

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

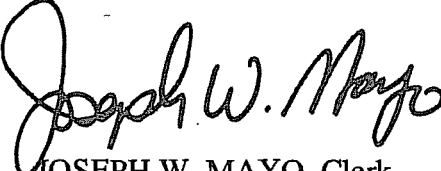
No. 520

H.P. 407

House of Representatives, February 16, 1993

An Act to Amend the Maine Housing Authorities Act.

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


JOSEPH W. MAYO, Clerk

Presented by Representative KONTOS of Windham.
Cosponsored by Representatives: BRENNAN of Portland, DEXTER of Kingfield, MELENDY of Rockland, Senator: BRANNIGAN of Cumberland.

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

2
4 Sec. 1. 30-A MRSA §4706, sub-§1, ¶¶A and B, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, are further amended to read:

6 A. Any information acquired by an authority or a member,
8 officer, employee or agent of an authority from applicants
10 for residential tenancy in housing owned, financed, assisted
12 or managed by an authority or from any residential tenants
of such housing or from any 3rd person pertaining to any
applicant for tenancy or to any tenant of such housing; and

14 B. Any written or recorded financial statement, as
16 determined by an authority, of an individual submitted to an
authority or a member, officer, employee or agent of an
18 authority, in connection with an application for a mortgage
or mortgage insurance;

20 Sec. 2. 30-A MRSA §4706, sub-§1, ¶¶C and D are enacted to read:

22 C. Any information acquired by the Maine State Housing
Authority or a state public body, private corporation,
copartnership, association, fuel vendor, private contractor
or individual, or an employee, officer or agent of any of
those persons or entities, providing services related to
weatherization, energy conservation or fuel assistance
programs of the Maine State Housing Authority, when that
information was provided by the applicant for those services
or by a 3rd person; and

30 D. Any statements of financial condition or information
pertaining to financial condition submitted to any of the
persons or entities set forth in paragraph C in connection
with an application for services related to weatherization,
energy conservation or fuel assistance programs of the Maine
State Housing Authority.

38 Sec. 3. 30-A MRSA §4706, sub-§2, ¶¶A, C and D, as amended by PL
40 1989, c. 104, Pt. C, §§8 and 10, are further amended to read:

42 A. An authority may make such full and complete reports
44 concerning ~~its~~ administration of ~~federal--housing~~ its
programs as required by the Federal Government, any agency
or department of the Federal Government, or the Legislature;

46 C. An authority may comply with a subpoena, request for
production of documents, warrant or court order which that

2 appears on its face to have been issued or made upon lawful
authority; and

4 D. In any litigation or proceeding in which an authority is
6 a party, the authority may introduce evidence based on any
information which that is deemed confidential and which is
8 within the control or custody of the authority; and

10 **Sec. 4. 30-A MRSA §4706, sub-§2, ¶E** is enacted to read:

12 E. Any person or agency directly involved in the
administration or auditing of weatherization, energy
conservation or fuel assistance programs of the Maine State
Housing Authority and any agency of the State with a
legitimate reason to know must be given access to those
records described in subsection 1, paragraphs C and D.

18 **Sec. 5. 30-A MRSA §4722, sub-§1, ¶L**, as amended by PL 1989, c.
20 104, Pt. C, §§8 and 10, is further amended to read:

22 L. Contract with any financial institution to make mortgage
loans on behalf of the Maine State Housing Authority and to
make mortgage loans without contracting with a financial
institution. The mortgage loans shall must be made under
24 one or more mortgage loan programs governed by standards
established in accordance with the Maine Administrative
26 Procedure Act, Title 5, chapter 375. ~~The--Maine--State~~
~~Housing--Authority--may--without--contracting--with--a--financial~~
~~institution,--make--mortgage--loans--only--with--respect--to--the~~
30 ~~following:~~

32 ~~(1)--To--protect--the--security--or--likelihood--of--repayment~~
~~of--any--mortgage--loan--held--by--the--Maine--State--Housing~~
34 ~~Authority--when--such--a--loan--is--not--made--within--10~~
~~business--days--of--application--through--the--originating~~
~~financial--institution--on--terms--and--conditions~~
36 ~~comparable--to--terms--and--conditions--available--from--the~~
38 ~~Maine--State--Housing--Authority,--or~~

40 ~~(2)--In--one--or--more--areas--of--the--State,--to--the--extent~~
~~that--no--financial--institution,--after--both--initial--and~~
42 ~~such--successive--reasonable--opportunities--as--the--Maine~~
~~State--Housing--Authority--may--provide,--has--contracted~~
44 ~~with--the--Maine--State--Housing--Authority--to--participate~~
~~in--a--mortgage--loan--program.~~

46 The Maine State Housing Authority may also make mortgage
48 loans, construction loans, grants, noninterest-bearing
loans, deferred payment loans, unsecured loans and other
50 similar types of loans ~~to--state--public--bodies--or--other~~

2 ~~public instrumentalities and private nonprofit corporations~~
3 ~~without contracting with a financial institution.~~ Any
4 mortgage loan made under this paragraph does not pledge the
5 faith and credit of the State. Any bonds issued by the
6 Maine State Housing Authority to finance mortgage loans
7 authorized by this paragraph are subject to the limitations
8 of sections 4905 and 4907;

9
10 **Sec. 6. 30-A MRSA §4741, sub-§16**, as amended by PL 1991, c.
11 871, §3, is further amended to read:

12 **16. Certification of bonds.** The director of the Maine
13 State Housing Authority is the State's designee to certify to the
14 United States Secretary of the Treasury that housing-related
15 bonds issued in the State satisfy the applicable ceiling
16 requirements of the federal Internal Revenue Code; and

17
18 **Sec. 7. 30-A MRSA §4741, sub-§17**, as enacted by PL 1991, c.
19 871, §4, is amended to read:

20
21 **17. Comprehensive housing affordability strategy**
22 **coordinator.** The Maine State Housing Authority is designated the
23 comprehensive housing affordability strategy coordinator for the
24 State and has the power to prepare and submit on behalf of the
25 State the annual comprehensive housing affordability strategy
26 called for in the Cranston-Gonzalez National Affordable Housing
27 Act, Public Law 101-625 (1990) and to undertake all monitoring
28 and certification procedures required under that law. The Maine
29 State Housing Authority shall represent the State in carrying out
30 the HOME Investment Partnerships Program created by the
31 Cranston-Gonzalez National Affordable Housing Act; and

32
33 **Sec. 8. 30-A MRSA §4741, sub-§18** is enacted to read:

34
35 **18. State designee for homeless programs.** The Maine State
36 Housing Authority is designated the coordinating agency for the
37 State for programs dealing with homeless persons and may apply
38 for, receive, distribute and administer federal funds on behalf
39 of the State for homeless programs including, without limitation,
40 the Emergency Community Services Homeless Grant Program and the
41 programs authorized pursuant to the federal Stewart B. McKinney
42 Homeless Assistance Act, Public Law 100-77, (1987), as amended.

43
44 **Sec. 9. 30-A MRSA c. 201, sub-c. III-B** is enacted to read:

45
46 **SUBCHAPTER III-B**

47
48 **TEMPORARY HOUSING ASSISTANCE PROGRAM**

49
50 **§4761. Temporary Housing Assistance Fund**

2 1. Creation. The Temporary Housing Assistance Fund is
4 established under the jurisdiction of the Maine State Housing
6 Authority. For the purposes of this subchapter, "state
8 authority" means the Maine State Housing Authority, "fund" means
10 the Temporary Housing Assistance Fund and "program" means the
12 Temporary Housing Assistance Program.

14 2. Sources of fund. The following must be paid into the
16 fund:

18 A. All money appropriated for inclusion in the fund;

20 B. Subject to any pledge, contract or other obligation, any
22 money that the state authority receives in repayment of
24 loans or advances from the fund;

26 C. Subject to any pledge, contract or other obligation, all
28 interest, dividends or other income from investment of the
30 fund; and

32 D. Any other money, including federal money, deposited in
34 the fund to implement the provisions of this subchapter.

36 3. Application of fund. The state authority may apply
38 money in the fund for purposes authorized by this subchapter.
40 Money in the fund not needed currently for purposes of this
42 subchapter may be deposited with the state authority to the
44 credit of the fund or may be invested as provided by law. The
46 following may be used to pay the administrative costs of the
48 program:

50 A. No more than 10% of the money in the fund;

B. Any earnings on money in the fund; and

C. Any recoveries to the fund, including, but not limited
 to, repayments, recaptures of principal and recaptures of
 interest.

4. Accounts within fund. The state authority may divide
 money in the fund into separate accounts determined necessary or
 convenient for carrying out this subchapter.

5. Revolving fund. The fund is a nonlapsing revolving
 fund. All money in the fund must be continuously applied by the
 state authority to carry out this subchapter.

§4762: Temporary Housing Assistance Program

2 The Temporary Housing Assistance Program must provide
3 assistance to persons of low income to enable them to become
4 tenants of rental housing units in the State.

5 1. Operation. The state authority shall administer the
6 program either directly or through regional contract agents. The
7 program may be operated in conjunction with other programs of the
8 state authority to achieve the purpose of this subchapter.

9 2. Form and amount of assistance. Money in the fund may be
10 used to provide assistance under the program in the form of loans
11 or grants to make rental payments and finance security deposits
12 on behalf of persons of low income. The state authority may
13 establish limits from time to time on the amount of assistance
14 available to applicants based on a determination of the average
15 rental and security deposit costs in the area where the
16 assistance is being provided.

17 3. Provisions governing assistance. The program must be
18 administered subject to the provisions in this section. Priority
19 must be given to persons who demonstrate a need for assistance
20 and the ability to repay a loan.

21 A. The state authority, by rules adopted in accordance with
22 the Maine Administrative Procedure Act, shall establish
23 priorities of assistance. These priorities must be based on
24 the household income of the applicant, the demonstrated need
25 for assistance, the ability to repay a loan and other
26 criteria established by the state authority.

27 B. Grants may be provided only when:

28 (1) The grant is essential to securing a decent, safe
29 and sanitary rental unit for the applicant;

30 (2) The income of the applicant is insufficient to
31 repay any loan or portion of a loan;

32 (3) All available resource alternatives have been
33 exhausted; and

34 (4) The applicant has satisfied all other program
35 priorities and requirements as established by the state
36 authority.

37 C. Loans from the fund may be made for a period based on
38 the applicant's ability to repay the loan, not to exceed 12
39 months. Interest may be charged on loans based on the
40 applicant's ability to repay the loan, not to exceed 3%.
41 When an applicant can not repay the loan in full within the

2 12-month period, the state authority may extend the
4 repayment period if the state authority determines that the
6 loan can be repaid during the extension period. The state
8 authority may defer or waive the payment of interest or
10 principal on any loan or portion of a loan for which that
12 payment is an undue hardship.

14 D. Assistance under the program must be provided on an
16 ongoing basis to the extent that money is available in the
18 fund.

20 4. Procedures. The state authority may adopt rules in
22 accordance with the Maine Administrative Procedure Act, by which
24 the program must be implemented.

26 **Sec. 10. 30-A MRSA §4972**, as enacted by PL 1989, c. 48, §§12
28 and 31, is amended to read:

30 **§4972. Definition**

32 For the purpose of this subchapter, "low-income rental
34 housing" means residential housing projects in which a majority
36 any of the units are subject to federal or state income
38 eligibility restrictions and the rents within the projects are
40 controlled, regulated or assisted by a federal or state agency
42 pursuant to a regulatory or rental assistance agreement.

44 **Sec. 11. 30-A MRSA §4973**, as enacted by PL 1989, c. 48, §§12
46 and 31, is amended to read:

48 **§4973. Notification of intent to sell**

50 Any person ~~who~~, firm or organization that has a controlling
interest in any low-income rental housing may not sell, transfer
title or take other action in regard to the property ~~which~~ that
would result in the termination of financial assistance designed
to make a rental unit affordable to low-income or moderate-income
people, without providing notice, as outlined in subsection 1, to
the tenants of that property, the Maine State Housing Authority
and the municipal housing authority, if any, ~~in~~ for the ~~region~~
municipality where the property is located, as provided in this
section.

1. **Notice.** The notice shall ~~must~~ be made to the tenants,
the Maine State Housing Authority and the ~~local~~ municipal housing
authority ~~serving-the-area~~, if any, when at least 6 months prior
to the owner ~~enters~~ entering into a contract for the sale or
transfer or ~~takes~~ taking other action in regard to the property
that will result in the termination of financial assistance
designed to make the rental units affordable to low-income or

2 moderate-income people. This notice shall must include a copy of
any contract of sale.

4 **2. Right of first refusal.** The Maine State Housing
6 Authority has the right of first refusal to purchase the property
7 at its current fair market value, as agreed upon between the
8 owner and the authority. The authority shall ~~held~~ holds the
9 right of first refusal ~~for not more than 30 days from receipt of~~
10 ~~the notice required by this section~~ throughout the 6-month
11 period. Failure to respond to the notice of first refusal ~~in 30~~
12 days within 6 months constitutes a waiver of that right of first
13 refusal by the authority. ~~By stating in writing its intention to~~
14 ~~pursue its right of first refusal during the 30 day period, the~~
15 ~~authority has an additional 60 days, beginning on the date of the~~
16 ~~termination of the first refusal period, to buy or to produce a~~
17 ~~buyer for the property. This additional 60 day period may be~~
18 ~~extended by mutual agreement between the authority and the owner~~
~~of the property.~~

20 A. Nothing in this section prevents an owner of the
21 property from ~~withdrawing the property from the market~~
22 deciding not to sell, transfer or take other action that
23 would result in termination of the financial assistance and
24 revoking the notice required by subsection 1 at any time
25 before the 90 day period expires or until the authority
26 provides its notice of taking by eminent domain its
27 expiration. The withdrawal or revocation extinguishes any
28 right of first refusal held by the Maine State Housing
29 Authority.

30 **3. Exceptions.** The Maine State Housing Authority shall may
31 not possess any right of first refusal when a bona fide buyer, by
32 contract with the seller, agrees to maintain the property as
33 low-income housing. The notice provisions of this section apply
34 to this subsection.

36 **Sec. 12. 30-A MRSA §4976, first ¶,** as enacted by PL 1989, c.
37 48, §§12 and 31, is amended to read:

38 Any owner or purchaser of low-income rental housing who
39 ~~prepays the mortgage and any person who purchases low income~~
40 ~~rental housing and who intends to convert the facility from~~
41 ~~low income rental housing to any other use, including other~~
42 ~~residential uses,~~ sells, transfers title or takes other action in
43 regard to that property that would result in the termination of
44 financial assistance designed to make a rental unit affordable to
45 low-income or moderate-income people shall allow the current
46 tenants to remain in the units for 6 months from the date of
47 ~~prepayment or sale,~~ transfer of title or other action in regard
48 to the property, at the same rents or portion of the total rents
49

2 charged to the tenants before ~~mortgage prepayment or that sale,~~
3 transfer of title or ~~at the rents provided under the assistance~~
4 ~~program to which the housing is subject if such assistance is not~~
5 ~~terminated, other action in regard to the property,~~ or the owner
6 may relocate the tenants to comparable units with comparable
7 rents in accordance with the procedure established by rules of
8 the Maine State Housing Authority.

10 STATEMENT OF FACT

12 This bill adds confidentiality provisions to the
13 weatherization, energy conservation and fuel assistance programs
14 now being administered by the Maine State Housing Authority. The
15 confidentiality provisions were included in the now repealed
16 Maine Community Services Act, which previously provided for these
17 programs.

18 The bill also clarifies the authority of the Maine State
19 Housing Authority to make direct loans.

22 The bill designates the Maine State Housing Authority as the
23 State's representative for accessing federal funds for homeless
24 assistance programs under the Stewart B. McKinney Homeless
25 Assistance Act. The Department of Economic and Community
26 Development previously was the designated authority.

28 The bill establishes the Temporary Housing Assistance
29 Program, pursuant to which the Maine State Housing Authority will
30 provide assistance to low-income persons to enable them to become
31 tenants of rental housing units in the State.

32 The bill expands the definition of low-income rental housing
33 in the preservation program to include projects with any state or
34 federally subsidized tenants, extends the Maine State Housing
35 Authority's right of first refusal from 30 days to 6 months in
36 order to provide sufficient time to properly evaluate the
37 properties, and clarifies that any action taken, not just sale of
38 the project, that will result in the termination of assistance to
39 the low-income tenants will trigger the right of first refusal.
40