

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND ELEVENTH LEGISLATURE

FIRST REGULAR SESSION
December 1, 1982 to June 24, 1983
Chapters 1-452

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J.S. McCarthy Co., Inc.
Augusta, Maine
1983

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

and

FIRST SPECIAL SESSION

of the

ONE HUNDRED AND ELEVENTH LEGISLATURE

1983

less than \$50 nor more than \$500, or by imprisonment for not more than 30 days or by both is guilty of a Class E crime.

The State may bring an action in Superior Court to enjoin any person from violating this chapter, regardless of whether proceedings have been or may be instituted in the Administrative Court or whether criminal proceedings have been or may be instituted.

Sec. 240. Transition clause. All appointments heretofore made by the Governor and other persons referred to in this Act shall continue in force and effect on the effective date of this Act. All provisions in this Act regarding qualifications, term of office and appointment of members to the boards and commissions affected shall apply to all appointments and reappointments made after the effective date of this Act.

Effective September 23, 1983.

CHAPTER 414

H.P. 1152 - L.D. 1521

AN ACT to Provide for the 1983 Amendments
to the Maine Housing Authorities Act.

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

Sec. 1. 30 MRSA §4552, sub-§11, as amended by PL 1981, c. 620, §2, is further amended to read:

11. Persons of low income. "Persons of low income" shall mean persons or families, elderly or otherwise, who lack the amount of income which is necessary, as determined by an authority, to enable them, without financial assistance, to live in or purchase decent, safe and sanitary dwellings, without overcrowding. Financial assistance shall include, but shall not be limited to, the following kinds of assistance: Mortgage insurance, interest subsidies, rent subsidies, public assistance payment or services, or such other assistance as may be provided by the state authority through the sale of bonds. When this term is used in connection with loans made to improve or rehabilitate, for the purpose of energy conservation, owner-occupied one-family to 4-family residential housing in the State, including section

4651, subsection 13 and section 4712, it shall not include families whose adjusted income exceeds 150% of the median family income for the State, as developed by the United States Bureau of the Census for the United States Department of Health and Human Services, or by any successor agency, for use in establishing eligibility for social services funded under the United States Social Security Act, Title XX or for any other use.

Sec. 2. 30 MRSA §4553, as amended by PL 1975, c. 625, §§5 and 6, is repealed and the following enacted in its place:

§4553. Declaration of necessity

It is declared that there exists in urban and rural areas in the State unsuitable, unsafe and overcrowded dwelling accommodations; that in these urban and rural areas within the State there is a shortage of suitable dwelling accommodations available at rents, prices or financing terms which many residents of the State can afford and that the shortage forces some residents of the State to occupy unsuitable, unsafe and overcrowded dwelling accommodations; that these conditions, and the existence of areas in need of revitalization and redevelopment, impair economic values and tax revenues; that these conditions contribute to the poor health of the residents of these areas, cause an increase in and spread of crime and constitute a menace to the health, safety and welfare of the residents of the State; that these conditions necessitate excessive and disproportionate expenditures of public funds for crime prevention and punishment, public health and safety, fire and accident protection and other public services and facilities; that these areas in the State cannot be cleared, nor can the shortage of suitable dwellings available at affordable rents, prices or financing terms be relieved solely through the operation of private enterprise, and that the construction, rehabilitation or improvement of dwelling accommodations would therefore not be competitive with private enterprise; that the construction, rehabilitation or improvement of dwelling accommodations would make housing available for veterans who are unable to provide themselves with decent housing on the basis of the benefits made available to them through certain government guarantees of loans to veterans for the purchase of residential property; that the clearance, planning and preparation for rebuilding of these areas, the prevention or the reduction of the underutilization and abandonment of established commercial areas and existing dwelling accommodations within the State, and the providing of affordable, safe and suitable

dwelling accommodations for residents of the State are public uses and purposes for which public money may be spent and private property acquired and are governmental functions of state concern; that residential construction activity is closely correlated with general economic activity and that the undertakings authorized by this subchapter to aid the production of better housing and more desirable neighborhood and community development at lower costs will make possible a more stable and larger volume of residential construction which will assist materially in achieving and maintaining full employment; that federal programs to assist housing have repeatedly changed; that, in the early 1980's, the Federal Government substantially reduced its housing programs and other forms of housing assistance; that, by providing housing assistance to persons other than persons of low income, provision of housing assistance to persons of low income will be facilitated; and that it is in the public interest that advance preparations for these activities and for facilitating mortgage lending on affordable terms be made now, and that the necessity in the public interest for the provisions enacted is declared as a matter of legislative determination.

It is further declared that there are serious problems relating to the occupants of existing substandard housing in this State in both urban and rural areas. Much of the existing housing in this State is in immediate need of major repair or replacement; and this subchapter is intended to encourage all existing local, state and federal agencies, public and private agencies, to recognize the needs for rehabilitation and new housing and to adopt such action and practices as to promote a concerted effort to upgrade housing conditions and standards within this State. It is further declared that this subchapter is intended to relieve those conditions which now exist and it is the policy of the State to assist in planning, coordinating and carrying out all existing programs that will encourage further participation by private investment, private enterprise and individual effort.

It is further declared that in private banking channels there have been recurrent, cyclical shortages of funds available for loans to finance dwelling accommodations. These shortages have been exacerbated more recently by changes in the business of financial institutions, by the high cost of funds needed for loans for dwelling accommodations and by the related lack of liquidity of existing and new loans for dwelling accommodations. These shortages have contributed to the reduction of construction of new dwelling accommodations and have hampered the rehabilitation, improvement and purchase and sale of

existing dwelling accommodations. These shortages can be expected to recur from time to time in varying degrees of severity with the adverse consequences described in this section. It is further declared that the powers and duties set forth in this subchapter are to be carried out in order to assist in redressing these shortages.

It is further declared that it is the policy of this State to assist its residents in securing equal opportunity for the full enjoyment of the following objectives:

1. Decent housing. To reside in or purchase housing which is decent, safe, independently selected, designed and located with reference to their particular needs and available at costs which they can afford;

2. Wide choice of housing. To have available to them a wide range of privately planned, constructed and operated housing;

3. Needed public housing. To have available to them such additional publicly planned, constructed and operated housing as is needed to achieve the purposes of subsection 1;

4. Additional resources. To have available from financial institutions, in addition to their usually loanable resources for home construction, mortgages and notes, additional resources and assistance as may be provided by the state authority; and

5. Information, educational and demonstration programs. To have available information and educational programs, and to conduct demonstrations of housing programs and techniques.

Sec. 3. 30 MRSA §4557, sub-§1, ¶B, as enacted by PL 1977, c. 256, §1, is repealed and the following enacted in its place:

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

Sec. 4. 30 MRSA §4557, sub-§2, as enacted by PL 1977, c. 256, §1, is amended to read:

2. Wrongful disclosure prohibited. No member, officer, employee or agent of an authority shall knowingly divulge or disclose information declared confidential by this section. Notwithstanding the foregoing, an authority may make such full and com-

plete reports concerning its administration of federal housing programs as may be required by the Federal Government or any agency or department thereof. An authority may also publish statistics or other information of a general nature drawn from information declared confidential by this section, so long as such publication is accomplished in a manner which preserves such confidentiality. An authority may also comply with a subpoena, request for production of documents, warrant or court order which appears on its face to have been issued or made upon lawful authority. In any litigation or proceeding in which an authority is a party, the authority may introduce evidence based on any information which is deemed confidential and which is within the control or custody of the authority.

Sec. 5. 30 MRSA §4601-A, sub-§1, ¶B, as amended by PL 1975, c. 625, §8, is further amended to read:

B. Develop plans, finance, conduct and encourage in cooperation with other public and private national, state level, regional and local agencies, research and demonstration of model housing programs, ~~whether or not such models or demonstrations are or will be occupied by persons or families of low income, provided that moneys used to finance model or demonstration housing not planned for immediate occupancy by persons of low income shall not be drawn from the proceeds of bonds sold for the purpose of financing housing for persons of low income, dealing with,~~ but not limited to, planning, styles of land use, types of building design, techniques of construction, finance techniques, municipal regulations and management procedures;

Sec. 6. 30 MRSA §4601-A, sub-§1, ¶I, as repealed and replaced by PL 1975, c. 625, §11, is repealed and the following enacted in its place:

I. 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 state authority may specify, any mortgage loan, any mortgage pass-through certificate, any pledge including any pledge or mortgage revenue, any mortgage participation certificate or any other mortgage-backed or mortgage-related security. In connection with the purchase or sale of a mortgage loan or of a beneficial interest or participation in a mortgage loan, the state 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 state authority or a financial institution 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;

Sec. 7. 30 MRSA §4601-A, sub-§1, ¶L, as enacted by PL 1971, §467, is repealed and the following enacted in its place:

L. Contract with any financial institution to make mortgage loans on behalf of the state authority. The mortgage loans shall be made pursuant to one or more mortgage loan programs governed by standards established in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375. The state authority may, without contracting with a financial institution, make mortgage loans only with respect to the following:

(1) To protect the security or likelihood of repayment of any mortgage loan held by the state authority when such a loan is not made within 10 business days of application through the originating financial institution on terms and conditions comparable to terms and conditions available from the state authority; or

(2) In one or more areas of the State, to the extent that no financial institution, after both initial and such successive reasonable opportunities as the state authority may provide, has contracted with the state authority to participate in a mortgage loan program.

Any mortgage loan made pursuant to this paragraph shall not pledge the faith and credit of the State. Any bonds issued by the state authority to finance mortgage loans authorized by this paragraph shall be subject to the limitations of sections 4760 and 4762;

Sec. 8. 30 MRSA §4601-A, sub-§1, ¶N, as enacted by PL 1981, c. 620, §5, is amended to read:

N. With respect to any bonds which the state authority is authorized to issue in accordance with the limitations and restrictions of this subchapter, covenant and consent that the inter-

est on the bonds shall be includable, under the United States Internal Revenue Code of 1954 or any subsequent corresponding internal revenue law of the United States, in the gross income of the holders of the bonds to the same extent and in the same manner that the interest on bills, bonds, notes or other obligations of the United States is includable in the gross income of the holders under the United States Internal Revenue Code or any subsequent law. The powers conferred by this paragraph shall not be subject to any limitations or restrictions of any law which may limit the state authority's power to so covenant and consent. Notwithstanding any other provision of this subchapter, proceeds of bonds issued pursuant to this subsection may be used for persons other than persons of low income;

Sec. 9. 30 MRSA §4601-A, sub-§1, ¶¶O to R are enacted to read:

O. Issue or cause to be issued certificates or other instruments evidencing the holder's fractional undivided interest in a pool of mortgage loans. Whether or not the certificates or instruments are of such form or character as to be negotiable instruments under Title 11, Article 8, the certificates or instruments shall be and are made negotiable instruments within the meaning of and for all the purposes of Title 11, Article 8, subject only to such registration requirements as the state authority may establish;

P. In accordance with the limitations and restrictions of this subchapter, cause any of its powers or duties to be carried out by one or more nonprofit corporations organized and operated under Title 13-B;

Q. To modify or waive the requirements of section 4757, subsections 1 and 2, and section 4758; and

R. Guarantee or assure the timely payment in whole or part of principal on, premium on or interest of any bond or of any instrument or security identified in paragraph I or O.

Sec. 10. 30 MRSA §4602, sub-§2, ¶A, as amended by PL 1975, c. 625, §12, is further amended to read:

A. The state authority shall have a ~~15-person~~ 21-person advisory board, appointed by the Governor representing the several aspects of the housing industry. The advisory board at all times shall have members who represent each of the following: Municipal officials, ~~financial~~ financial

institutions, builders, architects, labor, sponsors of housing programs, administrators of local public and local private housing corporations, elderly residents of housing projects, low income residents of housing projects who are not otherwise in the employ of the State of Maine and licensed real estate brokers. There shall be 3 representatives of municipal officials.

The members shall elect a president and vice-president of the advisory board from among the advisory board members. The advisory board of the state authority shall advise and counsel the director and commissioners of the state authority on the policies concerning any and all of the powers and duties of the state authority. Five Seven advisory board members of the state authority shall constitute a quorum for the purpose of conducting business of the board and exercising its powers, notwithstanding the existence of any vacancies. Action may be taken by the advisory board upon a vote of a majority of the members present, unless in any case its bylaws shall require a larger number.

The president of the advisory board may call such meetings of the board as he shall deem necessary. The president of the advisory board shall call at least one meeting of the board each year at a time which will allow the board to meet jointly with the commissioners of the state authority.

Sec. 11. 30 MRSA §4651, sub-§11, as amended by PL 1981, c. 620, §6, is further amended to read:

11. Mortgage credits. Pursuant to the purposes of this Act to provide housing for persons of low income, ~~the~~ The state authority shall have the power to acquire from banks, life insurance companies, savings and loan associations, pension or retirement funds, any fiduciaries, the Federal Government and other financial institutions, persons or governmental or business entities mortgage loans and notes anywhere in the State of Maine ~~consistent with section 4760,~~ the restriction as to the area of operation in section 4552 notwithstanding, and to sell mortgages and notes to insurance companies, other financial institutions, persons or governmental or business entities and the agencies of the United States of America or any fiduciaries or pension or retirement funds; and

Sec. 12. 30 MRSA §4651, sub-§13, as enacted by PL 1979, c. 712, §4, is repealed.

Sec. 13. 30 MRSA §4712, first ¶, as enacted by PL 1975, c. 625, §18, is amended to read:

The state authority may make loans to financial institutions in the State for the purpose of providing mortgage funds for the financing of housing units or housing projects for persons or families of low income, which loans shall be called in this Article "institutional loans." Financial institutions receiving or to receive such loans shall be called in this Article "participating financial institutions." A participating financial institution which does not maintain a regular place of business in the State shall contract for origination of mortgage loans with a financial institution with a regular place of business in the State.

Sec. 14. 30 MRSA §4716, first ¶, as amended by PL 1981, c. 620, §§7 and 8, is further amended to read:

The state authority shall require that institutional loans be secured as to payment of both principal and interest by a pledge of and lien upon qualified collateral security. Qualified collateral security shall be limited to direct obligations of, or obligations guaranteed by, the United States of America, bonds, debentures, notes or other evidences of indebtedness, satisfactory to the state authority, issued by any of the following: Bank of Cooperatives, Federal Financing Bank, Federal Intermediate Credit Bank, Federal Home Loan Bank System, Export-Import Bank of the United States, Tennessee Valley Authority, Farmers Home Administration, Federal Land Banks, the Federal National Mortgage Association or the Government National Mortgage Association, direct obligations of or obligations guaranteed by the State, bonds and other direct and general obligations of any other state of the United States of America or of any instrumentality or agency thereof, or bonds guaranteed by any such state or instrumentality rated in a rating category of AA or Aa or their equivalents or better by a nationally recognized rating agency and as shall be approved by the trustee as having an established national market, insurance, letter of credit or other guarantee by a banking institution, insurance company or other business or financial organization the direct and general obligations of which are rated in a rating category of AA or Aa or their equivalents or better by a nationally recognized rating agency, mortgages insured or guaranteed, in any manner, in part or in full, by the United States or any instrumentality thereof, or by this State or any instrumentality thereof, privately insured mortgages, conventional mortgages, certain municipal obligations as determined by the state authority, new housing authority bonds, preliminary loan notes, projects notes, all fully secured by contract with the United States, or proceeds of any of the above.

Sec. 15. 30 MRSA §4722, as enacted by PL 1975, c. 522, §2, is amended to read:

§4722. Construction loans

Notwithstanding the restrictions stated in sections 4601-A, subsection 1, paragraph B and 4767, the The state authority may participate with financial institutions in the State in the making of construction loans for the purpose of land development and the construction of housing units or housing projects for persons of low income, under such terms and conditions as the state authority may by rules or regulations establish.

Sec. 16. 30 MRSA §4732, sub-§3, as enacted by PL 1981, c. 702, Pt. W, §1, is amended to read:

3. Availability requirement. For a period of not less than 3 months after the date on which any appropriation is first available for expenditure, at least 50% of the proceeds of mortgage purchase bonds assisted pursuant to subsection 2 and allocated by the state authority for purchase of home improvement notes for owner-occupied residential housing shall be made available for persons of low income whose adjusted income does not exceed 100% of the median family income for the State, as developed by the United States Bureau of the Census for the United States Department of Health and Human Services, or by any successor agency, for use in establishing eligibility for social services funded under the United States Social Security Act, Title XX, or for any other use state authority from available data or publications.

Sec. 17. 30 MRSA §4756, as amended by PL 1981, c. 692, §3, is further amended to read:

§4756. Purchase and sale of mortgage loans

An authority may purchase or make commitments to purchase mortgage loans from any financial institution, pension or retirement fund, any fiduciary or any other person or governmental or business entity. An authority may also sell or make commitments to sell mortgage loans to any pension or retirement fund, any fiduciary or any other person, governmental or business entity or financial institution. An authority may exercise all rights and powers of a holder of any such mortgage loan.

Sec. 18. 30 MRSA §4762, first ¶, as amended by PL 1981, c. 370, is further amended to read:

The state authority shall not at any time have, in the aggregate principal amount thereof outstand-

ing, mortgage purchase bonds in excess of ~~\$355,000,000~~ \$435,000,000 secured by the Housing Reserve Fund or a Capital Reserve Fund to which the 3rd paragraph from the end of section 4761 applies. Mortgage purchase bonds of the state authority secured by capital reserve funds to which the 3rd paragraph from the end of section 4761 does not apply, bond or mortgage insurance, direct or indirect contract with the United States, purchase or repurchase agreement or guaranty with a banking or other financial organization, or other credit arrangements securing the bonds may be issued up to \$100,000,000 per calendar year in an aggregate principal amount not to exceed \$200,000,000. Mortgage purchase bonds shall be rated at or before issuance of the bonds in a rating category of A or its equivalent or better by a nationally recognized rating agency.

Sec. 19. 30 MRSA §4763, as enacted by PL 1969, c. 470, §18, is repealed.

Sec. 20. 30 MRSA §4767, 4th ¶, as amended by PL 1975, c. 522, §6, is further amended to read:

No amount from the proceeds of the sale of bonds or income derived from bond proceeds in excess of 1/2 of 1% of the bond value outstanding each year may be used to pay for the expenses of operation and administration for the mortgage purchase program nor may such funds be used for other programs of the state authority. The cost of issuance of bonds, and fees paid to any financial institution by the state authority for the purpose of servicing mortgage loans shall not be considered expenses of operation and administration for such program. ~~The state authority shall not use any bond proceeds or income derived from bond proceeds for the purpose stated in section 4601-A, subsection 1, paragraph B.~~ For purposes of this section only, the term "proceeds of the sale of bonds or income derived from bonds proceeds" does not include: The principal of the Housing Reserve Fund or any Capital Reserve Fund established pursuant to this Article; income earned in the Housing Reserve Fund or any Capital Reserve Fund; or the scheduled amortization payments of principal and interest called for by mortgages or mortgage loans purchased pursuant to this Article. The separate limitations imposed by the provisions of section 4761 on the use of moneys deposited in the Housing Reserve Fund or any Capital Reserve Fund shall not be affected by this section.