

MAINE STATE LEGISLATURE

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
115TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1149, L.D. 1674, Bill, "An Act Concerning Amendments to the Laws Affecting the Finance Authority of Maine"

Amend the bill by striking out the title and substituting the following:

'An Act Concerning Amendments to the Laws Affecting the Finance Authority of Maine and the Maine State Housing Authority'

Further amend the bill by striking out everything after the title and before the statement of fact and inserting in its place the following:

'Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, some categories of intermediate care facilities for persons who are mentally retarded are not eligible for financial assistance by the Maine State Housing Authority; and

Whereas, this legislation will expand the ability of the Maine State Housing Authority to help finance all categories of intermediate care facilities, some of which are in immediate need of assistance; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

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PART A

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Sec. A-1. 10 MRSA §965, sub-§1, as amended by PL 1989, c. 698, §5, is further amended to read:

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1. Selected board members. Six members of the authority shall to consist of:

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

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B. Two members ~~who shall be~~ selected by the Governor from the public members of the Natural Resource Financing and Marketing Board; and

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C. Two members ~~who shall be~~ selected by the Governor from the appointed members of the Maine Education Assistance Board.

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Sec. A-2. 10 MRSA §969-A, sub-§2-A, as enacted by PL 1985, c. 818, §1, is amended to read:

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2-A. Interest subsidies; grants. Provide grants or interest rate subsidies on commercial loans or grants to businesses, farms and nonprofit organizations and provide or participate in interest rate cap agreements and other agreements providing businesses with protection against interest rate fluctuations;

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Sec. A-3. 10 MRSA §969-A, sub-§5, as amended by PL 1985, c. 714, §7, is further amended to read:

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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

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2 loan, shall-be is deemed to have been transferred on terms and to
the extent specified in that agreement and that the effect of a
4 sale of a beneficial interest or participation in a mortgage loan
is the same as a sale of a mortgage loan.

6 The authority may issue or cause to be issued certificates or
8 other instruments evidencing the holder's fractional interest in
a pool of mortgage loans, which interest may be undivided or
10 limited to one or more specific loans. Whether or not the
certificates or instruments are of such form or character as to
12 be negotiable instruments under Title 11, article 8, the
certificates or instruments shall-be-and are made negotiable
14 instruments within the meaning of and for all the purposes of
Title 11, article 8, subject only to such registration
16 requirements as the authority may establish.

18 In connection with the exercise of the powers authorized in this
subsection and those powers otherwise granted to the authority,
20 the authority may create and operate a secondary market and
warehousing facility or facilities for mortgage loans or the
22 insured portion of mortgage loans that provide liquidity to
lenders making mortgage loans;

24 **Sec. A-4. 10 MRSA §980-B, sub-§1**, as repealed and replaced by
PL 1989, c. 857, §46, is amended to read:

26 **1. General.** The Maine Veterans' Small Business Loan Board,
28 as established by Title 5, section 12004-I, subsection 27, and in
this section referred to as the "board," consists of 7 9 members
30 including the Director of Veterans' Services and, 6 members
appointed by the Governor from nominations submitted by the Maine
32 Veterans' Coordinating Committee and 2 members, who must be
veterans, appointed by the Governor. The coordinating committee
34 shall provide at least 2 nominations for each seat being filled.
Terms are for 4 years, except that, of the members first
36 appointed, one is appointed for a term of 2 years, and one for a
term of 3 years and-2-for-terms-of-4-years. In making its
38 appointments, the coordinating committee shall consider the need
for the board to possess expertise in banking, business-related
40 technical assistance and counseling. Each-member-organization
represented-by-the-coordinating-committee-must-be-represented-on
42 the-board. Two members of the board must be appointed by the
Governor to serve as members of the authority. A vacancy in the
44 office of an appointed member, other than by expiration, must be
filled by the same process as the original appointment, but only
46 for the remainder of the term of the retiring member. The
coordinating committee may recommend to the Governor the removal
48 of any appointed member for cause. The board shall elect one of
its members as chair, and may elect other officers as necessary.
50 Three Five members of the board constitute a quorum. The
affirmative vote of a majority of members present and voting, but
52 not less than 3, is necessary for any action taken by the board.

2 A vacancy in the membership of the board may not impair the right
of the quorum to exercise all rights and perform all the duties
of the board.

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6 **Sec. A-5. 10 MRSA §1026-B, sub-§2**, as amended by PL 1987, c.
581, §§1 and 2, is further amended to read:

8 2. **Insurance.** Any mortgage insurance provided pursuant to
this section shall-be is subject to the following:

10 A. The original principal amount of mortgage insurance
12 shall ~~shall~~ must not exceed \$500,000; and

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

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18 **Sec. A-6. 10 MRSA §1026-B, sub-§4, ¶B**, as enacted by PL 1985,
c. 714, §21, is amended to read:

20 B. The project includes only one retail store that is not
22 attached or does not adjoin another retail store ~~which~~ that
has received an insured mortgage loan under this chapter; and

24 **Sec. A-7. 10 MRSA §1026-B, sub-§5, ¶C**, as amended by PL 1987,
c. 393, §4, is further amended to read:

26 C. Notwithstanding paragraph B, in the event that the
28 project proposes that more than 35% of the project will be
professional office space, the project is not attached or
30 adjoined to any other professional office building, ~~which~~
that has received an insured mortgage loan under this
32 chapter; and

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36 **PART B**

38 **Sec. B-1. 30-A MRSA §4722, sub-§2, ¶C**, as amended by PL 1989,
c. 104, Pt. C, §§8 and 10, is further amended to read:

40 C. Any nursing home or related institution licensed or
subject to license by the Department of Human Services under
42 Title 22, section 1817, except intermediate care ~~facility~~
~~group-homes~~ facilities for the mentally retarded and persons
44 with related conditions or the construction, substantial
rehabilitation or improvement of homeless shelter facilities
46 that may be related to an institution licensed or subject to
license by the Department of Human Services under Title 22,
48 section 1817.

50 **Sec. B-2. 30-A MRSA §4933, sub-§5, ¶¶A to C**, as amended by PL
1989, c. 104, Pt. C, §§8 and 10, are further amended to read:

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- A. The Treasurer of State or Deputy Treasurer of State;
- B. The director or deputy director of the Maine State Housing Authority;
- C. The Commissioner of Finance or the State Budget Officer;
and

PART C

Sec. C-1. 5 MRSA §3518-C is enacted to read:

§3518-C. Allocation of Low-Income Home Energy Assistance Program Block Grant Funds

1. Allocation. For each federal fiscal year beginning with 1991, the division shall determine the portion, if any, of the federal funds awarded to the division under the federal Low-Income Home Energy Assistance Program to be paid by the division to the Maine State Housing Authority to be used, subject to federal requirements, in conjunction with energy conservation assistance programs administered by the Maine State Housing Authority. The Maine State Housing Authority may use a portion of such funds, in compliance with federal requirements, for administrative costs of the programs.

2. Transfer of funds. The division shall transfer to the Maine State Housing Authority the portion of federal funds determined by the division under this section as soon as reasonably possible but not later than 60 days following receipt by the division. Subject to federal requirements, the division shall annually request the funds to be transferred to the Maine State Housing Authority under this section as part of the first quarterly requisition of funds under the Low-Income Home Energy Assistance Program.

3. Reporting. Prior to October 1st of each year, the division shall provide the following information in writing to the Maine State Housing Authority for the federal fiscal year beginning on that October 1st:

A. The total amount of Low-Income Home Energy Assistance Program funds the division expects to receive during the federal fiscal year;

B. The total amount of those federal funds to be paid to the Maine State Housing Authority pursuant to this section for that federal fiscal year; and

C. The anticipated schedule of payments.

1 4. Audit. The Maine State Housing Authority shall keep
2 proper records and accounts on the expenditure and use of all
3 funds received under this section and shall submit to the
4 division annually upon completion its independent auditor's
5 report on federal financial assistance in compliance and
6 satisfaction of the audit requirements of the Low-Income Home
7 Energy Assistance Program.

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9 Sec. C-2. 5 MRSA §3519, sub-§§1 and 2, as enacted by PL 1983,
10 c. 176, Pt. A, §3, are amended to read:

11 1. Designation. Community action agencies shall must be
12 designated by the ~~Division of Community Services~~ division to
13 carry out the purposes of this chapter. In making these
14 designations, the division shall solicit and consider comments
15 from other state agencies or authorities that operate programs in
16 which community action agencies participate. These designations
17 shall ~~be~~ are for 7 years.

18 2. Designation withdrawn. The division may withdraw its
19 designation of a community action agency after an evaluation in
20 which the agency has demonstrated substantial incompetency and a
21 clear inability to carry out the purposes of this Act, unless
22 there is or has been financial malfeasance, which may be cause
23 for immediate withdrawal of designation. In performing such
24 evaluations, the division shall solicit and consider comments
25 from other state agencies or authorities that operate programs in
26 which that community action agency participates.

27 The division shall notify an agency of a pending withdrawal of
28 designation. Upon notification, the agency shall ~~have~~ has up to 6
29 months to take corrective action, at which time a designation
30 withdrawal evaluation shall must be performed by the division.
31 Failure to pass this evaluation shall ~~mean~~ means immediate loss
32 of designation.

33 Upon the final order from the division which ~~that~~ rescinds a
34 community action agency's designation, the community action
35 agency may file a petition for review of this final decision in
36 the appropriate Superior Court within 30 days, under the Maine
37 Rules of Civil Procedure, Rule 80B.

38 Sec. C-3. 30-A MRSA §4722, sub-§1, ¶T, as amended by PL 1989,
39 c. 581, §7, is further amended to read:

40 T. Approve or disapprove, in accordance with rules adopted
41 under the Maine Administrative Procedure Act, Title 5,
42 chapter 375, a project which ~~that~~ is multi-family or
43 single-family residential property, when authorized or
44 required by Title 10, chapter 110, subchapter IV; and

2 **Sec. C-4. 30-A MRSA §4722, sub-§1, ¶U**, as enacted by PL 1989,
c. 581, §8, is amended to read:

4 U. Consult with the Maine Affordable Housing Alliance,
6 established in Title 5, chapter 383, subchapter VII, and the
Interagency Task Force on Homelessness and Housing
8 Opportunities, as defined in chapter 202, section 5002,
subsubsection 9, with respect to the implementation of housing
10 programs to make the best use of resources and make the
greatest impact on the affordable housing crisis.

12 **Sec. C-5. 30-A MRSA §4722, sub-§1, ¶W**, as enacted by PL 1991,
c. 9, Pt. I, §7, is amended to read:

14 W. Obtain, Pursuant to the purpose of the Act, provide
16 housing to people with low income in accordance with rules
adopted under the Maine Administrative Procedure Act,
18 operate programs to provide energy conservation assistance
on behalf of people with low income in connection with
20 single-family or multiunit residential housing and accept,
obtain, distribute and administer federal and state funds,
22 including block grants for energy conservation for the
purpose of operating such programs; and

24 **Sec. C-6. 30-A MRSA §4741, sub-§§13 and 14**, as amended by PL
26 1989, c. 104, Pt. C, §§8 and 10, are further amended to read:

28 **13. Allocation of federal ceilings.** By rulemaking under
Title 5, chapter 375, subchapter II, the Maine State Housing
30 Authority shall-have has the power to establish a process that is
different from the federal formula for allocating that portion of
32 the ceiling on the issuance of certain tax-exempt bonds
established by the United States Code, Title 26, which that has
34 been allocated to the Maine State Housing Authority under Title
10, section 363, and may also limit the types of projects which
36 are eligible to receive allocations or carryforward designations
from the Maine State Housing Authority; and

38 **14. State housing credit agency.** The Maine State Housing
40 Authority is designated the housing credit agency for the State
and shall-have has the power to receive and allocate, according
42 to a process established by rulemaking pursuant to Title 5,
chapter 375, subchapter II, the annual state housing credit
44 ceiling for the low-income housing credit established by the
United States Code, Title 26.; and

46 **Sec. C-7. 30-A MRSA §4741, sub-§15** is enacted to read:

48 **15. State weatherization agency.** The Maine State Housing
50 Authority is designated the weatherization agency for the State
and may apply for, receive, distribute and administer federal
52 funds on behalf of the State for weatherization and energy

conservation assistance pursuant to the Weatherization Assistance for Low-Income Persons Program administered through the United State Department of Energy and the portion of the funds transferred from the Low-Income Home Energy Assistance Program administered through the United States Department of Health and Human Services to the state authority pursuant to Title 5, section 3518-C, all in accordance with rules adopted under the Maine Administrative Procedure Act.

Sec. C-8. Transition provisions.

1. All existing rules and procedures in effect, in operation or adopted by the Division of Community Services as of April 1, 1991 in the areas of food assistance and energy conservation assistance programs are declared in effect and continue in effect until rescinded, revised or amended by the proper authority.

2. All records, property and equipment belonging to or allocated for the use of the Division of Community Services in connection with the United States Department of Energy's Weatherization Assistance for Low-Income Persons Program is hereby declared the property of the Maine State Housing Authority.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

FISCAL NOTE

This bill increases the membership of the Maine Veterans' Small Business Loan Board from 7 to 9 members. Costs resulting from the additional members will be absorbed within existing resources of the Finance Authority of Maine.

This bill also authorizes the Maine State Housing Authority to finance the construction, rehabilitation or improvement of all categories of intermediate care facilities for the mentally retarded. The potential savings in interest expense in the Medicaid program within the Department of Human Services as a result of lower financing interest rates may be offset by an increase in the number of loans requested for which interest expense would be incurred, resulting in no net impact due to this funding mechanism.'

STATEMENT OF FACT

The original bill amended portions of the current law regarding the Finance Authority of Maine. Part A of this amendment clarifies that certificates issued by the Finance

COMMITTEE AMENDMENT "A" to H.P. 1149, L.D. 1674

2 Authority of Maine to evidence shares in a pool of mortgage loans
are negotiable instruments.

4 This amendment also changes the title by including the Maine
State Housing Authority so that three changes may be made to
6 statutes governing the authority.

8 The first change permits the Maine State Housing Authority
to finance all categories of intermediate care facilities for
10 persons who are mentally retarded. An emergency preamble has
been added so that this provision may take effect upon enactment.

12 The 2nd change permits the State Treasurer, the Director of
14 the Maine State Housing Authority and the Commissioner of Finance
to designate the Deputy Treasurer of State, the Deputy Director
16 of the Maine State Housing Authority and the State Budget
Officer, respectively, to serve in their place on the Indian
18 Housing Mortgage Insurance Committee.

20 The 3rd change makes technical corrections necessary for the
transition of the energy conservation assistance programs
22 formerly administered by the Executive Department, Division of
Community Services to the Maine State Housing Authority.

24

Reported by the Committee on Housing and Economic Development
Reproduced and distributed under the direction of the Clerk of the
House
(6/5/91) (Filing No. H-569)