

# MAINE STATE LEGISLATURE

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



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

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

4 ONE HUNDRED AND TENTH LEGISLATURE  
5

6 **Legislative Document**

**No. 2044**

7  
8 H. P. 2128 House of Representatives, March 2, 1982  
Referred to the Committee on Education. Sent up for concurrence  
and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative Rolde of York.

9 Cosponsors: Representative Gowen of Standish, Senator Bustin of  
Kennebec and Senator Collins of Knox.

10  
11 **STATE OF MAINE**  
12

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

16 **AN ACT Permitting the Establishment of**  
17 **Student Loan Corporations.**  
18

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

20 20 MRSA c. 304-A is enacted to read:

21 CHAPTER 304-A

22 STUDENT LOAN CORPORATIONS

23 §2281. Declaration of policy

24 It is declared to be the policy of this State that, for  
25 the benefit of the people of the State, the increase of  
26 their commerce, welfare and prosperity and the improvement  
27 of their health and living conditions, it is essential that  
28 students attending Maine higher educational institutions be  
29 given the fullest opportunity to learn and develop their  
30 intellectual and mental capacities. It is recognized that  
31 the financial costs to obtain an education beyond the high

1 school level are often burdensome or prohibitive, and it is  
2 essential that qualified students be provided with low-cost  
3 financial assistance in order to attend such schools and to  
4 reduce the total amount of loan payments following grad-  
5 uation. It is essential that educational institutions  
6 within the State be provided with appropriate additional  
7 means to assist qualified students financially in achieving  
8 the required levels of learning and development of their  
9 intellectual and mental capacities. The Legislature has  
10 conferred certain powers on student loan corporations and on  
11 the Maine Health and Higher Educational Facilities Authority  
12 to assure the successful origination, distribution and col-  
13 lection of loans so as to accomplish the purposes of this  
14 chapter, all to the public benefit and good. It is declared  
15 that the exercise by the student loan corporations of the  
16 authority of powers conferred under this chapter will con-  
17 stitute the performance of an essential governmental func-  
18 tion.

19 §2282. Definitions

20 As used in this chapter, unless the context otherwise  
21 indicates, the following terms have the following meanings.

22 1. Authority. "Authority" means the Maine Health and  
23 Higher Educational Facilities Authority, established under  
24 Title 22, section 2054.

25 2. Institution for higher education. "Institution for  
26 higher education" means any institution for post-secondary  
27 or higher education, as defined in Title 22, section 2053,  
28 subsection 4-B, and in addition means any institution which  
29 awards an undergraduate or advanced degree.

30 3. Student loan corporation. "Student loan corpora-  
31 tion" means any corporation established under section 2283.

32 §2283. Student loan corporations authorized

33 Any institution for higher education may form a  
34 voluntary nonprofit student loan corporation in accordance  
35 with this chapter for the purposes specified in this chap-  
36 ter. An institution for higher education may form a student  
37 loan corporation either:

38 1. Organizing new student loan corporation. By orga-  
39 nizing a new voluntary nonprofit student loan corporation as  
40 provided in this chapter; or

1           2. Amending articles and bylaws of existing nonprofit  
2 corporation. By amending the articles of agreement and  
3 bylaws of an existing voluntary nonprofit corporation organ-  
4 ized under Title 13-B, to conform the articles and bylaws to  
5 the requirements of sections 2285 to 2289.

6   §2284. Incorporators

7           1. Signing of articles of agreement. An institution  
8 for higher education may, by a 2/3 vote of its board of  
9 trustees or other governing body, agree to form a student  
10 loan corporation for the purpose of providing low-cost  
11 financial assistance to qualified students enrolled at that  
12 institution. The articles of agreement shall be signed by 5  
13 members of the board of trustees or other governing body,  
14 who are so authorized in writing by the board of trustees or  
15 other body, and who shall act as the incorporators of the  
16 student loan corporation.

17           2. Incorporators deemed to be acting on behalf of gov-  
18 erning body. The incorporators shall be deemed to be acting  
19 in their capacities as members of and on behalf of the board  
20 of trustees or other governing body.

21   §2285. Articles of agreement

22           The articles of agreement of a student loan corporation  
23 shall contain the following:

24           1. Name. The name of the student loan corporation,  
25 which shall clearly identify the institution for higher edu-  
26 cation involved and shall end with the words "Student Loan  
27 Corporation";

28           2. Object. The object for which the student loan cor-  
29 poration is established;

30           3. Disposition of assets and dissolution. The provi-  
31 sions for disposition of the corporate assets in the event  
32 of dissolution of the student loan corporation;

33           4. Address. The address at which the business of the  
34 student loan corporation is to be carried on;

35           5. Capital stock. The amount of capital stock, if  
36 any, or the number of shares, if any;

37           6. Signature and address of incorporators. The signa-  
38 ture and post office address of each of the incorporators;

1       7. Vote. A true copy of the vote of the institution  
2 for higher education agreeing to form a student loan corpo-  
3 ration; and

4       8. Authorization for incorporators to sign articles.  
5 A true copy of the authorization for each incorporator to  
6 sign the articles of incorporation.

7       §2286. Certification by Attorney General

8       The articles of agreement and other documents, informa-  
9 tion and materials as may be required by the Attorney Gen-  
10 eral or an assistant or deputy attorney general shall be  
11 submitted to the Attorney General or an assistant or deputy  
12 attorney general. The Attorney General or assistant attor-  
13 ney general shall examine these materials to see if they  
14 conform to the law of this State. If the articles of agree-  
15 ment and other materials conform, the Attorney General or  
16 assistant or deputy attorney general shall certify and  
17 endorse the articles and other necessary documents and for-  
18 ward them to the Secretary of State for recording.

19       §2287. Recording

20       The Secretary of State shall record the articles of  
21 agreement in his office. When the articles of agreement are  
22 recorded, the signers shall be a student loan corporation.  
23 The student loan corporation and its officers and members  
24 have all the rights and powers and are subject to all the  
25 duties and liabilities of voluntary corporations established  
26 under Title 13-B, provided that these rights, powers, duties  
27 or liabilities may be limited or expanded by this chapter.

28       §2288. Fees for recording

29       The fee for recording the articles of agreement and any  
30 record of amendment, in the office of the Secretary of  
31 State, shall be the same as the fees which are required for  
32 voluntary nonprofit corporations under Title 13-B.

33       §2289. Bylaws

34       Any bylaws adopted by a student loan corporation must  
35 be approved by the Attorney General in the same manner as  
36 provided in section 2286, but need not be recorded in the  
37 office of the Secretary of State.

38       §2290. Issuance of bonds

1           1. Issuance. The Maine Health and Higher Educational  
2 Facilities Authority is empowered to issue bonds and other  
3 obligations for the purposes specified in this chapter in  
4 accordance with this section.

5           2. Investment rating. No bonds may be issued by the  
6 authority unless the bonds receive an investment rating by  
7 Standard and Poor's Corporation or Moody's Investors Ser-  
8 vice, Inc. of "A" or better. An "A" rating shall include  
9 all minor variations within an "A" rating issued by these  
10 rating agencies, such as "A."

11           3. Limitations. No bonds or other obligations may be  
12 issued except after the Governor or his designee, after  
13 hearing, finds that:

14           A. The issuance of low cost loans by the student loan  
15 corporation to qualified students will assist the stu-  
16 dents in attending their institution for higher educa-  
17 tion and will lower the cost to the students of financ-  
18 ing their educations;

19           B. Adequate provision has been or will be made for the  
20 payment of the principal of, or interest on, any obli-  
21 gations issued by the authority to finance such loan  
22 programs; provided that in making this finding the Gov-  
23 ernor, or his designee, may rely upon the investment  
24 rating required under subsection 2, and may condition  
25 their findings upon the receipt of the required rating;

26           C. Adequate provision has been made for the payment of  
27 the reasonable expenses of the authority related to  
28 administration of the student loan corporations as are  
29 necessitated by their programs; and

30           D. The proposed procedures for redistribution of the  
31 bond proceeds, collection of student payments, interest  
32 charges and any other matters concerning the adminis-  
33 tration of the student loan corporations by the author-  
34 ity are in conformance with law.

35           4. Powers of the authority. The authority, to further  
36 its student loan corporation programs, shall have the power  
37 to:

38           A. Determine the nature of student loan corporation  
39 programs for which it will issue its bonds;

40           B. Enter into contracts for any or all student loan  
41 corporation program purposes;

1 C. Enter into contracts for the administration or  
2 servicing of student loan corporation issued loans;

3 D. Designate a particular institution or institutions  
4 for higher education, or student loan corporation or  
5 corporations, as its agent for accomplishing its pur-  
6 poses;

7 E. Make loans with proceeds of the sale of its bonds  
8 to any student loan corporation in accordance with an  
9 agreement between the authority and the student loan  
10 corporation; provided that the proceeds of the loan  
11 shall be used by the student loan corporation to pur-  
12 chase, originate or make loans to eligible students;

13 F. Receive and accept from any public agency or any  
14 other source loans, grants, guarantees or insurance  
15 with respect to student loans and the student loan cor-  
16 poration programs;

17 G. Establish guidelines governing the actions of  
18 student loan corporations and institutions for higher  
19 education in participating in the authority's student  
20 loan corporation program; and

21 H. Exercise all powers incidental and necessary for  
22 the performance of the powers listed in this subsec-  
23 tion.

24 §2291. Rights of the authority and student loan corpora-  
25 tions

26 In issuing bonds for a student loan corporation pro-  
27 gram, the authority and any student loan corporations cre-  
28 ated under this chapter have all the power and authority and  
29 are subject to all of the rights, liabilities and responsi-  
30 bilities as set out in Title 22, section 2054 which do not  
31 conflict with this chapter. Nothing in this chapter other-  
32 wise limits any other bond issuance or other powers of the  
33 authority set forth in Title 22, section 2054.

34 §2292. Credit of state not pledged

35 1. Revenue bonds not a debt of the State. Revenue  
36 bonds issued under this chapter do not constitute a debt or  
37 liability of the State or of any municipality or political  
38 subdivision of the State or a pledge of the faith and credit  
39 of the State or of any municipality or political subdivi-  
40 sion.

1           2. Payment; statement. These revenue bonds are pay-  
2 able solely from the revenues or other funds derived from  
3 student loan corporation issued loans, either directly or  
4 indirectly provided by this chapter for their payments. All  
5 such revenue bonds shall contain on the face of the bond a  
6 statement to the effect that neither the State nor the  
7 authority is obligated to pay the bond or the interest on  
8 the bond except from revenues or other funds derived from  
9 student loan corporation issued loans, either directly or  
10 indirectly provided by this chapter, and that neither the  
11 faith and credit nor the taxing power of the State or of any  
12 municipality or political subdivision of the State is  
13 pledged to the payment of the principal of or the interest  
14 on the bonds. The issuance of revenue bonds under this  
15 chapter shall not directly, indirectly or contingently obli-  
16 gate the State or any municipality or political subdivision  
17 of the State to levy or to pledge any form of taxation what-  
18 ever for the bonds or to make any appropriation for their  
19 payment.

20 §2293. Source of payment of expenses

21           All reasonable expenses incurred in carrying out this  
22 chapter shall be payable by the respective student loan cor-  
23 porations, and liability or obligation shall not be incurred  
24 by the authority or any other state agency.

25 §2294. Administration of student loan corporation issued  
26 loans; no discrimination.

27           1. Administration. A student loan corporation shall  
28 have full power and authority and be subject to all rights,  
29 responsibilities and liabilities for the administration of a  
30 student loan program and for the distribution and collection  
31 of loans to qualified students, including the determination  
32 of who is eligible to receive loans, the amounts of the  
33 loans, repayment schedules and interest rates to be charged;  
34 provided that the terms are in accordance with law and do  
35 not discriminate against any person on account of race,  
36 creed, national origin, sex or age.

37           2. Contracts for services. Student loan corporations  
38 are authorized to contract with other service corporations  
39 to provide bookkeeping, data processing and related fiscal  
40 services required for the conduct of their business.

41 §2295. Exemption from taxation

42           The exercise of the powers granted by this chapter  
43 shall be in all respects for the benefit of the people of



1 the State, for the increase of their commerce, welfare and  
2 prosperity, and for the improvement of their health and  
3 living conditions, and shall constitute the performance of  
4 an essential governmental function. Neither the authority  
5 nor the student loan corporations may be required to pay any  
6 taxes or assessment upon the activities of the authority or  
7 the student loan corporations or their agents in the admin-  
8 istration and operation of loan programs pursuant to this  
9 chapter.

10

#### STATEMENT OF FACT

11 This bill permits certain institutions of higher educa-  
12 tion to form student loan corporations and to issue low-cost  
13 loans to qualified students. The Maine Health and Higher  
14 Educational Facilities Authority has the power to issue  
15 bonds and other obligations to finance the loan programs.  
16 The authority has broad powers as to determining the amount  
17 and nature of the loans it will finance.

18 Revenue bonds issued under this chapter are payable  
19 only from funds derived from student loans. The authority  
20 and student loan corporations are exempt from tax.

21 It is projected that this bill will have no fiscal  
22 impact upon state funds as the bonds issued under this pro-  
23 gram will not constitute a liability of the State or any  
24 political subdivision. The State will not be obligated to  
25 pay the principal or the interest on the bonds. At this  
26 time, it cannot be practically forecasted as to the amount  
27 of bonds which would be sold or the number of student loans  
28 which would be made under the provisions of this bill.

29 There is no effect upon state, county or local revenues  
30 or expenditures.

31

4952022282