

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

SECOND REGULAR SESSION - 1990

Legislative Document

No. 2241

H.P. 1619

House of Representatives, January 26, 1990

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.

Reference to the Committee on Housing and Economic Development suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative GWADOSKY of Fairfield.

Cosponsored by Senator PERKINS of Hancock, Representative BAILEY of Farmington and Speaker MARTIN of Eagle Lake.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY

An Act Providing for the 1990 Amendments to the Finance Authority
of Maine Act.

(AFTER DEADLINE)



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

2
4 **Sec. 1. 10 MRSA §969-A, sub-§8**, as enacted by PL 1985, c. 344,
§17, is amended to read:

6 **8. Nonprofit entity.** In accordance with the limitations
8 and restrictions of this chapter, cause any of its powers or
duties to be carried out by one or more nonprofit corporations
10 organizations exempt from taxation under the Internal Revenue
Code and organized and , created or operated under Title-13-B the
12 laws of this State;

14 **Sec. 2. 10 MRSA §1044, sub-§1**, as amended by PL 1985, c. 714,
§30, is further amended to read:

16 **1. Notice of intent to issue bonds; actions to contest**
18 **validity.** The authority may provide, at one time or from time to
time, for the issuance of revenue obligation securities of the
20 authority for the purposes authorized in this chapter. No revenue
obligation securities of the authority may be issued until:

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

24 C. A notice of the intent of the authority to issue the
26 securities is published at least once in the state newspaper
and in a newspaper of general circulation in the
28 municipality in which the project is to be located:

30 (1) No later than 14 full days after the date on which
the certificate is issued;

32 (2) Describing the general purpose or purposes for
34 which the securities are to be issued;

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

38 (4) Setting forth or summarizing the text of the
40 certificate of approval; and

42 (5) Including a statement as to the time within which
44 any petition to contest the issuance of the securities
or to set aside or otherwise obtain relief on the
46 grounds of invalidity of the certificate of approval
must be commenced.

48 Any action or proceeding in any court to contest the issuance of
the securities, to set aside a certificate of approval or to
50 obtain relief upon the grounds that the certificate of approval
was improperly issued, was issued for unauthorized purposes, or
52 is otherwise invalid for any reason, must be started within 30

2 days after the date of the publication required by paragraph C
and otherwise shall be governed by Title 5, chapter 375,
4 subchapter VII. Notwithstanding the provisions of section 969-A,
6 subsection 11 and Title 5, chapter 375, subchapter VII,
8 including, but not limited to, Title 5, sections 11002 and 11003,
10 any such action or proceeding must be commenced only by first
12 serving the petition for review upon the authority, in hand,
14 within that 30-day period. For the purposes of this subchapter
and the Maine Administrative Procedure Act, Title 5, chapter 375,
the later date of newspaper publication required by paragraph C
shall constitute the final agency action with respect to the
certificate of approval and the issuance of the securities. After
the expiration of the 30-day period of limitation, no right of
action or defense founded upon the invalidity of the approval or
contesting any provision or the issuance of the certificate of
approval or the issuance of the securities may be started or
asserted nor may the certificate of approval or the issuance of
the securities be open to question in any court upon any grounds.

20 **Sec. 3. 10 MRSA §1068**, as amended by PL 1985, c. 593, §6, is
further amended to read:

22 **§1068. Revenue refunding securities**

24 The municipal officers ~~are authorized to~~ may provide by
26 resolution for the issuance of revenue refunding securities of
the municipality for the purpose of refunding any outstanding
28 revenue obligation securities issued under this subchapter or
under subchapter III or refunding any other obligations or
30 securities of the municipality, including the payment of any
redemption premium and any interest accrued or to accrue to the
32 date of redemption, and, if deemed advisable by the municipal
officers, ~~to~~ construct improvements, extensions, enlargements or
34 additions of the original project. The municipal officers may
provide by resolutions for the issuance of revenue obligation
36 securities of the municipality for the combined purpose of
refundng any outstanding revenue obligation securities or
38 revenue refunding securities issued under this subchapter or
under subchapter III or of refunding any other obligations or
40 securities of the municipality, including the payment of any
redemption premiums and any interest accrued or to accrue to the
42 date of redemption, and paying all or any part of the cost of
acquiring or constructing any additional project or part or any
44 improvements, extensions, enlargements or additions of any
project. The issuance of the securities, the maturities and other
46 details, the rights and remedies of the holders and the rights,
powers, privileges, duties and obligations of the municipality
48 and the municipal officers ~~shall be~~ are governed by the
provisions of this subchapter insofar as applicable; provided
50 that any action or proceeding in any court to set aside a
resolution authorizing the issuance of revenue refunding

2 securities under this subchapter or to obtain any relief on the
ground the resolution was improperly adopted, was adopted for
4 unauthorized purposes or is otherwise invalid for any reason,
must be commenced within 30 days after publication by the clerk
6 of the municipality in the state newspaper and in a newspaper of
general circulation in the municipality of a notice stating that
8 the resolution has been adopted, the principal amount of revenue
refunding securities authorized to be issued and the purpose of
that issuance. After the expiration of the period of limitations,
10 no right of action or defense founded upon the invalidity of that
resolution or any of its provisions shall be asserted nor shall
12 the validity of that resolution or any of its provisions be open
to question in any court upon any ground whatever. The authority
14 is authorized and empowered to approve or disapprove the issuance
16 of revenue refunding securities of a municipality for the purpose
18 of refunding any outstanding revenue obligation securities issued
20 by a municipality under this subchapter without any notice of the
22 issuance being given by the authority, by the applicant or
24 otherwise, without any requirement that voter approval of the
26 general purpose and maximum principal amount of securities as set
28 forth in section 1064, subsection 1 be obtained, and without
having to hold any public hearing if the authority determines
that no expansion of the original project is involved and there
will be no increase in the original amount of the revenue
obligation securities issued for the project. Once the authority
has made the determinations, it is authorized and empowered to
approve the issuance of revenue refunding securities by issuing
an amended certificate of approval.

30 **Sec. 4. 10 MRSA §1100-T, sub-§2, ¶E,** as enacted by PL 1987, c.
854, §§2 and 5, is amended to read:

32
34 E. The business receiving the investment must have annual
revenues of \$200,000 ~~\$500,000~~ or less and the operation of
36 the business must be the full-time professional activity of
the principal owner, as determined by the authority. The
38 principal owner and the principal owner's spouse, parents,
brothers, sisters and children may are not be eligible for a
40 credit for investment in that business. Businesses in which
the principal owners are not one or more individuals shall
42 are not be eligible.

44 STATEMENT OF FACT

46 This bill accomplishes the following.

48 1. The bill authorizes the Finance Authority of Maine,
FAME, to utilize any type of tax-exempt entity to carry out its
50 purposes. Current language restricts FAME's ability to establish
a tax-exempt subsidiary. The authority uses that entity to help
52 avoid environmental liability in foreclosing on real estate.

2 2. The bill requires that any proceeding to contest the
4 action of FAME in issuing revenue obligation securities must be
6 commenced by first giving notice of such action to FAME.
8 Otherwise, it would be possible for FAME to issue its securities
10 without knowledge of a pending lawsuit, which could adversely
12 affect FAME bonds.

14 3. The bill amends the present law to make it clear that
16 the issuance of revenue refunding securities by a municipality
18 for the purpose of refunding revenue obligation securities
20 previously subjected to notice, voter approval and other
22 requirements, need not involve a repetition of meeting those
24 requirements as long as FAME determines that the amount of the
securities is not increased or the project expanded.

 4. The bill improves the effectiveness of the Maine Seed
Capital Tax Credit Program, established in the Maine Revised
Statutes, Title 10, section 1100-T, by expanding the number of
companies eligible to benefit from the program. Currently,
businesses must have annual sales of \$200,000 or less for their
investors to be able to take the seed capital tax credit. This
bill increases the limitation to \$500,000, allowing more small,
dynamic businesses to obtain equity investment to continue their
growth.