

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND TWELFTH LEGISLATURE

SECOND REGULAR SESSION
January 8, 1986 to April 16, 1986

SECOND SPECIAL SESSION
May 28, 1986 to May 30, 1986

AND AT THE

THIRD SPECIAL SESSION
October 17, 1986

PUBLISHED BY THE DIRECTOR OF REVISOR OF STATUTES IN
ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

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

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION
of the
ONE HUNDRED AND TWELFTH LEGISLATURE
1985

case of a municipality without such a council, by action of the town meeting. This paragraph shall apply whether or not the action of the city council, town council or town meeting was taken before or after the effective date of this subsection.

Nothing in this section may be construed to be a limitation on the Home Rule powers granted to municipalities under Title 30, section 1917, or on the ability of communities to jointly exercise their powers as is recognized in Title 30, section 1951. This section provides an additional and alternative method for carrying out this subchapter.

Sec. 11. Transition. Any contract and any interlocal agreement complying with the requirements of the Maine Revised Statutes, Title 38, section 1304-B, shall be a properly authorized, legal, binding and enforceable obligation of the municipality in question as of the date executed, regardless of whether the contract or interlocal agreement was authorized, executed or delivered prior to or after the effective date of this Act. Any resolution or other official action of the board of directors of any corporation organized in accordance with Title 38, section 1304-B, if taken in accordance with Title 38, section 1304-B, shall be a properly authorized, legal, binding and enforceable resolution or official action regardless of whether the resolution or official action was taken prior to or after the effective date of this Act.

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

Effective March 21, 1986.

CHAPTER 594

H.P. 1550 - L.D. 2189

AN ACT to Provide for the Allocation
of the State Ceiling on Bonds for
Nongovernmental Purposes.

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

Whereas, pending legislation in the United States Congress could drastically reduce the amount of tax-exempt bonds that can be issued by the State's issuers because of a proposed reduction in the state ceiling on so-called "nonessential purpose bonds," which term includes certain bonds which are not currently subject to any state ceiling; and

Whereas, the pending federal legislation includes a provision that it applies to bonds issued after December 31, 1985; and

Whereas, the uncertainties created by the pending federal legislation have already resulted in a substantially reduced level of economic development within the State and will continue to do so until the State establishes procedures for allowing issuance of bonds within acceptable limits; and

Whereas, in the judgment of the Legislature, there is a need to establish a mechanism for allocating available state ceiling on bonds among state issuers in a manner that provides the greatest public benefit and gives assurance to bond purchasers that the bonds will be tax exempt, thereby reducing the cost of financing and promoting economic growth through worthy housing and economic development projects; and

Whereas, if legislation is not immediately enacted, economic growth may be retarded and the limited state ceiling may be expended unnecessarily on projects which may provide fewer economic and other benefits than other projects; 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:

Sec. 1. 10 MRSA c. 9 is enacted to read:

CHAPTER 9

ALLOCATION OF STATE CEILING ON TAX-EXEMPT BONDS

§361. Definitions

As used in this chapter, unless the context oth-

erwise indicates, the following terms have the following meanings.

1. Bond. "Bond" means a revenue obligation security, bond, note, debenture, certificate or other evidence of indebtedness of the State or any political subdivision of the State.

2. Carry-forward. "Carry-forward" means that portion of the state ceiling for any calendar year which is unallocated during that calendar year and which is available to be carried forward to be used in later years under applicable federal law.

3. Federal formula. "Federal formula" means the formula or formulas for allocation of the state ceiling now or hereafter established under the United States Code, Title 26.

4. Solid waste energy project. "Solid waste energy project" means a project designed to convert solid waste to electricity or steam.

5. State ceiling. "State ceiling" means the annual dollar volume cap on the issuance of tax-exempt bonds now or hereafter imposed on the State and its agencies and governmental subdivisions by the United States Code, Title 26.

6. Tax-exempt bond. "Tax-exempt bond" means a bond the interest on which is exempt from federal taxation.

§362. Legislative purpose

The Legislature finds and declares that the availability of financing through use of tax-exempt bonds is an effective and necessary tool for economic development, ensuring an adequate supply of affordable housing, providing for loans for higher education and promoting and improving the health, safety, welfare and quality of life of the people of the State. Because the availability of the financing is largely determined by the United States Internal Revenue Code, to which significant changes have been proposed, and because there is a statewide need to assure that the limited amount of tax-exempt financing available is used in the most efficacious manner by issuers of bonds in the State to provide the greatest benefits to the State, the Legislature determines that the legislative purpose of promoting the best use of a limited resource can be best met by authorizing the Governor and Legislature to allocate available amounts of tax-exempt bond authority among

issuers. This chapter is intended to apply to the federal formulas in effect on the effective date of this chapter, as well as to any unified volume limitation that may be enacted subsequently by the United States Congress. Any action by the Governor pursuant to this chapter is expressly delegated to him by the Legislature for purposes of determining whether such action is authorized by the United States Code, Title 26.

For the purpose of expeditiously allocating tax exempt bond authority among issuers for 1986 only, the Legislature authorizes the Governor to allocate the state ceiling in accordance with section 363, subsection 1.

§363. Allocation of the state ceiling

1. Formula and procedure. The Governor may establish by Executive Order a formula and procedure for allocation of the entire amount of the state ceiling for the 1986 calendar year only, including any amounts set aside for nonprofit organizations and any carry-forward among issuers of tax-exempt bonds, which formula may be different from the federal formula to the extent that the United States Code, Title 26, authorizes the Governor or Legislature of the State to vary the federal formula, and which formula may limit allocations of the state ceiling as deemed necessary by the Governor in the event that there is pending federal legislation with retroactive effective dates which might affect the state ceiling, including, without limitation, the United States House of Representatives Bill, 3838.

A. The Governor may provide that any specific allocations under this section be reviewed periodically and that unused allocations be repooled for reallocation to other issuers or for carry-forward in a manner established by the Governor.

B. This subsection is repealed on January 1, 1987.

2. Allocations by the Governor and the Legislature. Beginning in 1987, the Governor shall submit to the joint standing committee of the Legislature having jurisdiction over State Government, by no later than February 1st of each year, legislation providing for the allocation of the state ceiling. The legislation providing for the allocation shall include a formula and a procedure for the allocation of the entire amount of the state ceiling, including any amounts set aside for nonprofit organizations, for

further allocation to issuers of tax exempt bonds, which formula may be different from the federal formula to the extent that the United States Code, Title 26, authorizes the Governor and Legislature of the State to vary the federal formula. The legislation shall clearly indicate the categories of uses to which the tax exempt bonds shall be allocated.

3. Emergency allocation. With respect to any state ceiling established by federal formula which becomes effective on or after January 1, 1987, and prior to the enactment of legislation after January 1, 1987, and prior to the enactment of legislation for the allocation of the state ceiling as provided in subsection 2, the Governor, with the approval of the Legislature, shall provide for emergency allocations for the interim period which shall be in effect until the allocation of the state ceiling is enacted in accordance with the procedure established in subsection 2.

A. The Governor shall not allocate the state ceiling or any part of the state ceiling beginning January 1, 1987, except as provided in this section.

4. Allocation to Maine State Housing Authority. That portion of the state ceiling allocated under this section for bonds for housing or housing-related purposes shall be allocated to the Maine State Housing Authority, which may establish a process that is different from the federal formula for allocating that portion of the state ceiling pertaining to bonds for housing-related projects.

5. Allocation to the Treasurer of State. That portion of the state ceiling allocated under this section for bonds for general obligations of the State shall be allocated to the Treasurer of State, who may further allocate such portion of the state ceiling to bonds of the State requiring an allocation in order to qualify as tax-exempt bonds.

6. Allocation to Finance Authority of Maine. That portion of the state ceiling allocated for bonds for solid waste energy projects or bonds issued pursuant to chapter 110, other than for housing or housing-related purposes, shall be allocated to the Finance Authority of Maine, which may further allocate such portion of the state ceiling to bonds requiring an allocation in order to qualify as tax-exempt bonds.

7. Allocation to Maine Municipal Bond Bank. That portion of the state ceiling not allocated pur-

suant to subsection 4, 5 and 6, shall be allocated to the Maine Municipal Bond Bank, which may further allocate such portion of the state ceiling to bonds requiring an allocation in order to qualify as tax-exempt bonds.

Sec. 2. 10 MRSA §980-A, as enacted by PL 1985, c. 344, §26, is amended to read:

§980-A. Allocation of federal bond ceiling

The authority may, by rulemaking pursuant to Title 5, chapter 375, subchapter II, establish a process that is different from the federal formula for allocating that portion of the ceiling established by the United States Code, Title 26, ~~Section 103~~, to limit the aggregate amount of certain bonds which may be issued or carried forward by the State and any of its political subdivisions with respect to any one calendar year allocated to the authority pursuant to section 363. For purposes of this section, the authority may also limit the types of projects which are eligible to receive allocations of the ceiling and establish other requirements and limitations for assuring effective and efficient use of the ceiling. The authority shall include in its report pursuant to section 974 a description of its operations pursuant to this section for the most recent calendar year and of its plans, if any, to revise any allocation system established pursuant to this section.

Sec. 3. 10 MRSA §1061-A, sub-§4 is enacted to read:

4. Residential property. In the case of projects consisting of multi-family or single-family residential property, the Maine State Housing Authority shall have responsibility to approve or disapprove such projects in accordance with regulations adopted pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, in lieu of the approval required by the authority under this subchapter, provided that this subsection shall only apply to projects for which an application is made after February 28, 1986, and which require an allocation under any applicable state bond ceiling for tax-exempt bonds.

Sec. 4. 30 MRSA §4601-A, sub-§1, ¶R, as amended by PL 1985, c. 151, §5, is further amended to read:

R. Guarantee or assure the timely payment in whole or part of principal on, premium on or in-

terest of any bond or of any instrument or security identified in paragraph I or O; and

Sec. 5. 30 MRSA §4601-A, sub-§1, ¶S, as enacted by PL 1985, c. 151, §6, is amended to read:

S. Purchase, sell, service, pledge, invest in, hold, trade, accept as collateral, administer or otherwise deal in, acquire or transfer, contract for benefits to recipients on behalf of the Federal Government or otherwise and do those things necessary to issue or cause to be issued federal mortgage credit certificates as authorized and created by the Federal Tax Reform Act of 1984, Public Law 98-369, Section 612(a)-; and

Sec. 6. 30 MRSA §4601-A, sub-§1, ¶T is enacted to read:

T. Approve or disapprove, in accordance with rules adopted pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, a project which is multi-family or single-family residential property, when authorized or required by Title 10, chapter 110, subchapter IV.

Sec. 7. 30 MRSA §4651, sub-§11, as amended by PL 1983, c. 414, §11, is further amended to read:

11. Mortgage credits. 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, 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. 8. 30 MRSA §4651, sub-§12, as enacted by PL 1973, c. 527, is amended to read:

12. Mortgage assistance payments. Pursuant to the purposes of this Act to provide housing for persons of low income, the State Housing Authority shall have the power to make payments and binding commitments, subject to the authority's receipt of sufficient funds to honor said commitments from periodic appropriations from appropriate sources, to continue said payments if necessary over the life of the mortgage to mortgagors or to mortgagees on behalf of low

income persons to reduce interest costs on market rate mortgages to as low as 1%. No commitment made by the authority under this subsection shall be construed to commit the faith and credit of the State of Maine.

Persons benefiting from these mortgage assistance payments shall, according to guidelines to be included in said mortgage agreements, be required to pay a larger interest payment as their ability to pay increases; and

Sec. 9. 30 MRSA §4651, sub-§14 is enacted to read:

14. Allocation of federal ceilings. By rulemaking pursuant to Title 5, chapter 375, subchapter II, to establish a process that is different from the federal formula for allocating that portion of the ceiling on the issuance of certain tax-exempt bonds established by the United States Code, Title 26, which has been allocated to the state authority pursuant to Title 10, section 363, and may also limit the types of projects which are eligible to receive allocations or carry-forward designations from the state authority.

Sec. 10. 30 MRSA §4651, last ¶, as enacted by PL 1985, c. 151, §8, is amended to read:

The director of the state authority shall serve as the state's designee to certify to the United States Secretary of the Treasury that qualified mortgage bonds housing-related bonds issued in the State satisfy the applicable ceiling requirements of the United States Internal Revenue Code, Section 103A(g) (4).

Sec. 11. 30 MRSA §4751, 5th ¶, as enacted by PL 1983, c. 589, is amended to read:

In case any of the commissioners or officers of the authority whose signatures appear on any bonds or coupons shall cease to be such commissioners or officers before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if such commissioners or officers had remained in office until such delivery. For calendar year 1986, the allocation provisions of Title 10, chapter 9 shall supersede this allocation.

Sec. 12. 30 MRSA §5166-A is enacted to read:

§5166-A. Allocation of state ceiling

By rulemaking pursuant to Title 5, chapter 375, subchapter II, the bank may establish a process for allocation and carry forward of that portion of the state ceiling on issuance of tax-exempt bonds allocated to the bank pursuant to Title 10, chapter 9.

Sec. 13. Procedure for the interim period. The joint standing committee of the Legislature having jurisdiction over State Government shall establish a procedure prior to December 1, 1986, by which emergency allocations may be provided for the interim period defined in section 363, subsection 3.

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

Effective March 21, 1986.

CHAPTER 595

H.P. 1413 - L.D. 1997

AN ACT to Establish an Official Endangered Plant List.

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

Sec. 1. 5 MRSA §3311, as repealed and replaced by PL 1979, c. 672, Pt. A, §7, is amended by adding at the end a new paragraph to read:

The Legislature further finds that species of native plants are important for human enjoyment, for scientific purposes and as components of their ecosystems for the benefit of the people of this State. Native species of plants within this State and the nation that are reduced in number shall be identified as endangered or threatened so as to encourage their protection and to maintain and enhance their numbers.

Sec. 2. 5 MRSA §3311-A is enacted to read:

§3311-A. Definitions

As used in the section, unless the context otherwise indicates, the following terms have the following meanings.