

MAINE STATE LEGISLATURE

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1 (Governor's Bill)
2 (EMERGENCY)
3 SECOND REGULAR SESSION
4

5 ONE HUNDRED AND TENTH LEGISLATURE
6

7 **Legislative Document**

No. 2015

8
9 S. P. 867 In Senate, February 19, 1982
Referred to the Committee on State Government and ordered
printed. Sent down for concurrence.
MAY M. ROSS, Secretary of the Senate
10 Presented by Senator Conley of Cumberland.
Cosponsors: Representative J. Martin of Eagle Lake, Representa-
tive Murphy of Kennebunk and Senator Ault of Kennebec.

11
12 **STATE OF MAINE**
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-TWO
16

17 **AN ACT to Facilitate Acquisition,**
18 **Improvement and Construction of Housing**
19 **Financed through the Maine State Housing Authority.**
20

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

24 Whereas, the national economy has been declining
25 recently, causing serious economic dislocation in Maine and
26 particularly serious difficulty for housing consumers and
27 the housing industry in Maine; and

28 Whereas, by providing financing for housing, the Maine
29 State Housing Authority can help to stabilize the housing
30 industry, making jobs available for workers and homes avail-
31 able for purchase or for lease; and

32 Whereas, federal financial assistance for housing in
33 Maine has been sharply curtailed recently; and

1 Whereas, it is essential and in the public interest
2 that the Maine State Housing Authority facilitate the reha-
3 bilitation of Maine's existing housing stock, including the
4 making of energy conservation improvements, in order to con-
5 serve resources; and

6 Whereas, implementation of the measures authorized by
7 this Act will aid in arresting further economic deterio-
8 ration and provide more housing for Maine citizens; and

9 Whereas, in the judgment of the Legislature, these
10 facts create an emergency within the meaning of the Consti-
11 tution of Maine and require the following legislation as
12 immediately necessary for the preservation of the public
13 peace, health and safety; now, therefore,

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

15 **Sec. 1. 30 MRSA §4552, sub-§3-A,** as enacted by PL
16 1975, c. 522, §1, is amended to read:

17 3-A. Construction loan. "Construction loan" shall
18 ~~mean~~ means a loan for the purpose of developing, construct-
19 ing, reconstructing or rehabilitating a housing unit or
20 housing project and which shall be evidenced by an interest-
21 bearing obligation constituting a first lien on land and
22 such improvements as are financed by the loan, located in
23 the State. ~~In the case of an improvement on an Indian~~
24 ~~reservation, the requirement that the obligation be secured~~
25 ~~by a lien on the land shall be waived, if the obligation is~~
26 ~~fully insured pursuant to the Housing Mortgage Insurance Law~~
27 ~~secured in the same manner as a mortgage loan shall be~~
28 ~~secured.~~

29 **Sec. 2. 30 MRSA §4552, sub-§11, last sentence,** as
30 amended by PL 1981, c. 470, Pt.A, §149, is further amended
31 to read:

32 When this term is used in connection with loans made to
33 improve or rehabilitate, for the purpose of energy conserva-
34 tion, owner-occupied one-family to 4-family residential
35 housing in the State, including section 4651, subsection 13,
36 and sections section 4712 and 4757, it shall not include
37 families whose adjusted income exceeds 150% 200% of the
38 median family income for the State, as developed by the
39 United States Bureau of the Census for the United States
40 Department of Health, Education and Welfare and Human Ser-
41 vices, or by any successor agency, for use in establishing
42 eligibility for social services funded under the United

1 States Social Security Act, Title XX or for any other use.

2 Sec. 3. 30 MRSA §4552, sub-§12, ¶B, 3rd sentence, as
3 repealed and replaced by PL 1975, c. 625, §3, is amended to
4 read:

5 Such work or undertaking may include buildings, land, equip-
6 ment, facilities and other real or personal property for
7 necessary, convenient or desirable appurtenances, including
8 private commercial activity compatible with residential use
9 as determined by an authority, so long as development costs
10 related to such activity do not exceed 20% 40% of the amount
11 of debt financing provided by an authority, and streets,
12 sewers, water service, utilities, parks, site preparation,
13 landscaping, administrative, community, health, recrea-
14 tional, welfare or other purposes; or

15 Sec. 4. 30 MRSA §4552, sub-§17, as enacted by PL 1975,
16 c. 625, §4, is further amended to read:

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

26 Sec. 5. 30 MRSA §4552, sub-§18, as amended by PL 1977,
27 c. 564, §116-A, is repealed and the following enacted in
28 its place to read:

29 18. Mortgage loan. "Mortgage loan" or "mortgage" means
30 and includes:

31 A. An interest-bearing obligation secured by a mort-
32 gage constituting a first lien on single family or
33 multi-unit residential housing, including any mortgage
34 loan made for the purpose of developing, constructing
35 or reconstructing single family or multi-unit residen-
36 tial housing;

37 B. An interest-bearing obligation which is fully
38 insured pursuant to the Housing Mortgage Insurance Law,
39 if the single family or multi-unit residential housing
40 is located on either the Passamaquoddy Indian Reserva-
41 tion or the Penobscot Indian Reservation;

1 C. A home improvement note;

2 D. An interest-bearing obligation secured by an inter-
3 est in manufactured housing as defined in Title 10,
4 section 9002, subsection 7;

5 E. An interest-bearing obligation secured by a mort-
6 gage, pledge or collateral assignment of a lease of
7 real property or a lease of air rights, provided that:

8 (1) The security shall include a first lien upon
9 the lease; and

10 (2) Except for mortgage loans secured by manufac-
11 tured housing situated on leased real property or
12 air rights, the real property or air rights shall
13 not be subject to any prior lien;

14 F. A participation interest in a mortgage loan; or

15 G. An interest-bearing obligation secured by a pledge
16 or collateral assignment of a tenant-shareholder's
17 interest in a consumer cooperative organized for hous-
18 ing purposes pursuant to Title 13, chapter 85, subchap-
19 ter 1.

20 This definition shall not preclude requirement of security
21 in addition to that specified in this subsection for any
22 mortgage loan.

23 **Sec. 6. 30 MRSA §4601-A, sub-§1, ¶1N is enacted to**
24 **read:**

25 N. With respect to any bonds which the state authority
26 is authorized to issue in accordance with the limita-
27 tions and restrictions of this subchapter, covenant and
28 consent that the interest on the bonds shall be includ-
29 able, under the United States Internal Revenue Code of
30 1954 or any subsequent corresponding internal revenue
31 law of the United States, in the gross income of the
32 holders of the bonds to the same extent and in the same
33 manner that the interest on bills, bonds, notes or
34 other obligations of the United States is includable in
35 the gross income of the holders under the United States
36 Internal Revenue Code or any subsequent law. The
37 powers conferred by this paragraph shall not be subject
38 to any limitations or restrictions of any law which may
39 limit the state authority's power to so covenant and
40 consent.

1 **Sec. 7. 30 MRSA §4651, sub-§11**, as amended by PL 1969,
2 c. 564, §5, is further amended to read:

3 **11. Mortgage credits.** Pursuant to the purposes of
4 this Act to provide housing for persons of low income, the
5 state authority shall have the power to acquire from banks,
6 life insurance companies, savings and loan associations, the
7 Federal Government and other financial institutions, first
8 mortgage loans and notes anywhere in the State of Maine con-
9 sistent with section 4760, the restriction as to the area of
10 operation in section 4552 notwithstanding, and to sell mort-
11 gages and notes to insurance companies, other financial
12 institutions and the agencies of the United States of Amer-
13 ica or any fiduciaries or retirement funds;

14 **Sec. 8. 30 MRSA §4716, first ¶, 2nd sentence**, as
15 enacted by PL 1975, c. 625, §18, is amended to read:

16 Qualified collateral security shall be limited to direct
17 obligations of, or obligations guaranteed by, the United
18 States of America; bonds, debentures, notes or other evi-
19 dences of indebtedness, satisfactory to the state authority,
20 issued by any of the following: Bank for Cooperatives, Fed-
21 eral Financing Bank, Federal Intermediate Credit Bank, Fed-
22 eral Home Loan Bank System, Export-Import Bank of the United
23 States, Tennessee Valley Authority, Farmers Home Administra-
24 tion, Federal Land Banks, the Federal National Mortgage
25 Association or the Government National Mortgage Association,
26 direct obligations of or obligations guaranteed by the
27 State; bonds and other direct and general obligations of any
28 other state of the United States of America or of any
29 instrumentality or agency thereof, or bonds guaranteed by
30 any such state or instrumentality rated in either of the 2
31 highest a rating categories category of AA or Aa or their
32 equivalents or better by a nationally recognized rating
33 agency and as shall be approved by the trustee as having an
34 established national market; insurance, letter of credit or
35 other guarantee by a financial institution the direct and
36 general obligations of which are rated in a rating category
37 of AA or Aa or their equivalents or better by a nationally
38 recognized rating agency; mortgages insured or guaranteed,
39 in any manner, in part or in full, by the United States or
40 any instrumentality thereof, or by this State or any instru-
41 mentality thereof; privately insured mortgages; conventional
42 mortgages; certain municipal obligations as determined by
43 the state authority; new housing authority bonds, prelimi-
44 nary loan notes, project notes, all fully secured by con-
45 tract with the United States; or proceeds of any of the
46 above.

1 Sec. 9. 30 MRSA §4716, first ¶, 3rd to 6th sentences,
2 as enacted by PL 1975, c. 625, §18, are repealed.

3 Sec. 10. 30 MRSA §4716, 2nd ¶, as enacted by PL 1975,
4 c. 625, §18, is repealed.

5 Sec. 11. 30 MRSA §4718 is enacted to read:

6 §4718. Bond rating category

7 Bonds issued pursuant to this Article shall be rated at
8 or before issuance of the bonds in a rating category of A or
9 its equivalent or better by a nationally recognized rating
10 agency.

11 Sec. 12. 30 MRSA §4756, as last amended by PL 1979, c.
12 712, §8, is repealed and the following enacted in its place:

13 §4756. Purchase and sale of mortgage loans

14 The state authority may purchase or make commitments to
15 purchase mortgage loans from any financial institution. The
16 state authority may also sell or make commitments to sell
17 mortgage loans to any person or financial institution. The
18 state authority may exercise all rights and powers of a
19 holder of any such mortgage loan.

20 Sec. 13. 30 MRSA §4757, as last amended by PL 1979, c.
21 712, §9, is further amended to read:

22 §4757. Lenders certification

23 No A obligation mortgage loan shall not be eligible for
24 purchase or commitment to purchase by the state authority
25 hereunder unless at or before the time of transfer thereof
26 to the authority, the originating bank, life insurance com-
27 pany, savings and loan association, other financial institu-
28 tion or the United States and its agencies or instrumentali-
29 ties certifies:

30 1. Loan a prudent investment. That in its judgment
31 the mortgage loan would in all respects be a prudent invest-
32 ment for its own account; and

33 2. Reinvestment of sale proceeds. That, when the
34 obligation mortgage loan so sold is secured by land and
35 improvements constituting a one-family to a 4-family housing
36 unit or has been held by the originator for more than one
37 year since the completion of the construction of the
38 securing structure, the proceeds of sale or its equivalent

1 shall be reinvested in residential mortgages or notes within
2 the State, or invested in short term obligations pending the
3 purchase of such residential mortgages or notes. Notwith-
4 standing any other provisions of this subchapter, for pur-
5 poses of this section and section 4758, the term "residen-
6 tial mortgages or notes" includes, but is not limited to,
7 mortgage loans home improvement notes and other residential
8 notes.

9 **Sec. 14. 30 MRSA §4758**, as last amended by PL 1979, c.
10 712, §10, is further amended to read:

11 §4758. Authority not obligated

12 The state authority shall not purchase from a seller
13 who has previously sold to the state authority mortgage
14 loans or obligations secured by land and improvements con-
15 stituting one-family to 4-family housing units any new mort-
16 gage loan or obligation secured by land and improvements
17 constituting a one-family to 4-family housing unit until
18 such seller has completed the reinvestment in residential
19 mortgages or notes or the purchase of such residential mort-
20 gages or notes contemplated in section 4757 and so informed
21 the state authority in writing, provided, however, that if
22 any seller had entered into a contract with the state
23 authority, which contract provided for reinvestment of the
24 proceeds of the sale of mortgages or obligations with cer-
25 tain restrictions within a certain time period, compliance
26 with the terms of such contract shall constitute compliance
27 with this section, and any seller who is performing within
28 the terms of said the contract shall be deemed to have com-
29 pleted said the reinvestment requirements within the meaning
30 of this section with respect to mortgages or obligations
31 subject to such contract. The state authority shall have
32 the right at all times to decline to purchase or to decline
33 to make commitments to purchase any mortgage loan or obli-
34 gation offered or submitted to it.

35 **Sec. 15. 30 MRSA §4759**, as enacted by PL 1969, c. 470,
36 §18, is amended to read:

37 §4759. Consideration for mortgage loans purchased

38 The state authority shall pay for each mortgage loan or
39 obligation purchased an amount not in excess of the out-
40 standing principal balance: Discount from the principal
41 balance may be employed to effect a fair rate of return, as
42 determined by the rate of return on comparable investment
43 under market conditions existing at the time of purchase.
44 In addition to the aforesaid payment of outstanding prin-

1 cipal balance, the state authority shall pay the accrued
2 interest due thereon on the date the mortgage loan or obli-
3 gation is delivered to the state authority against payment
4 therefor.

5 Sec. 16. 30 MRSA §4760, first ¶, first sentence, as
6 amended by PL 1977, c. 564, §118-C, is further amended to
7 read:

8 The state authority may authorize the issuance of reve-
9 nue bonds of the authority in the manner and as provided in
10 section 4751 for any of its authorized purposes including
11 the purchase of first mortgage loans or evidences thereof,
12 for residential housing or a housing project in the State of
13 Maine from the financial institutions and other agencies
14 specified in accordance with section 4756.

15 Sec. 17. 30 MRSA §4760, last ¶, first sentence, as
16 last amended by PL 1975, c. 623, §47-A, is further amended
17 to read:

18 The state authority may not purchase such first mort-
19 gage loan or evidence of such loan unless at least a reason-
20 able number of the families or individuals who occupy or
21 will occupy the mortgaged premises are persons of low income
22 as defined in this subchapter.

23 Sec. 18. 30 MRSA §4761, sub-§2, ¶C, last sentence, as
24 repealed and replaced by PL 1973, c. 623, §1, is amended to
25 read:

26 The minimum amount of any Capital Reserve Fund shall be the
27 minimum amount of money sufficient to meet the maximum pay-
28 ment required in the succeeding calendar year for payment of
29 principal and interest falling due on all bonds outstanding
30 under the resolution creating such Capital Reserve Fund and
31 retiring all other such bonds required by the terms of such
32 resolution to be retired equal to the amounts required under
33 the resolutions pursuant to which the bonds secured by such
34 Capital Reserve Fund are issued, such amounts being here-
35 after referred to as the required "minimum reserve."

36 Sec. 19. 30 MRSA §4761, last ¶, as amended by PL 1973,
37 c. 649, §1, is further amended to read:

38 For purposes of valuation of any such fund the Housing
39 Reserve Fund or a Capital Reserve Fund to which the 3rd
40 paragraph from the end of this section applies, securities
41 acquired as an investment for any such fund shall be valued
42 at par or actual cost to the state authority, whichever
43 value is less.

1 Sec. 20. 30 MRSA §4762, 2nd sentence, and sub-§§1 and
2 2, as enacted by PL 1979, c. 521, §2, are amended to read:

3 ~~Mortgage purchase bonds~~ Bonds of the state authority
4 ~~not secured by capital reserve funds the Housing Reserve~~
5 ~~Fund or a Capital Reserve Fund to which the 3rd paragraph~~
6 ~~from the end of section 4761 does not apply~~ applies may be
7 issued up to \$100,000,000 per calendar year in an aggregate
8 principal amount not to exceed \$200,000,000, and, further,
9 the proceeds from any such bonds shall be used only to pur-
10 chase the following types of interest bearing obligations
11 from financial institutions: .

12 ~~1. Mortgage loans insured or guaranteed by the United~~
13 ~~States. Mortgage loans insured or guaranteed by the United~~
14 ~~States or an instrumentality thereof; and~~

15 ~~2. Privately insured mortgages. Privately insured~~
16 ~~mortgages;~~

17 provided that all such mortgages purchased shall be limited
18 to interest bearing obligations which finance land and
19 improvements constituting one to 4 family owner-occupied
20 residential housing units.

21 Sec. 21. 30 MRSA §4762, as last amended by PL 1981, c.
22 370, is further amended by adding at the end a new sentence
23 to read:

24 Mortgage purchase bonds shall be rated at or before issuance
25 of the bonds in a rating category of A or its equivalent or
26 better by a nationally recognized rating agency.

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

29 STATEMENT OF FACT

30 This bill aids the Maine State Housing Authority in
31 meeting its responsibility to assist Maine's elderly citi-
32 zens and families of low and moderate income in obtaining
33 decent, affordable housing. The changes are necessitated by
34 changing economic conditions and by curtailment of federal
35 housing aids.

36 The bill increases the income eligibility limit for
37 Maine State Housing Authority energy conservation loans for
38 one to 4-unit owner-occupied housing from 150% to 200% of
39 the median family income for the State as developed for

1 Social Security or other purposes because it is recognized
2 that the primary public purpose of such loans is to conserve
3 energy resources.

4 In order to facilitate effective use of public and pri-
5 vate resources, the bill also specifies that the authority
6 may provide financing secured by leasehold mortgages, securi-
7 ty interests in manufactured housing, participation inter-
8 ests or interests in housing cooperatives. The bill changes
9 the definition of mortgage loans accordingly, effects con-
10 forming changes to Article 6 of the Maine Housing Authori-
11 ties Act and effects other conforming changes to the Act.

12 In order to facilitate development of housing in con-
13 junction with revitalization of downtown commercial areas,
14 section 3 of the bill increases the allowable percentage of
15 commercial space in a housing project from 20% to 40%.

16 The bill provides the authority with additional means
17 of raising capital in unpredictable financial markets and is
18 consistent with current federal law. The bill permits the
19 authority to issue bonds, interest on which is subject to
20 federal income taxation. It permits loans to financial
21 institutions to be collateralized by insurance, letter of
22 credit or other guarantee. The bill allows financial insti-
23 tutions which do not regularly transact business in the
24 State to provide such insurance, letter of credit or other
25 guarantee. It also removes the percentage specifications
26 for collateralization of loans to financial institutions
27 and, in lieu of such specifications, imposes a bond rating
28 category requirement in section 11. The bill enables the
29 authority to finance all types of housing with proceeds of
30 bonds not secured by the Housing Reserve Fund or a Capital
31 Reserve Fund for which the authority may request an appro-
32 priation. Mortgage loans would not have to be insured. The
33 bill provides that the authority may by resolution establish
34 the "minimum reserve" in any Capital Reserve Fund created by
35 the authority. It also establishes the means of valuation
36 of securities in the Housing Reserve Fund or a Capital
37 Reserve Fund for which the authority may request an appro-
38 priation.

39 Section 21 requires that mortgage purchase bonds shall
40 be rated at or before issuance of such bonds in a rating
41 category of A or its equivalent or better by a nationally
42 recognized rating agency.

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