

# MAINE STATE LEGISLATURE

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



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

(New Draft of H.P. 1113, L.D. 1507)  
(New Title)  
FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 1763

H.P. 1287 House of Representatives, June 8, 1987  
Reported by Representative HOGLUND from the Committee on  
Energy and Natural Resources and printed under Joint Rule 2.  
EDWIN H. PERT, Clerk  
Original bill sponsored by Representative WILLEY of  
Hampden. Cosponsored by Senators SEWALL of Lincoln, USHER of  
Cumberland, and Representative HEPBURN of Skowhegan.

STATE OF MAINE

IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND EIGHTY-SEVEN

1 AN ACT to Establish a Program of Financial  
2 Assistance to Expedite the Removal of  
3 Underground Oil Tanks.  
4

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

7 Sec. 1. 10 MRSA §963-A, sub-§10, ¶¶H and I, as  
8 enacted by PL 1985, c. 344, §7, are amended to read:

9 H. Any pollution-control project; or

10 I. Any water supply system project; or

11 Sec. 2. 10 MRSA §963-A, sub-§10, ¶J is enacted  
12 to read:

1 J. Any underground oil storage facility replace-  
2 ment project.

3 Sec. 3. 10 MRSA §963-A, sub-§§49-A and 49-B are  
4 enacted to read:

5 49-A. Underground oil storage facility. "Under-  
6 ground oil storage facility" means the same as set  
7 forth in Title 38, section 562, subsection 13.

8 49-B. Underground oil storage facility replace-  
9 ment project. "Underground oil storage facility re-  
10 placement project" means the removal, disposal or re-  
11 placement of all or any part of an underground oil  
12 storage facility which is used for marketing and dis-  
13 tribution of oil, petroleum products or their by-  
14 products to persons or entities other than the owner  
15 of the facility.

16 Sec. 4. 10 MRSA §1023-D is enacted to read:

17 §1023-D. Underground Oil Storage Facility Replace-  
18 ment Fund

19 1. Creation. The Underground Oil Storage Facil-  
20 ity Replacement Fund is created and established under  
21 the jurisdiction and control of the authority.

22 2. Sources of money. There shall be paid into  
23 the fund the following:

24 A. All money appropriated for inclusion in the  
25 fund;

26 B. Subject to any pledge, contract or other ob-  
27 ligation, all interest, dividends or other pecu-  
28 niary gains from investment of money of the fund;

29 C. Subject to any pledge, contract or other ob-  
30 ligations, any money which the authority receives  
31 in repayment of advances from the fund; and

32 D. Any other money available to the authority  
33 and directed by the authority to be paid into the  
34 fund.

1           3. Application of fund. Money in the fund may  
2 be applied to carry out any power of the authority  
3 under or in connection with section 1026-F, includ-  
4 ing, but not limited to, pledge or transfer and de-  
5 posit money in the fund as security for and to apply  
6 money in the fund in payment of principal, interest  
7 and other amounts due on insured loans. Money in  
8 the fund may be used for direct loans for all or part  
9 of underground oil storage facility replacement  
10 projects when the authority determines that:

11           A. The facility is leaking or removal is re-  
12 quired by applicable law within 2 years from the  
13 date of application to the authority for a loan;

14           B. The applicant demonstrates a reasonable like-  
15 lihood that it will not be able to obtain the  
16 funds necessary to undertake all or any part of  
17 the project from any other source, including a  
18 loan insured under section 1026-F;

19           C. There is a reasonable likelihood that the ap-  
20 plicant will be able to repay the loan; and

21           D. The project will assist in creating or re-  
22 taining jobs and will provide a more healthy en-  
23 vironment.

24           The authority, pursuant to Title 5, chapter 375, sub-  
25 chapter II, shall adopt rules for determining eligi-  
26 bility, feasibility, terms, conditions and security  
27 for the loans. Money in the fund not needed current-  
28 ly to meet the obligations of the authority as pro-  
29 vided in this section may be invested in such a man-  
30 ner as permitted by law.

31           4. Accounts within fund. The authority may di-  
32 vide the fund into such separate accounts as it de-  
33 termines are necessary or convenient for carrying out  
34 this section, including, but not limited to, accounts  
35 reserved for direct loan funds.

36           5. Revolving fund. The fund shall be a nonlaps-  
37 ing, revolving fund. All money in the fund shall be  
38 continuously applied by the authority to carry out  
39 this section and section 1026-F.

1           **Sec. 5. 10 MRSA §1024, sub-§1, as repealed and**  
2 **replaced by PL 1985, c. 714, §13, is amended to read:**

3           **1. Request for funds. If at any time the money**  
4 **in the Mortgage Insurance Fund and the money in the**  
5 **Loan Insurance Reserve Fund, exclusive of the money**  
6 **pledged or assigned as security for specific obliga-**  
7 **tions of the authority, is insufficient to meet ex-**  
8 **penses and obligations of the authority, as these ex-**  
9 **penses and obligations are projected by the authority**  
10 **to become due and payable, the authority shall in**  
11 **writing request the Governor to provide the necessary**  
12 **money. The Governor shall transfer sufficient money**  
13 **to the Mortgage Insurance Fund or Loan Insurance Re-**  
14 **serve Fund, as directed by the authority, from the**  
15 **State Contingent Account or the proceeds of bonds of**  
16 **the State issued pursuant to subsection 2. If at any**  
17 **time the money in the Underground Oil Storage Facili-**  
18 **ty Replacement Fund, exclusive of any amounts re-**  
19 **ceived by law or rule for direct loans pursuant to**  
20 **section 1023-D, subsection 3, is insufficient to meet**  
21 **the expenses and obligations of the authority in-**  
22 **curring pursuant to section 1026-F, as these expenses**  
23 **and obligations are projected by the authority to be-**  
24 **come due and payable, the authority shall in writing**  
25 **request the Governor to provide the necessary money.**  
26 **Within 30 days of receipt of the request, the Gover-**  
27 **nor shall transfer sufficient money to the Under-**  
28 **ground Oil Storage Facility Replacement Fund from the**  
29 **State Contingent Account or the proceeds of bonds of**  
30 **the State issued pursuant to subsection 2. Transfers**  
31 **from the State Contingent Account under this section**  
32 **shall not be subject to the limitations of Title 5,**  
33 **section 1507.**

34           **Sec. 6. 10 MRSA §1024, sub-§2, paragraph B, as**  
35 **repealed and replaced by PL 1985, c. 714, §13, is**  
36 **amended to read:**

37           **B. In the amount required, but not exceeding in**  
38 **the aggregate at any one time outstanding the**  
39 **amount set forth in:**

40                   **(1) The Constitution of Maine, Article IX,**  
41                   **Section 14-A, as it may be from time to time**  
42                   **amended, except that bonds issued under that**  
43                   **section and this subsection shall not exceed**

1 in the aggregate at any one time outstanding  
2 the principal amount of \$77,500,000.  
3 \$82,500,000; and

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

10 Sec. 7. 10 MRSA §1025, first ¶, as amended by PL  
11 1985, c. 714, §14, is further amended to read:

12 When, in the opinion of the authority, the action  
13 is necessary to safeguard the Mortgage Insurance Fund  
14 or, Loan Insurance Reserve Fund or Underground Oil  
15 Storage Facility Replacement Fund and to maintain in-  
16 come from eligible projects, the authority may, in  
17 addition to its other powers:

18 Sec. 8. 10 MRSA §1026-F is enacted to read:

19 §1026-F. Mortgage insurance for underground oil  
20 storage facility replacement projects

21 1. Insurance. In addition to its other powers  
22 under this chapter, subject to the limitations of  
23 this subchapter, except sections 1026-B to 1026-D,  
24 the authority may insure up to 100% of mortgage pay-  
25 ments with respect to mortgage loans for underground  
26 oil storage facility replacement projects when the  
27 authority determines that:

28 A. The facility is leaking or removal is re-  
29 quired by applicable law;

30 B. The applicant demonstrates a reasonable like-  
31 lihood that it will not be able to obtain a loan  
32 for the project on reasonable terms without in-  
33 surance pursuant to this section;

34 C. The applicant demonstrates a reasonable like-  
35 lihood that it will be able to repay the insured  
36 loan; and

1 D. The project will assist in creating or re-  
2 taining jobs, providing a more healthy environ-  
3 ment.

4 2. Limitation on mortgage insurance. The au-  
5 thority shall not at any time have, in the aggregate  
6 amount of principal and interest outstanding, mort-  
7 gage insurance obligations pursuant to this section  
8 exceeding \$5,000,000 less the outstanding balance of  
9 any bonds issued under section 1024, subsection 2,  
10 with respect to obligations incurred under this sec-  
11 tion.

12 3. Mortgage eligibility. The authority, pursu-  
13 ant to Title 5, chapter 375, subchapter II, may adopt  
14 rules for determining eligibility, project feasiibili-  
15 ty, terms, conditions and security for insured mort-  
16 gage loans under this section. Without limitation,  
17 the authority may establish a system for giving pri-  
18 ority to applicants for facilities based on when re-  
19 moval or replacement is required by applicable law.  
20 The authority may accept less than adequate collater-  
21 al when necessary to ensure the replacement of under-  
22 ground oil storage facilities required to be replaced  
23 under applicable law.

24 Sec. 9. 10 MRSA §1029, sub-§2, ¶A, as amended by  
25 PL 1985, c. 714, §27, is further amended to read:

26 A. Make the payment at the time and in the man-  
27 ner provided by the applicable contract or agree-  
28 ment, charging the payment to the Mortgage Insur-  
29 ance Fund or, Loan Insurance Reserve Fund, or, in  
30 the case of payments required under agreements  
31 issued pursuant to section 1026-F, to the Under-  
32 ground Oil Storage Facility Replacement Fund;

33 Sec. 10. 10 MRSA §1030, as amended by PL 1985,  
34 c. 344, §53, is further amended to read:

35 §1030. Incontestability

36 Any mortgage insurance commitment or contract ex-  
37 ecuted and delivered by the authority under this sub-  
38 chapter shall be conclusive evidence of the eligibili-  
39 ty of the mortgage for insurance subject to satis-  
40 faction of any conditions set forth in the mortgage

1 insurance contract or commitment and that the re-  
2 quirements of sections 1026-A, ~~1026-B~~, ~~1026-C~~, ~~1026-D~~  
3 ~~and 1026-E~~ to 1026-F have, to the extent determined  
4 applicable by the authority, been satisfied or made  
5 conditions of the mortgage insurance commitment or  
6 contract, and the validity of any mortgage insurance  
7 commitment or contract so executed and delivered  
8 shall be incontestable in the hands of an insured ex-  
9 cept for fraud or misrepresentation on the part of  
10 the insured.

11 FISCAL NOTE

12 There is a potential future cost to the General  
13 Fund as a result of this legislation due to the re-  
14 quirement in section 5 that any time dedicated reve-  
15 nue in the Underground Oil Storage Facility Replace-  
16 ment Fund is insufficient for the authority's expense  
17 and obligations, the Governor must transfer funds  
18 from the State Contingent Account. These funds by  
19 law will then be replenished by General Fund appro-  
20 priation at the end of the fiscal year.

21 STATEMENT OF FACT

22 The purpose of this new draft is to change the  
23 title of the bill to reflect its purpose, to make a  
24 minor technical correction and to delete provisions  
25 which have been accomplished through separate legis-  
26 lation.

27

3181060387