

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 1118
6

7 H.P. 785

House of Representatives, March 22, 1985

8 Submitted by the Finance Authority of Maine pursuant to Joint Rule 24.
9 On Motion of Representative Gwadosky of Fairfield, referred to the
10 Committee on State Government. Sent up for concurrence and ordered
printed.

EDWIN H. PERT, Clerk

Presented by Representative Gwadosky of Fairfield.

11 Cosponsored by Senator Clark of Cumberland, Representative Dillenback
of Cumberland and Representative Hayden of Durham.

12 STATE OF MAINE
13

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

17 AN ACT Providing for the 1985 Amendments to
18 the Finance Authority of Maine Act.
19

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

22 Sec. 1. 10 MRSA §962, as amended by PL 1983, c.
23 812, §62, is further amended to read:

24 §962. Purpose

25 There is a statewide need to provide enlarged op-
26 portunities for gainful employment to the people of
27 the State and to insure the preservation and better-
28 ment of the economy and the general health, safety
29 and welfare of the State and its inhabitants; to pro-
30 vide a more healthy environment through the restora-
31 tion of purity to the air, the water or the earth of
32 the State which are fouled with, among other things,
33 industrial and other waste materials and pollutants,
34 and to insure the preservation and betterment of the
35 living standards and health of its inhabitants; to

1 stimulate a larger flow of private investment funds
2 from banks, investment ~~house~~ institutions, insurance
3 companies and other financial institutions, including
4 pension and retirement funds, to help finance
5 expansion acquisition, construction and improvement
6 of industrial, manufacturing, recreational, fishing,
7 agricultural and ~~other~~, business and natural resource
8 based enterprises and eligible projects of the State
9 and local governments; and to increase the access of
10 smaller business and veterans to financing at reason-
11 able terms and rates.

12 The Finance Authority of Maine, as established by
13 Title 5, section 12004, subsection 7, to fulfill
14 these purposes is, in addition to its other powers,
15 authorized to:

16 1. Mortgage loans. Encourage the making of mort-
17 gage loans to finance the development, improvement
18 and expansion of industrial, manufacturing, recrea-
19 tional, fishing, agricultural and other business and
20 natural resource based enterprises;

21 2. Revenue obligation securities. Issue revenue
22 obligation securities to finance eligible projects
23 permitted under the United States Internal Revenue
24 Service Code;

25 3. Assist municipalities. Assist municipalities
26 to issue revenue obligation securities for financing
27 eligible projects permitted under the United States
28 Internal Revenue Service Code;

29 4. Small businesses and veteran-owned small
30 businesses. Encourage the making of mortgage loans to
31 small businesses and veteran-owned small businesses;
32 and

33 5. Natural resource financing. Provide natural
34 resource financing.

35 The authority will serve a public purpose and
36 perform an essential governmental function in the ex-
37 ercise of the powers and duties conferred upon it by
38 this chapter. Any benefits accruing to private indi-
39 viduals or associations, as a result of the activi-
40 ties of the authority, are deemed by the Legislature

1 to be incidental to the public purposes to be
2 achieved by the implementation of this ~~Part~~ chapter.

3 Sec. 2. 10 MRSA §963, as enacted by PL 1983, c.
4 519, §6, is repealed.

5 Sec. 3. 10 MRSA §963-A is enacted to read:

6 §963-A. Definitions

7 As used in this chapter, unless the context oth-
8 erwise indicates, the following terms have the fol-
9 lowing meanings.

10 1. Agricultural enterprise. "Agricultural enter-
11 prise" means knowledge, skill or labor applied to
12 growing or raising plants or animals, harvesting
13 plants or growing or obtaining plant or animal by-
14 products, includes forestry and aquaculture and in-
15 cludes production, processing, storing, packaging or
16 marketing products derived from agricultural enter-
17 prise.

18 2. Agricultural land. "Agricultural land" means
19 land capable of supporting commercial farming and
20 forestry production.

21 3. Application and service fees. "Application
22 and service fees" means the amount of money charged
23 for the cost of application, servicing or technical
24 assistance.

25 4. Authority. "Authority" means the Finance Au-
26 thority of Maine as established by this chapter.

27 5. Bond. "Bond" means revenue obligation securi-
28 ty.

29 6. Commitment to issue mortgage insurance. "Com-
30 mitment to issue mortgage insurance" means a commit-
31 ment to provide insurance for mortgage payments sub-
32 ject to terms specified by the authority.

33 7. Cost of project. "Cost of project" means the
34 cost or value of land, buildings, real estate im-
35 provements, labor, materials, machinery and equip-
36 ment, property rights, easements, franchises, financ-

1 ing charges, interest, engineering and legal ser-
2 vices, plans, specifications, surveys, cost esti-
3 mates, studies and other expenses as may be necessary
4 or incidental to the development, construction, ac-
5 quisition, financing and placing in operation of an
6 eligible project. In addition to these costs, re-
7 serves for payment of future debt on any revenue ob-
8 ligation securities may be included as part of the
9 cost of the project.

10 Any obligation or expenses incurred by the State, the
11 authority, a municipality or any private person in
12 connection with any of the items of cost specified in
13 this subsection related to revenue obligation securi-
14 ties may be included as part of the cost and reim-
15 bursed to the State, the authority, municipality or
16 person out of the proceeds of the securities issued.

17 8. Eligible collateral. "Eligible collateral"
18 means an eligible project.

19 9. Eligible enterprise. "Eligible enterprise"
20 means an agricultural enterprise, fishing enterprise,
21 industrial enterprise, manufacturing enterprise or
22 recreational enterprise.

23 10. Eligible project. "Eligible project" or "el-
24 igible collateral" means any of the following:

25 A. Any real property located within the State,
26 including without limitation any land, buildings,
27 fixture, improvement, easement, right-of-way, wa-
28 ter right, land lying under water or air right;

29 B. Any personal property, including without lim-
30 itation any leasehold, inventory, account receiv-
31 able, patent, license, franchise, machinery,
32 equipment, merchandise, raw material, supply,
33 product, work in process, stock in trade, capi-
34 tal stock, note, guaranty, insurance contract,
35 bond, mortgage, letter of credit or security
36 agreement;

37 C. Any fishing vessel documented or to be
38 documented under laws of the United States or
39 registered or to be registered under a state's
40 law which is designed to be used for catching,

1 processing or transporting fish and any vessel
2 outfitted for any such activity;

3 D. Any vessel registered under the law of the
4 United States or a state;

5 E. Any energy conservation project;

6 F. Any energy distribution system project;

7 G. Any energy generating system project;

8 H. Any pollution-control project; or

9 I. Any water supply system project.

10 In addition to and without limiting this subsection,
11 "eligible project" or "eligible collateral" also
12 means any project or collateral, the financing of
13 which through the issuance of revenue obligation se-
14 curities would result in the interest on the revenue
15 obligation securities qualifying, as of the date of
16 issuance, as tax-exempt under the United States Code,
17 Title 26, Section 103, as amended.

18 11. Energy conservation project. "Energy conser-
19 vation project" means the purchasing and installation
20 of energy conservation equipment or facilities, in-
21 cluding building modifications.

22 12. Energy distribution system project. "Energy
23 distribution system project" means an energy distri-
24 bution system owned, in whole or in part, by an indi-
25 vidual, municipality, corporation or other governmen-
26 tal or business entity and which uses biomass, peat,
27 solar, waste, water and related dams, wind, wood,
28 coal or natural gas.

29 13. Energy generating system project. "Energy
30 generating system project" means:

31 A. For a system which does not generate elec-
32 tricity, an energy generating system owned, in
33 whole or in part, by an individual, municipality,
34 corporation or other governmental or business en-
35 tity, and which system uses biomass, peat, solar,
36 waste, water and related dams, wind, wood or

1 coal, or which is an energy conservation project,
2 including a transportation project consistent
3 with the United States Internal Revenue Service
4 guidelines; or

5 B. For a system which does generate electricity,
6 an energy generating system which uses biomass,
7 peat, solar, waste, water and related dams, wind,
8 wood or coal, and which is owned, in whole or in
9 part, by an individual, municipality, corporation
10 or other business or governmental entity which
11 qualifies as a cogenerator or small power produc-
12 er under Title 35, chapter 172.

13 14. Entrant to natural resource enterprises.
14 "Entrant to natural resource enterprises" means an
15 individual or a business organization who or which
16 engages or proposes to engage in one or more natural
17 resource enterprises.

18 15. Facility. "Facility" means an eligible
19 project or any eligible collateral.

20 16. Family farm corporation. "Family farm corpo-
21 ration" means a corporation formed under the laws of
22 the State for the purpose of farming and owning agri-
23 cultural land in which at least 2/3 of the stock is
24 held by members of a family related to each other
25 within the 3rd degree of consanguinity or affinity,
26 including the spouses, sons-in-law and daughters-in-
27 law of any such family member according to the rules
28 of common law.

29 17. Federal agency. "Federal agency" or "Federal
30 Government" means the United States, the President of
31 the United States and any current or future corpora-
32 tion, department, agency, authority or instrumentali-
33 ty created, designated or established by the United
34 States, including, but not limited to, the Federal
35 Land Bank, the Federal Intermediate Credit Bank and
36 the Bank for Cooperatives.

37 18. Financial document. "Financial document"
38 means a lease, installment sale agreement, condition-
39 al sale agreement, note, mortgage, loan agreement or
40 other instrument pertaining to an extension of finan-
41 cial assistance.

1 19. Financing assistance. "Financing assistance"
2 or "financial assistance" means guarantees, leases,
3 insurance, financing credits, loans or the purchase
4 or discounts thereof, letters of credit, financing
5 assistance payments, grants or other financial aid.

6 20. Financing institution. "Financing institu-
7 tion" or "financial institution" means any bank,
8 trust company, national banking association, savings
9 bank, savings and loan association, federal savings
10 and loan association, industrial bank, mortgage com-
11 pany, insurance company, credit union, local develop-
12 ment corporation or any other institution or entity
13 authorized to do business in this State, or any state
14 or federal agency which customarily provides financ-
15 ing assistance.

16 21. Fishing enterprise. "Fishing enterprise"
17 means knowledge, skill or labor applied to growing or
18 catching fish, including shellfish, in fresh or salt
19 water, including aquaculture, and includes produc-
20 tion, processing, storing, packaging or marketing
21 products derived from fishing enterprises.

22 22. Fund. "Fund" means the Mortgage Insurance
23 Fund created and governed by subchapter II.

24 23. Industrial enterprise. "Industrial enter-
25 prise" means knowledge, skill or labor applied to
26 conduct of a trade or business, selling of goods,
27 providing services, providing dwelling accommoda-
28 tions, mining, education or discovery, research, de-
29 velopment or refinement of new or known substances,
30 processes or products.

31 24. Insured. "Insured" means any individual,
32 partnership, corporation, association or other entity
33 which is the beneficiary of a loan insurance agree-
34 ment with the authority.

35 25. Lease. "Lease" means a contract providing
36 for the use of a project or portions of a project for
37 a term of years for a designated or determinable
38 rent. A lease may include an installment sales con-
39 tract. A lease may include such other terms as the
40 authority may permit or require.

1 26. Lessee. "Lessee" means a tenant under a
2 lease and may include an installment purchaser.

3 27. Loan. "Loan" or "mortgage loan" means an ex-
4 tension of credit made in consideration of a written
5 promise of repayment or any other conditions which
6 may be established by the authority, performance of
7 which may be secured by mortgage.

8 28. Local development corporation. "Local devel-
9 opment corporation" means a nonprofit corporation es-
10 tablished under Title 13, chapter 81; Title 13-B; or
11 other law acceptable to the authority and empowered
12 to foster, encourage and assist any eligible enter-
13 prise.

14 29. Maine Job-start Program. "Maine Job-start
15 Program" means the program governed by subchapter
16 VII.

17 30. Maine Small Business Loan Program. "Maine
18 Small Business Loan Program" means the program gov-
19 erned by subchapter II.

20 31. Maine Veterans' Small Business Loan Program.
21 "Maine Veterans' Small Business Loan Program" means
22 the program governed by subchapter II.

23 32. Manufacturing enterprise. "Manufacturing en-
24 terprise" means knowledge, skill or labor applied to
25 giving of new shapes, new qualities or new combina-
26 tions to matter as material products and includes as-
27 sembling, fabricating, making, creating, working,
28 preparing, milling, processing, manufacturing, fin-
29 ishing, fashioning, producing, storing, warehousing,
30 preserving, distributing, handling or transporting in
31 any manner goods, wares, merchandise, metals,
32 fabrics, materials, substances, product or matter of
33 any kind or nature.

34 33. Maturity date. "Maturity date" means the
35 date on which final payment is due as provided in a
36 note, revenue obligation security or other financial
37 document.

38 34. Mortgage. "Mortgage" means an agreement
39 granting a lien upon or a security interest in eligi-

1 ble collateral upon certain conditions and includes,
2 but is not limited to, a mortgage of real estate, an
3 assignment of rents, a pledge or a security agree-
4 ment.

5 35. Mortgagee. "Mortgagee" means a grantee or
6 obligee under, or a transferee or successor of a
7 grantee or obligee under, a mortgage.

8 36. Mortgage Insurance Program. "Mortgage Insur-
9 ance Program" means the program governed by subchap-
10 ter II.

11 37. Mortgage loan. "Mortgage loan" or "loan"
12 means an extension of credit made in consideration of
13 a written promise of repayment or any other condi-
14 tions which may be established by the authority, per-
15 formance of which may be secured by mortgage.

16 38. Mortgage payments. "Mortgage payments" means
17 payments required by or received on account of a
18 mortgage or any other financial document, including,
19 but not limited to, payments covering interest,
20 installments of principal, taxes, assessments, loan
21 insurance premiums and hazard insurance premiums.

22 39. Mortgagor. "Mortgagor" means the grantor or
23 party giving rights to eligible collateral pursuant
24 to a mortgage and includes the successors or assigns
25 of a mortgagor.

26 40. Municipal Securities Approval Program. "Mu-
27 nicipal Securities Approval Program" means the pro-
28 gram governed by subchapter IV.

29 41. Natural resource enterprise. "Natural re-
30 source enterprise" means an agricultural enterprise
31 or a fishing enterprise, but does not include selling
32 of food at wholesale or retail, except when that
33 selling is carried out as part of the natural re-
34 source enterprise.

35 42. Note. "Note" means an evidence of indebted-
36 ness and includes a revenue obligation security.

37 43. Pollution-control project. "Pollution-con-
38 trol project" means any building, structure, machin-

1 ery, equipment or facility, including transportation,
2 equipment or facility, which may be deemed necessary
3 for preventing, avoiding, reducing, controlling,
4 abating or eliminating contamination, solid waste,
5 thermal pollution or pollution by any other means of
6 the air, water or earth, together with all land,
7 property, rights, rights-of-way, franchises, ease-
8 ments and interests in lands necessary or convenient
9 for the construction or operation of the project.

10 44. Project. "Project" means any eligible
11 project or eligible collateral.

12 45. Recreational enterprise. "Recreational en-
13 terprise" means knowledge, skill or labor applied to
14 providing facilities or opportunities for recreation,
15 culture, entertainment or tourism.

16 46. Rent or rental. "Rent" or "rental" means
17 payments under a lease.

18 47. Resident. "Resident" or "resident of the
19 State" means a person who is domiciled in this State.

20 48. Revenue Obligation Securities Program. "Rev-
21 enue Obligation Securities Program" means the program
22 governed by subchapter III.

23 49. Revenue obligation security. "Revenue obli-
24 gation security" or "security" means a note, bond,
25 interim certificate, debenture or other evidence of
26 indebtedness payment of which is secured by a pledge
27 of revenues, as provided in section 1045-A or 1065,
28 or by assignment or pledge of other eligible collat-
29 eral.

30 50. User. "User" means one or more persons act-
31 ing as lessee, purchaser, mortgagor or borrower under
32 a financial document.

33 51. Veteran. "Veteran" means any person who
34 served in the United States Armed Forces during any
35 federally recognized period of conflict and was not
36 dishonorably discharged. A veteran of the Vietnam War
37 must have served on active duty for a period of more
38 than 90 days, unless he was discharged for a service-
39 connected disability, and any part of that active du-

1 ty service occurred after August 4, 1964, and before
2 May 7, 1975.

3 52. Water supply system project. "Water supply
4 system project" means any building structure, facili-
5 ties, machinery, pipes, aqueducts, conduits, drains
6 or the equipment which may be deemed necessary to
7 supply water for municipal, domestic, business or
8 combined use, together with all land, property,
9 rights-of-way, franchises, easements and interests in
10 lands which may be acquired for construction or oper-
11 ation of the project.

12 Sec. 4. 10 MRSA §964, sub-§1, ¶¶E and F, as en-
13 acted by PL 1983, c. 519, §6, are amended to read:

14 E. Maine Veterans' Small Business Loan Program;
15 and

16 F. Natural Resources Financing and Marketing
17 Programs-;

18 Sec. 5. 10 MRSA §964, sub-§1, ¶¶G and H are en-
19 acted to read:

20 G. Maine Job-start Program; and

21 H. Such other programs as the authority may by
22 law be authorized to administer.

23 Sec. 6. 10 MRSA §965, first ¶, as enacted by PL
24 1983, c. 519, §6, is amended to read:

25 The authority ~~There shall consist of~~ be 12 voting
26 members and one nonvoting member of the authority as
27 follows.

28 Sec. 7. 10 MRSA §965, sub-§1, ¶A, as enacted by
29 PL 1983, c. 519, §6, is amended to read:

30 A. Two veterans who shall be selected by the
31 Governor from the at-large members of the Maine
32 Veterans' Small Business Loan ~~Authority~~ Board;
33 and

34 Sec. 8. 10 MRSA §965, sub-§4, ¶B, as enacted by
35 PL 1983, c. 519, §6, is amended to read:

1 B. One natural resources commissioner designated
2 by the Governor from either the Department of Ag-
3 riculture, Food and Rural Resources; the Depart-
4 ment of Conservation; or the Department of Marine
5 Resources; and

6 Sec. 9. 10 MRSA §965, sub-§5 is enacted to read:

7 5. Compensation. A member of the authority shall
8 be compensated as provided in Title 5, chapter 379.

9 Sec. 10. 10 MRSA §967, as amended by PL 1983, c.
10 812, §§63 and 64, is repealed.

11 Sec. 11. 10 MRSA §967-A is enacted to read:

12 §967-A. Limitation of liability

13 No member of the authority, no member of any
14 board of the authority and no employee of the author-
15 ity may be subject to any personal liability for hav-
16 ing acted within the course and scope of his member-
17 ship or employment to carry out any power or duty un-
18 der this chapter. The authority shall indemnify any
19 member of the authority, any member of any board of
20 the authority and any employee of the authority
21 against expenses actually and necessarily incurred by
22 him in connection with the defense of any action or
23 proceeding in which he is made a party by reason of
24 past or present association with the authority.

25 Sec. 12. 10 MRSA §969, as enacted by PL 1983, c.
26 519, §6, is repealed.

27 Sec. 13. 10 MRSA §969-A is enacted to read:

28 §969-A. Powers and duties of the authority

29 The authority may, subject to any limitation of
30 this chapter:

31 1. Borrow. Borrow money or otherwise obtain
32 credit in its own name;

33 2. Lend. Lend money or otherwise extend credit
34 to any person and exercise all powers of a lender or
35 creditor;

1 3. Insure. Insure or guarantee performance of
2 any loan agreement or other obligation;

3 4. Property. Acquire, use, improve or dispose of
4 any interest in or type of real or personal property,
5 including grant, purchase, sale, borrow, loan, lease,
6 foreclosure, mortgage, assignment or other lawful
7 means, with or without public bidding, and also in-
8 cluding the assessment of fees, the receipt of reim-
9 bursements for expenses incurred in carrying out its
10 purposes and the expenditure or investment of its
11 funds;

12 5. Mortgage transactions. Purchase, sell, ser-
13 vice, pledge, invest in, hold, trade, accept as col-
14 lateral or otherwise deal in, acquire or transfer, on
15 such terms and conditions as the authority may speci-
16 fy, any mortgage loan, mortgage pass-through certifi-
17 cate, pledge including any pledge of mortgage reve-
18 nuce, mortgage participation certificate, revenue ob-
19 ligation security or other mortgage-backed or
20 mortgage-related security. Any such transaction may
21 be conducted by public or private offering, with or
22 without public bidding. In connection with the pur-
23 chase or sale of a mortgage loan or of a beneficial
24 interest or participation in a mortgage loan, the au-
25 thority may enter into one or more agreements provid-
26 ing for the custody, control and administration of
27 the mortgage loan. Any such agreement may provide
28 that the authority, a financial institution or other
29 person shall act as trustor, trustee or custodian un-
30 der the agreement. Any such agreement may provide
31 that, with respect to mortgage loans governed by the
32 agreement, title to a mortgage loan, or to a benefi-
33 cial interest or participation in a mortgage loan,
34 shall be deemed to have been transferred on terms and
35 to the extent specified in that agreement and that
36 the effect of a sale of a beneficial interest or par-
37 ticipation in a mortgage loan is the same as a sale
38 of a mortgage loan.

39 The authority may issue or cause to be issued certif-
40 icates or other instruments evidencing the holder's
41 fractional undivided interest in a pool of mortgage
42 loans. Whether or not the certificates or instruments
43 are of such form or character as to be negotiable in-
44 struments under Title 11, Article 8, the certificates

1 or instruments shall be and are made negotiable in-
2 struments within the meaning of and for all the pur-
3 poses of Title 11, Article 8, subject only to such
4 registration requirements as the authority may estab-
5 lish;

6 6. Information. Obtain, develop or disseminate
7 any information useful or convenient for carrying out
8 any purpose or power of the authority, including any
9 information pertaining to:

10 A. Management or financing of any enterprise or
11 project eligible for assistance from the authori-
12 ty;

13 B. Producing, processing or marketing of any
14 product of any enterprise eligible for assistance
15 from the authority;

16 C. Land use;

17 D. Other regulatory or assistance programs, re-
18 sources or services;

19 E. Design and construction techniques; and

20 F. Any project receiving financial assistance
21 from or through the authority, including, without
22 limitation, by means of examination of books or
23 records pertaining to the project.

24 The authority may conduct hearings, hear testimony
25 under oath, administer oaths, issue subpoenas requir-
26 ing the attendance of witnesses or the production of
27 records or other things and may issue commissions for
28 the examination of witnesses who are outside of the
29 State or unable to attend or are excused from attend-
30 ance;

31 7. Insurance. Procure insurance in aid of any of
32 its corporate purposes;

33 8. Nonprofit entity. In accordance with the lim-
34 itations and restrictions of this chapter, cause any
35 of its powers or duties to be carried out by one or
36 more nonprofit corporations organized and operated
37 under Title 13-B;

1 9. Certifications. Obtain any certification,
2 warranty, affidavit or other representation necessary
3 or useful for carrying out any of its powers or du-
4 ties;

5 10. Employees. Employ persons, including private
6 legal counsel and financial experts, on either a tem-
7 porary or permanent basis, in order to carry out any
8 of its powers and duties. The authority shall obtain
9 fidelity insurance coverage on behalf of its full-
10 time employees. Employees of the authority shall not
11 be subject to Title 5, chapters 57 and 71. The mem-
12 bers of the authority may by rulemaking pursuant to
13 Title 5, chapter 375, subchapter II, delegate powers
14 and duties of the authority to employees of the au-
15 thority and each employee is fully authorized to act
16 in the name and on behalf of the authority pursuant
17 to any delegation;

18 11. Sue; be sued. Sue or initiate or appear in
19 any proceeding. The authority may be sued in accord-
20 ance with Title 1, section 409; Title 5, chapter 375;
21 or Title 14, chapter 741;

22 12. Office. Maintain one or more offices at a
23 place or places within the State as it may designate;

24 13. Seal. Adopt an official seal and alter it at
25 pleasure;

26 14. Rules. Pursuant to Title 5, chapter 375,
27 adopt any rule, including its bylaws, necessary or
28 useful for carrying out any of its powers or duties;

29 15. Agreements. Make, modify and carry out any
30 agreement necessary or useful for carrying out any of
31 its powers, duties or purposes, including without
32 limitation any construction agreement, purchase or
33 acquisition agreement, loan or lease agreement,
34 agreement conditioned upon the subleasing of the de-
35 mised premises, partnership agreement, limited part-
36 nership agreement, joint venture agreement, partici-
37 pation agreement or agreement with leasing corpora-
38 tions or other financial intermediaries; and

39 16. Other powers. Do any act or thing necessary
40 or useful for carrying out any of its powers, duties
41 or purposes.

1 Sec. 14. 10 MRSA §970, as enacted by PL 1983, c.
2 519, §6, is repealed.

3 Sec. 15. 10 MRSA §970-A is enacted to read:

4 §970-A. Other mortgage insurance

5 In carrying out the purposes of this chapter, the
6 authority shall, to the greatest extent possible, re-
7 quire the utilization of private or other governmen-
8 tal sources of mortgage insurance or credit enhance-
9 ment devices in order to assure the most effective
10 and efficient use of state resources for mortgage in-
11 surance.

12 Sec. 16. 10 MRSA §971, as enacted by PL 1983, c.
13 519, §6, is amended to read:

14 §971. Actions of the members

15 Seven members of the authority shall constitute a
16 quorum of the members. The affirmative vote of 7
17 members, present and voting, shall be necessary for
18 any action taken by the ~~autherity~~ members. No vacancy
19 in the membership of the authority may impair the
20 right of the quorum to exercise all rights powers and
21 perform all duties of the autherity members.

22 Sec. 17. 10 MRSA §972, as enacted by PL 1983, c.
23 519, §6, is amended to read:

24 §972. Chief executive officer

25 The chief executive officer shall be the chief
26 administrative officer of the authority and shall be
27 appointed by the Governor, subject to review by the
28 joint standing committee of the Legislature having
29 jurisdiction over ~~the~~ State Government and to confir-
30 mation by the Legislature. At least 10 days before
31 the Governor seeks review by the joint standing com-
32 mittee, he shall consult with the Maine Finance Au-
33 thority Board members of the authority regarding his
34 proposed appointee.

35 The chief executive officer shall supervise the
36 administrative affairs and technical activities of
37 the authority in accordance with rules and policies

1 set forth by of the authority. The duties of the
2 chief executive officer shall be to, in the name and
3 on behalf of the authority:

4 1. Employ directors. ~~With the approval~~ In ac-
5 cordance with procedures of the authority, ~~appoint~~
6 employ the directors of the Division of Business De-
7 velopment and Finance and the Division of Natural Re-
8 sources Financing and Marketing. During the selec-
9 tion process, the authority or its designee, the
10 chief executive officer, shall consult with the Natu-
11 ral Resources Financing and Marketing Board concern-
12 ing the appointment of a director of the Division of
13 Natural Resources Financing and Marketing;

14 2. Employ professional and nonprofessional per-
15 sonnel. In ~~consultation~~ accordance with procedures
16 of the authority ~~appoint,~~ employ professional and
17 nonprofessional staff to the Finance Authority of
18 Maine and to the divisions within personnel, includ-
19 ing private legal counsel and financial experts, of
20 the authority. The staff personnel shall serve at
21 the pleasure of the chief executive officer; ~~One~~
22 professional staff member shall be a veteran and,
23 among other duties, shall be assigned to work with
24 the Maine Veterans' Small Business Loan Program. The
25 staff shall be compensated at a rate determined by
26 the authority;

27 3. Provide for coordination of personnel and
28 programs. Provide for the sharing of staff personnel
29 among the divisions and the authority and provide for
30 the coordination of administration of common projects
31 and programs in accordance with section 1002, subsec-
32 tion 2, paragraph N;

33 4. Attend meetings. Attend or be represented at
34 meetings of the members and boards of the authority;

35 5. Approve expenses. Approve all accounts for
36 salaries, per diems, allowable expenses of the au-
37 thority, or of any employee or consultant, and ex-
38 penses incidental to the operation of the authority;

39 6. Publish an annual report. Make an annual re-
40 port to the members of the authority documenting its
41 actions and make other reports at the request of the
42 members of the authority;

1 7. Maintain a liaison with other state agencies.
2 Maintain a close liaison with the State Development
3 Office; Department of Agriculture, Food and Rural Re-
4 sources; Department of Conservation; Department of
5 Marine Resources; and Maine Natural Resource Capital
6 Corporation and provide assistance ~~to its various~~
7 8 eligible projects;

9 8. Perform other duties. Perform other duties
10 directed by action of the members of the authority in
11 carrying out the purposes of this chapter; and

12 9. Provide information to the Maine Aid to Fami-
13 lies with Dependent Children Coordinating Committee.
14 Provide information to the Maine Aid to Families with
15 Dependent Children Coordinating Committee established
16 pursuant to Title 22, section 3773, regarding employ-
17 ment opportunities available to recipients of Aid to
18 Families with Dependent Children under this chapter
19 and assist the committee in the referral and place-
20 ment of these persons.

21 Sec. 18. 10 MRSA §973, as enacted by PL 1983, c.
22 519, §6, is repealed and the following enacted in its
23 place:

24 §973. Conflicts of interest

25 Notwithstanding Title 5, section 18, subsection
26 1, paragraph B, each member of the authority, each
27 member of the Natural Resource Financing and Market-
28 ing Board, each member of the Maine Veterans' Small
29 Business Loan Board and each employee, contractor,
30 agent or other representative of the authority is
31 deemed an "executive employee" solely for purposes of
32 Title 5, section 18. In addition, Title 17, section
33 3104, shall be applicable, in accordance with its
34 provisions, to all such representatives of the au-
35 thority.

36 Sec. 19. 10 MRSA §974, as amended by PL 1983, c.
37 730, §§1 and 2, is further amended to read:

38 §974. Annual report; audit

1 1. Report. The authority shall submit to the
2 Governor, the Speaker of the House of Representa-
3 tives, the President of the Senate and the joint
4 standing committee of the Legislature having juris-
5 diction over State Government, not later than January
6 15th of each year 120 days after the close of its
7 fiscal year, a complete report on the activities of
8 the authority. The report may also be provided to any
9 other member of the Legislature and to any other per-
10 son. The report shall include all of the following:

11 A. A description of its operations, including a
12 description of projects ~~financed under subchap-~~
13 ~~ters 1-A to VI~~ assisted under this chapter;

14 B. An accounting of its receipts and expendi-
15 tures, assets and liabilities at the end of its
16 fiscal year;

17 C. A schedule of the bonds and notes outstanding
18 at the end of its fiscal year and a statement of
19 the amounts redeemed and issued during its fiscal
20 year, including a report on its reserve funds;

21 D. A statement of its proposed and projected ac-
22 tivities for the ensuing year and the relation-
23 ship of these activities to the state's economic
24 development policies;

25 E. Recommendations as to further actions which
26 may be suitable for achieving the purposes of
27 this chapter;

28 F. A statement of the defaults, if any, of per-
29 sons, firms, corporations and other organizations
30 receiving assistance under this chapter. This
31 information shall also be cumulative and shall
32 include an annual default rate as a percentage of
33 the total amount of moneys provided in this chap-
34 ter; **and**

35 G. A description of the actual and potential em-
36 ployment opportunities that have been and are be-
37 ing developed for recipients of Aid to Families
38 with Dependent Children pursuant to section 979-i

1 H. A separate section pertaining to the activi-
2 ties of the authority carried out pursuant to
3 subchapter I-A, which shall provide the follow-
4 ing:

5 (1) A description of the operations of the
6 authority pursuant to subchapter I-A, in-
7 cluding a description of the progress toward
8 the accomplishment of the purposes of sec-
9 tion 982;

10 (2) An analysis of the needs of the natural
11 resource-based sector in the State and a
12 statement of the authority's proposed and
13 projected activities for the ensuing year to
14 meet these needs; and

15 (3) Recommendations as to further actions
16 which may be suitable for achieving the pur-
17 poses of subchapter I-A; and

18 I. A description of any financial assistance
19 provided for energy conservation purposes, the
20 success of various energy saving techniques as-
21 sisted and the overall energy benefits achieved
22 by the financial assistance.

23 2. Treasurer of State; annual financial report.
24 The authority shall provide the Treasurer of State,
25 within 90 120 days of after the close of its fiscal
26 year, its annual financial report certified by an in-
27 dependent certified public accountant, who may be the
28 accountant or a member of the firm of accountants who
29 regularly audits the books and accounts of the au-
30 thority, selected by the authority. The authority
31 shall also be subject to the provisions of Title 5,
32 chapter 11.

33 Sec. 20. 10 MRSA §975, as enacted by PL 1983, c.
34 519, §6, is repealed.

35 Sec. 21. 10 MRSA §975-A is enacted to read:

36 §975-A. Records confidential

37 1. Confidential information. All records of the
38 authority, including without limitation, financial

1 statements, credit analyses, trade secrets, tax re-
2 turns and business and marketing plans, are desig-
3 nated as confidential for purposes of Title 1, sec-
4 tion 402, subsection 3, paragraph A.

5 2. Wrongful disclosure prohibited. No member,
6 officer, employee, agent, other representative of the
7 authority or other person may knowingly divulge or
8 disclose records declared confidential by this sec-
9 tion, except that the authority may, in its discre-
10 tion, make or authorize any of the following disclo-
11 tures:

12 A. Impersonal or general information, including
13 without limitation the names of recipients of or
14 applicants for financial assistance, the amounts
15 and types of financial assistance provided to or
16 requested by those recipients, descriptions of
17 projects and businesses benefiting or to benefit
18 from the financial assistance, names of purchas-
19 ers or prospective purchasers of property held by
20 the authority, the number of jobs and the amount
21 of tax revenues projected or resulting in connec-
22 tion with a project, the amount of any mortgage
23 insurance payment and the names of financial in-
24 stitutions participating in providing financial
25 assistance;

26 B. Any information pursuant to waiver deemed
27 satisfactory by the authority;

28 C. Information which, as determined by the au-
29 thority, has already been made available to the
30 public;

31 D. If necessary in connection with processing
32 applications for, obtaining or maintaining finan-
33 cial assistance for an applicant or in connection
34 with acquiring, maintaining or disposing of prop-
35 erty;

36 E. To a financing institution or credit report-
37 ing service;

38 F. Information necessary to comply with any fed-
39 eral or state law, regulation or agreement per-
40 taining to financial assistance;

1 G. Information necessary to comply with Title 1,
2 section 407, subsection 1;

3 H. Information of the type and in the format re-
4 quired in the annual report required pursuant to
5 section 974;

6 I. Minutes of any meeting of the members or any
7 board of the authority;

8 J. Information to the extent it deems the dis-
9 closure necessary to the sale or transfer of rev-
10 enue obligation securities or to the sale or
11 transfer of bonds of the State;

12 K. Any information necessary to carry out sec-
13 tion 1043 or 1063;

14 L. If necessary to assure collection of any ob-
15 ligation in which it has or may have an interest;

16 M. In any litigation or proceeding in which the
17 authority is a party, introduction of evidence
18 based on any information obtained from records
19 declared confidential by this section; and

20 N. Pursuant to a subpoena, request for produc-
21 tion of documents, warrant or other order by com-
22 petent authority, including any committee of the
23 Legislature, provided that any such order appears
24 to have first been served on the person to whom
25 the confidential information sought pertains or
26 belongs and provided that any such order appears
27 on its face or otherwise to have been issued or
28 made upon lawful authority.

29 3. Records on effective date. Whether any record
30 in the possession of the authority on the effective
31 date of this section is confidential shall be deter-
32 mined pursuant to this section and not pursuant to
33 the law in effect when the authority or any of its
34 predecessors obtained any such record and any such
35 record may be disclosed or divulged to the extent
36 permitted by this section.

37 Sec. 22. 10 MRSA §§980, 980-A and 980-B are en-
38 acted to read:

1 §980. Taxation and fees

2 Notwithstanding any other provision of law, for
3 the purposes of this chapter, transactions and prop-
4 erty of the authority shall be treated as follows.

5 1. Revenue obligation securities; exemption from
6 taxation. Revenue obligation securities of the au-
7 thority are declared to be issued for an essential
8 public and governmental purpose and to be public in-
9 struments and, together with interest and income, in-
10 cluding the profit made from their transfer or sale,
11 shall be exempt from taxation within the State.

12 2. Conveyances, leases, mortgages, deeds of
13 trust; indentures; exemptions from taxation. Convey-
14 ances by or to the authority and leases, mortgages
15 and deeds of trust or trust indentures by or to the
16 authority shall be exempt from all taxation by the
17 State or any of its political subdivisions, includ-
18 ing, but not limited to, any applicable license, ex-
19 cise or other taxes imposed in respect of the privi-
20 lege of engaging in any of the activities in which
21 the authority may engage.

22 3. Property exemption from taxation and other
23 assessments. Property acquired, held or transferred
24 by the authority shall be exempt from all taxes and
25 from betterments and special assessments of the city,
26 town, county, State or any political subdivision
27 thereof. The authority may agree to make payments in
28 lieu of taxes to the applicable political subdivi-
29 sions.

30 §980-A. Allocation of federal bond ceiling

31 The authority may, by rulemaking pursuant to Ti-
32 tle 5, chapter 375, subchapter II, establish a pro-
33 cess that is different from the federal formula for
34 allocating the ceiling established by the United
35 States Code, Title 26, Section 103, to limit the ag-
36 gregate amount of certain bonds which may be issued
37 or carried forward by the State and any of its polit-
38 ical subdivisions with respect to any one calendar
39 year. For purposes of this section, the authority may
40 also limit the types of projects which are eligible
41 to receive allocations of the ceiling and establish

1 other requirements and limitations for assuring ef-
2 fective and efficient use of the ceiling.

3 §980-B. Maine Veterans' Small Business Loan Board

4 1. General. The Maine Veterans' Small Business
5 Loan Board, as established by Title 5, section 12004,
6 subsection 10, shall consist of 9 members, including
7 the Director of Veterans' Services and 8
8 members-at-large appointed by the Governor for a pe-
9 riod of 4 years, provided that, of the members first
10 appointed, 2 shall be appointed for terms of one
11 year, 2 for terms of 2 years, 2 for terms of 3 years
12 and 2 for terms of 4 years. Two public members of the
13 veterans' loan board shall be appointed by the Gover-
14 nor to serve as members of the authority. A vacancy
15 in the office of an appointive member, other than by
16 expiration, shall be filled in like manner as an
17 original appointment, but only for the remainder of
18 the term of the retiring member. Appointive members
19 may be removed by the Governor for cause. The veter-
20 ans' loan board shall elect one of its members as
21 chairman and may elect such other officers as it
22 deems necessary. Five members of the veterans' loan
23 board shall constitute a quorum. The affirmative vote
24 of 5 members present and voting shall be necessary
25 for any action taken by the veterans' loan board. No
26 vacancy in the membership of the veterans' loan board
27 may impair the right of the quorum to exercise all
28 rights and perform all the duties of the veterans'
29 loan board.

30 2. Compensation. All the members of the veter-
31 ans' loan board shall be compensated in accordance
32 with Title 5, chapter 379.

33 3. Powers and duties. In addition to its other
34 powers and duties, the authority, acting on the ad-
35 vice of the veterans' loan board, shall have the fol-
36 lowing powers and duties:

37 A. To serve as a clearinghouse for information
38 relating to financing, management and marketing
39 concerns of veteran small businessmen;

40 B. To prepare an annual plan recommending crite-
41 ria to be used in evaluating projects for financ-

1 ing under the veterans' small business loan pro-
2 gram; and

3 C. To provide advice to veteran small business-
4 men on the loan programs of the authority and to
5 assist them in complying with guidelines for par-
6 ticipation in those programs.

7 Sec. 23. 10 MRSA §981, sub-§§5 and 6, as enacted
8 by PL 1983, c. 519, §7, are amended to read:

9 5. Public necessity. The existing situation will
10 not be relieved or improved through the operation of
11 private enterprise alone. It is necessary, desirable
12 and in the best interest of the welfare of all of the
13 citizens of the State that provisions be made ~~for the~~
14 ~~establishment of an independent state organization~~ to
15 work with existing public and private institutions to
16 promote the development of natural resources by mak-
17 ing available to persons engaged in natural resource
18 enterprises or wishing to enter these enterprises,
19 adequate marketing and technical assistance, as well
20 as adequate financing opportunities, at interest
21 rates lower than would be otherwise obtainable; and

22 6. Public purpose and benefit. The ~~division~~
23 authority is established to stimulate the economy, to
24 reduce unemployment, to support community development
25 and to assure an adequate supply of food and fiber,
26 in all respects for the benefit of the people of the
27 State and for the improvement of their health, safety
28 and welfare. The ~~division~~ authority will be serving a
29 public purpose and performing an essential governmen-
30 tal function in the exercise of the powers and duties
31 conferred upon it by this subchapter. Any benefits
32 accruing to private individuals or associations, as a
33 result of the activities of the ~~division~~ authority,
34 are deemed by the Legislature to be incidental to the
35 public purposes to be achieved by the implementation
36 of this subchapter.

37 Sec. 24. 10 MRSA §983, as enacted by PL 1983, c.
38 519, §7, is repealed.

39 Sec. 25. 10 MRSA §984, as enacted by PL 1983, c.
40 519, §7, is amended to read:

1 §984. Natural Resources Financing and Marketing
2 Programs

3 1. Implementation of programs. The Division of
4 Natural Resources Financing and Marketing authority
5 shall be responsible for the implementation of the
6 Natural Resources Financing and Marketing Programs.

7 2. Powers and duties. The division authority
8 shall have all the powers and duties necessary to
9 carry out the purposes and provisions of this sub-
10 chapter, ~~except those reserved to the authority,~~ in-
11 cluding, but not limited to, the power to:

12 A. In cooperation with the University of Maine
13 and other state, local and federal agencies or
14 instrumentalities, conduct studies, including
15 studies concerning land use and availability, fi-
16 nancial management and marketing, to analyze the
17 situation and needs of those persons in the State
18 engaged in or wishing to enter natural resource
19 enterprises. The division authority may develop
20 plans and recommendations as to its role and the
21 role of the State generally in facilitating the
22 development of natural resource enterprises;

23 B. Make and execute agreements, contracts and
24 other instruments, with any public or private en-
25 tity, including, but not limited to, contracts
26 with architectural, engineering, accounting, con-
27 struction, marketing and financial experts or
28 management agreements for the management of any
29 properties or functions of the division or other
30 partnership or joint venture arrangements;

31 C. Receive and accept appropriations, gifts,
32 grants, loans, contributions of property or any
33 interest therein, labor or other items of value
34 from public or private entities including, with-
35 out limitation, any grants, funds or property
36 from any agency or instrumentality of the United
37 States accepted pursuant to paragraph B;

38 D. Provide to public and private entities tech-
39 nical assistance and advice related to purposes
40 of this subchapter, including:

- 1 (1) Establishment of an expert advisory
2 group which shall be available, upon re-
3 quest, to consult with financing institu-
4 tions as to the merits of loan applica-
5 tions for natural resource enterprises;
- 6 (2) Provision of advice to persons engaged
7 or seeking to be engaged in natural resource
8 enterprises as to the nature and source of
9 relevant governmental assistance programs;
10 and
- 11 (3) Provision of advice and educational
12 programs as to production, processing, mar-
13 keting and managing natural resource enter-
14 prises;

15 E. Contract with financing institutions to make
16 natural resource enterprise loans on behalf of
17 the division authority. In establishing a fi-
18 nancing program pursuant to this paragraph, the
19 division authority shall establish guidelines for
20 the operation of and participation in loan pro-
21 grams and shall assure compliance with those
22 guidelines. Loans made under this paragraph
23 shall not exceed \$250,000. The division
24 authority shall promulgate regulations governing
25 eligibility which take into consideration the es-
26 tablished guidelines and the ability of appli-
27 cants to compete successfully in the private
28 lending market and to pay amounts at which pri-
29 vate enterprise is providing natural resource fi-
30 nancing; in. In promulgating such regulations,
31 the division authority may establish income or
32 asset limitations for eligibility.

33 The division authority may, without contracting
34 with a financing institution, make natural re-
35 source enterprise loans only in one or more areas
36 of the State, to the extent that no financing
37 institutions institution, after both initial and
38 such successive reasonable opportunities as the
39 division authority shall provide, has contracted
40 with the division authority to participate in a
41 natural resource enterprise loan program;

1 F. Subject to approval by the authority, develop
2 Develop mechanisms for guaranteeing repayment of
3 loans or other obligations of indebtedness in-
4 curred in connection with natural resource enter-
5 prises;

6 G. Subject to approval by the authority, adopt,
7 amend and repeal rules to carry out the purposes
8 of this subchapter, consistent with Title 5,
9 chapter 375, subchapter II;

10 H. Conduct examinations and investigations and
11 hear testimony and take evidence under oath on
12 any matter material to its functions and plans,
13 issue subpoenas requiring the attendance of wit-
14 nesses or the production of documents or other
15 evidence;

16 I. Develop, through the board of directors, pro-
17 grams and policies and related rules to carry out
18 the purposes of this subchapter, subject to the
19 approval of the authority;

20 J. Take, in addition to the other powers enumer-
21 ated in this section, such actions as may be nec-
22 essary to qualify as an "other financing institu-
23 tion" as that term is defined by the Federal In-
24 termediate Credit Bank, to participate in an ag-
25 ricultural credit corporation or to act in any
26 similar way to achieve the purposes of this sub-
27 chapter;

28 K. Serve as a clearinghouse for information re-
29 lating to financing, management, and marketing
30 concerns of natural resource enterprises and may
31 gather and disseminate information regarding
32 these activities. The ~~division~~ authority shall
33 encourage and coordinate effective use of exist-
34 ing and new services to assist natural resource
35 enterprise development;

36 L. Receive advice and assistance from, and coordi-
37 nate its programs with, the State Development
38 Office, the Maine State Housing Authority, the
39 Maine Development Foundation, the Maine Capital
40 Corporation, the Maine Natural Resource Capital
41 Corporation and other state agencies with rele-

1 vant expertise. In addition, programs authorized
2 in this subchapter may be coordinated or combined
3 with other public and private national, state,
4 regional or local programs that the agency deter-
5 mines will facilitate the purposes of this sub-
6 chapter; and

7 M. Enter into agreements for joint participation
8 in projects. The state public body may dedicate,
9 sell, convey or lease any of its interest in any
10 property or grant easements, licenses or any oth-
11 er rights or privileges to the authority and may
12 cause roads, water or similar community facili-
13 ties or educational programs, or any other works
14 or services which it is otherwise empowered to
15 undertake, to be furnished or located so as to be
16 most beneficial to any project of the division or
17 the authority. The state public body may also
18 plan or replan, zone or rezone any area or make
19 exceptions from building regulations, permits or
20 ordinances as it is otherwise empowered to do in
21 connection with any project of the authority and
22 undertake other similar activities to aid and co-
23 operate in the planning or operation of programs
24 of the division or the authority; and

25 N. Be designated by the Governor as the public
26 agency of the State to receive federal funds
27 available to the State in relation to financing
28 natural resource enterprises and, once designated
29 is authorized to, receive and expend these funds.

30 Sec. 26. 10 MRSA §985, as amended by PL 1983, c.
31 812, §65, is further amended to read:

32 §985. The Natural Resource Financing and Marketing
33 Board

34 1. Membership of the board. The board of
35 directors Natural Resource Financing and Marketing
36 Board of the division authority shall consist of 7
37 voting members, including the Commissioner of Conser-
38 vation, the Commissioner of Marine Resources and the
39 Commissioner of Agriculture, Food and Rural Re-
40 sources, or their designees, and 4 public members ap-
41 pointed by the Governor, subject to the approval of

1 the joint standing committee of the Legislature hav-
2 ing jurisdiction over State Government and to confir-
3 mation by the Senate. The 4 public members shall be
4 knowledgeable in the field of natural resource enter-
5 prises or financing. Designees of the commissioners
6 shall be limited to those persons holding major
7 policy-influencing positions, as defined by Title 5,
8 section 711, subsection 2. Two of the public members
9 shall be designated by the Governor as members of the
10 authority. The Treasurer of State shall be an ex of-
11 ficio, nonvoting member of the board.

12 2. Organization. The ~~board of directors~~ Natural
13 Resource Financing and Marketing Board shall elect a
14 chairman and may elect other officers from among its
15 members. The board of ~~directors~~ shall meet at the
16 call of the chairman or at the request of any 3 mem-
17 bers. The chairman and the other officers shall serve
18 in those capacities for a period of one year follow-
19 ing their election. Five members shall constitute a
20 quorum and an affirmative vote of a majority of those
21 voting shall be necessary for any official action.

22 3. Terms of appointment and compensation. The
23 public members shall be appointed for terms of 4
24 years, except that, of the initial appointees, one
25 shall be appointed for one year, one for 2 years, one
26 for 3 years and one for 4 years. Any vacancy shall be
27 filled by an appointment for the remainder of the un-
28 expired term. Each public member shall be compensated
29 as provided by Title 5, chapter 379, following ap-
30 proval of expenses by the ~~director~~ chief executive
31 officer.

32 4. Staff. The ~~director~~ of the division shall be
33 employed pursuant to section 972, subsection 1. Other
34 staff shall be provided by the authority pursuant to
35 section 969, subsection 5 and section 972, subsec-
36 tions 2 and 3. The division may establish standards
37 pursuant to which it may delegate its powers and du-
38 ties to the staff, but shall not delegate loan ap-
39 proval pursuant to section 984, subsection 2, para-
40 graphs E and G, where the loan is not secured by a
41 mortgage.

42 5. Policies. Subject to approval by the members
43 of the authority, the Natural Resource Financing and

1 Marketing Board shall, pursuant to Title 5, chapter
2 375, subchapter II, adopt, modify and repeal policies
3 of the authority governing the carrying out of this
4 subchapter. For purposes of Title 5, section 8052,
5 subsection 2, any public hearing shall be held and
6 conducted by a quorum of the Natural Resource Financ-
7 ing and Marketing Board.

8 Sec. 27. 10 MRSA §986, sub-§§1 and 6, as enacted
9 by PL 1983, c. 519, §7, are amended to read:

10 1. Ownership. The authority shall not become an
11 owner of land or facilities, except on a temporary
12 basis where necessary to protect its investments, to
13 maintain land in natural resource production, to fa-
14 cilitate transfer of lands or facilities for the use
15 of entrants to natural resource enterprises or to
16 otherwise implement its programs, provided that this
17 limitation shall not apply to any development rights
18 related to agricultural land which may be acquired by
19 the authority, which rights may be retained by the
20 authority, nor shall this section apply to any prop-
21 erty acquired ~~pursuant to section 984, subsection 2,~~
22 ~~paragraph E~~ without payment by the authority of fi-
23 nanacial consideration. During the period of time that
24 the authority may hold any such property, it is de-
25 clared to be public property used for essential pub-
26 lic and governmental purposes.

27 6. Nondiscrimination. The opportunity to receive
28 assistance from the ~~division or the~~ authority, di-
29 rectly or indirectly, shall be open to all persons
30 regardless of race, creed, color, sex, national ori-
31 gin, age, physical or mental impairment or religion.
32 The ~~division and the~~ authority shall assure the
33 availability of its programs on an equitable basis in
34 all geographic areas of the State, provided that this
35 section does not preclude the ~~division or the~~ author-
36 ity from identifying areas of the State which may be
37 better suited to certain natural resource enterprises
38 than others and does not preclude the ~~division or the~~
39 authority from recognizing the value of a critical
40 mass of natural resource economic activity in given
41 areas.

42 Sec. 28. 10 MRSA §987, as enacted by PL 1983, c.
43 519, §7, is amended to read:

1 §987. Standards for financing assistance

2 In addition to the applicable provisions of sec-
3 tion 986, financing assistance provided pursuant to
4 this subchapter shall not be provided for except upon
5 a finding that the following criteria have been sat-
6 isfied.

7 1. Residence. If the person is seeking assist-
8 ance for the purchase of agricultural land, the per-
9 son is a resident of the State, or in the case of
10 corporations, partnerships, joint ventures or other
11 associations, the majority interest of the associa-
12 tion shall be beneficially owned by residents of the
13 State. If the person, corporation, partnership,
14 joint ventures or other association is seeking as-
15 sistance for some other purpose, a preference shall
16 be given to residents.

17 2. Location. The ~~land, facilities and related~~
18 ~~property involved in the natural resource enterprise~~
19 ~~are project is~~ or will be located within the State.

20 3. Experience. The person has sufficient educa-
21 tion, training, ability and expertise in the type of
22 natural resource enterprise for which financing as-
23 sistance is requested.

24 4. Access to resources. The person has or will
25 have access to adequate resources in addition to the
26 financing assistance provided under this subchapter
27 to commence or continue the enterprise.

28 5. ~~Capital markets.~~ The project may not be fi-
29 nanced through ~~national markets for buying and sell-~~
30 ~~ing long-term loanable funds in the form of bonds,~~
31 ~~mortgages and the like.~~

32 6. Agricultural land. If the ~~loan financing~~
33 ~~assistance~~ is for the acquisition of agricultural
34 land, the person agrees in writing for ~~the duration~~
35 ~~of the loan such period as the authority shall~~
36 ~~specify~~ to follow such soil conservation and related
37 standards as the ~~division~~ authority shall, by rule,
38 adopt; not to convey the land without written permis-
39 sion of the ~~division~~ authority and, in the case of
40 farmland within the definition of Title 36, section

1 1102, to apply and continue to elect to apply during
2 the period of receipt of financing assistance for
3 farm and open space classifications under Title 36,
4 chapter 105, subchapter X. This agreement shall be
5 recorded in the registry of deeds for the county or
6 counties where the land is located.

7 7. State policy. The natural resource enterprise
8 will comply with enunciated state policy regarding
9 soil conservation, environmental protection, agricul-
10 tural development and similar state initiatives. In
11 particular, all projects receiving financing assist-
12 ance through the authority shall be in accordance
13 with any plan adopted pursuant to section 984, ~~sub-~~
14 ~~section 2, paragraph A~~ and with the applicable plan-
15 ning, zoning, sanitary and building laws, ordinances
16 and regulations of the State and of the locality in
17 which the project is situated.

18 8. Public benefit. The natural resource enter-
19 prise will provide for the betterment of the health
20 and welfare of the inhabitants of the State and make
21 a significant contribution to either the economic
22 growth of the community or to the retention of agri-
23 cultural land in production. For purposes of this
24 section, the ~~division~~ authority shall, by rule, adopt
25 criteria defining the acceptable impact on employ-
26 ment, natural resource production, harvesting, mar-
27 keting, land use and other factors. In reaching its
28 determination in this regard, the ~~division~~ authority
29 shall be guided by the provisions of sections 981 and
30 982.

31 Sec. 29. 10 MRSA §988, sub-§1, as enacted by PL
32 1983, c. 519, §7, is amended to read:

33 1. General conditions. ~~Before providing any fi-~~
34 ~~naning assistance pursuant to this subchapter, the~~
35 ~~authority shall make a finding that the receipts of~~
36 ~~the authority will at all times be sufficient to pay~~
37 ~~the principal of, and the interest on, the obliga-~~
38 ~~tions of the authority as they become due and payable~~
39 ~~and shall create and maintain reserves for that pur-~~
40 ~~pose.~~ Financing assistance provided pursuant to this
41 subchapter may be on such terms and conditions as may
42 be agreed upon by the ~~division~~ and the authority from
43 time to time. These terms may include, but are not

1 limited to, requirements as to prepayment, period of
2 repayment, interest rate, rentals, project design and
3 planning, security requirements and evidences of in-
4 debtedness. The ~~division of the~~ authority may require
5 a borrower to execute a note, loan agreement or other
6 evidence of indebtedness and furnish additional as-
7 surances and guarantees, including insurance, reason-
8 ably related to protecting the security of the loan.

9 Sec. 30. 10 MRSA §988, sub-§2, as enacted by PL
10 1983, c. 519, §7, is amended to read:

11 2. Assured compliance. The authority may, by
12 rule, provide for permitted assumptions of loans or
13 for other transfers of interest in property financed
14 by the authority to persons who are otherwise quali-
15 fied to receive assistance under this chapter. In all
16 other cases, the person receiving the financing as-
17 sistance shall agree, in writing, to use the land or
18 property so acquired only for the purposes specified
19 in the application to or subsequent written agreement
20 with the authority and to provide the authority with
21 reasonable access to his books, records and property
22 to determine compliance with this subchapter and the
23 rules of the authority. These agreements shall be re-
24 corded in the registry of deeds for the county or
25 counties in which the property is located.

26 The authority, at its option, may declare immediately
27 payable all amounts due the authority if all or a
28 part of the land, facilities or other property in-
29 volved is leased, sold or otherwise transferred to
30 another person.

31 Sec. 31. 10 MRSA §§989 to 996, as enacted by PL
32 1983, c. 519, §7, are repealed.

33 Sec. 32. 10 MRSA §997, as enacted by PL 1983, c.
34 519, §7, is amended to read:

35 §997. Program for entrants to natural resource
36 enterprises

37 In addition to other programs and financing as-
38 sistance established under this subchapter which may
39 be available to natural resource enterprises, the
40 ~~division~~ authority shall establish a supplemental fi-

1 financing and technical assistance program designed
2 specifically to meet the needs of entrants to natural
3 resource enterprises.

4 1. Criteria for participation. In addition to
5 the applicable provisions of sections 987 and 988,
6 persons seeking financing assistance under the
7 entrants to natural resource enterprises under programs
8 shall be subject to the following.

9 A. Participants shall be limited to individual
10 residents of the State or cooperatives organized
11 in the State in which at least 51% of the owner-
12 ship is held by residents and in which all of the
13 members individually meet the definition of sec-
14 tion 983, subsection 7. In the case of an appli-
15 cant who is an individual, the entrant to natural
16 resource enterprises shall be a resident of the
17 State and shall have, together with his spouse
18 and dependent children, an aggregate net worth,
19 as determined by the authority, of \$100,000 or
20 less when an application is made. In the case of
21 an applicant which is a business organization,
22 the entrant to natural resource enterprises shall
23 be organized under the laws of the State so that
24 at least 51% of the controlling ownership is held
25 by residents of the State each of whom has, to-
26 gether with his or her spouse and dependent chil-
27 ren, an aggregate net worth, as determined by
28 the authority, of \$100,000 or less when an appli-
29 cation is made.

30 B. The authority shall ~~finance~~ provide financing
31 assistance in such amount of the enterprise as
32 the ~~division~~ it determines is appropriate to re-
33 fect the cost of a reasonably-sized beginning
34 enterprise.

35 C. The entrant has not previously received fi-
36 naning assistance under the program for the ac-
37 quisition of property similar in nature to the
38 property for which the ~~loan~~ financing assistance
39 is sought, except that this restriction shall not
40 apply if the amount previously received for an
41 enterprise, plus the amount of the additional as-
42 sistance sought for that enterprise, does not ex-
43 ceed the total determined by the ~~division~~
44 authority pursuant to paragraph B.

1 D. The entrant agrees to engage in one or more
2 natural resource enterprises and to participate
3 in such marketing and training programs as the
4 division authority may require.

5 E. The entrant agrees to participate in such
6 other related criteria conditions as the division
7 authority may impose.

8 2. Financing assistance terms. In addition to
9 the applicable provisions of sections 987 and 988,
10 assistance provided pursuant to this section may in-
11 volve special financing terms, including, but not
12 limited to:

13 A. For the acquisition of land and facilities,
14 arrangements where the authority agrees to make
15 payments and binding commitments and to continue
16 these payments, if necessary, over the life of
17 the mortgage on behalf of entrants to natural re-
18 source enterprises in order to reduce interest
19 costs on market rate credit to the level the
20 division authority by rule determines conducive
21 to achieving the purpose of this section, pro-
22 vided that the rate shall not be lower than 5%.
23 Persons benefiting from these assistance payments
24 ~~shall~~ may be required to pay a larger interest
25 payment as their ability to pay increases. No
26 commitment made by the division or the authority
27 under this subsection paragraph may be construed
28 to commit the faith and credit of the State;

29 B. Deferred payment schedules;

30 C. Full guarantees for seller-sponsored loans,
31 and Mortgage insurance for loans which satisfy
32 the following requirements:

33 (1) The lender must be a seller of agricul-
34 tural land and other eligible collateral:

35 (a) Who is a natural person; or

36 (b) Which is a family farm corpora-
37 tion;

38 (2) The borrower must be an entrant to nat-
39 ural resource enterprises;

1 Sec. 40. 10 MRSA §1023-A, as enacted by PL 1981,
2 c. 698, §56, is repealed.

3 Sec. 41. 10 MRSA §1023-B is enacted to read:

4 §1023-B. Mortgage Insurance Fund

5 1. Creation. There is created and established
6 under the jurisdiction and control of the authority
7 the Mortgage Insurance Fund.

8 2. Deposited with Treasurer of State or in-
9 vested. Money in the fund, not needed currently to
10 meet the obligations of the authority as provided for
11 in this subchapter, shall be deposited with the Trea-
12 surer of State to the credit of the fund or may be
13 invested in such manner as is provided for by law.

14 3. Items charged or credited. The authority may
15 charge or credit to the fund:

16 A. All expenses of the authority, including pay-
17 ments required pursuant to mortgage insurance
18 agreements and operating expenses; and

19 B. All income of the authority, including mort-
20 gage insurance premiums, fees, reimbursements and
21 proceeds of sale, lease or other disposition of
22 its property, except that proceeds received by
23 the authority from the sale, lease or other dis-
24 position of property it may have acquired in ac-
25 cordance with section 1025, subsection 1, shall
26 be credited either to the Mortgage Insurance
27 Fund, the Guarantee Reserve Fund or the Debt Ser-
28 vice Fund as directed by the State Controller.

29 4. Accounts. The authority may divide the fund
30 into such separate accounts as it determines are nec-
31 essary or convenient for carrying out the purposes of
32 this chapter.

33 5. Bond proceeds. Proceeds of bonds issued for
34 purposes authorized by the Constitution of Maine, Ar-
35 ticle IX, Section 14-A, may not be commingled, for
36 accounting purposes, with proceeds of bonds issued
37 for purposes of the Constitution of Maine, Article
38 IX, Section 14-D.

1 6. Revolving fund. The fund shall be a nonlaps-
2 ing revolving fund. All money in the fund shall be
3 continuously applied by the authority to carry out
4 this chapter.

5 7. Successor. Funds held by the authority under
6 prior law in the Mortgage Insurance Fund, the Maine
7 Small Business Loan Insurance Fund and the Veterans'
8 Small Business Loan Insurance Fund shall be held in
9 the Mortgage Insurance Fund created by this section.

10 Sec. 42. 10 MRS §1024, as amended by PL 1983,
11 c. 4, is repealed and the following enacted in its
12 place:

13 §1024. Additions to fund

14 1. Request for funds. If at any time money in
15 addition to that on hand in the fund is required for
16 purposes of the fund, the authority shall in writing
17 request the Governor to provide the necessary money.
18 The Governor shall transfer sufficient money to the
19 fund from the State Contingent Account, the Guarantee
20 Reserve Fund or the proceeds of bonds issued pursuant
21 to subsection 2.

22 2. Issuance of bonds. If a request for funds is
23 made under subsection 1 and if there are insufficient
24 funds in the State Contingent Account or the Guarant-
25 tee Reserve Fund, bonds shall be issued in the fol-
26 lowing manner:

27 A. By the Treasurer of State on orders from the
28 Governor;

29 B. In the amount required, but not exceeding in
30 the aggregate at any one time outstanding the
31 amount set forth in:

32 (1) The Constitution of Maine, Article IX,
33 Section 14-A, as it may be from time to time
34 amended, except that bonds issued under that
35 section and this subsection shall not exceed
36 in the aggregate at any one time outstanding
37 the amount of \$77,500,000; and

1 (2) The Constitution of Maine, Article IX,
2 Section 14-D, as it may be from time to time
3 amended, except that bonds issued under that
4 section and this subsection shall not exceed
5 in the aggregate at any one time outstanding
6 the amount of \$4,000,000;

7 C. To mature serially or to run for periods as
8 the Governor may determine, not to exceed 20
9 years;

10 D. At rates of interest and on terms and condi-
11 tions approved by the Governor; and

12 E. As a pledge of the full faith and credit of
13 the State.

14 3. Insurance authorization. The authority shall
15 not at any time have, in the aggregate principal
16 amount outstanding, mortgage insurance obligations
17 pursuant to this subchapter in excess of the amounts
18 of authorized and unissued bonds pursuant to subsec-
19 tion 2, paragraph B.

20 Sec. 43. 10 MRSA §1025, as amended by PL 1983,
21 c. 519, §10, is further amended to read:

22 §1025. Safeguarding the Mortgage Insurance Fund

23 When, in the opinion of the authority, the action
24 is necessary to safeguard the Mortgage Insurance Fund
25 and to maintain income from eligible projects, the
26 authority may, in addition to its other powers:

27 1. Acquisition and disposal of property. Take
28 assignments of insured mortgages and other forms of
29 security and take title by foreclosure or conveyance
30 to any eligible project ~~when an insured mortgage loan~~
31 ~~thereon is in default.~~ The authority may sell, or on
32 a temporary basis lease or rent, the eligible project
33 for a use other than that specified in ~~section 1003,~~
34 ~~subsection 6, paragraphs A to E~~ this chapter. The au-
35 thority shall be liable to a municipality for proper-
36 ty taxes on any unimproved real property owned by it
37 in the municipality due on or after April 1st at
38 least one year after acquisition of the property by
39 the authority;

1 2. Mortgagor rent or lease. Permit a mortgagor
2 to lease or rent an insured project, temporarily and
3 under conditions set by the authority, to a responsi-
4 ble lessee or tenant for a use other than that speci-
5 fied in section 1003, subsection 6, paragraphs A to
6 E, when that mortgagor does not meet mortgage pay-
7 ments insured by this authority by reason of default
8 under the terms of the lease of its eligible project
9 this chapter; and

10 3. Extend time. When a loan is in default,
11 ~~extend~~ Extend the time of payment of the loan beyond
12 original maturity, extend the insurance accordingly
13 and waive mortgage insurance premiums.

14 Sec. 44. 10 MRSA §1026, as amended by PL 1981,
15 c. 698, §59, is repealed.

16 Sec. 45. 10 MRSA §§1026-A to 1026-E are enacted
17 to read:

18 §1026-A. Insurance of mortgages

19 1. Insurance. The authority may make commitments
20 and agreements to insure mortgage payments. Any mort-
21 gage insurance shall be subject to the following:

22 A. No mortgage payment may be applied in a man-
23 ner which would, for any one project, increase
24 the percentage of mortgage payments insured by
25 the authority, except that this paragraph shall
26 not apply where insurance payments for any one
27 project may not in the aggregate exceed the less-
28 er of 25% of the original principal amount of the
29 mortgage loan or:

30 (1) In the case of insurance provided pur-
31 suant to section 1026-B, \$20,000;

32 (2) In the case of insurance provided pur-
33 suant to section 1026-C, \$20,000; or

34 (3) In the case of insurance provided pur-
35 suant to section 1026-D, \$1,000,000;

36 B. The loan shall be serviced as required by the
37 authority; and

1 C. Such other terms as may be required by law or
2 by the authority.

3 2. Mortgage eligibility. The authority may in-
4 sure mortgage payments under this subchapter subject
5 to the following requirements:

6 A. The mortgage shall be a first lien on or a
7 first security interest in eligible collateral,
8 subject to such encumbrances, including, without
9 limitation, coordinate liens, as are acceptable
10 to the authority;

11 B. The eligible collateral shall be owned,
12 leased, used or held by or shall otherwise bene-
13 fit an eligible enterprise;

14 C. The mortgage and related documents shall con-
15 tain complete amortization provisions satisfacto-
16 ry to the authority, shall require periodic pay-
17 ments of principal and interest and shall contain
18 covenants and other provisions pertaining to real
19 estate taxes, assessments, repairs, maintenance,
20 hazard insurance, mortgage insurance, default,
21 remedies, transfer or alteration of eligible col-
22 lateral, change in management or control of the
23 mortgagor and such other matters as the authority
24 may determine; and

25 D. Other conditions which may have been pre-
26 scribed by law or by the authority have been com-
27 plied with.

28 §1026-B. Mortgage insurance of \$100,000 or less

29 1. Scope of section. This section applies, in
30 addition to other applicable provisions of this sub-
31 chapter, when the original principal amount of the
32 mortgage insurance is \$100,000 or less.

33 2. Insurance. Any mortgage insurance provided
34 pursuant to this section shall be subject to the fol-
35 lowing:

36 A. The original principal amount of mortgage in-
37 surance shall not exceed \$100,000; and

1 B. The authority may insure no more than 85% of
2 the mortgage payments.

3 3. Mortgage eligibility. The authority may in-
4 sure mortgage payments under this section provided
5 that:

6 A. Repayment of the loan may be secured by less
7 than full collateral if the borrower or the prin-
8 cipals of the borrower are of good character and
9 have good credit records;

10 B. The mortgage loan has a maturity satisfactory
11 to the authority; and

12 C. The borrower:

13 (1) In the case of an existing business, at
14 the time application is made for financing
15 assistance, employs 20 persons or less or
16 has gross sales not exceeding \$2,500,000 per
17 year; or

18 (2) In the case of a new business, at the
19 time application is made for financing as-
20 istance, projects that, during the first 12
21 months of operation, it will employ 20 per-
22 sons or less or will have gross sales not
23 exceeding \$2,500,000.

24 §1026-C. Mortgage insurance for veterans

25 1. Scope of section. This section applies in ad-
26 dition to section 1026-B when mortgage insurance ben-
27 efits a veteran.

28 2. Insurance. The authority may provide mortgage
29 insurance in an original principal amount of \$100,000
30 or less in addition or as an alternative to any
31 amount provided pursuant to section 1026-B.

32 3. Mortgage eligibility. The authority may in-
33 sure mortgage payments pursuant to this section pro-
34 vided that the borrower shall be either:

35 A. One or more individuals who are residents of
36 the State and who have received from the Bureau

1 of Veterans' Services or any successor agency
2 certifications that they are veterans; or

3 B. A business organization in which at least 51%
4 of the controlling ownership is held by one or
5 more individuals who are residents of the State
6 and who have received from the Bureau of Veter-
7 ans' Services or any successor agency certifica-
8 tions that they are veterans.

9 §1026-D. Mortgage insurance for other projects

10 1. Scope of section. This section applies in ad-
11 dition to other applicable provisions of this sub-
12 chapter, but not when mortgage insurance is provided
13 pursuant to section 1026-B or 1026-C.

14 2. Insurance. Any mortgage insurance provided
15 pursuant to this section shall be subject to the fol-
16 lowing:

17 A. The original principal amount of insurance
18 for any one project shall not exceed:

19 (1) In the case of a project held, owned,
20 controlled or used by a recreational enter-
21 prise, \$2,500,000; or

22 (2) In the case of any other project,
23 \$7,000,000; and

24 B. The authority may insure no more than 90% of
25 the mortgage payments.

26 3. Mortgage eligibility. The authority may in-
27 sure mortgage payments pursuant to this section sub-
28 ject to the following requirements:

29 A. The authority shall have received the follow-
30 ing:

31 (1) Evidence that the project will serve
32 the purposes of this chapter in increasing
33 or retaining income and employment in the
34 State;

- 1 (2) Evidence, through submission of a com-
2 prehensive plan, of the project's capability
3 of achieving its revenue and employment
4 goals;
- 5 (3) Evidence of the economic feasibility of
6 the project;
- 7 (4) Evidence of financial capability, in-
8 cluding effective commitments for equity,
9 interim financing and final mortgage financ-
10 ing for the project;
- 11 (5) An employment plan describing potential
12 opportunity for Aid to Families with Depen-
13 dent Children recipients, including types of
14 jobs, skills required, training necessary
15 for placement and the percentage of perma-
16 nent jobs which will be targeted to these
17 recipients;
- 18 (6) Evidence of management and planning ca-
19 pability; and
- 20 (7) A written statement of the governing
21 representatives of the municipality in which
22 the project is or will be located supporting
23 the project.

24 The authority may modify or waive any of the re-
25 quirements of this paragraph with respect to any
26 mortgage insurance program established for pur-
27 poses of section 997;

28 B. The ratio of the original principal amount of
29 the loan, as approved by the authority, to the
30 cost or value of eligible collateral held, owned,
31 controlled or used by any one eligible enterprise
32 shall not exceed the sum of the following:

33 (1) One hundred percent of the cost or val-
34 ue of real estate designed as an industrial
35 park;

36 (2) Ninety percent of the cost or value of
37 real estate;

1 (3) Eighty percent of the cost or value of
2 eligible collateral consisting primarily of
3 one or more fishing or other vessels;

4 (4) Seventy-five percent of the cost or
5 value of eligible collateral consisting pri-
6 marily of machinery and equipment;

7 (5) Notwithstanding subparagraph (2), 75%
8 of the cost or value of eligible collateral
9 held, owned, controlled or used by a recrea-
10 tional enterprise; or

11 (6) Sixty percent of the cost or value of
12 other eligible collateral.

13 C. The Department of Environmental Protection
14 shall have certified to the authority that all
15 licenses required by that department with respect
16 to the project have been issued or that none are
17 required. Any subsequent enlargement or addition
18 to the project for which approval is sought from
19 the authority shall also require certification by
20 the Department of Environmental Protection; and

21 D. The loan shall be repaid no later than:

22 (1) Twenty-five years from the date of in-
23 surance where the authority determines that
24 real estate is a significant portion of the
25 eligible collateral;

26 (2) Twenty years from the date of insurance
27 where the authority determines that a fish-
28 ing or other vessel is a significant portion
29 of the eligible collateral; or

30 (3) Ten years from the date of insurance in
31 all other cases.

32 §1026-E. Pool insurance

33 Subject to the limitations of this subchapter,
34 except section 1026-A, subsection 1, paragraph A, and
35 sections 1026-B, 1026-C and 1026-D, the authority may
36 insure mortgage payments with respect to mortgage
37 loans designated as one or more pools or other segre-

1 gated portfolios. Any such insurance shall not exceed
2 50% of the aggregate principal balances of the mort-
3 gage loans from time to time outstanding. The author-
4 ity shall, by rulemaking pursuant to Title 5, chapter
5 375, subchapter II, establish requirements for demon-
6 strating project feasibility and for collateral.

7 Sec. 46. 10 MRSA §1027, as amended by PL 1983,
8 c. 519, §11, is repealed.

9 Sec. 47. 10 MRSA §1028, as enacted by PL 1981,
10 c. 476, §2, is amended to read:

11 §1028. Mortgage insurance premiums

12 The authority may fix mortgage insurance premiums
13 for the insurance of mortgage payments under this
14 subchapter. The effective rate of the insurance pre-
15 miums shall not be less than 1/2 of 1% per year nor
16 more than 2% per year of the actual or scheduled out-
17 standing principal obligation at the beginning of
18 each year. The authority shall determine and pre-
19 scribe the manner in which the premiums shall be pay-
20 able, the effective rate of the insurance premium,
21 the actual or scheduled outstanding principal obliga-
22 tion and other matters necessary and proper for the
23 assessment and collection of the premiums.

24 Sec. 48. 10 MRSA §1029, sub-§1, as enacted by PL
25 1981, c. 476, §2, is amended to read:

26 1. Eligible for insurance. All payments required
27 under a mortgage or other agreement for extension of
28 credit or making of a loan by the authority, a loan
29 agreement or related documents for a project financed
30 by revenue obligation securities or of notes issued
31 in anticipation of those securities as provided in
32 subchapter III shall be eligible for insurance under
33 this subchapter provided it meets the definition of
34 eligible projects set forth in section 1003, subsec-
35 tion 6.

36 The authority may insure any eligible mortgage or
37 other agreement by designating the mortgage in the
38 resolution authorizing the notes or bonds issued to
39 provide funds to finance the eligible project trust
40 agreement or another instrument or by endorsing an

1 appropriate certificate on the mortgage or other
2 agreement.

3 Sec. 49. 10 MRSA §1031, as amended by PL 1983,
4 c. 519, §12, is further amended to read:

5 §1031. Mortgages eligible for investment

6 Mortgages insured under this subchapter are made
7 legal investments for all insurance companies, trust
8 companies, banks, investment companies, savings
9 banks, savings and loan associations, executors,
10 trustees and other fiduciaries ~~and~~, public and pri-
11 vate pension or retirement funds and other persons.

12 Sec. 50. 10 MRSA §1041, first ¶, as repealed and
13 replaced by PL 1983, c. 519, §13, is repealed and
14 the following enacted in its place:

15 The authority may in addition to its other powers
16 and in furtherance of the purposes of this chapter:

17 Sec. 51. 10 MRSA §1041, sub-§1, as repealed and
18 replaced by PL 1983, c. 862, §31, is repealed and
19 the following enacted in its place:

20 1. Kinds of projects. Acquire, construct, recon-
21 struct, maintain, renew, replace or provide financing
22 assistance for eligible projects, or assist users to
23 acquire, construct, reconstruct, maintain, renew or
24 replace eligible projects;

25 Sec. 52. 10 MRSA §1041, sub-§2, as enacted by PL
26 1981, c. 476, §2, is amended to read:

27 2. Securities for projects. Issue revenue obli-
28 gation securities to pay the cost of or to provide
29 financial assistance for acquisition, construction,
30 reconstruction, renewal or replacement of the
31 eligible projects in subsection 1. Any single issue
32 of securities issued may provide for the cost of or
33 for financial assistance for acquisition, construc-
34 tion, reconstruction, renewal or replacement of any
35 one or more projects which may be separate,
36 unconnected, distinct and unrelated in purpose;

37 Sec. 53. 10 MRSA §1041, sub-§3, as enacted by PL
38 1981, c. 476, §2, is amended to read:

1 3. Acquire securities. Issue revenue obligation
2 securities to acquire one or more issues of revenue
3 obligation securities issued by municipalities ~~under~~
4 ~~subchapter IV~~ or to acquire any other bond not eligi-
5 ble for purchase pursuant to Title 30, chapter 241,
6 subchapter II, Article 3-A. Any single issue of secu-
7 rities may provide funds for the acquisition of reve-
8 nue obligation securities of one or more municipali-
9 ties or of bonds for one or more projects which may
10 be separate, unconnected, distinct and unrelated in
11 purpose;

12 Sec. 54. 10 MRSA §1041, sub-§14, as enacted by
13 PL 1981, c. 476, §2, is amended to read:

14 14. Applicability. Provide financial assistance
15 by means of leases which are not subject to Title 14,
16 section 6010 ~~shall not apply to leases made under~~
17 ~~this section.~~ Leases made under this section may pro-
18 vide that obligations of the lessees shall be uncon-
19 ditional; and

20 Sec. 55. 10 MRSA §1041, sub-§15, as enacted by
21 PL 1981, c. 476, §2, is amended to read:

22 15. Application of Title 32, chapter 13. The
23 Provide financial assistance by means of revenue ob-
24 ligation securities which are not subject to the pro-
25 visions of Title 32, chapter 13, relating to dealers
26 in securities shall not apply to revenue obligations
27 securities issued, reissued or refunded under this
28 subchapter;

29 Sec. 56. 10 MRSA §1041, sub-§§16 and 17 are en-
30 acted to read:

31 16. Energy conservation. Provide financial as-
32 istance for energy conservation. The Office of Ener-
33 gy Resources shall provide assistance to the authori-
34 ty in determining technical eligibility and merit of
35 applications for energy conservation loans. Each re-
36 ipient of a loan under this section shall provide
37 the authority, within one year, with detailed infor-
38 mation on energy consumption before and after the
39 completion of the energy conservation project; and

1 17. Electricity. Provide financial assistance
2 for electricity generation projects. Any municipali-
3 ty, firm or corporation producing electricity by
4 means of projects described in section 1044, subsec-
5 tion 12, or by means of a pollution-control project,
6 recreational project, multi-level parking facility or
7 combined project may, without the approval of and
8 regulation by the Public Utilities Commission, gener-
9 ate and distribute electricity solely for its own use
10 or the use of its tenant, but may not, without proper
11 approval, sell electricity to other than an electric
12 public utility corporation or cooperative authorized
13 to make, generate, sell and distribute electricity.

14 Sec. 57. 10 MRSA §1041-A is enacted to read:

15 §1041-A. Limitations on certain projects

16 1. Scope of section. This section applies only
17 in connection with the authority's revenue obligation
18 securities, interest on which is exempt from federal
19 income taxation pursuant to the United States Code,
20 Title 26, Section 103.

21 2. Retail stores. The authority may not use pro-
22 ceeds of its revenue obligation securities to provide
23 financial assistance for a project the principal ele-
24 ment of which, as determined by the authority, is one
25 or more stores primarily used in making retail sales
26 of consumer goods for household use to customers who
27 personally visit the stores to obtain the goods:

28 A. Except in connection with the reconstruction
29 of an existing building project satisfying the
30 requirements of subsection 4;

31 B. Unless the application for approval under
32 prior section 864 or under prior section 1043 was
33 received by the Maine Guarantee Authority prior
34 to October 1, 1981; or

35 C. Except where the authority is an occupant of
36 the project.

37 3. Office space. The authority may not use more
38 than 75% of the proceeds of an issue of its revenue
39 obligation securities to provide financial assistance

1 for office space, as defined by the authority, except
2 under the following circumstances:

3 A. In the case of the reconstruction of an ex-
4 isting building project satisfying the require-
5 ments of subsection 4;

6 B. In any case where there will be a 35% or more
7 increase in jobs in a business where 50% or more
8 of the products or services are or will be sold
9 or used outside the State, as determined by the
10 authority;

11 C. In any case where provision of housing is
12 likely to be facilitated as a result of a project
13 constituting both housing and office space, as
14 determined by the authority; or

15 D. Where the authority is an occupant of the
16 project.

17 4. Reconstruction of existing building projects.
18 Reconstruction of an existing building project shall:

19 A. Result in the rehabilitation or improvement
20 of a building which is at least 50 years old; and

21 B. Be limited to one or more buildings that are
22 located in an existing commercial area of a mu-
23 nicipality in which a substantial public benefit
24 will result from rehabilitating or improving the
25 building rather than removing the building or al-
26 lowing continuation of the conditions existing at
27 or about the time application for a certificate
28 of approval is made.

29 Sec. 58. 10 MRSA §1043, as amended by PL 1981,
30 c. 698, §§60 to 64, is further amended to read:

31 §1043. Certificates of approval

32 1. Issue. The authority is authorized and empow-
33 ered to approve or disapprove projects following sub-
34 mission to it of applications for approval thereof,
35 in such form and with such supporting data as it may
36 require and, upon approval of a project, to issue a
37 certificate of approval. Upon receipt of any such ap-

1 ~~plication the~~ The authority shall publish once in the
2 state newspaper and in a newspaper of general circu-
3 lation in the area of the State in which the project
4 is to be located, notice of the ~~receipt of such ap-~~
5 ~~plication and of the~~ date on which the authority will
6 ~~meet to consider the application~~ issuance of a cer-
7 ~~tificate of approval for the project.~~ Such The notice
8 shall be published at least 7 days prior to the date
9 scheduled for such ~~meeting~~ consideration, shall set
10 forth the name of the applicant, describe generally
11 the project and set forth the time and place ~~of the~~
12 ~~meeting~~ at which the application will be considered.
13 In addition to the notice required to be published by
14 the authority, the applicant shall make all reason-
15 able efforts to ~~notify~~ give timely notice to any and
16 all known competitors of the time and place ~~of the~~
17 ~~meeting~~ at which the application will be considered.
18 Where individual written notice is not practical, as
19 determined by the authority, the authority may speci-
20 fy other or additional forms of notice, including
21 display newspaper advertisements and written notice
22 to any trade, industry, professional or interest
23 group. The certificate of approval shall identify and
24 describe each project as to location, purpose and the
25 amount of revenue obligation securities to be issued.
26 If a single issue of revenue obligation securities is
27 to provide for the costs of more than one project,
28 the certificate of approval shall identify the aggre-
29 gate amount of revenue obligation securities to be
30 issued.

31 2. Criteria. Before issuing a certificate of ap-
32 approval for any project, the authority shall determine
33 that:

34 A. The project will make a ~~significant~~ contribu-
35 tion to the economic growth of, the control of
36 pollution in or the betterment of the health,
37 welfare or safety of the inhabitants of the
38 State;

39 B. The project will not result in a substantial
40 detriment to existing industry in the State. For
41 purposes of this determination, the authority
42 shall consider, pursuant to rules adopted in ac-
43 cordance with the Maine Administrative Procedure
44 Act, Title 5, chapter 375, subchapter II, such

1 factors as it deems necessary to measure and
2 evaluate the effect of the project on existing
3 business, provided:

4 (1) That no project will be approved if, as
5 a result of the project, there will not be
6 sufficient demand within the market area of
7 the State to be served by the project to em-
8 ploy the efficient capacity of existing in-
9 dustry; and

10 (2) That any adverse economic effect of the
11 project on existing enterprises is
12 outweighed by the contribution which the
13 project will make to the economic growth of,
14 the control of pollution in or the better-
15 ment of the health, welfare or safety of the
16 inhabitants of the State.

17 The applicant shall have the burden of demon-
18 strating that the project will not result in a
19 substantial detriment to existing industry in ac-
20 cordance with the requirements of the subsection,
21 including rules adopted in accordance therewith,
22 except in cases where no interested parties ob-
23 ject to the project, in which event the require-
24 ments of ~~subparagraph (2)~~ this paragraph shall be
25 deemed satisfied. Interested parties shall be
26 given an opportunity, with or without a hearing
27 at the discretion of the authority, to present
28 their objections to the project on grounds that
29 the project will result in a substantial detri-
30 ment to existing industry. If any such party
31 presents such objections with reasonable
32 specificity and persuasiveness, the authority may
33 divulge whatever information concerning the
34 project which it deems necessary for a fair pre-
35 sentation by the objecting party and evaluation
36 of such objections. The applicant shall then
37 have the burden of demonstrating by a preponder-
38 ance of the evidence that the project will not
39 result in substantial detriment to existing in-
40 dustry. If the authority finds that the appli-
41 cant has failed to meet its burden as specified
42 in this subsection, the application shall be de-
43 nied.

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

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

8 E. The Department of Environmental Protection
9 has certified to the authority that all licenses
10 required by that department with respect to the
11 project have been issued or that none are re-
12 quired. Any subsequent enlargement or addition to
13 the project for which approval is sought from the
14 authority shall also require certification by the
15 Department of Environmental Protection;

16 F. In the case of projects including which are
17 primarily pollution-control facilities:

18 (1) The proposed users of the facilities
19 make a ~~significant~~ contribution to the econ-
20 omy of the State;

21 (2) A ~~substantial~~ public benefit will re-
22 sult from including the facilities in the
23 project; and

24 (3) It is unlikely that public facilities
25 meeting the needs of the users and securing
26 comparable public benefit will become avail-
27 able in the reasonably foreseeable future;
28 and

29 G. In the case of an energy generating system,
30 an energy distribution system or an
31 industrial-commercial project which includes hy-
32 droelectric facilities deemed necessary for the
33 production of electricity-

34 (1) The Public Utilities Commission has
35 certified that all required licenses have
36 been issued or that none are required; and

37 (2) The Director of Energy Resources has
38 reviewed and commented upon the project pre-

1 posal. The Director of Energy Resources
2 shall make his comments within 30 days after
3 receipt of a notification and copy of the
4 project proposal from the authority. The au-
5 thority shall take the comments into consid-
6 eration in its consideration of the project;

7 H- In the case of energy conservation projects,
8 any small business is eligible to apply for a
9 loan of up to \$10,000. The authority shall se-
10 lect these projects according to the following
11 criteria-

12 (1) The gross amount of energy saved by the
13 project expressed in British Thermal Units,
14 BTU's,

15 (2) The ability of the project to serve as
16 an educational demonstration for other simi-
17 lar businesses or industries;

18 (3) The pattern of energy used within the
19 facility and the overall dependence on ener-
20 gy for the conduct of business;

21 (4) The simple payback of the project cal-
22 culated as the annual energy cost savings
23 divided into the project; and

24 (5) The ability of the business or industry
25 to generate capital from sources other than
26 provided by this paragraph-

27 The Office of Energy Resources shall provide as-
28 sistance to the authority in determining techni-
29 cal eligibility and merit of loan applications-

30 Each recipient of a loan under this paragraph
31 shall provide the authority, within one year,
32 with detailed information on energy consumption
33 before and after the completion of the energy
34 conservation project. The authority shall issue
35 an annual report to the Legislature on loans made
36 under this paragraph, the success of various en-
37 ergy saving techniques employed and the overall
38 energy benefits achieved by the program. The Of-
39 fice of Energy Resources shall assist the author-
40 ity in preparing this report; and

1 I. The project will, to the extent possible,
2 make a commitment to provide employment to recip-
3 ients of Aid to Families with Dependent Children.

4 Any municipality, firm or corporation producing elec-
5 tricity by means of projects in paragraph 6 or by
6 means of a pollution-control project, recreational
7 project, multi-level parking facility or combined
8 project may, without the approval of and regulation
9 by the Public Utilities Commission, generate and dis-
10 tribute electricity solely for its own use or the use
11 of its tenant, but may not sell electricity to other
12 than an electric public utility corporation or coop-
13 erative authorized to make, generate, sell and dis-
14 tribute electricity.

15 3. Effect of certificate. A certificate of ap-
16 proval issued under this subchapter shall be conclu-
17 sive proof that the authority has made the determina-
18 tions required by this section.

19 4. Exception. This section and section 1044,
20 subsection 2, shall not apply in the case of issue by
21 the authority of revenue obligation securities for
22 the purpose of acquiring one or more issues of out-
23 standing revenue obligation securities issued by mu-
24 nicipalities under subchapter IV or one or more is-
25 sues of any other bond not eligible for purchase pur-
26 suant to Title 30, chapter 241, subchapter II, Arti-
27 cle 3-A.

28 Sec. 59. 10 MRSA §1044, sub-§1, as enacted by PL
29 1981, c. 476, §2, is amended to read:

30 1. Notice of intent to issue bonds; actions to
31 contest validity. The authority may provide by
32 resolution, at one time or from time to time, for the
33 issuance of revenue obligations securities of the au-
34 thority for the purposes authorized in this
35 subchapter chapter. No revenue obligation securities
36 of the authority may be authorized and issued until:

37 A. A certificate of approval, as provided in
38 section 1043, is received has been issued; and

39 B. A resolution is adopted by vote of the au-
40 thority; and

1 C. A notice of the intent of the authority to
2 issue the securities is published at least once
3 in the state newspaper and in a newspaper of gen-
4 eral circulation in the municipality in which the
5 project is to be located:

6 (1) No later than 14 full days after the
7 date on which the resolution is adopted cer-
8 tificate is issued;

9 (2) Describing the general purpose or pur-
10 poses for which the securities are to be is-
11 sued;

12 (3) Stating the maximum principal amount of
13 the proposed securities;

14 (4) Setting forth or summarizing the text
15 of the certificate of approval; and

16 (5) Including a statement as to the time
17 within which any action or proceeding
18 petition to contest the issuance of the se-
19 curities or to set aside the resolution or
20 otherwise obtain relief on the grounds of
21 its invalidity or that of the certificate of
22 approval must be commenced.

23 Any action or proceeding in any court petition to
24 contest the issuance of the securities, to set aside
25 a resolution or certificate of approval or to obtain
26 relief upon the grounds that the resolution or cer-
27 tificate of approval was improperly adopted issued,
28 was adopted issued for unauthorized purposes, or is
29 otherwise invalid for any reason, must be started
30 within 30 days after the date of the publication
31 shall be governed by Title 5, chapter 375, subchapter
32 VII. For the purposes of this subchapter and the
33 Maine Administrative Procedure Act, Title 5, chapter
34 375, the later date of newspaper publication required
35 by paragraph C shall constitute the final agency ac-
36 tion with respect to the certificate of approval and
37 the issuance of the securities. After the expiration
38 of the period of limitation set forth in Title 5,
39 section 11002, subsection 3, no right of action or
40 defense founded upon the invalidity of the resolution
41 or approval or petition contesting any provision

1 ~~shall~~, or the issuance of the certificate of approval
2 or the issuance of the securities may be started ~~or~~
3 ~~asserted nor shall~~ may the validity of the resolution
4 or certificate of approval or ~~provision~~ the issuance
5 of the securities be open to question in any court
6 upon any grounds.

7 Sec. 60. 10 MRSA §1044, sub-§3, as enacted by PL
8 1981, c. 476, §2, is repealed.

9 Sec. 61. 10 MRSA §1044, sub-§4, as enacted by PL
10 1981, c. 476, §2, is amended to read:

11 4. Conclusive authorization. ~~Once issued, all~~
12 ~~bonds or notes~~ All revenue obligation securities of
13 the authority shall be conclusively presumed to be
14 fully authorized and issued under the laws of the
15 State, and any person or governmental unit shall be
16 estopped from questioning their authorization, sale,
17 issuance, execution or delivery by the authority.

18 Sec. 62. 10 MRSA §1044, sub-§6, as enacted by PL
19 1981, c. 476, §2, is amended to read:

20 6. Form. The authority shall determine the form
21 of the securities, including any attached interest
22 coupons, the manner of execution of the securities,
23 the denomination or denominations of the securities
24 and the place or places for payment of principal and
25 interest, which may be at any ~~bank or trust company~~
26 financial institution within or without the State.
27 Revenue obligation securities shall be executed in
28 the name of the authority by the manual or facsimile
29 signature of the authorized official or officials ~~au-~~
30 ~~thorized in the resolution, but at least one signa-~~
31 ~~ture on each security shall be a manual signature.~~
32 Any attached coupons shall be executed with the manu-
33 al or facsimile signature of the designated
34 authorized official or officials. Signatures and
35 facsimiles of signatures on securities and coupons
36 will be valid for all purposes even if the designated
37 authorized official ceases to hold office before de-
38 livery of the securities. The securities may be is-
39 sued in coupon or registered form or both as the au-
40 thority may determine. Provision may be made for the
41 registration of any coupon securities as to principal
42 alone and as to both principal and interest, and for

1 the reconversion into coupon securities of any secur-
2 ities registered as to both principal and interest.
3 In addition to this subsection, the authority may
4 provide for transfer of registration of its regis-
5 tered revenue obligation securities by book entry on
6 the records of the entity designated for that purpose
7 and may enter into such contractual arrangements as
8 may be necessary to accomplish these purposes. In the
9 event a book entry method of transfer is used, prin-
10 cipal of and interest on those registered securities
11 shall be payable to the registered owner shown in the
12 book entry, his legal representatives, successors or
13 transferees.

14 Sec. 63. 10 MRSA §1044, sub-§8, as amended by PL
15 1981, c. 698, §§65 and 66, is further amended to
16 read:

17 8. Proceeds. The proceeds of each issue shall be
18 used solely for the authorized purposes and shall be
19 disbursed as provided in the authorizing resolu-
20 tion or in the securing trust agreement, except that the
21 proceeds of each issue may be used to make loans for
22 small business energy conservation projects as de-
23 scribed in section 1043, subsection 2, paragraph H or
24 other document. Administration costs incurred by the
25 authority under this program may be drawn from those
26 proceeds. If the proceeds are less than the cost of
27 the securities project, by error in the estimate or
28 otherwise, additional securities may be issued in a
29 like manner to provide the amount of the deficit and,
30 unless otherwise provided in the authorizing resolu-
31 tion or the securing trust agreement or such other
32 document and without again carrying out the proce-
33 dures set forth in section 1043, the additional secu-
34 rities are deemed to be of the same issue and shall
35 be entitled to payment from the same fund without
36 preference or priority of the securities first issued
37 for the same purpose. The authority may place limits
38 or restrictions on the issuance of additional revenue
39 obligation securities through the authorizing resolu-
40 tion or any securing trust agreement or other
41 document. The authority may provide for the replace-
42 ment of mutilated, destroyed or lost securities. Re-
43 venue obligation securities may be issued under this
44 subchapter without obtaining the consent of any de-
45 partment, division, commission, board, bureau or

1 agency of the State and without any other proceedings
2 or the happening of any other conditions or things
3 than those proceedings, conditions or things which
4 are specifically required by this subchapter. Not-
5 withstanding any of the other provisions of this sub-
6 chapter, or of any recitals in any securities issued
7 under this subchapter, all such securities are deemed
8 to be negotiable instruments issued under the laws of
9 this State.

10 Sec. 64. 10 MRSA §1044, sub-§9, as amended by PL
11 1983, c. 519, §15, is further amended to read:

12 9. Credit not pledged. Except as provided in
13 this subsection, securities issued under this sub-
14 chapter shall not constitute any debt or liability of
15 the State or of any municipality therein or any po-
16 litical subdivision thereof, or of the authority ~~of~~
17 or a pledge of the faith and credit of the State or
18 of any such municipality or political subdivision,
19 but shall be payable solely from the revenues of the
20 project or projects for which they are issued or from
21 the other eligible collateral or the revenues or pro-
22 ceeds of other eligible collateral pledged to the
23 payment of the revenue obligation securities and all
24 such securities shall contain on their face a state-
25 ment to that effect. The issuance of securities under
26 this subchapter shall not directly or indirectly or
27 contingently obligate the State or any municipality
28 or political subdivision to levy or to pledge any
29 form of taxation whatever therefore or to make any
30 appropriation for their payment. Under subchapter II,
31 the authority may insure mortgage loans made with the
32 proceeds of revenue obligation securities ~~and antici-~~
33 ~~patory notes issued under this chapter.~~ To these
34 ends, the faith and credit of the State may be
35 pledged, under and consistent with the terms and lim-
36 itations of the Constitution of Maine, Article IX,
37 Section 14-A, and such further limitations, if any,
38 as may be provided by statute.

39 Sec. 65. 10 MRSA §1044, sub-§10, as enacted by
40 PL 1981, c. 476, §2, is amended to read:

41 10. Anticipatory borrowing. In anticipation of
42 the sale of securities under this subchapter, the au-
43 thority may issue temporary notes and renewal notes,

1 the total face amount of which does not exceed at any
2 one time outstanding the authorized amount of the se-
3 curities. The period of such anticipatory borrowing
4 shall not exceed 3 years and the time within which
5 the securities are to become due shall not be ex-
6 tended by the anticipatory borrowing beyond the time
7 fixed in the authorizing resolution, or, if no term
8 is specified, beyond the term permitted by law.

9 Sec. 66. 10 MRSA §1044, sub-§§11 and 12 are en-
10 acted to read:

11 11. Environmental protection. Revenue obligation
12 securities of the authority shall not be issued for a
13 project until the Department of Environmental Protec-
14 tion has certified to the authority that all licenses
15 required by that department with respect to the
16 project have been issued or that none are required.
17 Any subsequent enlargement or addition to the project
18 for which approval is sought from the authority shall
19 also require certification by the Department of Envi-
20 ronmental Protection.

21 12. Energy facilities. In the case of an energy
22 generating system, an energy distribution system of
23 an industrial-commercial project which includes hy-
24 droelectric facilities deemed necessary for the pro-
25 duction of electricity:

26 A. Revenue obligation securities of the authori-
27 ty shall not be issued until the Public Utilities
28 Commission has certified that all licenses re-
29 quired by that commission with respect to the
30 project have been issued or that none are re-
31 quired; and

32 B. Revenue obligation securities of the authori-
33 ty shall not be issued until the Director of En-
34 ergy Resources has reviewed and commented upon
35 the project proposal. The director shall make his
36 comments within 30 days after receipt of a noti-
37 fication and copy of the project proposal from
38 the authority. The authority shall take the com-
39 ments into consideration in its processing of the
40 project.

41 Sec. 67. 10 MRSA §1045, as enacted by PL 1981,
42 c. 476, §2, is repealed.

1 Sec. 68. 10 MRSA §1045-A is enacted to read:

2 §1045-A. Trust agreements or other documents

3 1. Trust agreements or other documents. At the
4 discretion of the authority, revenue obligation secu-
5 rities may be issued under this subchapter pursuant
6 to a trust agreement or other document. The trust
7 agreement or other document may:

8 A. Pledge or assign the revenues or proceeds of
9 the project or projects or other eligible collat-
10 eral;

11 B. Set forth the rights and remedies of the se-
12 curity holders and other persons and contain any
13 reasonable and legal provisions for protecting
14 the rights and remedies of the security holders;

15 C. Restrict the individual right of action by
16 security holders; and

17 D. Include covenants setting forth the duties of
18 the authority and user in relation to:

19 (1) Acquisition of property or eligible
20 collateral;

21 (2) Construction, reconstruction, renewal,
22 replacement and insurance of the project or
23 eligible collateral;

24 (3) Rents to be charged or other payments
25 to be made for use;

26 (4) Payment for the project or eligible
27 collateral; and

28 (5) Custody, safeguarding and application
29 of all money.

30 Any financial institution may furnish indemnifying
31 bonds or pledge the securities as may be required by
32 the authority.

33 2. Mortgages. To further secure the payment of
34 the revenue obligation securities, the trust agree-

1 ment or other document may mortgage or assign the
2 mortgage of the project, or any part, and create a
3 lien upon or security interest in any or all of the
4 project. In the event of a default with respect to
5 the revenue obligation securities, the trustee, mort-
6 gagee or other person may be authorized by the trust
7 agreement or other document containing a mortgage or
8 assignment of a mortgage to take possession of, hold,
9 manage and operate all or any part of the mortgaged
10 property and, with or without taking possession, to
11 sell or, from time to time, to lease the property in
12 accordance with law. Any security interest granted by
13 the authority under this chapter may be created and
14 perfected in accordance with the Uniform Commercial
15 Code, Title 11, Article 9, notwithstanding Title 11,
16 section 9-104, subsection 5.

17 3. Additional provisions. Any trust agreement or
18 other document may contain provisions which shall be
19 a part of the contract with holders of revenue obli-
20 gation securities as to:

21 A. Pledging any specified revenues or assets of
22 the authority to secure the payment of the secu-
23 rities, subject to agreements with existing hold-
24 ers of securities;

25 B. Pledging all or any part of the unencumbered
26 revenues or assets of the authority to secure the
27 payment of the securities, subject to agreements
28 with existing holders of securities;

29 C. Setting aside of, regulating and disposing of
30 reserves or sinking funds;

31 D. Limitations on the purpose to which the pro-
32 ceeds of sale of securities may be applied and
33 the pledge of the proceeds to secure the payment
34 of the securities or of any issue of securities;

35 E. Limitations on the issuance of additional se-
36 curities;

37 F. The terms upon which additional securities
38 may be issued and secured and the refunding of
39 outstanding or other securities;

1 G. The procedure, if any, by which the terms of
2 any contract with holders of securities may be
3 amended or abrogated, including the proportion of
4 the holders which must consent and the manner in
5 which the consent may be given;

6 H. Limitations on the amount of money to be ex-
7 pended by the authority for operating expenses of
8 the authority;

9 I. Vesting in a trustee or trustees such proper-
10 ty, rights, powers and duties in trust as the au-
11 thority may determine, which may include any or
12 all of the rights, powers and duties of the
13 trustee appointed by the holders of the securi-
14 ties under this subchapter and limiting or abro-
15 gating the right of the holders of the securities
16 to appoint a trustee under this chapter or limit-
17 ing the rights, powers and duties of the trustee;

18 J. Defining the acts or omissions to act which
19 will constitute a default in the obligations and
20 duties of the authority to the holders of the se-
21 curities and providing for the rights and reme-
22 dies of the holders of the securities in the
23 event of default, including, as a matter of
24 right, the appointment of a receiver; but only if
25 the rights and remedies are not inconsistent with
26 the general laws of the State and other provi-
27 sions of this subchapter; and

28 K. Any other matters, of like or different char-
29 acter, which in any way affect the security or
30 protection of the holders of the securities.

31 4. Expenses; pledges. All expenses incurred in
32 carrying out a trust agreement or financial document
33 may be treated as a part of the cost of the operation
34 of the project. All pledges of revenue or eligible
35 collateral under this subchapter shall be valid and
36 binding from the time when the pledge is made. All
37 the revenues or eligible collateral pledged and later
38 received by the authority shall immediately be sub-
39 ject to the lien of the pledges without any physical
40 delivery or further action under the Uniform Commer-
41 cial Code or otherwise. The lien of the pledges shall
42 be valid and binding against all parties having

1 claims of any kind in tort, contract or otherwise,
2 against the authority, irrespective of whether the
3 parties have notice thereof.

4 5. Other provisions. A trust agreement or finan-
5 cial document may contain other provisions the au-
6 thority deems reasonable and proper for the security
7 of the security holders.

8 Sec. 69. 10 MRSA §1046, as enacted by PL 1981,
9 c. 476, §2, is amended to read:

10 §1046. Rentals and revenues

11 1. Provisions. Before issuing revenue obligation
12 securities ~~for any project,~~ the authority shall ~~pre-~~
13 ~~vide financial documents or other contracts to assure~~
14 ~~that the authority, in its judgment, determine that~~
15 ~~there will at all times have~~ be revenues and funds
16 sufficient:

17 A. To pay the principal of and the interest of
18 the securities as they become due and payable
19 and, in its discretion, to create and maintain
20 reserves for that purpose; and

21 B. To pay the cost of maintaining and, where ap-
22 licable, repairing ~~and operating~~ the project un-
23 less provision is made in the financial document
24 or other contract for ~~the maintenance and,~~ where
25 applicable, repair ~~and operation.~~

26 2. Sinking fund. All project rentals and other
27 revenues, except those required in subsection 1, par-
28 agraph B or to provide reserves for ~~this~~ maintenance
29 and, where applicable, repair ~~and operation,~~ shall
30 may be set aside at regular intervals, as provided in
31 the resolution, financial document or trust agreement
32 or other document, and deposited to the credit of a
33 sinking fund charged with payment of the interest and
34 principal of the securities as they fall due, ~~the any~~
35 necessary charges of paying agents for paying princi-
36 pal and interest, and the redemption price or the
37 purchase price of securities retired by call or pur-
38 chase. The use and disposition of moneys to the cred-
39 it of the sinking fund shall be subject to regula-
40 tions prescribed in the ~~authorizing resolution,~~ the

1 trust agreement or ~~applicable financial~~ other docu-
2 ment. Except as may otherwise be provided in the ~~res-~~
3 ~~olution, financial document or~~ trust agreement or
4 ~~other document~~, the sinking fund shall be a fund for
5 the benefit of all securities issued for the project
6 or projects without distinction or priority of one
7 over another.

8 3. Trust funds. All moneys received under this
9 subchapter shall be deemed trust funds, to be held
10 and applied solely as provided in this subchapter.
11 Any officer to whom, or any bank, trust company or
12 other fiscal agent or trustee to which the moneys
13 shall be paid shall act as trustees of the moneys and
14 shall hold and apply them for the purposes of this
15 subchapter, subject to ~~regulations provided in the~~
16 ~~requirements of~~ this subchapter, ~~authorizing resolu-~~
17 ~~tion or the~~ trust agreement or ~~other applicable~~
18 ~~document.~~

19 Sec. 70. 10 MRSA §1047, as enacted by PL 1981,
20 c. 476, §2, is amended to read:

21 §1047. Remedies

22 Any holder of revenue obligation securities or
23 ~~attached~~ coupons issued under this subchapter and the
24 trustee under any trust agreement, except as re-
25 stricted by the ~~authorizing resolution, the~~ trust
26 agreement or applicable ~~financial~~ document, may, ~~ei-~~
27 ~~ther by action, mandamus or other proceeding by ap-~~
28 ~~propriate legal action~~, protect and enforce any and
29 all rights under the laws of this State or granted
30 under this subchapter, the ~~resolution, the~~ trust
31 agreement or ~~financial other~~ document, including the
32 appointment of a receiver, and may enforce and compel
33 the performance of all duties required by this sub-
34 chapter, the ~~resolution, the~~ trust agreement or ~~the~~
35 ~~financial other~~ document to be performed by the au-
36 thority, including the collecting of rates, fees and
37 charges for the use of the project. Any ~~suit, action~~
38 ~~or~~ proceeding shall be brought for the benefit of all
39 holders of the securities and any coupons.

40 Sec. 71. 10 MRSA §1048, as enacted by PL 1981,
41 c. 476, §2, is amended to read:

1 §1048. Revenue refunding securities

2 The authority may provide ~~by resolution~~ for the
3 issuance of revenue refunding securities of the au-
4 thority to refund any outstanding revenue securities
5 issued under this subchapter, including the payment
6 of any redemption premiums and any interest accrued
7 or to accrue to the date of redemption, and, if
8 deemed advisable by the authority, to construct or
9 enable the construction of improvements, extensions,
10 enlargements or additions of the original project.
11 The authority may provide ~~by resolution~~ for the issu-
12 ance of revenue obligation securities of the authori-
13 ty for the combined purpose of refunding any out-
14 standing revenue obligation securities or revenue re-
15 funding securities issued under this subchapter, in-
16 cluding the payment of redemption premiums and inter-
17 est accrued or to accrue and paying all or any part
18 of the cost of acquiring or constructing or enabling
19 the acquisition or construction of any additional
20 project or part or any improvements, extensions, en-
21 largements or additions of any project. The issuance
22 of the securities, the maturities and other details,
23 the rights and remedies of the holders and the
24 rights, powers, privileges, duties and obligations of
25 the authority shall be governed by the provisions of
26 this subchapter insofar as they are applicable.

27 Sec. 72. 10 MRSA §1051, as enacted by PL 1981,
28 c. 476, §2, is amended to read:

29 §1051. Bonds as legal investments

30 The ~~notes or bonds~~ revenue obligation securities
31 of the authority and any loan or extension of credit
32 ~~insured issued~~ under this subchapter, shall be legal
33 investments in which all public officers and public
34 bodies of the State, its political subdivisions, all
35 municipalities and municipal subdivisions, all insur-
36 ance companies and associations and other persons
37 carrying on an insurance business, all banks, bank-
38 ers, banking associations, trust companies, savings
39 banks and savings associations, including savings and
40 loan associations, building and loan associations,
41 investment companies and other persons carrying on a
42 banking business, all administrators, guardians, ex-
43 ecutors, trustees and other fiduciaries and all other

1 persons who are now or may later be authorized to invest in bonds or other obligations of the State, may properly and legally invest funds, including capital, in their control or belonging to them. The bonds revenue obligation securities and any loan or extension of credit which is ~~insured~~ issued under this subchapter are also made securities which may properly and legally be deposited with and received by all public officers and bodies of the State or any agency or political subdivisions and all municipalities and public corporations for any purpose for which the deposit of bonds or other obligations of the State is now or may later be authorized by law.

14 Sec. 73. 10 MRSA §§1053 and 1054 are enacted to read:

16 §1053. Capital reserve funds; obligation of State

17 1. Capital reserve fund. The authority may create and establish one or more capital reserve funds and may pay into any such capital reserve fund any money appropriated and made available by the State for the purposes of any such fund, any proceeds of sale by the authority of revenue obligation securities to the extent determined by the authority and any other money available to the authority.

25 2. Application. Money held in any capital reserve fund, except as provided in this section, shall be used solely with respect to revenue obligation securities, repayment of which is secured by any such fund and solely for the payment of principal of the securities, the purchase or redemption of the securities, including any fees or premiums or the payment of interest on the securities. Money in excess of the reserve requirement set forth in subsection 3 may be transferred to other funds and accounts of the authority.

36 3. Reserve requirement. The authority may provide that money in any such fund shall not be withdrawn at any time in such amount as would reduce the amount of any such fund to less than the maximum amount of principal and interest becoming due by reason of maturity or a required sinking fund payment in the next succeeding 12-month period within which any

1 such maturity occurs or any such payment is required,
2 the amount being referred to as the "capital reserve
3 requirement," except for the purpose of paying the
4 amount due at any such maturity or the sinking fund
5 payment with respect to revenue obligation securi-
6 ties, repayment of which is secured by any such fund.

7 4. Issuance limit. The authority may provide
8 that it shall not issue revenue obligation securities
9 if the capital reserve requirement with respect to
10 securities outstanding and then to be issued and se-
11 cured by any such fund will exceed the amount of any
12 such fund at the time of issuance, unless the author-
13 ity, at the time of issuance of the securities, shall
14 deposit in any such fund from proceeds of the securi-
15 ties so to be issued, or from other sources, an
16 amount, which, together with the amounts then in any
17 such fund, will not be less than the capital reserve
18 requirement.

19 5. Appropriation. On or before December 1st, an-
20 nually, the authority shall certify to the Governor
21 the amount, if any, necessary to restore the amount
22 in any capital reserve fund, to which this subsection
23 is stated in the trust agreement or other document to
24 apply, to the capital reserve requirement. The Gover-
25 nor shall forthwith pay from the Contingent Account
26 to any such fund so much of the amount as is availa-
27 ble in the Contingent Account and shall forthwith
28 transmit to the Legislature such certification and a
29 statement of the amount, if any, remaining to be paid
30 and the amount so certified shall be appropriated and
31 paid to the authority during the then current state
32 fiscal year.

33 6. Securities outstanding. The authority shall
34 not have at any one time outstanding revenue obliga-
35 tion securities to which subsection 5 is stated in
36 the trust agreement or other document to apply in
37 principal amount exceeding \$50,000,000. The amount of
38 revenue obligation securities issued to refund secu-
39 rities previously issued shall not be taken into ac-
40 count in determining the principal amount of securi-
41 ties outstanding, provided that proceeds of the re-
42 funding securities are applied as promptly as possi-
43 ble to the refunding of the previously issued securi-
44 ties.

1 §1054. Taxable bond option

2 With respect to any bonds which the authority may
3 issue in accordance with the limitations and restric-
4 tions of this subchapter, the authority may covenant
5 and consent that the interest on the bonds shall be
6 includable, under the United States Internal Revenue
7 Code of 1954 or any subsequent corresponding internal
8 revenue law of the United States, in the gross income
9 of the holders of the bonds to the same extent and in
10 the same manner that the interest on bills, bonds,
11 notes or other obligations of the United States is
12 includable in the gross income of the holders under
13 the United States Internal Revenue Code or any subse-
14 quent law. The powers conferred by this section shall
15 not be subject to any limitations or restrictions of
16 any law which may limit the authority's power to so
17 covenant and consent or to the procedures set forth
18 in section 1043 or in section 1044, subsections 1, 11
19 and 12.

20 Sec. 74. 10 MRSA §1061, sub-§1, as repealed and
21 replaced by PL 1983, c. 862, §32, is repealed and the
22 following enacted in its place:

23 1. Kinds of projects. Acquire, construct, recon-
24 struct, maintain, renew, replace or provide financing
25 assistance for eligible projects, or assist a user to
26 acquire, construct, reconstruct, maintain, renew or
27 replace eligible projects;

28 Sec. 75. 10 MRSA §1061-A is enacted to read:

29 §1061-A. Limitations on certain projects

30 1. Retail stores. A municipality may not use
31 proceeds of its revenue obligation securities to pro-
32 vide financial assistance for a project the principal
33 element of which, as determined by the authority, is
34 one or more stores primarily used in making retail
35 sales of consumer goods for household use to custom-
36 ers who personally visit the stores to obtain the
37 goods:

38 A. Except in connection with the reconstruction
39 of an existing building project satisfying the
40 requirements of subsection 3; or

1 B. Unless the application for approval thereof
2 under prior Title 30, section 5328, or under pri-
3 or section 1063 was received by the Maine Guarant-
4 tee Authority prior to October 1, 1981.

5 2. Office space. A municipality may not use more
6 than 75% of the proceeds of an issue of its revenue
7 obligation securities to provide financial assistance
8 for office space, as defined by the authority, except
9 under the following circumstances:

10 A. In the case of the reconstruction of an ex-
11 isting building project satisfying the require-
12 ments of subsection 3;

13 B. In any case where there will be a 35% or more
14 increase in jobs in a business where 50% or more
15 of the products or services are or will be sold
16 or used outside the State, as determined by the
17 authority; or

18 C. In any case where provision of housing is
19 likely to be facilitated as a result of a project
20 consisting of both housing and office space, as
21 determined by the authority.

22 3. Reconstruction of existing building projects.
23 Reconstruction of an existing building project shall:

24 A. Result in the rehabilitation or improvement
25 of a building which is at least 50 years old; and

26 B. Be limited to one or more buildings that are
27 located in an existing commercial area of a mu-
28 nicipality in which a substantial public benefit
29 will result from rehabilitating or improving the
30 building rather than removing the building or al-
31 lowing continuation of the conditions existing at
32 or about the time application for a certificate
33 of approval is made.

34 Sec. 76. 10 MRSA §1063, sub-§1, as amended by PL
35 1981, c. 698, §67, is further amended to read:

36 1. Issue. The authority may approve or disap-
37 prove projects and issue certificates of approval
38 upon application by municipalities proposing to issue

1 revenue obligation securities under this subchapter.
2 Upon receipt of any such municipal application, the
3 The authority shall publish, once in the state news-
4 paper and in a newspaper of general circulation in
5 the municipality in which the project is to be lo-
6 cated, notice of the receipt of such application and
7 of the date on which the Maine Guarantee Authority
8 authority will meet to consider the application. The
9 notice shall be published at least 7 days prior to
10 the date scheduled for the meeting such
11 consideration, shall set forth the name of the munic-
12 ipality and the proposed tenant user of the project,
13 describe generally the project and set forth the time
14 and place of the meeting at which the application
15 will be considered. In addition to the notice re-
16 quired to be published by the authority, the appli-
17 cant shall make all reasonable efforts to notify give
18 timely notice to any and all known competitors of the
19 time and place of the meeting at which the applica-
20 tion will be considered. Where individual written no-
21 tice is not practical, as determined by the authori-
22 ty, the authority may specify other or additional
23 forms of notice, including display newspaper adver-
24 tisements and written notice to any trade, industry,
25 professional or interest group. The certificate of
26 approval shall identify and describe each project as
27 to location, purpose and amount of revenue obligation
28 securities to be issued.

29 Sec. 77. 10 MRSA §1063, sub-§2, ¶A, as enacted
30 by PL 1981, c. 476, §2, is amended to read:

31 A. The project will make a ~~significant~~ contribu-
32 tion to the economic growth of, the control of
33 pollution in or the betterment of the health,
34 welfare or safety of the inhabitants of the
35 State;

36 Sec. 78. 10 MRSA §1063, sub-§2, ¶B, as enacted
37 by PL 1981, c. 476, §2, is amended to read:

38 B. The project will not result in a substantial
39 detriment to existing industry in the State. For
40 purposes of this determination, the authority
41 shall consider, pursuant to rules adopted in ac-
42 cordance with the Maine Administrative Procedure
43 Act, Title 5, chapter 375, subchapter II, such

1 factors as it deems necessary to measure and
2 evaluate the effect of the project on existing
3 business, provided:

4 (1) That no project will be approved if, as
5 a result of the project, there will not be
6 sufficient demand within the market area of
7 the State to be served by the project to em-
8 ploy the efficient capacity of existing in-
9 dustry; and

10 (2) That any adverse economic effect of the
11 project on existing enterprises is
12 outweighed by the contribution which the
13 project will make to the economic growth of,
14 the control of pollution in or the better-
15 ment of the health, welfare or safety of the
16 inhabitants of the State.

17 The applicant shall have the burden of demon-
18 strating that the project will not result in a
19 substantial detriment to existing industry in ac-
20 cordance with the requirements of the subsection,
21 including rules adopted in accordance therewith,
22 except in cases where no interested parties ob-
23 ject to the project, in which event the require-
24 ments of ~~subparagraph (2)~~ this paragraph shall be
25 deemed satisfied. Interested parties shall be
26 given an opportunity, with or without a hearing
27 at the discretion of the authority, to present
28 their objections to the project on grounds that
29 the project will result in a substantial detri-
30 ment to existing industry. If any such party
31 presents such objections with reasonable
32 specificity and persuasiveness, the authority may
33 divulge whatever information concerning the
34 project which it deems necessary for a fair pre-
35 sentation by the objecting party and evaluation
36 of such objections. The applicant shall then have
37 the burden of demonstrating by a preponderance of
38 the evidence that the project will not result in
39 substantial detriment to existing industry. If
40 the authority finds that the applicant has failed
41 to meet its burden as specified in this subsec-
42 tion, the application shall be denied;

43 Sec. 79. 10 MRSA §1063, sub-§2, ¶G, as enacted
44 by PL 1981, c. 476, §2, is repealed.

1 Sec. 80. 10 MRSA §1064, sub-§2, as enacted by PL
2 1981, c. 476, §2, is amended to read:

3 2. Maturity; interest. The securities of each
4 issue of revenue obligation securities shall be
5 dated, shall mature at a time or times not exceeding
6 25 years from their date or dates and shall bear in-
7 terest at a rate or rates not exceeding 6% per year
8 as may be determined by the municipal officers and
9 approved by the authority. At the option of the mu-
10 nicipal officers, the securities may be made redeem-
11 able before maturity at a price or prices and under
12 terms and conditions fixed prior to their issue.
13 Notwithstanding any of the other provisions of this
14 chapter, revenue obligation securities may bear in-
15 terest at rates exceeding 6% per year upon receipt of
16 written approval from the authority. In giving ap-
17 proval for an interest rate in excess of 6%, the au-
18 thority shall specify a rate which shall be the maxi-
19 mum rate for the particular revenue obligation secu-
20 rity issue related to a single project, which rate
21 may be a variable rate measured as a percentage of or
22 otherwise in relation to a prime rate or other mea-
23 suring standard. In granting approval of interest
24 rates in excess of 6% per year, the authority shall
25 consider the following:

26 A. Interest rates in the current money market;

27 B. Credit worthiness of the proposed owner, les-
28 see or other user; and

29 C. Economic conditions in the municipality pro-
30 posing to issue the revenue obligation securi-
31 ties; and

32 D. Such other matters as the authority shall
33 consider significant.

34 In making its determination as to rates of interest
35 allowable in excess of 6% per year, the authority
36 shall give such weight to the factors in this subsec-
37 tion as it deems adequate and the findings of the au-
38 thority shall be final.

39 If the authority determines that a rate of interest
40 in excess of 6% per year is in order, it shall issue

1 its certificate which shall set forth the maximum al-
2 lowable interest rate and the specific revenue obli-
3 gation security issue to which the rate applies.

4 Sec. 81. 10 MRSA §1064, sub-§5, as enacted by PL
5 1981, c. 476, §2, is amended to read:

6 5. Use of proceeds; disbursements; deficits.
7 Proceeds of each issue shall be used solely for the
8 authorized purposes and shall be disbursed as pro-
9 vided in the authorizing resolution or in the secu-
10 ring trust agreement. If the proceeds shall be less
11 than the cost of the securities project, by error in
12 the estimate or otherwise, additional securities may
13 be issued in a like manner to provide the amount of
14 the deficit and, unless otherwise provided in the au-
15 thORIZING resolution or the securing trust agreement,
16 the additional securities are deemed to be of the
17 same issue and shall be entitled to payment from the
18 same fund without preference or priority of the secu-
19 rities first issued for the same purpose, provided
20 the aggregate principal amount of revenue obligation
21 securities of a municipality may not exceed the
22 amount approved by the resolution of the municipal
23 officers. The municipality may place limits or re-
24 strictions on the issuance of additional revenue ob-
25 ligation securities through the authorizing resolu-
26 tion or any securing trust agreement. The municipali-
27 ty may provide for the replacement of mutilated, de-
28 stroyed or lost securities. Revenue obligation secu-
29 rities may be issued under this chapter without ob-
30 taining the consent of any department, division, com-
31 mission, board, bureau or agency of the State and
32 without any other proceedings, or the happening of
33 any other conditions or things than those proceed-
34 ings, conditions or things which are specifically re-
35 quired by this chapter. Notwithstanding any of the
36 other provisions of this subchapter or any recitals
37 in any securities issued under this subchapter, all
38 such securities are deemed to be negotiable instru-
39 ments issued under the laws of this State.

40 Sec. 82. 10 MRSA §1064, sub-§8 is enacted to
41 read:

42 8. Conclusive authorization. All revenue obliga-
43 tion securities of the municipality shall be conclu-

1 sively presumed to be fully authorized and issued un-
2 der the laws of the State, and any person or govern-
3 mental unit shall be estopped from questioning their
4 authorization, sale, issuance, execution or delivery
5 by the municipality.

6 Sec. 83. 10 MRSA §1065, sub-§2, as enacted by PL
7 1981, c. 476, §2, is amended to read:

8 2. Mortgages. To further secure the payment of
9 the revenue obligation securities, the trust agree-
10 ment or other financial document may mortgage the
11 project or any part and create a lien upon any or all
12 of the real or personal property of the project. In
13 the event of a default with respect to the revenue
14 obligation securities, the trustee or mortgagee may
15 be authorized by the trust agreement or financial
16 document containing a mortgage or assignment of a
17 mortgage to take possession of, hold, manage and op-
18 erate all or any part of the mortgaged property and,
19 with or without taking possession, to sell or, from
20 time to time, to lease the property in accordance
21 with law. A judgment for possession may be without
22 condition and a sale or lease will not be subject to
23 any right to redeem the property. When the obliga-
24 tions secured by the mortgage are satisfied, includ-
25 ing all applicable fees and expenses, any surplus
26 proceeds from the operation, sale or lease of the
27 project shall be sold to or the mortgaged property
28 shall revert or be returned to the mortgager of the
29 project or to those claiming under the mortgager. A
30 user of a project may be entitled to the rights of
31 mortgager to the extent provided in any applicable
32 lease. Any security interest granted by a municipali-
33 ty under this chapter may be created and perfected in
34 accordance with the provisions of the Uniform Commer-
35 cial Code, Article 9, notwithstanding the provisions
36 of Title 11, section 9-104, subsection 5.

37 Sec. 84. 10 MRSA §1065, sub-§3, as enacted by PL
38 1981, c. 476, §2, is amended to read:

39 3. Authorizing resolutions. Any resolutions au-
40 thorizing notes or bonds or any issue of notes or
41 bonds revenue obligation securities may contain pro-
42 visions which shall be a part of the contract with
43 holders, as to:

- 1 A. Pledging any specified revenues or assets of
2 the project to secure the payment of the notes or
3 bonds revenue obligation securities or of any is-
4 ssue of bonds or notes revenue obligation
5 securities, subject to agreements with existing
6 holders of notes or bonds revenue obligation
7 securities;
- 8 B. Pledging all or any part of the unencumbered
9 revenues or assets of the project to secure the
10 payment of the notes or bonds revenue obligation
11 securities or any issue of notes or bonds revenue
12 obligation securities, subject to agreements with
13 existing holders of notes or bonds revenue obli-
14 gation securities;
- 15 C. Setting aside of, regulating and disposing of
16 reserves or sinking funds;
- 17 D. Limitations on the purpose to which the pro-
18 ceeds of sale of notes or bonds revenue obliga-
19 tion securities may be applied and the pledge of
20 the proceeds to secure the payment of the notes
21 or bonds revenue obligation securities or of any
22 issue of notes or bonds revenue obligation
23 securities;
- 24 E. Limitations on the issuance of additional
25 notes or bonds revenue obligation securities;
- 26 F. The terms upon which additional notes or
27 bonds revenue obligation securities may be issued
28 and secured and the refunding of outstanding or
29 other notes or bonds revenue obligation
30 securities;
- 31 G. The procedure, if any, by which the terms of
32 any contract with holders of notes or bonds reve-
33 nuce obligation securities may be amended or abro-
34 gated, including the amount of notes or bonds
35 revenue obligation securities to which the hold-
36 ers must consent and the manner in which the con-
37 sent may be given;
- 38 H. Limitations on the amount of moneys to be ex-
39 pended by the authority municipality for operat-
40 ing expenses of the project;

1 I. Vesting in a trustee or trustees such proper-
2 ty, rights, powers and duties in trust as the
3 authority municipality may determine, which may
4 include any or all of the rights, powers and du-
5 ties of the trustee appointed by the note or
6 bondholders holders of the revenue obligation
7 securities under this subchapter and limiting or
8 abrogating the right of the bondholders holders
9 of the revenue obligation securities to appoint a
10 trustee under this chapter or limiting the
11 rights, powers and duties of the trustee;

12 J. Defining the acts or omissions to act which
13 shall constitute a default in the obligations and
14 duties of the municipal officers to the holders
15 of the notes or bonds revenue obligation
16 securities and providing for the rights and reme-
17 diies of the holders of the notes or bonds revenue
18 obligation securities in the event of such de-
19 fault, including, as a matter of right, the ap-
20 pointment of a receiver; but only if the rights
21 and remedies are not inconsistent with the gener-
22 al laws of the State and other provisions of this
23 subchapter; and

24 K. Any other matters of like or different char-
25 acter which in any way affect the security or
26 protection of the holders of the bonds revenue
27 obligation securities.

28 Sec. 85. 10 MRSA §1066, sub-§§1 and 2, as en-
29 acted by PL 1981, c. 476, §2, are amended to read:

30 1. Provisions. Before issuing revenue obligation
31 securities for any project, the authority shall be
32 assured by leases or contracts that the municipality
33 will at all times have revenues and funds sufficient:

34 A. To pay the principal of and the interest of
35 the securities as they become due and payable
36 and, in its discretion, to create and maintain
37 reserves for that purpose; and

38 B. To pay the cost of maintaining, and repairing
39 and operating the project unless provision is
40 made in the lease or other contract for ~~the main-~~

1 tenance, and repair and operation.

2 2. Sinking fund. All project rentals and other
3 revenues, except those required in subsection 1, par-
4 agraph B, or to provide reserves for ~~this~~ mainte-
5 nance, and repair and operation, shall ~~may~~ be set
6 aside at regular intervals, as provided in the reso-
7 lution, financial document or trust agreement and de-
8 posited to the credit of a sinking fund charged with
9 payment of the interest and principal of the securi-
10 ties as they fall due, ~~the~~ any necessary charges of
11 paying agents for paying principal and interest, and
12 the redemption price or the purchase price of securi-
13 ties retired by call or purchase. The use and dispo-
14 sition of moneys to the credit of the sinking fund
15 shall be subject to regulations prescribed in the au-
16 thORIZING resolution, the trust agreement or applica-
17 ble financial document. Except as may otherwise be
18 provided in the resolution, financial document or
19 trust agreement, the sinking fund shall be a fund for
20 the benefit of all securities issued for the project
21 or projects without distinction or priority of one
22 over another.

23 Sec. 86. 10 MRSA §1067, as enacted by PL 1981,
24 c. 476, §2, is amended to read:

25 §1067. Remedies

26 Any holder of revenue obligation securities or
27 attached coupons issued under this subchapter and the
28 trustee under any trust agreement, except as re-
29 stricted by the authorizing resolution, the trust
30 agreement or applicable financial document, may, ei-
31 ther by action, mandamus or other proceeding by ap-
32 propriate legal action, protect and enforce any and
33 all rights under the laws of the State or granted un-
34 der this subchapter, the resolution, the trust agree-
35 ment or financial document, including the appointment
36 of a receiver, and may enforce and compel the per-
37 formance of all duties required by this subchapter,
38 the resolution, the trust agreement or financial doc-
39 ument to be performed by the municipality, the munic-
40 ipal officers or by any officer, including the col-
41 lecting of rates, fees and charges for the use of the
42 project. Any suit, action or proceeding shall be
43 brought for the benefit of all the holders of the se-
44 curities and coupons.

1 Sec. 87. 10 MRSA §1068, as enacted by PL 1981,
2 c. 476, §2, is amended to read:

3 §1068. Revenue refunding securities

4 The municipal officers are authorized to provide
5 by resolution for the issuance of revenue refunding
6 securities of the municipality for the purpose of re-
7 funding any outstanding revenue obligation securities
8 issued under this subchapter, including the payment
9 of any redemption premium and any interest accrued or
10 to accrue to the date of redemption, and, if deemed
11 advisable by the municipal officers, to construct im-
12 provements, extensions, enlargements or additions of
13 the original project. The municipal officers may pro-
14 vide by resolutions for the issuance of revenue obli-
15 gation securities of the municipality for the com-
16 bined purpose of refunding any outstanding revenue
17 obligation securities or revenue refunding securities
18 issued under this subchapter, including the payment
19 of any redemption premiums and any interest accrued
20 or to accrue to the date of redemption, and paying
21 all or any part of the cost of acquiring or con-
22 structing any additional project or part or any im-
23 provements, extensions, enlargements or additions of
24 any project. The issuance of the securities, the ma-
25 turities and other details, the rights and remedies
26 of the holders and the rights, powers, privileges,
27 duties and obligations of the municipality and the
28 municipal officers shall be governed by the provi-
29 sions of this subchapter insofar as applicable; pro-
30 vided ~~the requirement that voter approval be obtained~~
31 of the general purpose and maximum principal amount
32 of securities as set forth in section 1064, subsec-
33 tion 1, shall not be applicable to securities issued
34 for refunding purposes under this section; and that
35 any action or proceeding in any court to set aside a
36 resolution authorizing the issuance of revenue re-
37 funding securities under this ~~chapter~~ subchapter or
38 to obtain any relief on the ground the resolution was
39 improperly adopted, was adopted for unauthorized pur-
40 poses or is otherwise invalid for any reason, must be
41 commenced within 30 days after publication by the
42 clerk of the municipality in the state newspaper and
43 in a newspaper of general circulation in the munici-
44 pality of a notice stating that the resolution has
45 been adopted, the principal amount of revenue refund-

1 ing securities authorized to be issued and the pur-
2 pose of that issuance. After the expiration of the
3 period of limitations, no right of action or defense
4 founded upon the invalidity of that resolution or any
5 of its provisions shall be asserted nor shall the va-
6 lidity of that resolution or any of its provisions be
7 open to question in any court upon any ground whatev-
8 er.

9 Sec. 88. 10 MRSA §1072, as enacted by PL 1981,
10 c. 476, §2, is amended to read:

11 §1072. Bonds as legal investments

12 The ~~notes or bonds~~ revenue obligation securities
13 of the municipality and any loan or extension of
14 credit ~~insured~~ issued under this subchapter, shall be
15 legal investments in which all public officers and
16 public bodies of the State, its political subdivi-
17 sions, all municipalities and municipal subdivisions,
18 all insurance companies and associations and other
19 persons carrying on an insurance business, all banks,
20 bankers, banking associations, trust companies, sav-
21 ings banks and savings associations, including sav-
22 ings and loan associations, building and loan associ-
23 ations, investment companies and other persons carry-
24 ing on a banking business, all administrators, guard-
25 ians, executors, trustees and other fiduciaries, and
26 all other persons who are now or may later be autho-
27 rized to invest in bonds or other obligations of the
28 State, may properly and legally invest funds, includ-
29 ing capital, in their control or belonging to them.
30 The ~~bonds~~ revenue obligation securities and any loan
31 or extension of credit which is ~~insured~~ issued under
32 this subchapter are also made securities which may
33 properly and legally be deposited with and received
34 by all public officers and bodies of the State or any
35 agency or political subdivisions and all municipali-
36 ties and public corporations for any purpose for
37 which the deposit of bonds or other obligations of
38 the State is now or may later be authorized by law.

39 Sec. 89. 10 MRSA c. 110, sub-c. V, as enacted by
40 PL 1983, c. 519, §20, is repealed.

41 Sec. 90. 10 MRSA c. 110, sub-c. VI, as amended,
42 is repealed.

1 Sec. 91. 10 MRSA §1100-N, sub-§2, ¶¶A, B and C,
2 as enacted by PL 1983, c. 856, §4, are amended to
3 read:

4 A. The purpose of the loan shall be to estab-
5 lish, strengthen or expand a ~~small~~ business, ~~ex-~~
6 ~~cept that not-for-profit businesses shall not be~~
7 ~~eligible, of any person or business organization,~~
8 ~~except any nonprofit corporation, which in the~~
9 ~~case of:~~

10 (1) An existing business, at the time ap-
11 plication is made for financing assistance,
12 employs 20 persons or less or has gross
13 sales not exceeding \$2,500,000 per year; or

14 (2) A new business, at the time application
15 is made for financing assistance, projects
16 that, during the first 12 months of opera-
17 tion, it will employ 20 persons or less or
18 will have gross sales not exceeding
19 \$2,500,000;

20 B. Loans may be made to applicants with insuffi-
21 cient access to conventional sources of credit
22 and whose gross annual household income is at or
23 below ~~150%~~ of the federal poverty line promul-
24 gated by the Federal Office of Management and
25 Budget income limits established by the authority
26 by rulemaking pursuant to Title 5, chapter 375,
27 subchapter II;

28 C. No loan may be made in an amount in excess of
29 \$10,000 to any single applicant, nor at a ~~fixed~~
30 ~~an~~ interest rate in excess of a rate equal to 2
31 percentage points below the prime rate in effect
32 in the Boston metropolitan area rate limits es-
33 tablished by the authority by rulemaking pursuant
34 to Title 5, chapter 375, subchapter II;

35 Sec. 92. 36 MRSA §5122, sub-§2, ¶A, as amended
36 by PL 1983, c. 855, §17, is further amended to read:

37 A. Interest or dividends on obligations of the
38 United States and its territories and possessions
39 or of any authority, commission or instrumentali-
40 ty of the United States or on a seller-sponsored

1 loan, as defined by Title 10, ~~section~~ 974, sub-
2 ~~section~~ 16 chapter 110 to the extent includible
3 in gross income for federal income tax purposes
4 but exempt from state income taxes under the laws
5 of the United States, provided that the amount
6 subtracted shall be decreased by any expenses in-
7 curred in the production of the interest or divi-
8 dend income to the extent that these expenses,
9 including amortizable bond premiums, are deduct-
10 ible in determining federal adjusted gross in-
11 come;

12 STATEMENT OF FACT

13 The purpose of this bill is to improve the cur-
14 rent capabilities of the Finance Authority of Maine
15 to provide loan insurance and tax exempt financing
16 for Maine businesses, industries and natural resource
17 enterprises. The proposed changes will enhance the
18 authority's ability to fulfill the purposes for which
19 it was established by the Legislature.

20 The bulk of the bill simplifies, consolidates and
21 confirms legislative intent with respect to existing
22 law. In the past 4 years, an unknown number of
23 draftsmen have made 2 major revisions and numerous
24 incidental changes to the Finance Authority of Maine
25 Act. The current statutes have proven to be cumber-
26 some and difficult to interpret and implement.

27 Section 3 consolidates in one section the 3 cur-
28 rent sections providing definitions for the current
29 statute.

30 Section 13 consolidates and confirms existing
31 powers of the authority and also authorizes the au-
32 thority to carry out any of its powers through one or
33 more nonprofit corporations.

34 Section 18 confirms that authority board members
35 and employees are subject to the Maine Revised Stat-
36 utes, Title 5, section 18, which is the conflict of
37 interest statute applicable generally to state em-
38 ployees.

1 Section 21 clarifies the provisions of the au-
2 thority's enabling act pertaining to confidentiality
3 of records and makes the provisions consistent with
4 those of other public and private financial institu-
5 tions with which the authority cooperates.

6 Section 22 relocates what is currently the Maine
7 Revised Statutes, Title 10, section 999 and confirms
8 that the section, which is declarative of exemptions
9 found in the Maine Revised Statutes, Title 36, ap-
10 plies to all programs of the authority. Section 22
11 also enables the authority to alter the formula for
12 allocating the federally-imposed ceiling on certain
13 types of revenue bonds.

14 The bill assures that various elements of the au-
15 thority will be accountable for responsibilities
16 clearly assigned by law. Section 26 is a restatement
17 of current law providing that the members of the Nat-
18 ural Resources Financing and Marketing Board will
19 make policies governing natural resources programs,
20 subject to the approval of the members of the author-
21 ity. In sections 23 to 30 and 32, the accountability
22 of the Division of Natural Resources Financing and
23 Marketing within the authority is confirmed. Section
24 35 confirms the accountability of the Division of
25 Maine Business Development and Finance within the au-
26 thority.

27 Section 31 repeals bonding powers of the authori-
28 ty which are duplicative of those found in the Maine
29 Revised Statutes, Title 10, chapter 110, subchapter
30 III, pertaining to the Revenue Obligation Securities
31 Program of the authority.

32 Section 42 increases by \$15,000,000 the maximum
33 amount of loan insurance which the authority may ob-
34 ligate itself to pay at any one time.

35 Sections 45 and 3 confirm that any type of busi-
36 ness may benefit from authority insurance of loans
37 for any type of project or collateral. With changes
38 to the definition of eligible project in section 3,
39 the authority would clearly be able to provide insur-
40 ance for working capital loans, export loans and
41 loans for "high tech" and service enterprises.

1 Section 45 restates, consolidates and confirms
2 existing criteria for mortgage insurance. Section 45
3 also enables the authority to better leverage state
4 mortgage insurance resources.

5 Section 45 also enables the authority, in addi-
6 tion to its current program for individual veterans,
7 to insure loans to small business organizations con-
8 trolled by one or more resident veterans.

9 Section 73 relocates and clarifies the current
10 statute governing establishment of capital reserve
11 funds and appropriation of money if a reserve fund
12 falls below minimum requirements set by the authori-
13 ty. Because this Legislature cannot by law bind fu-
14 ture Legislatures to make such an appropriation, how-
15 ever, the device is referred to as a "moral obliga-
16 tion."

17 Section 73 also authorizes the authority to issue
18 taxable bonds.

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