

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND THIRTEENTH LEGISLATURE

FIRST SPECIAL SESSION

October 9, 1987 to October 10, 1987

SECOND SPECIAL SESSION

October 21, 1987 to November 20, 1987

and the

SECOND REGULAR SESSION

January 6, 1988 to May 5, 1988

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

Twin City Printery
Lewiston, Maine
1988

PUBLIC LAWS

OF THE

STATE OF MAINE

AS PASSED AT THE
FIRST AND SECOND SPECIAL SESSIONS
and
SECOND REGULAR SESSION
of the
ONE HUNDRED AND THIRTEENTH LEGISLATURE
1987

§7608. Fishing with illegal implements or devices

A person is guilty of fishing with illegal implements or devices if he uses any fish spawn, grapple, spear, spear gun, trawl, weir, gaff, seine, gill net, trap or set lines or electronic, sonic or battery-powered devices for fishing or if that person uses any electronic or battery-powered devices for luring or attracting fish, except that a person may take suckers, eels, hornpout, alewives, yellow perch and cusk in accordance with section 7153 and except as otherwise provided.

Sec. 18. 12 MRSA §7861, sub-§1-A is enacted to read:

1-A. Training of sporting dogs. It is lawful to train sporting dogs on wild birds at any time.

Sec. 19. 12 MRSA §7863, sub-§5 is enacted to read:

5. Exceptions. The following exceptions apply to the training of sporting dogs.

A. Notwithstanding this section, the commissioner may issue a permit to any person authorizing the use of firearms during the training of sporting dogs to shoot and kill wild birds propagated or legally acquired by the permittee and possessed in accordance with section 7235.

Effective August 4, 1988.

CHAPTER 697

S.P. 912 — L.D. 2378

AN ACT Providing for the 1988 Amendments to the Finance Authority of Maine Act.

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

Sec. 1. 10 MRSA §972, sub-§9, as enacted by PL 1983, c. 519, §6, is repealed and the following enacted in its place:

9. Provide information on employment opportunities. Provide copies of the employment plans required by section 979 to the Department of Labor and the Department of Human Services.

Sec. 2. 10 MRSA §974, sub-§1, ¶G, as amended by PL 1985, c. 344, §23, is further amended to read:

G. A description summary of the actual and potential employment opportunities that have been and are being developed for recipients of Aid to Families with Dependent Children reported on employment plans pursuant to section 979;

Sec. 3. 10 MRSA §975-A, sub-§3, ¶D, as enacted by PL 1985, c. 344, §25, is amended to read:

D. Information necessary to comply with any federal or state law, including section 979, or rule or with any agreement pertaining to financial assistance;

Sec. 4. 10 MRSA §979, as enacted by PL 1983, c. 730, §3, is repealed and the following enacted in its place:

§979. Employment plan

The authority and its chief executive officer shall ensure that each applicant for assistance submit an employment plan which describes the business and its products or services and which provides information on new employment opportunities, including types of jobs, skills and training necessary for placement and training the applicant could provide. The chief executive officer shall provide this information to the Department of Labor and the Department of Human Services. This provision shall apply only to those applicants with more than 10 employees.

Sec. 5. 10 MRSA §1024, sub-§2, as amended by PL 1987, c. 521, §6, is further amended to read:

2. Issuance of bonds. If a request for funds is made under subsection 1 and if there are insufficient funds in the State Contingent Account, bonds of the State shall be issued in the following manner:

A. By the Treasurer of State on orders from the Governor;

B. In the amount required, but not exceeding in the aggregate at any one time outstanding the amount set forth in:

(1) The Constitution of Maine, Article IX, Section 14-A, as it may be from time to time amended, except that bonds issued under that section and this subsection shall not exceed in the aggregate at any one time outstanding the principal amount of \$82,500,000; and

(2) The Constitution of Maine, Article IX, Section 14-D, as it may be from time to time amended, except that bonds issued under that section and this subsection shall not exceed in the aggregate at any one time outstanding the principal amount of \$4,000,000;

C. To mature serially or to run for such periods as the Governor may determine, not to exceed 10 years, to be subject to prior redemption or repurchase at the option of the State or the holder, as the Governor may determine, with or without premium;

D. At variable or fixed rates of interest, in such denominations, at such price, at public or private sale, in such manner and on such other terms and conditions as approved by the Governor; and

E. As a pledge of the full faith and credit of the State.

If, at any time, the Governor fails to honor such a request for funds or to so order the Treasurer of State or, if the Treasurer of State fails to issue such bonds upon such order, any beneficiary of a valid mortgage insurance obligation of the authority may, by suit against the Governor, seek to require the Governor to honor the request either by payment from the State Contingent Account or by ordering the Treasurer of State to issue such bonds with the proceeds applied to honor the request and may, by suit against the Treasurer of State, seek to require the Treasurer of State to issue the bonds.

Sec. 6. 10 MRSA §1026-A, sub-§1-A is enacted to read:

1-A. Coinsurance. Notwithstanding subsection 1, paragraph A, and section 1026-D, subsection 2, with respect to mortgage loans securing revenue obligation securities of the authority issued under subchapter III, the authority may insure an amount not to exceed 50% of the original principal amount of the mortgage loan, plus 50% of accrued interest, and may provide that mortgage payments be applied so that the insured percentage of the loan increases and that proceeds of collateral are applied first to reduce the portion of the loan not insured by the authority, provided that that insurance shall not exceed \$3,500,000 in original principal amount for any loan and that the authority shall not issue that insurance unless it determines that the applicant is financially strong and credit worthy and that the loan is adequately secured by collateral.

Sec. 7. 10 MRSA §1026-D, sub-§3, ¶A, as amended by PL 1985, c. 714, §24, is further amended to read:

A. The authority shall have received the following:

- (1) Evidence that the project will serve the purposes of this chapter in increasing or retaining income and employment in the State;
- (2) Evidence, through submission of a comprehensive plan, of the project's capability of achieving its revenue and employment goals;
- (3) Evidence of the economic feasibility of the project;
- (4) Evidence of financial capability, including effective commitments for equity, interim financing and final mortgage financing for the project;
- ~~(5) An employment plan describing potential opportunity for Aid to Families with Dependent Children recipients, including types of jobs, skills required, training necessary for placement and the percentage of permanent jobs which will be targeted to these recipients;~~
- (6) Evidence of management and planning capability; and

(7) A written statement of an authorized representative of the municipality in which the project is or will be located supporting the project.

The authority may modify or waive any of the requirements of this paragraph with respect to any mortgage insurance program established for purposes of section 997;

Sec. 8. 10 MRSA §1026-D, sub-§3, ¶B, as amended by PL 1987, c. 393, §8, is further amended to read:

B. The original principal amount of the mortgage loan, including any mortgage loan secured by a coordinate or priority lien or security interest in the same eligible collateral which is proposed to secure repayment of the insured mortgage loan, shall not exceed the sum of the following percentages of the cost or value, as determined by the authority at the time of application for mortgage insurance, of eligible collateral held, owned, controlled or used by any eligible enterprise:

- (1) One hundred percent of the cost or value of real estate designed as an industrial park or 100% of the value of cash, deposits of money, certificates of deposit or other cash equivalents, irrevocable letters of credit issued by financial institutions acceptable to the authority or loan guarantees from insurance companies or other institutions satisfactory to the authority;
- (2) Ninety percent of the cost or value of real estate or 90% of the amount of accounts receivable determined by the authority to be eligible;
- (3) Eighty percent of the cost or value of eligible collateral consisting primarily of one or more fishing or other vessels;
- (4) Seventy-five percent of the cost or value of eligible collateral consisting primarily of machinery and equipment;
- (5) Notwithstanding subparagraph (2), 75% of the cost or value of eligible collateral held, owned, controlled or used by a recreational enterprise; or
- (6) Sixty percent of the cost or value of other eligible collateral.

Sec. 9. 10 MRSA §1032 is enacted to read:

§1032. Capital reserve funds; obligation of State

1. Capital reserve fund. The authority may create and establish one or more capital reserve funds and may pay into any such capital reserve fund any money appropriated and made available by the State for the purposes of any such fund and any other money available to the authority. For purposes of this section, the amount of any letter of credit, insurance contract, sure-

ty bond, indemnification agreement or similar financial undertaking available to be drawn on and applied to obligations to which money in any such fund may be applied shall be deemed to be and counted as money in the capital reserve fund.

2. Application. Money in any capital reserve fund created pursuant to subsection 1, except as provided in this section, shall be used solely with respect to mortgage loans, repayment of which is secured by any such fund, for the payment of principal, accrued interest and costs and expenses chargeable to the mortgage loan and with respect to interest rate swap agreements benefiting eligible enterprises. Money in excess of the reserve requirement established pursuant to subsection 4 may be transferred to other funds and accounts of the authority.

3. Security for mortgage loans. With respect to any mortgage loans which may be insured under this subchapter and interest rate swap agreements benefiting eligible enterprises, the authority may provide that such mortgage loans or interest rate swap agreements shall be secured by one or more capital reserve funds established pursuant to subsection 1 instead of or in addition to mortgage insurance provided under other sections of this subchapter. Limitations and requirements applicable to mortgage insurance under sections 1026-A to 1028 shall be applicable to mortgage loans, but not interest rate swap agreements, to which one or more capital reserve funds apply as if the mortgage loans were backed by mortgage insurance. Capital reserve funds may secure interest rate swap agreements pertaining to eligible enterprises which demonstrate the ability to honor the swap agreement as determined by the authority and which do not have as a principal element space for retail sales or professional office space, as defined by the authority. Any commitment with respect to a mortgage loan executed and delivered pursuant to this section shall be conclusive evidence of the eligibility of the mortgage loan for insurance and the validity of any such commitment or contract shall be incontestable in the hands of a mortgage lender except for fraud or misrepresentation on the part of the mortgage lender. Mortgages secured by capital reserve funds under this section are made legal investments for all insurance companies, trust companies, banks, investment companies, savings banks, savings and loan associations, executors, trustees and other fiduciaries, public and private pension or retirement funds and other persons.

4. Reserve requirement. The authority may provide that money in any such capital reserve fund shall not be withdrawn at any time in an amount that would reduce the amount of any such fund below an amount established by the authority with respect to the fund, except for the purpose of paying the amount due pursuant to the terms of any mortgage loan or interest rate swap agreement, repayment of which is secured by any such fund.

5. Appropriation. On or before December 1st, annually, the authority shall certify to the Governor the

amount, if any, necessary to restore the amount in any capital reserve fund to which this section is stated in any written agreement of the authority to apply, to the reserve requirement established by the authority. The Governor shall pay directly from the State Contingent Account to any such fund as much of the amount as is available in that account and shall transmit directly to the Legislature certification and a statement of the amount, if any, remaining to be paid. The certified amount shall be appropriated and paid to the authority during the current state fiscal year.

6. Obligations outstanding. The authority shall not have at any one time outstanding obligations to which this section is stated in any agreement of the authority to apply in principal amount exceeding \$50,000,000, less the amount of revenue obligation securities to which section 1053 is stated in the trust agreement or other document to apply. Amounts of revenue obligations securities which are not taken into account pursuant to section 1053, subsection 6, shall not be taken into account for purposes of determining the amount which may be outstanding under this section.

Sec. 10. 10 MRSA §1043, sub-§2, ¶I, as enacted by PL 1981, c. 698, §64, is repealed and the following enacted in its place:

I. The project will, to the extent possible, cooperate with representatives of the Department of Labor and the Department of Human Services regarding employment opportunities for recipients of the services of those departments.

Sec. 11. 10 MRSA §1053, sub-§1, as enacted by PL 1985, c. 344, §78, is amended to read:

1. Capital reserve fund. The authority may create and establish one or more capital reserve funds and may pay into any such capital reserve fund any money appropriated and made available by the State for the purposes of any such fund, any proceeds of sale by the authority of revenue obligation securities to the extent determined by the authority and any other money available to the authority. For purposes of this section, the amount of any letter of credit, insurance contract, surety bond or similar financial undertaking available to be drawn on and applied to obligations to which money in any such fund may be applied shall be deemed to be and counted as money in the capital reserve fund.

Sec. 12. 10 MRSA §1053, sub-§§3 and 4, as enacted by PL 1985, c. 344, §78, are amended to read:

3. Reserve requirement. The authority may provide that money in any such fund shall not be withdrawn at any time in such amount as would reduce the amount of any such fund to less than the maximum amount of principal and interest becoming due by reason of maturity or a required sinking fund payment and payable under any applicable trust agreement or other agreement in the next succeeding 12-month period within which any

such maturity occurs or any such payment is required, the amount being referred to as the "capital reserve requirement," except for the purpose of paying the amount due at any such maturity or the sinking fund payment and payable with respect to revenue obligation securities, repayment of which is secured by any such fund.

4. Issuance limit. The authority may provide that it shall not issue revenue obligation securities if the capital reserve requirement with respect to securities outstanding and then to be issued and secured by any such fund will exceed the amount of any such fund, including the amount available to be drawn on any letter of credit given to secure the capital reserve requirement, at the time of issuance, unless the authority, at the time of issuance of the securities, shall deposit in any such fund from proceeds of the securities so to be issued, or from other sources, an amount, which, together with the amounts then in any such fund and amounts available to be drawn under any letter of credit, will not be less than the capital reserve requirement.

Sec. 13. 10 MRSA §1053, sub-§6, as amended by PL 1985, c. 714, §33, is further amended to read:

6. Securities outstanding. The authority shall not have at any one time outstanding revenue obligation securities to which subsection 5 is stated in the trust agreement or other document to apply in principal amount exceeding an amount equal to \$50,000,000 less the aggregate outstanding balance of mortgage loans secured by capital reserve funds pursuant to section 1032. The amount of revenue obligation securities issued to refund securities previously issued shall not be taken into account in determining the principal amount of securities outstanding, provided that proceeds of the refunding securities are applied as promptly as possible to the refunding of the previously issued securities. In computing the total amount of revenue obligation securities of the authority which may at any time be outstanding for any purpose, the amount of the outstanding revenue obligation securities that have been issued as capital appreciation bonds or as similar instruments shall be valued as of any date of calculation at their then current accreted value rather than their face value.

Sec. 14. 10 MRSA §1100-N, sub-§3 is enacted to read:

3. Business support group initiative. Notwithstanding anything in this section to the contrary, the authority and any contracting community action agency may delegate application review, loan approval and servicing decisions to one or more designated business support groups in the area served by the contracting community action agencies, subject to the following requirements.

A. Each group shall be composed of not less than 5 individuals, corporations or partnerships which meet the eligibility criteria for job-start program applicants, are hopeful of starting or expanding separate businesses eligible for job-start financing and have community or other ties demonstrating a common mission or purpose.

B. Each group must agree to undergo a business management training program established by the authority and each group member must agree to provide business support to other members of the group.

C. The authority, in consultation with contracting community action agencies, may set aside by rule not more than \$75,000 in the aggregate for purposes of this initiative, which will be available for loans to business support group members.

D. The authority shall establish by rule limitations on the amount of loans which may be approved by each business support group and shall establish incentives which condition release of loan funds to each group on successful compliance with loan conditions and payment obligations on prior loans made to group members.

Effective August 4, 1988.

CHAPTER 698

S.P. 768 — L.D. 2025

AN ACT to Increase the Eligibility of Juveniles for Attendant Care.

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

Sec. 1. 15 MRSA §3003, sub-§2-A, as enacted by PL 1985, c. 439, §1, is amended to read:

2-A. Attendant; attendant care. "Attendant" means an agent of a county sheriff or of the Department of Corrections who is authorized to provide temporary supervision of a juvenile alleged to have committed a juvenile crime or of a juvenile adjudicated as having committed a juvenile crime when supervision is appropriate as an interim measure pending the completion of a procedure authorized by law to be taken in regard to such juvenile. Supervision shall be exercised during that period beginning with receipt of the juvenile by the attendant and ending upon the release of the juvenile to his legal custodian or other responsible adult. This supervision constitutes "attendant care."

Sec. 2. 15 MRSA §3203-A, sub-§1, ¶A-1, as enacted by PL 1987, c. 398, §3, is amended to read:

A-1. If the law enforcement officer determines that detention is not necessary but the officer is unable to immediately return the juvenile to the custody of his legal custodian or another suitable person, the officer, with the juvenile's consent, may deliver the juvenile to any public or private agency which provides nonsecure services to juveniles, including an agency which provides attendant care.

Sec. 3. 15 MRSA §3203-A, sub-§4, ¶B, as enacted by PL 1985, c. 439, §9, is amended to read: