry out the terms or provisions or make agreements with respect to any such gifts or grants, and to do any and all things necessary, useful, desirable or convenient in connection with procurement, acceptance or disposition of such gifts or grants;
- J. To do and perform any acts and things authorized by this chapter under, through or by means of its officers, agents or employees or by contracts with any person, firm or corporation;

- K. To purchase revenue bonds sold by municipalities under Title 30, chapters 235 and 242;
- L. To purchase bonds sold by local development corporations;
- M. To purchase first mortgage loans held by financial institutions on the physical assets of industrial or recreational facilities in Maine;
- N. To purchase loans secured by inventory, receivables, or other satisfactory collateral made to industrial or recreational facilities in Maine;
- O. To establish standards and regulations for exercising the powers and duties granted herein, provided however, that no loan purchased under paragraphs M or N shall be purchased if it exceeds \$500,000 or is made to a company whose net income during the previous 3-year period has averaged more than \$500,000 per annum;
- P. To sell revenue bonds secured by income from the bonds or mortgages purchased in accordance with this section or by revenues of projects financed in accordance with this section;
- Q. To lend money to any project which would be eligible as a project under the Development Insurance Program of the Maine Development Authority, provided that such loan is guaranteed by the authority;
- R. To make, enter into and enforce all contracts or agreements necessary, convenient or desirable for the purposes of the finance bank or pertaining to any loan or any purchase or sale of securities or other investments or the performance of its duties and execution or carrying out of any of its powers under this chapter;
- S. To invest any funds or moneys of the finance bank not then required for loans and for the purchase of securities in the same manner as permitted for investment of funds belonging to the State or held in the State Treasury, except as otherwise permitted or provided by this chapter;
- T. To fix and prescribe any form of application or procedure to be required for the purpose of any loan or the purchase of securities, and to fix the terms and conditions of any such loan or purchase and to enter into agreements with appropriate parties with respect to any such loan or purchase;
- U. To do all acts and things necessary, convenient or desirable to carry out the powers expressly granted or necessarily implied in this chapter;
- V. To make loans to local development corporations to assist such corporations in developing community industrial buildings as defined in section 13352, subsection 1, industrial parks as defined in section 13352, subsection 2, or eligible projects as defined in section 13302, subsection 2. When providing loans directly for the purposes enumerated in this paragraph the finance bank shall determine, in the case of loans to be used for industrial parks or community industrial buildings, that the local development corporation has provided from sources other than the finance bank, at least 20% of the cost of such industrial park or community in-

dustrial building, and in the case of loans to be used for eligible projects which loans are not insured by the Maine Development Authority, that at least 15% of the cost of such eligible project has been provided from sources other than the finance bank. In appropriate cases, the source of funds other than the finance bank may be the Community Industrial Building Fund, provided however that moneys in the Community Industrial Building Fund shall be considered to be finance bank moneys if the finance bank has exercised its power to supplement said Community Industrial Building Fund. In that event, the source of funds other than the finance bank may not be the Community Industrial Building Fund; and

W. To supplement with the proceeds of its bonds or notes, the Community Industrial Building Fund, provided that moneys in or due to or assets held in the Community Industrial Building Fund shall, in the event the finance bank supplements said fund, be considered collateral for the repayment of bonds or notes of the finance bank the proceeds of which were used for this purpose to the extent that the resolution under which such bonds or notes were sold by the finance bank so requires.

§ 13403. Prohibited acts and limitation of powers

Under this section the finance bank may not:

1. Banking business. Emit bills of credit, or accept deposits of money for time or demand deposit, or administer trust, or engage in any form or manner in, or in the conduct of, any private or commercial banking business, or act as a savings bank or savings and loan association; or

2. Bank and trust company. Be or constitute a bank or trust company within the jurisdiction or under the control of the Bureau of Banks and Banking of the State, or the superintendent thereof, or the Comptroller of the Currency of the United States of America or the Department of the Treasury thereof.

Nothing contained in this chapter shall be construed to authorize or to empower the finance bank to be or to constitute a dealer in securities within the meaning of or subject to any securities law, securities exchange law or securities dealers law of the United States of America or of the State or of any other state or jurisdiction, domestic or foreign.

§ 13404. Limitations of obligations

The finance bank shall not have at any time obligations in excess of \$100,000,000 in the aggregate principal amount thereof outstanding. In computing the total amount of obligations of the finance bank at any time, the amount of outstanding obligations refunded or to be refunded from the proceeds of the sale of new obligations or by exchange of new obligations shall be excluded.

§ 13405. Membership; director

The bank shall consist of 7 commissioners who shall be the commissioners of the Maine Development Authority. One such commissioner shall be the

Director of the Industrial Finance Bank, as provided in section 13205. The chairman of the Maine Development Authority shall be the chairman of the bank.

1. Quorum. Four commissioners of the bank shall constitute a quorum at any meeting thereof. Action may be taken and motions and resolutions adopted by the commissioners at any meeting thereof by the affirmative vote of at least 4 commissioners of the bank. No vacancy in the office of commissioner of the bank shall impair the right of a quorum of the commissioners to exercise all the powers and perform all the duties of the commissioners.

2. Duties. The commissioners of the bank shall establish and revise from time to time general policies, standards, and regulations for the exercise of the powers and duties of the bank provided under this chapter.

§ 13406. Duties of director

The director of the Industrial Finance Bank shall be a full time employee of the bank and shall be executive officer of the bank. The director shall be responsible for conducting the business of the bank under the general policies, standards and regulations established by the commissioners; such guidelines shall provide the director with reasonable executive discretion and the authority to conduct the business of the bank in an efficient and timely manner. The director may employ a general counsel, architects, engineers, accountants, attorneys, financial advisors and such other officers, agents and employees as may be required. The director shall determine the qualifications, terms of office, duties, compensation and other conditions of employment of such officers, agents and employees. The controller, budget officer and treasurer of the Maine Development Authority shall serve the finance bank in their respective offices.

§ 13407. Liability

Bonds and notes of the finance bank issued under this chapter shall not be in any way a debt or liability of the State and shall not constitute a loan of the credit of the State or create any debt or debts, liability or liabilities on behalf of the State or be or constitute a pledge of the faith and credit of the State but all such bonds and notes, unless funded or refunded by bonds or notes of the finance bank, shall be payable solely from revenues or funds pledged or available for their payment as authorized in this chapter. Each bond and note shall contain on its face a statement to the effect that the finance bank is obligated to pay such principal or interest, and redemption premium, if any, and that neither the faith and credit nor the taxing power of the State is pledged to the payment of the principal of or the interest on such bonds and notes.

All expenses incurred in carrying out the purposes of this chapter shall be payable solely from revenues or funds provided or to be provided under this chapter, or such other funds as may be made available from other activities of the Maine Development Authority, and nothing in this chapter shall be construed to authorize the finance bank to incur any indebtedness or liability on behalf of or payable by the State.

§ 13408. Bonds and notes of the bank

The finance bank shall have the power and is authorized from time to time to issue its bonds in such principal amounts as it shall deem necessary to provide funds for any purposes authorized by this chapter including the making of loans, the payment, funding or refunding of the principal of, or interest or redemption premiums on, any bonds issued by it whether the bonds or interest to be funded or refunded have or have not become due or subject to redemption prior to maturity in accordance with their terms, the establishment or increase of such reserves to secure or to pay such bonds or interest thereon and all other costs or expenses of the finance bank incident to and necessary or convenient to carry out its corporate purposes and powers.

Except as may be otherwise expressly provided in this chapter or by the bank, every issue of bonds shall be general obligations of the bank payable out of any revenues or funds of the bank, subject only to any agreements with the holders of particular bonds pledging any particular revenues or funds. Any such bonds may be additionally secured by a pledge of any grants, subsidies, contributions, funds or moneys from the United States of America or the State or any governmental unit or any person, firm or corporation or a pledge of any income or revenues, funds or moneys of the finance bank from any source whatever.

The finance bank shall have the power and is authorized to issue its notes for any corporate purpose of the finance bank from time to time, in such principal amounts as it shall deem necessary and to renew or pay and retire or refund such notes from the proceeds of bonds or of other notes, or from any other funds or moneys of the bank available or to be made available for such purpose in accordance with any contract between the finance bank and the holders of the notes and not otherwise pledged. The notes shall be issued in the same manner as bonds and such notes and the resolution or resolutions authorizing the same may contain any provisions, conditions or limitations which the bonds or a bond resolution of the finance bank may contain. Unless provided otherwise in any contract between the finance bank and the holders of notes, and unless such notes shall have been otherwise paid, funded or refunded, the proceeds of any bonds of the finance bank issued, among other things, to fund such outstanding notes, shall be held, used and applied by the finance bank to the payment and retirement of the principal of such notes and the interest due and payable thereon. The finance bank shall have power to make contracts for the future sale from time to time of the notes, pursuant to which the purchaser shall be committed to purchase the notes from time to time on terms and conditions stated in the contracts, and the finance bank shall have the power to pay such consideration as it shall decree proper for such commitments.

Whether or not the bonds or notes of the finance bank are of such form and character as to be negotiable instruments under the Uniform Commercial Code, Article 8, the bonds and notes shall be and are made negotiable instruments within the meaning of and for all the purposes of the Uniform Commercial Code, Article 8, subject only to the provisions of the bonds and notes for registration.

Bonds or notes of the finance bank shall be authorized by resolution of the finance bank 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 of interest per year, be in such denomination or denomination, 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 from such sources in such medium of payment at such place or places within or without the State, and be subject to such terms of redemption, with or without premium, as such resolution or resolutions may provide.

Bonds or notes of the finance bank may be sold at public or private sale at such time or times and at such price or prices as the bank shall determine.

The finance bank may from time to time issue its notes as provided under this chapter and pay and retire or fund or refund such notes from proceeds of bonds or of other notes, or from any other funds or moneys of the bank available or to be made available for such purpose in accordance with any contract between the bank and the holders of the notes. Unless provided otherwise in any contract between the finance bank and the holders of notes, and unless such notes shall have been otherwise paid, funded or refunded, the proceeds of any bonds of the bank issued among other things, to fund such outstanding notes, shall be held, used and applied by the bank to the payments and retirement of the principal of such notes and the interest due and payable thereon.

§ 13409. Resolutions and indentures

In any resolution of the finance bank authorizing or relating to the issuance of any bonds or notes, the bank, in order to secure the payment of such bonds or notes and in addition to its other powers, shall have power by provisions therein which shall constitute covenants by the bank and contracts with the holders of such bonds or notes to enter into any trust agreement or trust indenture with a corporate trustee, which may be any trust company or national banking association or state bank having the powers of a trust company within or without the State. Such trust agreement, indenture or the resolution providing for the issuance of such bonds or notes may pledge or assign the revenues of the finance bank, and may contain such provisions for protecting and enforcing the rights and remedies of the holders of such bonds and notes as may be reasonable and proper and not in violation of law, including the custody, safeguarding and application of all moneys. Any such trust agreement may set forth the rights and remedies of the holders of the bonds and notes and of the trustee, and may restrict the individual right of action by such holders. The finance bank may provide by such trust indenture for the payment of the proceeds of the bonds and notes and the revenues to the trustee under such trust indenture or other depository, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out such trust indenture may be treated as a part of the operating expenses of the finance bank. If the bonds shall be secured by a trust indenture the bondholders shall have no authority to appoint a separate trustee to represent them.

§ 13410. Intent of pledge

Any pledge of revenue or other moneys made by the finance bank shall be valid and binding from time to time when the pledge is made. The revenues or other moneys so pledged and thereafter received by the finance bank shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the finance bank, irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be filed or recorded, except in the records of the finance bank.

§ 13411. Reserve fund

1. Reserve fund. The finance bank shall establish and maintain a reserve fund called the "Maine Industrial Finance Bank Reserve Fund" in which there shall be deposited all moneys appropriated by the State for the purpose of such fund, all proceeds of bonds required to be deposited therein by terms of any contract between the bank and its bondholders or any resolution of the bank with respect to such proceeds of bonds, any other moneys or funds of the bank which it determines to deposit therein and any other moneys made available to the bank only for the purposes of such fund from any other source or sources. Moneys in the reserve fund shall be held and applied solely to the payment of the interest on and principal of bonds and sinking fund payments mentioned in this chapter with respect to bonds as the same shall become due and payable and for the retirement of bonds, including payment of any redemption premium required to be paid when any bonds are redeemed or retired prior to maturity and shall not be withdrawn therefrom if such withdrawal would reduce the amount in the reserve fund to an amount less than the required debt service reserve, as defined, except for payment of interest then due and payable on bonds and the principal of bonds then maturing and payable and sinking fund payments mentioned in this chapter and for the retirement of bonds in accordance with the terms of any contract between the bank and its bondholders and for the payments on account of which interest or principal or sinking fund payments or retirement of bonds other moneys of the bank are not then available in accordance with the terms of any such contract. As used in this chapter "required debt service reserve" means, as of any date of computation, the amount or amounts required to be on deposit in the reserve fund as provided by resolution of the bank. Required debt service reserve shall be, as of any date of computation, an aggregate amount equal to at least the largest amount of money, required by the terms of all contracts between the bank and its bondholders to be raised in the then current or any succeeding calendar year for the payment of interest on and maturing principal of that portion of outstanding bonds the proceeds of which were applied solely to the purchase of securities and sinking fund payments required by the terms of any such contracts to sinking funds established for the payment or redemption of such bonds, all calculated on the assumption that such bonds will cease to be outstanding after the date of such computation by reason of the payment of such bonds at their

respective maturities and the payments of such required moneys to sinking funds and the application thereof in accordance with the terms of all such contracts to the retirement of such bonds.

2. Transfer. Moneys in said fund at any time in excess of the required debt service reserve, whether by reason of investment or otherwise, may be withdrawn at any time by the bank and transferred to any other fund or account of the finance bank.

3. Investment. Moneys at any time in the reserve fund may be invested in the same manner as permitted for investment of funds belonging to the State or held in the treasury.

4. Reserve. Notwithstanding any other provision contained in this chapter no bonds shall be issued by the finance bank unless there is in the reserve fund the required debt service reserve for all bonds then issued and outstanding and the bonds to be issued provided that nothing in this chapter shall prevent or preclude the bank from satisfying the foregoing requirement by depositing so much of the proceeds of the bonds to be issued, upon their issuance, as is needed to achieve the required debt service reserve. The finance bank may at any time issue its bonds or notes for the purpose of providing any amount necessary to increase the amount in the reserve fund to the required debt service reserve, or to meet such higher or additional reserve as may be fixed by the bank with respect to such fund.

5. Restoration. In order to assure the maintenance of the required debt service reserve in the reserve fund, there shall be annually appropriated and paid to the bank for deposit in said fund, such sum, if any, as shall be certified by the chairman of the finance bank to the Governor, as necessary to restore said fund to an amount equal to the required debt service reserve. The chairman shall annually, on or before December 1st, make and deliver to the Governor his certificate stating the sum, if any, required to restore said fund to the amount aforesaid, and the sum or sums so certified shall be appropriated and paid to the finance bank during the then current state fiscal year.

6. Valuation. In computing the amount of the required debt service reserve, investments held as a part thereof shall be valued in the manner provided in the bond resolution.

§ 13412. General fund

The bank shall establish and maintain a fund called the "general fund" which shall consist of and in which there shall be deposited fees received or charges made by the finance bank for use of its services or facilities, any moneys which the bank shall transfer thereto from the reserve fund pursuant to section 13411, subsection 2, moneys received by the bank as payment of principal or interest on loans made by the bank or as payments of or interest on securities purchased by the bank, or received as proceeds of sale of any securities or investment obligations of the bank, or received as proceeds of sale of bonds or notes of the bank, and required under the terms of any resolution of the bank or contract with the holders of its bonds or notes to be

deposited therein, any moneys required under the terms of any resolution of the bank or contract with the holders of its bonds or notes to be deposited therein, and any moneys transferred thereto from any other fund or made available for the purpose of the general fund by the State or for the operating expenses of the bank. Any such moneys in the general fund may, subject to any contracts between the finance bank and its bondholders or noteholders, be transferred to the reserve fund, or if not so transferred, shall be used for the payment of the principal of or interest on bonds or notes of the bank when the same shall become due and payable, whether at maturity or upon redemption including payment of any premium upon redemption prior to maturity, and any moneys in the general fund may be used for the purchase of securities and for all other purposes of the bank including payment of its operating expenses.

No amount shall be paid or expended out of the general fund or from any account therein, which account the finance bank may establish therein for the purpose of payment of its operating expenses, for operating expenses of the bank in any year in excess of the amount provided for the operating expenses of the bank by the annual budget then in effect at the time of such payment or expenditure for operating expenses.

The finance bank may at any time use any available moneys in the general fund for the purchase of its bonds or notes or for the redemption thereof, and any such bonds purchased for retirement shall be thereupon cancelled.

The finance bank is authorized and empowered to create and establish in the general fund such accounts, subaccounts or special accounts which in the opinion of the bank are necessary, desirable or convenient for the purposes of the bank under this chapter.

Assessments made on the finance bank by the Maine Development Authority and withdrawals from the bank by the Maine Development Authority, as provided for in section 13207, subsection 2, shall be taken from the general fund.

§ 13413. Additional reserves and funds

The finance bank may establish such additional and further reserves or such other funds or accounts as may be, in its discretion, necessary, desirable or convenient to further the accomplishment of the purposes of the bank to comply with the provisions of any agreement made by or any resolution of the bank.

§ 13414. Remedies of holders of bonds and notes

1. Trustee. In the event that the finance bank shall default in the payment of principal of or interest on any issue of bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of 30 days, or in the event that the bank shall fail or refuse to comply with this chapter or shall default in any agreement made with the holders of any issue of bonds, the holders of 25% in aggregate principal amount of bonds then outstanding, by instrument or instruments filed in the office of the clerk of courts of the County of Kennebec

and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purposes provided.

2. Duties of trustee. Such trustee may and upon written request of the holders of 25% in principal amount of all such bonds then outstanding shall, in his or its own name:

A. By mandamus or other suit, action or proceeding at law or in equity, enforce all rights of the bondholders including the right to require the finance bank to collect rates, charges and other fees and to collect interest and amortization payments on securities held by it adequate to carry out any agreement as to, or pledge of, such rates, charges and other fees and of such interest and amortization payments and to require the bank to carry out any other agreements with the holders of such bonds and to perform its duties under this chapter;

B. Bring suit upon such bonds;

C. By action or suit, require the finance bank to account as if it were the trustee of an express trust for the holders of such bonds; and

D. By action or suit in equity enjoin any acts or things which may be unlawful or in violation of the holders of such bonds.

3. Additional powers of trustee. Such trustee shall in addition have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth in this chapter or incident to the general representation of bondholders in the enforcement and protection of their rights.

4. Jurisdiction and venue. The Superior Court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of such bondholders. The venue of any such suit, action or proceeding shall be laid in the County of Kennebec.

5. Notice. Before declaring the principal of bonds due and payable, the trustee shall first give 30 days' notice in writing to the finance bank.

§ 13415. Personal liability

Neither the commissioners of the finance bank nor any person executing bonds or notes issued pursuant to this chapter shall be liable personally on such bonds or notes by reason of the issuance thereof.

§ 13416. Purchase of bonds and notes of bank

The finance bank shall have the power to purchase bonds or notes of the bank out of any funds or money of the bank available therefor. The bank may hold, cancel or resell such bonds or notes subject to and in accordance with agreements with holders of its bonds or notes.

§ 13417. Bonds as legal investments and security

Notwithstanding any restrictions contained in any other law, the State and all public officers, governmental units and agencies thereof, all natural bank-

ing associations, state banks, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all executors, administrators, guardians, trustees and other fiduciaries, may legally invest any sinking funds, moneys or other funds belonging to them or within their control in any bonds or notes issued by the finance bank pursuant to this chapter, and such bonds or notes shall be authorized security for any and all public deposits.

§ 13418. Tax exemptions

All property of the finance bank and all bonds and notes issued under this chapter shall be deemed to constitute essential public and governmental purposes and such property and such bonds and notes so issued, their transfer and the income therefrom, including any profits made on the sale thereof, shall at all times be exempt from taxation within the State.

§ 13419. Exemption of property from execution sale

All property of the finance bank shall be exempt from levy and sale by virtue of an execution and no execution or other judicial process shall issue against the same nor shall any judgment against the bank be a charge or lien upon its property; provided that nothing contained in this chapter shall apply to or limit the rights of the holder of any bonds or notes to pursue any remedy for the enforcement of any pledge or lien given by the bank on its revenues or other moneys. Any action or proceeding in any court to set aside a resolution authorizing the issuance of bonds or notes by the finance bank under this chapter or to obtain any relief upon the ground that such resolution is invalid must be commenced within 30 days after the adoption of said resolution by the bank. After the expiration of such period of limitation, no right of action or defense founded upon the invalidity of such resolution or any of its provisions shall be open to question in any court on any ground whatever.

§ 13420. Insurance or guaranty

The finance bank is authorized and empowered to obtain from any department or agency of the United States of America or of this State or other insurer any insurance or guaranty, to the extent now or hereafter available, as to, or of, or for, the payment or repayment of, interest or principal, or both, or any part thereof, on any bonds or notes issued by the bank, or on any securities of governmental units purchased or held by the bank pursuant to this chapter; and notwithstanding any other provisions of this chapter to enter into any agreement or contract whatsoever with respect to any such insurance or guaranty, except to the extent that the same would in any way impair or interfere with the ability of the bank to perform and fulfill the terms of any agreement made with the holders of the bonds or notes of the bank.

§ 13421. Federal aid

The Treasurer of State is authorized to receive from the United States of America or any department or agency thereof any amount of money as and

when appropriated, granted, turned over or in any way provided for the purposes of the bank or this chapter, and said amounts shall unless otherwise directed by federal authority be credited to and deposited in the general fund, as established in section 13412, and be available to the finance bank. Likewise, the Treasurer of the Maine Development Authority, upon a vote of the commissioners, may receive and use direct payments from the United States of America to or on behalf of the finance bank.

§ 13422. Annual report

The fiscal year of the finance bank shall be the same as that of the Maine Development Authority. Within 90 days after the end of said fiscal year, the bank shall make an annual report of its activities for the preceding fiscal year to the Governor. Each such report shall set forth a complete operating and financial statement covering its operations during the year. The bank shall cause an audit of its books and accounts to be made at least once in each year by certified public accountants and the cost thereof shall be considered an expense of the bank and a copy thereof shall be filed with the Treasurer of State. The annual report of the bank shall be a part of the annual report of the Maine Development Authority, as provided in section 13211.

§ 13423. Additional powers

In order to carry out the purposes and provisions of this chapter, the finance bank, in addition to any powers granted to it elsewhere in this chapter, shall have the following powers.

1. Loans. In connection with any loan, to consider the need, desirability or eligibility of such loan, the ability of such borrower to secure borrowed money from other sources and the costs thereof, and the particular public improvement or purpose to be financed by the securities to be purchased or loan to be made by the bank.
2. Charges. To impose and collect charges for its costs and services in review or consideration of any proposed loan or purchase securities, and to impose and collect charges therefor whether or not such loan shall have been made or such securities shall have been purchased.
3. Purchase. To fix and establish any and all terms and provisions with respect to any purchase of securities by the bank, including dates and maturities of such bonds, provisions as to redemption or payment prior to maturity, and any and all other matters which in connection therewith are necessary, desirable or advisable in the judgment of the finance bank.
4. Hearings. To conduct examinations and hearings and to hear testimony and take proof, under oath or affirmation at public or private hearings, on any matter material for its information and necessary to carry out this chapter.
5. Subpoenas. To issue subpoenas requiring the attendance of witnesses and the production of books and papers pertinent to any hearing before the finance bank, or before one or more of the commissioners of the bank appointed by it to conduct such hearing.

6. Contempt. To apply to the Superior Court in the County of Kennebec, to have punished for contempt any witness who refuses to obey a subpoena, or who refuses to be sworn or affirmed to testify, or who is guilty of any contempt after summons to appear.

7. Insurance. To procure insurance against any losses in connection with its property, operations or assets in such amounts and from such amounts and from such insurers as it deems desirable.

8. Modification. To the extent permitted under its contracts with the holders of bonds or notes of the finance bank, to consent to any modification with respect to rate of interests, time and payment of any installment of principal or interest, security or any other term of bond or note, contract or agreement of any kind to which the bank is a party.

§ 13424. Undertakings of depositories

All national banking associations or state banks, trust companies, savings banks, investment companies and other persons carrying on a banking business are authorized to give to the finance bank a good and sufficient undertaking with such sureties as shall be approved by the bank to the effect that such national banking association or state bank or banking institution as described shall faithfully keep and pay over to the order of or upon the warrant of the bank or its authorized agent all such funds as may be deposited with it by the bank and agreed interest thereon under or by reason of this chapter, at such times or upon such demands as may be agreed with the bank or in lieu of such sureties, deposit with the bank or its authorized agent or any trustee therefor or for the holders of any bonds, as collateral, such securities as the bank may approve. The deposits of the finance bank may be evidenced by an agreement in such form and upon such terms and conditions as may be agreed upon by the bank and such national banking association or state bank or banking institution.

§ 13425. Purchase of anticipation notes

The bank may purchase notes of any authorized borrower issued in anticipation of the sale of securities in an amount not exceeding at any one time outstanding the authorized amount of such securities. In connection with any such purchase of anticipation notes, the bank may by agreement with such borrower impose such terms, conditions and limitations as in its opinion shall be proper in the circumstances and for the purposes and security of the bank and the holders of its bonds or notes, and the bank shall thereupon enforce all such rights, remedies and provisions of law as it shall have under this section or elsewhere in this chapter provided or as otherwise provided by law.

§ 13426. Budget

Not later than 30 days prior to the beginning of its fiscal year, the finance bank shall prepare and file in the office of the Bureau of the Budget a budget of its operating expenses and anticipated income for the ensuing fiscal year. Such budget shall be prepared on the basis of quarterly requirements so that it will be possible to determine from such budget the operating expenses.

and income for each quarter of the year, and shall set forth the general categories of anticipated expenditures and the general sources of anticipated income and the amount on account of each, and shall include provision for reserve for contingencies and for overexpenditures. Such budget may set forth such additional material as the bank may determine. The budget for the ensuing fiscal year shall be a part of the budget of the Maine Development Authority, as provided in section 13212. The bank shall file all amendments to this budget in the office of the Bureau of the Budget.

§ 13427. State services

All officers, departments, boards, agencies, divisions and commissions of the State are authorized and empowered to render any and all of such services to the finance bank as may be within the area of their respective governmental functions as fixed or established by law and as may be requested by the bank. All of such officers, departments, boards, agencies, divisions and commissions are authorized and directed to comply promptly with any such reasonable request by the finance bank as to the making of any study or review as to desirability, need, cost or expense with respect to any such public project, purpose or improvement, or the financial feasibility thereof or the financial or fiscal responsibility or ability in connection therewith of any authorized borrower making application for loan to the bank and for the purchase by the bank of securities to be issued by such borrower. The cost and expense of any services requested by the bank shall, at the request of the officer, department, board, agency, division or commission rendering such service, be met and provided for by the bank.

§ 13428. Agreements with financial institutions

The bank is authorized and empowered to enter into such agreements or contracts with any commercial banks, trust companies, banking or other financial institutions within or without the State as may be necessary, desirable or convenient in the opinion of the bank for rendering services to the bank in connection with the care, custody or safekeeping of securities or other investments held or owned by the bank and services in connection with the payment or collection of amounts due and payable as to principal or interest, and for services in connection with the delivery to the bank of securities or other investments purchased by it or sold by it, and to pay the cost of such services. The bank is further authorized and empowered in connection with any of such services to be rendered by any such commercial banks, trust companies or banking or other financial institutions, as to the custody and safekeeping of any of its securities or investments, to require security in the way of collateral bonds, surety agreements or security agreements in such form and in such amount as, in the opinion of the bank, is necessary or desirable for the purpose of the bank.

§ 13429. Application of moneys

Moneys or investments in any fund or account of the bank established or held for any bonds, notes, indebtedness or liability to be paid, funded or refunded by issuance of bonds or notes shall, unless the resolution authorizing such bonds or notes provides otherwise, be applied to the payment or retire-

ment of any such bonds, notes, indebtedness or liability, and to no other purpose. In the event that there shall be in any such fund or account any moneys in excess of the amount required for such payment, funding or re-funding, such moneys may be removed from such fund or account but only to the extent that the moneys or investments thereafter remaining in such fund or account shall be not less than the outstanding bonds, notes, indebtedness or liability of the finance bank to be paid, funded or refunded and for which such fund or account was established or held.

§ 13430. Form of securities and investments

All securities or other investments of moneys of the finance bank permitted or provided for under this chapter shall at all times be purchased and held in fully marketable form, subject to provision for any registration in the name of the bank. All securities at any time purchased, held or owned by the bank shall upon delivery to the bank be accompanied by documentation including approving bond opinion, certification and guaranty as to signatures and certification as to absence of litigation, and such other or further documentation as shall from time to time be required in the bond market.

§ 13431. Presumption of validity

After issuance, all bonds or notes of the banks shall be conclusively presumed to be fully authorized and issued under the laws of the State, and any person shall be estopped from questioning their authorization, sale, issuance, execution or delivery by the finance bank.

To the extent that this chapter is inconsistent with or in conflict with any private or special Act or the charter of any district or other quasi-municipal corporation, this chapter shall be effective and such other private or special Act or charter of any district or other quasi-municipal corporation shall be of no force or effect. It is not intended that the general laws relating to municipalities, Title 30, section 1901 et seq. shall be in any way affected by this chapter.

§ 13432. Liberal construction

This chapter shall be construed liberally to effectuate the legislative intent and the purposes of this chapter as complete and independent authority for the performance of each and every act and thing herein authorized and all powers granted in this chapter shall be broadly interpreted to effectuate such intent and purposes and not as a limitation of powers.

CHAPTER 1425

DEBT MANAGEMENT COMMITTEE

§ 13501. Purpose

It is declared that there is a need to provide for more effective debt management to maintain the highest possible credit or credit rating of the State of Maine or any instrumentality thereof and to provide for the most effective use of capital resources available to the State and its instrumentalities. The

Maine Debt Management Committee is created to assist in meeting this need. The committee shall provide a careful review of matters that may affect the credit or credit rating of the State of Maine or any instrumentality thereof and shall provide its recommendations regarding such matters to the People of the State, the Legislature, and state departments, agencies or instrumentalities, as appropriate.

§ 13502. Creation; organization of committee

The Maine Debt Management Committee is established and shall consist of the State Treasurer, who shall be the chairman, the Commissioner of Finance and Administration, the Commissioner of Business Regulation, the Chairman of the Maine Development Authority and the Chairman of the Maine State Housing Authority.

Following reasonable notice to each committee member, 3 members of the committee shall constitute a quorum at any meeting of the committee; action may be taken by the committee upon a vote of a majority of the members present.

§ 13503. Powers and duties

1. Legislation. Review and comment upon proposed legislation brought to a public hearing by a committee of the Legislature which may, if enacted, affect the credit or credit rating of the State of Maine or bonds issued in the name of the State or any instrumentality thereof. The treasurer shall deliver such review and comment to the appropriate legislative committee and the Legislative Council at least 24 hours prior to the public hearing.

The review and comment shall, as a minimum, state:

- A. Whether the committee, by public vote of each member available and voting, feels passage of the proposed legislation will tend to lower the rating applied to any bond issued or to be issued by the State or any instrumentality thereof by acknowledged rating agencies;
- B. Whether any modification to the proposed legislation would alter the finding under paragraph A;
- C. Whether the committee, by public vote of each member available and voting, recommends passage of the proposed legislation, and that with or without recommended modifications; and
- D. In the case of any member voting for passage, even though he believes it may tend to lower the credit rating of some bond, why the member feels passage of the legislation is more important than maintenance of the credit rating.

2. Referendum question. Review any referendum question the passage of which might tend to lower the rating applied to any bond issued or to be issued by the State or any instrumentality thereof by acknowledged rating agencies. The committee shall, by majority vote, agree on a recommendation with an explanation not to exceed 200 words, which recommendation and explanation shall be included by the Secretary of State on any official ballot used by the people in voting upon said referendum question.

3. Agencies and instrumentalities. Receive notice from any and all state departments, agencies, or instrumentalities which plan to issue bonds which will bear the word "Maine" as any portion of their official designation, except that this section shall not apply when the word "Maine" is used only to designate the State in which an issuing city, town or municipality is located. Said departments, agencies or instrumentalities shall, if possible, give preliminary notice to the treasurer at a reasonable time prior to the planned issuance of any such bond issue; in any case, they shall notify the treasurer of any such bond issue at least one week prior to the planned issuance thereof. Said departments, agencies or instrumentalities shall officially consider, but not be bound to follow, any recommendation of the committee as to a more propitious time to issue said bonds than the one proposed by the issuing department, agency or instrumentality.

4. Referrals. Entertain inquiries from potential borrowers, both public and private, and refer said borrowers to the appropriate authority or department of the State which is empowered to assist said borrower with his proposed borrowing, or if there be no such authority or department, so to advise the potential borrower and to bring to the attention of the appropriate committee of the Legislature the fact that a potential borrower of a certain type could not be assisted by any established department or authority of the State.

5. Provide technical assistance to municipalities in regard to municipal debt management questions.

§ 13504. Municipal review

The Debt Management Committee shall approve or disapprove projects and issue certificates of approval upon application of municipalities proposing to issue revenue obligation securities and shall carry out such other duties conferred upon it under Title 30, chapter 242. In any event no project shall be approved and no certificate of approval shall be issued until the Board of Environmental Protection has certified to the committee that all licenses required from the Board of Environmental Protection with respect to the project have been issued or that none are required. This requirement of certification by the Board of Environmental Protection shall likewise apply to any subsequent enlargement of or addition to such project for which approval is sought from the authority.

1. Policy. It shall be the policy of the committee in considering the propriety of issuing a certificate of approval to determine to its satisfaction that:

A. The project will make a significant contribution to the economic growth of or the control of pollution in the State;

B. The project will not create a competitive advantage to any party to a contract entered into by any municipality under this chapter or substantial detriment to existing industry;

C. Adequate provision is being made to meet any increased demand upon public facilities that might result from such project;

D. In cases where it is proposed to relocate an industrial-commercial or recreational facility existing in the State, there is a clear economic justification for such relocation; and

E. In the case of projects including pollution-control facilities, the proposed users of such facilities make a significant contribution to the economy of the State, a substantial public benefit will result from the inclusion of such facilities in such project, and it is unlikely that public facilities meeting the need of such users and securing comparable public benefit will become available in the reasonably foreseeable future.

If the committee 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 required by this section, the committee may so advise the Board 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.

2. Effect of certificate. A certificate of approval issued by the committee shall be conclusive proof that the committee has made the determinations required by this section.

3. Application and service fees. The committee is authorized to fix reasonable application and service fees for each project authorized in relation to Title 30, chapter 242.

The application and service fees collected shall be utilized by the committee to cover the expenses of the committee.

4. Conflict of interest. No member of the committee shall participate in any decision on any contract entered into by any municipality under Title 30, chapter 242, if he has any interest, direct or indirect, in any firm, partnership, corporation or association which may be a party to such contract, or if he has any interest, direct or indirect, in any firm, partnership, corporation or association which may rent, lease or otherwise occupy any premises constructed by such municipality.

§ 13505. Committee staff; expenses

The committee may employ not more than 3 full-time employees who shall be under the immediate administrative control of the State Treasurer and whose duties, rate of compensation, and other conditions of employment shall be determined by the State Treasurer. The State Treasurer may assess each department or authority represented on the committee up to 1/5 of the cost of supporting said employees, provided that no department or authority shall pay more than \$10,000 each year. The functions of the committee shall be considered essential government functions and assessments paid by the departments or authorities shall be considered made in the performance of their respective duties.

Sec. 3. 2 MRSA § 6, sub-§ 1, 5th line, as last repealed and replaced by PL 1973, c. 788, § 2, is repealed as follows:

~~Commissioner of Commerce and Industry;~~

Sec. 4. 10 MRSA cc. 701, 801, and 903, as amended, are repealed.

Sec. 5. 30 MRSA § 5164, as last amended by PL 1973, c. 788, § 147, is repealed and the following enacted in place thereof:

§ 5164. Creation of bank and membership

There is established a public body corporate and politic to be known as the "Maine Municipal Bond Bank." The bank is constituted as an instrumentality of the State exercising public and essential governmental functions, and the exercise by the bank of the powers conferred by this Act shall be deemed and held to be an essential governmental function of the State.

The bank shall consist of a board of 7 commissioners who shall be the commissioners of the Maine Development Authority. One such commissioner shall be the director of the bank, as provided in Title 10, section 13205. The Chairman of the Maine Development Authority shall be the chairman of the bank. The powers of the bank shall be vested in the commissioners thereof in office from time to time and 4 commissioners of the bank shall constitute a quorum at any meeting thereof. Action may be taken and motions and resolutions adopted by the bank at any meeting thereof by the affirmative vote of at least 4 commissioners of the bank. No vacancy in the office of commissioner of the bank shall impair the right of a quorum of the commissioners to exercise all the powers and perform all the duties of the bank.

The director shall be a full time employee of the bank and may employ a general counsel, architects, engineers, accountants, attorneys, financial advisors or experts and such other officers as may be required. The director shall determine the qualifications, terms of office, duties, compensation and other conditions of employment of such officers, agents and employees. The controller, budget officer, and treasurer of the Maine Development Authority shall serve the bank in their respective offices.

Sec. 6. 30 MRSA § 5167-A is enacted to read:

§ 5167-A Limitations

The bank shall not have at any time obligations in excess of \$200,000,000 in the aggregate principal amount thereof outstanding.

Sec. 7. 30 MRSA § 5168, 7th ¶, as enacted by PL 1971, c. 588, is repealed.

Sec. 8. 30 MRSA § 5172, as enacted by PL 1971, c. 558, is amended by adding at the end a new paragraph to read:

Assessments made on the bank by the Maine Development Authority and withdrawals from the bank by the Maine Development Authority, as provided for in Title 10, section 13207, subsection 2, shall be taken from the general fund.

Sec. 9. 30 MRSA § 5182, as enacted by PL 1971, c. 558, is repealed and the following enacted in place thereof:

§ 5182. Annual report

The fiscal year of the bank shall be the same as that of the Maine Development Authority, provided that this shall not affect any bond resolution outstanding. Within 90 days after the end of said fiscal year, the bank shall make an annual report of its activities for the preceding year to the Governor. Each such report shall set forth a complete operating and financial statement covering its operation during the year. The bank shall cause an audit of its books and accounts to be made at least once in each year by certified public accountants and the cost thereof shall be considered an expense of the bank and a copy thereof shall be filed with the Treasurer of State. The annual report of the bank shall be a part of the annual report of the Maine Development Authority, as provided in Title 10, section 13211.

Sec. 10. 30 MRSA § 5188, as enacted by PL 1971, c. 558, is amended to read:

§ 5188. Budget

Not later than ~~June 1st each year~~ 30 days prior to the beginning of its fiscal year, the bank shall prepare and file in the office of the Bureau of Budget a budget of its operating expenses and anticipated income for the ensuing fiscal year. Such budget shall be prepared on the basis of quarterly requirements so that it will be possible to determine from such budget the operating expenses and income for each quarter of the year, and shall set forth the general categories of anticipated expenditures, the general sources of anticipated income and the amount on account of each, and shall include provision for reserve for contingencies and for overexpenditures. Such budget may set forth such additional material as the bank may determine. The budget for the ensuing fiscal year shall be a part of the Maine Development Authority, as provided in Title 10, section 13211. The bank shall file all amendments to this budget in the Office of the Bureau of the Budget.

Sec. 11. 30 MRSA § 5326, sub-§ 9, as enacted by PL 1973, c. 788, § 149, is repealed and the following enacted in place thereof:

9. Application and service fees. "Application and service fees" shall mean the amount of money charged to a project by the Debt Management Committee for services rendered to applicants under this chapter and Title 10, section 13504.

Sec. 12. 30 MRSA § 5327, as last repealed and replaced by PL 1973, c. 633, § 14, is repealed and the following enacted in place thereof:

§ 5327. Maine Debt Management Committee

The Maine Debt Management Committee shall approve or disapprove projects and issue certificates of approval upon application of municipalities proposing to issue revenue obligation securities under this chapter according to the requirements and policies set forth under Title 10, section 13504.

Sec. 13. 30 MRSA §§ 5328, 5329, and 5330, as amended, are repealed.

Sec. 14. 30 MRSA § 5331, sub-§ 1, first sentence, as last amended by PL 1973, c. 633, § 21, is further amended to read:

Upon receipt of the certificate of approval from the ~~authority~~ **Debt Management Committee** as provided in section ~~5328~~ 5327, the municipal officers of any municipality are authorized to provide by resolution, at one time or from time to time, for the issuance of revenue obligation securities of the municipality for the purpose of paying the cost of acquiring, constructing, reconstructing, renewing or replacing any revenue-producing, industrial-commercial, pollution-control, recreational or combined project, provided no revenue obligation securities of a municipality shall be issued until the general purpose or purposes for which the securities are to be issued and the maximum principal amount of such securities to be authorized have been approved by ballot by a majority of the votes cast on the question and the number of votes cast is at least 20% of the total vote for all candidates for Governor cast in the municipality at the last gubernatorial election.

Sec. 15. 30 MRSA § 5331, sub-§ 2, ¶ A, first ¶, as last amended by PL 1973, c. 633, § 21, is further amended to read:

Notwithstanding any of the other provisions of this chapter, revenue obligation securities may bear interest at rates exceeding 6% per year upon receipt of written approval from the ~~authority~~ **Debt Management Committee**. In giving approval for an interest rate in excess of 6%, the ~~authority~~ **committee** shall specify a rate which shall be the maximum rate for the particular revenue obligation security issue related to a single project.

Sec. 16. 30 MRSA § 5331, sub-§ 2, ¶ A, sub-¶ (4), as last amended by PL 1973, c. 633, § 21, is further amended to read:

(4) Such other matters as the ~~authority~~ **committee** shall consider significant.

Sec. 17. 30 MRSA § 5331, sub-§ 2, ¶ A, last 2 ¶¶, as last amended by PL 1973, c. 633, § 21, are further amended to read:

In making its determination as to rates of interest allowable in excess of 6% per year, the ~~authority~~ **committee** shall give such weight to the above factors as it deems adequate and the findings of the ~~authority~~ **committee** shall be final.

If the ~~authority~~ **committee** determines that a rate of interest in excess of 6% per year is in order, it shall issue its certificate which shall set forth the maximum allowable interest rate and the specific revenue obligation security issue to which the rate applies.

Sec. 18. 30 MRSA § 533, first ¶, as last amended by PL 1973, c. 633, § 21, is further amended to read:

Before the issuance of revenue obligation securities for paying the cost of any project, provision shall be made by leases or contracts which in the judgment of the ~~authority~~ **Debt Management Committee** will be adequate to assure that the municipality will at all times have revenues sufficient:

Sec. 19. 30 MRSA § 5340-A, as last amended by PL 1973, c. 633, § 21, is further amended to read:

§ 5340-A. Records confidential

No member of the ~~authority~~ **Debt Management Committee** or agent or employee thereof shall divulge or disclose any information obtained from the records and files or by virtue of such person's office concerning the name of any applicant, lessee or tenant or information supplied by any applicant, lessee, tenant, mortgagee, financial institution, municipality or local development corporation in support of an application proposing to issue revenue-obligation securities.

Sec. 20. Assumption of liabilities and responsibilities. The Maine Development Authority shall assume all of the duties, powers, rights, functions, obligations, contracts, indebtedness and financial responsibilities of whatever kind and nature, conditional or otherwise, of the former Maine Guarantee Authority and of the former Department of Commerce and Industry, except those related to Title 30, chapter 242. All mortgage insurance agreements or conditional mortgage insurance agreements issued by the former Maine Guarantee Authority or its predecessor agencies in effect on the effective date of this legislation and all agreements, undertakings or contracts entered into by such authorities in connection with any such mortgage insurance agreement or conditional mortgage insurance agreement shall be effective and enforceable in accordance with their respective terms, provisions and conditions, or in accordance with such modified terms, provisions and conditions, if any, as may be subsequently agreed upon by the Maine Development Authority and the other parties to any such agreement, notwithstanding that any such agreement may provide for insurance, involve principal obligations or provide for interest payments in excess of the limits prescribed by this Act.

Sec. 21. Assumption of duties. The Maine Debt Management Committee shall assume all of the duties, powers, rights, functions and obligations formerly conferred to the Maine Guarantee Authority by Title 30, chapter 242, subject to amendments to that chapter by this Act.

Sec. 22. 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 Guarantee Authority, or any officer thereof, shall abate by reason of the enactment of this Act or action taken pursuant to its authority.

Sec. 23. Transitional provisions. Except as otherwise provided in this section, all liabilities, balances of appropriations, transfers, revenues or other available funds in any account, or subdivision of any account, of the Maine Guarantee Authority and the Department of Commerce and Industry, together with equipment, property and records of these agencies, shall be transferred to the proper place in the new structure of the Maine Development Authority by the State Controller, upon the recommendation of the State Budget Officer and the Chairman of the Maine Development Authority and upon approval of the Governor and Council.

Specific provision shall be made, during such transfer, for funding of the Maine Industrial Bank Reserve Fund to the extent of \$50,000 or such other

larger sum as may be deemed desirable at the time of said transfer. Specific provision shall be made for funding of the staff of the Maine Industrial Finance Bank to the extent of at least \$200,000. In addition, at least \$150,000 shall be allocated to the State Treasurer for initial funding of the staff and purchase of equipment for the Maine Debt Management Committee. Such funds shall be drawn from appropriate accounts of the Maine Guarantee Authority.

Sec. 24. Personnel. No classified employee of the State shall lose his right to a job equivalent to the one he holds on the effective date of this Act as a result of any provision of this Act. Such employees may, at the discretion of the executive director, be offered jobs with the Maine Development Authority but their refusal to accept any job so offered shall not be held to be a waiver of their rights as herein specified to continue in the classified service of the State without loss of pay. The Department of Personnel shall be responsible for relocating such classified employees within the state personnel system as soon as practicable for the effective date of this Act.

Sec. 25. Terms of commissioners. The terms of the members of the Maine Guarantee Authority and of the Commissioners of the Maine Municipal Bond Bank shall expire as of the effective date of this Act.

On the effective date of this Act, the Commissioner of Commerce and Industry shall become the Executive Director of the Maine Development Authority. The manager of the Maine Guarantee Authority shall become the Director of the Maine Industrial Finance Bank, and the Executive Director of the Maine Municipal Bond Bank shall become the Director of the Maine Municipal Bond Bank; these officers shall also become Commissioners of the Maine Development Authority. Their terms shall be those provided by this Act for the persons first designated to fill their respective positions. The 3 Commissioners of the Maine Municipal Bond Bank appointed by the Governor shall become Commissioners of the Maine Development Authority, and that member of the Maine Guarantee Authority whose term expires on October 16, 1978, shall also become a member of the Maine Development Authority.

The Governor shall designate the terms of those commissioners of the authority who shall be public members in keeping with the provisions of this Act. The Governor, with the advice and consent of the Council, may remove and replace any Commissioner of the Maine Development Authority within the first year following the effective date of this Act. A commissioner appointed to fill such a vacancy shall serve initially for the unexpired term.

STATEMENT OF FACT

This bill creates the Maine Development Authority, the Maine Industrial Finance Bank, and the Maine Debt Management Committee. It abolishes

the Department of Commerce and Industry and the Maine Guarantee Authority and transfers their powers to the newly created bodies. It repeals the statutory authority for the Mountain Resorts Airport Authority.

The bill is designed to improve debt management in Maine. The new Debt Management Committee takes over the role of the Maine Guarantee Authority in reviewing and approving municipal debt issues. It also assumes the role of financial advisor to municipal governments, legislative committees and the people on referendum questions.

The Maine Industrial Finance Bank provides a vehicle to aggregate small industrial revenue bond issues in Maine to assist municipalities and private issuers to get lower interest rates for industrial revenue bonds than would be offered by the private market.

The Maine Development Authority assumes an umbrella role with all the powers presently vested in the Maine Guarantee Authority to guarantee loans and, in addition, the right to guarantee loans made by the Maine Industrial Finance Bank. This guarantee authority is limited to \$80,000,000 compared with \$97,000,000 authorized by the Constitution for these purposes. In addition to its loan guarantee function, the Maine Development Authority assumes all of the powers and duties of the Department of Commerce and Industry.

The legislation involves little language which is not already in the statutes. Statutes relating to the Maine Guarantee Authority have been consolidated and the Maine Industrial Finance Bank is patterned after the existing Maine Municipal Bond Bank.