

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
112TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1489, L.D. 2105, Bill, "AN ACT Providing for the 1986 Amendments to the Finance Authority of Maine Act."

Amend the bill by inserting after section 5 the following:

'Sec. 6. 10 MRSA §969-A, sub-§5, as enacted by PL 1985, c. 344, §17, is amended to read:

5. Mortgage transactions. Purchase, sell, service, pledge, invest in, hold, trade, accept as collateral or otherwise deal in, acquire or transfer, on such terms and conditions as the authority may specify, any mortgage loan, mortgage pass-through certificate, pledge including any pledge of mortgage revenue, mortgage participation certificate, revenue obligation security or other mortgage-backed or mortgage-related security. Any such transaction may be conducted by public or private offering, with or without public bidding. In connection with the purchase or sale of a mortgage loan or of a beneficial interest or participation in a mortgage loan, the authority may enter into one or more agreements providing for the custody, control and administration of the mortgage loan. Any such agreement may provide that the authority, a financial institution or other person shall act as trustor, trustee or custodian under the agreement. Any such agreement may provide that, with respect to mortgage loans governed by the agreement, title to a mortgage loan, or to a beneficial interest or participation in a mortgage loan, shall be deemed to have been transferred on terms and to the extent specified in that agreement and that the effect of a sale of a beneficial interest or participation in a mortgage loan is the same as a sale of a mortgage loan.

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1 The authority may issue or cause to be issued certifi-
2 cates or other instruments evidencing the holder's
3 fractional ~~undivided~~ interest in a pool of mortgage
4 loans, which interest may be undivided or limited to
5 one or more specific loans. Whether or not the cer-
6 tificates or instruments are of such form or charac-
7 ter as to be negotiable instruments under Title 11,
8 ~~Article~~ article 8, the certificates or instruments
9 shall be and are made negotiable instruments within
10 the meaning of and for all the purposes of Title 11,
11 ~~Article~~ article 8, subject only to such registration
12 requirements as the authority may establish;

13 Further amend the bill in section 7, by striking
14 out all of paragraph F and inserting in its place the
15 following:

16 'F. A statement of the defaults, if any, of per-
17 sons, firms, corporations and other organizations
18 receiving assistance under this chapter. ~~This~~
19 ~~information shall also be cumulative and shall~~
20 ~~include an annual default rate as a percentage of~~
21 ~~the total amount of moneys provided in this~~
22 ~~chapter in those cases where substantial liquida-~~
23 ~~tion of collateral has taken place, a statement~~
24 ~~of the total amount of mortgage insurance pay-~~
25 ~~ments made during the fiscal year and a statement~~
26 ~~of the percentage derived by dividing the amount~~
27 ~~of the mortgage insurance payments during the~~
28 ~~fiscal year into the outstanding principal bal-~~
29 ~~ance as of the fiscal year end of the authority's~~
30 ~~unpaid obligations pursuant to mortgage insurance~~
31 ~~contracts;'~~

32 Further amend the bill by striking out all of
33 section 8 and inserting in its place the following:

34 'Sec. 8. 10 MRSA §974, sub-§1, ¶J, as enacted by
35 PL 1985, c. 344, §23, is amended to read:

36 J. An ~~audited~~ A financial statement of the Maine

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1 Natural Resource Capital Company prepared in ac-
2 cordance with section 957, subsection 6; and'

3 Further amend the bill in section 10, in that
4 part designated "§1023-C." in subsection 2, by strik-
5 ing out all of paragraph D (page 5, lines 35 and 36
6 and page 6, lines 1 to 11 in L.D.) and inserting in
7 its place the following:

8 'D. The sum of \$3,700,000 transferred to the
9 fund by the State Controller from the Guarantee
10 Reserve Fund in accordance with the following:

11 (1) The transfer described in this para-
12 graph shall take place 91 days after the re-
13 cess of the Second Regular Session of the
14 112th Legislature; and

15 (2) The sum defined in this paragraph shall
16 be reduced by the amount of any transfers of
17 money to the authority pursuant to section
18 1024 on or before the transfer provided for
19 by this paragraph.'

20 Further amend the bill in section 14, in para-
21 graph A, in subparagraph (2), in the 2nd line (page
22 9, line 17 in L.D.) by striking out the underlined
23 figure "\$62,500" and inserting in its place the un-
24 derlined figure '\$25,000'

25 Further amend the bill by striking out all of
26 section 16 and inserting in its place the following:

27 'Sec. 16. 10 MRSA §1026-A, sub-§3 is enacted to
28 read:

29 3. Mortgage insured loan limitation for small
30 businesses. Whenever an applicant applies for mort-
31 gage insurance under sections 1026-B and 1026-C, the
32 authority may insure mortgage loans for which the
33 combined principal amounts of mortgage insurance of
34 both sections does not exceed \$600,000.'

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1 Further amend the bill by inserting after section
2 18 the following:

3 'Sec. 19. 10 MRSA §1026-B, sub-§§4 and 5 are en-
4 acted to read:

5 4. Retail store projects. The authority may in-
6 sure mortgage loans for a retail store project, pro-
7 vided that:

8 A. The principal amount of mortgage insurance
9 for the project does not exceed \$200,000;

10 B. The project includes only one retail store
11 that is not attached or does not adjoin another
12 retail store which has received an insured mort-
13 gage loan under this chapter; and

14 C. The applicant has not received mortgage in-
15 surement under this subsection for any other re-
16 tail store.

17 5. Office building projects. The authority may
18 insure mortgage loans for an office building project,
19 provided that:

20 A. The principal amount of mortgage insurance
21 for the project does not exceed \$200,000;

22 B. Less than 35% of the project is intended or
23 planned for office space;

24 C. In the event that the project proposes that
25 more than 35% of the project will be office
26 space, the project is not attached or adjoined to
27 any other office building, which has received an
28 insured mortgage loan under this chapter; and

29 D. The applicant has not received mortgage in-
30 surement under this subsection for any other of-
31 fice building project.'

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1 Further amend the bill by inserting after section
2 19 the following:

3 'Sec. 20. 10 MRSA §1026-C, sub-§§4 and 5 are en-
4 acted to read:

5 4. Retail store projects. The authority may in-
6 sure mortgage loans for a retail store project, pro-
7 vided that:

8 A. The principal amount of mortgage insurance
9 for the project does not exceed \$200,000;

10 B. The project includes only one retail store
11 that is not attached or does not adjoin another
12 retail store which has received an insured mort-
13 gage loan under this chapter; and

14 C. The applicant has not received mortgage in-
15 sureance under this subsection for any other re-
16 tail store.

17 5. Office building projects. The authority may
18 insure mortgage loans for an office building project,
19 provided that:

20 A. The principal amount of mortgage insurance
21 for the project does not exceed \$200,000;

22 B. Less than 35% of the project is intended or
23 planned for office space;

24 C. In the event that 35% or more of the project
25 will be office space, the project is not attached
26 to or does not adjoin any other office building
27 which has received an insured mortgage loan under
28 this chapter; and

29 D. The applicant has not received mortgage in-
30 sureance under this subsection for any other of-
31 fice building project.'

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1 Further amend the bill by striking out all of
2 section 21.

3 Further amend the bill in section 24, in that
4 part designated "§1029." in subsection 1, by striking
5 out all of the first paragraph (page 13, lines 13 to
6 18 in L.D.) and inserting in its place the following:

7 '1. Eligible for insurance. All payments re-
8 quired under a mortgage, a loan agreement or related
9 documents for a project financed by revenue obliga-
10 tion securities issued pursuant to subchapter III,
11 including revenue obligation securities which may
12 provide full or partial financing for more than one
13 project, shall be eligible for insurance to the ex-
14 tent permitted under this subchapter.'

15 Further amend the bill by inserting after section
16 26 the following:

17 'Sec. 27. 10 MRSA §1044, sub-§1, as amended by
18 PL 1985, c. 344, §64, is further amended to read:

19 1. Notice of intent to issue bonds; actions to
20 contest validity. The authority may provide, at one
21 time or from time to time, for the issuance of reve-
22 nue ~~obligations~~ obligation securities of the authori-
23 ty for the purposes authorized in this chapter. No
24 revenue obligation securities of the authority may be
25 issued until:

26 A. A certificate of approval, as provided in
27 section 1043, has been issued; and

28 C. A notice of the intent of the authority to
29 issue the securities is published at least once
30 in the state newspaper and in a newspaper of gen-
31 eral circulation in the municipality in which the
32 project is to be located:

33 (1) No later than 14 full days after the

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- 1 date on which the certificate is issued;
- 2 (2) Describing the general purpose or pur-
3 poses for which the securities are to be is-
4 sued;
- 5 (3) Stating the maximum principal amount of
6 the proposed securities;
- 7 (4) Setting forth or summarizing the text
8 of the certificate of approval; and
- 9 (5) Including a statement as to the time
10 within which any petition to contest the is-
11 suance of the securities or to set aside or
12 otherwise obtain relief on the grounds of
13 invalidity of the certificate of approval
14 must be commenced.

15 Any action or proceeding in any court to contest the
16 issuance of the securities, to set aside a certifi-
17 cate of approval or to obtain relief upon the grounds
18 that the certificate of approval was improperly is-
19 sued, was issued for unauthorized purposes, or is
20 otherwise invalid for any reason, must be started
21 within 30 days after the date of the publication re-
22 quired by paragraph C and otherwise shall be governed
23 by Title 5, chapter 375, subchapter VII. For the pur-
24 poses of this subchapter and the Maine Administrative
25 Procedure Act, Title 5, chapter 375, the later date
26 of newspaper publication required by paragraph C
27 shall constitute the final agency action with respect
28 to the certificate of approval and the issuance of
29 the securities. After the expiration of the 30-day
30 period of limitation, no right of action or defense
31 founded upon the invalidity of the approval or con-
32 testing any provision or the issuance of the certifi-
33 cate of approval or the issuance of the securities
34 may be started or asserted nor may the certificate of
35 approval or the issuance of the securities be open to
36 question in any court upon any grounds.'

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1 Further amend the bill by inserting after section
2 31 the following:

3 'Sec. 32. 10 MRSA §1064, sub-§2, as amended by
4 PL 1985, c. 344, §85, is repealed and the following
5 enacted in its place:

6 2. Maturity; interest. The securities of each
7 issue of revenue obligation securities shall be
8 dated, shall mature at a time or times not exceeding
9 25 years from their date or dates and shall bear in-
10 terest at a rate or rates determined by the option of
11 the municipal officers. The securities may be made
12 redeemable before maturity at a price or prices and
13 under terms and conditions fixed prior to their is-
14 sue. In determining an interest rate, the municipal
15 officers shall specify a rate which shall be the max-
16 imum rate for the particular revenue obligation secu-
17 rity issue related to a single project, which rate
18 may be a variable rate measured as a percentage of or
19 otherwise in relation to a prime rate or other mea-
20 suring standard.

21 Sec. 33. 10 MRSA §1066, sub-§1, as amended by PL
22 1985, c. 344, §90, is further amended to read:

23 1. Provisions. Before issuing revenue obliga-
24 tion securities for any project, the authority shall
25 be assured by leases or contracts municipal officers
26 shall determine that the municipality there will at
27 all times have be revenues and funds sufficient:

28 A. To pay the principal of and the interest of
29 the securities as they become due and payable
30 and, in ~~its~~ their discretion, to create and main-
31 tain reserves for that purpose; and

32 B. To pay the cost of maintaining and repairing
33 the project unless provision is made in ~~the~~ a
34 lease or other contract for maintenance and re-
35 pair.

COMMITTEE AMENDMENT "A" to H.P. 1489, L.D. 2105

1 Sec. 34. 10 MRSA §1073, as enacted by PL 1983,
2 c. 519, §19, is amended to read:

3 §1073. Successor to program

4 The Municipal ~~Obligations~~ Securities Approval
5 Program is the successor to the program of the same
6 name formerly administered by the Maine Guarantee Au-
7 thority under Title 30, chapter 242, and all resolu-
8 tions and actions taken by the Maine Guarantee Au-
9 thority, without exception, relative to the Municipal
10 ~~Obligations Approval Program~~ such program shall be a
11 resolution or action taken by the Finance Authority
12 of Maine.'

13 Further amend the bill in section 32, in para-
14 graph B, by striking out the last sentence (page 19,
15 lines 41 to 43 in L.D.) and inserting in its place
16 the following: 'Members of the job-start advisory
17 board shall serve for a maximum of 2 years 2-year
18 term and may be reappointed to successive terms;'

19 Further amend the bill by renumbering the sec-
20 tions to read consecutively.

21 STATEMENT OF FACT

22 This amendment changes the original bill in the
23 following ways.

24 1. A statement of defaults is required to in-
25 clude the names of persons, firms and corporations
26 which received financial guarantees from the Finance
27 Authority of Maine and failed. The bill proposed to
28 eliminate the names of firms and companies that
29 failed following receipt of financial guarantees.

30 2. The \$4,000,000 in the Guarantee Reserve Fund,
31 less \$300,000 will be transferred to the Loan Insur-
32 ance Fund following the effective date of this Act.

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1 The remaining \$300,000 will compensate for the inter-
2 est that would have been lost if all the \$4,000,000
3 was transferred.

4 3. The municipal officers rather than the Fi-
5 nance Authority of Maine will establish the interest
6 rate for municipal revenue bonds issued by the munic-
7 ipalities.

8 4. The 2-year term is restored for members
9 serving on the job-start advisory board, but the mem-
10 bers are made eligible for reappointment.

11 5. A limit of \$200,000 is placed upon retail
12 store and office building projects under the small
13 business mortgage insurance programs. In addition,
14 the retail store or office building is required to be
15 "free standing" in order to prevent the financing of
16 shopping malls under the small business mortgage in-
17 surance program. Applicants for guaranteed financing
18 for retail stores and office buildings are limited to
19 one project.

20 6. The authority may issue insured bonds to fi-
21 nance a group or pool of projects.

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