

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED BY THE  
ONE HUNDRED AND FOURTEENTH LEGISLATURE  
**FIRST REGULAR SESSION**

December 7, 1988 to July 1, 1989

Chapters 1 - 502

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J.S. McCarthy Company  
Augusta, Maine  
1989

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**PUBLIC LAWS**  
**OF THE**  
**STATE OF MAINE**

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**1989**

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## CHAPTER 48

H.P. 777 - L.D. 1089

**An Act to Incorporate Certain Bond Statutes into the Recodification of County and Municipal Laws**

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

**Whereas,** certain laws amending the statutory provisions governing the Maine State Housing Authority and the Maine Municipal Bond Bank were enacted last year; and

**Whereas,** these laws were inadvertently omitted from the recodification of the county and municipal laws which took effect on February 28, 1989; and

**Whereas,** the reenactment of these laws is urgently needed to preserve the ability of these institutions to issue bonds to finance vital projects within the State; 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. 30-A MRSA §4702, sub-§8,** as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is further amended to read:

**8. Home improvement note.** "Home improvement note" means an interest bearing obligation, secured in whole or in part by a mortgage, insurance or otherwise as may be agreed upon by the Maine State Housing Authority from time to time, made to improve or rehabilitate single-family or multi-unit residential housing in the State, including, without limitation, the replacement, removal or rehabilitation of malfunctioning waste water treatment systems.

**Sec. 2. 30-A MRSA §4722, sub-§1, ¶L,** as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is further amended to read:

L. Contract with any financial institution to make mortgage loans on behalf of the Maine State Housing Authority. The mortgage loans shall be made under one or more mortgage loan programs governed by standards established in accordance with the Maine Administrative 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 following:

(1) To protect the security or likelihood of repayment of any mortgage loan held by the

Maine State Housing 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 Maine State Housing 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 Maine State Housing Authority may provide, has contracted with the Maine State Housing Authority to participate in a mortgage loan program.

The Maine State Housing Authority may make mortgage loans, construction loans, grants, noninterest-bearing loans, deferred payment loans, unsecured loans and other similar types of loans to state public bodies or other public instrumentalities and private nonprofit corporations without contracting with a financial institution. Any mortgage loan made under this paragraph does not pledge the faith and credit of the State. Any bonds issued by the Maine State Housing Authority to finance mortgage loans authorized by this paragraph are subject to the limitations of sections 4905 and 4907;

**Sec. 3. 30-A MRSA c. 201, sub-c. III-A** is enacted to read:

**SUBCHAPTER III-A****AFFORDABLE HOUSING PROGRAM****§4751. Purpose**

The State is experiencing severe shortages of affordable housing in various parts of the State. The affordable housing shortage is also contributing to an increasing class of working poor people and creating severe hardships for a significant number of the State's citizens. Municipalities feel the impact of the affordable housing shortage and find it difficult to deal with the problem with their inadequate resources. By working together, sharing resources and using more comprehensive measures, the State and its municipalities can more effectively address the shortage of affordable housing and the many other problems stemming from this housing shortage.

**§4752. Housing component of comprehensive plans**

Any comprehensive plan developed under chapter 187, subchapter II, shall provide for the development of affordable housing for low-income and moderate-income households. A municipality may cooperate with neighboring municipalities to develop a regional comprehensive plan in lieu of a municipal plan. Any comprehensive plan developed under chapter 187, subchapter II, shall include municipal or regional strategies to effectively reduce the cost of housing or provide for the construction of affordable housing, including zoning measures, use of municipally owned land and other similar measures.

**1. Provide technical assistance and information.**

The Maine State Housing Authority and any municipal housing authority shall provide technical assistance and information to municipalities requesting assistance in the development of affordable housing provisions for comprehensive plans to include the formulation of measures to effectively address the shortage of affordable housing for low-income and moderate-income households.

**2. Land and buildings of political subdivisions.**

Each municipality shall report to the Bureau of Public Improvements any municipally owned land or buildings and any land or buildings within the jurisdiction of any other political subdivisions, except school administrative districts, that may be suitable for the construction, reconstruction or rehabilitation of affordable housing for low-income and moderate-income households.

A. School administrative districts shall report to the Bureau of Public Improvements any land and buildings owned by or within the jurisdiction of the district that may be suitable for the construction, reconstruction or rehabilitation of affordable housing for low-income and moderate-income households.

B. The Maine State Housing Authority shall adopt rules under the Maine Administrative Procedure Act, Title 5, chapter 375, which establish standards by which land and buildings are deemed suitable for the construction, reconstruction or rehabilitation of affordable housing for low-income and moderate-income households to be used by municipalities and school administrative districts under this section.

**§4753. Coordination of resources and programs**

The Maine State Housing Authority, municipal housing authorities, municipalities and the Department of Economic and Community Development shall cooperate in the coordination of resources and programs and the development of housing for low-income and moderate-income households.

**1. Matching of resources.** The Maine State Housing Authority may match the resources provided by municipalities according to ratios established by the Maine State Housing Authority by rule in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375.

A. Municipal resources may consist of land, buildings, equipment, personnel, zoning provisions, money and any other resources considered by the Maine State Housing Authority to effectively help to provide affordable housing to low-income and moderate-income households.

B. Any municipality and the Maine State Housing Authority may use resources provided by the private sector, any private nonprofit organization or any other public sector organization for the purpose established in this subchapter.

**§4754. Purchase and acquire property; construct housing**

The Maine State Housing Authority or any municipal housing authority may purchase or acquire property to preserve or provide affordable housing to low-income and moderate-income people and provide for the management and maintenance of this property.

**1. Construction.** The Maine State Housing Authority or any municipal housing authority may construct or reconstruct housing for low-income and moderate-income households.

**2. Rehabilitation.** The Maine State Housing Authority or any municipal housing authority may rehabilitate buildings as a means of providing affordable housing to low-income and moderate-income households.

**3. State-owned property.** The Maine State Housing Authority may use surplus state-owned property pursuant to this subchapter and subchapter XI and Title 5, section 1742, subsection 23, to achieve the purpose of this article.

**4. Property.** For the purpose of this subchapter, property includes land, buildings, structures and equipment.

**§4755. Provide property**

The Maine State Housing Authority may provide surplus state property below market value pursuant to this subchapter and subchapter XI and Title 5, section 1742, subsection 23, to any person, firm or organization that agrees to construct, reconstruct or rehabilitate affordable housing for low-income and moderate-income households and maintain this property for this purpose in a written contract with the Maine State Housing Authority.

**§4756. Rules**

The Maine State Housing Authority shall adopt rules in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, to implement this subchapter, including eligibility standards for financing under this subchapter.

**Sec. 4. 30-A MRSA §4832, sub-§1,** as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is further amended to read:

**1. Participation requirements.** ~~The~~ Except as provided in paragraph A, the Maine State Housing Authority may not participate in the making of construction loans unless a financial institution in the State agrees to participate in the loan at least to the extent of 15% of the principal amount of the loan. Notwithstanding any other provisions of law, financial institutions in the State may act as required by this subchapter.

A. The Maine State Housing Authority may make construction loans to state public bodies or other public instrumentalities and private nonprofit corporations without the participation of a financial institution.

**Sec. 5. 30-A MRSA §4852, sub-§2**, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is repealed and the following enacted in its place:

**2. Use of money.** Money in the fund may be used as provided in this subsection.

**A. Money in the Housing Opportunities for Maine Fund may be applied to:**

(1) Reduce the rate of interest on or the principal amount of such mortgage loans as the Maine State Housing Authority determines;

(2) Reduce payments by persons of low-income for the rental of single-family or multi-unit residential housing;

(3) Make mortgage loans and such other types of loans or grants as the Maine State Housing Authority determines;

(4) Fund reserve funds for, pay capitalized interest on, pay costs of issuance of or otherwise secure and facilitate the sale of the Maine State Housing Authority's bonds issued under this subchapter;

(5) Pay the administrative costs of state public bodies or other public instrumentalities and private, nonprofit corporations directly associated with housing projects; and

(6) Otherwise make the costs of single-family or multi-unit residential housing affordable by persons of low-income.

**B. Notwithstanding the requirements of section 4702, subsection 10, mortgage loans made or assisted with money from the fund may be secured by a mortgage which does not constitute a first lien.**

**C. If any money in the Housing Opportunities for Maine Fund is used in conjunction with or as part of the issuance of any mortgage purchase bonds and the proceeds of the bonds are allocated by the Maine State Housing Authority to assist in the acquisition of housing, the Maine State Housing Authority may require that the purchaser of the housing make a minimum down payment in an amount determined by the Maine State Housing Authority; except that any such requirement shall not apply to mortgage loans insured or guaranteed by the United States Veterans Administration, the Federal Housing Administration or any other agency of the Federal Government that allows for a lesser down payment than that required by the Maine State Housing Authority. The Maine State Housing Authority may not limit the maximum down payment that may be required.**

**D. Money in the fund may be provided to 3rd parties to provide reasonable administrative support and planning funds for the development or specific creation of new housing units or the rehabilitation of dilapidated or substandard existing housing units.**

**Sec. 6. 30-A MRSA §4907, sub-§1**, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is further amended to read:

**1. Limitations on amount of outstanding principal.** The Maine State Housing Authority may not at any time have an aggregate principal amount outstanding, in excess of ~~\$635,000,000~~ \$885,000,000 of mortgage purchase bonds secured by the Housing Reserve Fund or a Capital Reserve Fund to which section 4906, subsection 3, paragraph A applies. Mortgage purchase bonds of the Maine State Housing Authority secured by capital reserve funds to which section 4906, subsection 3, paragraph A does not apply, bond or mortgage insurance, direct or indirect contract with the United States, purchase or repurchase agreement of 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 \$300,000,000.

**Sec. 7. 30-A MRSA c. 201, sub-c. IX-B** is enacted to read:

#### SUBCHAPTER IX-B

#### OVERBOARD DISCHARGE ASSISTANCE PROGRAM

#### §4926. Overboard Discharge Assistance Fund

**1. Creation.** The Overboard Discharge Assistance Fund is established under the jurisdiction of the Maine State Housing Authority. For the purposes of this subchapter, "authority" means the Maine State Housing Authority.

**2. Sources of fund.** The following shall be paid into the fund:

A. All money appropriated for inclusion in the fund;

B. Subject to any pledge, contract or other obligation, any money which the authority receives in repayment of loans or advances from the fund;

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

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

**3. Application of fund.** The authority may apply money in the fund for purposes authorized by this subchapter. Money in the fund not needed currently for purposes of this subchapter may be deposited with the authority to the credit of the fund or may be invested in such a manner as is provided by law.

4. Accounts within fund. The authority may divide the funds into such separate accounts as the authority determines necessary or convenient for carrying out this subchapter.

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

#### §4927. Maine Overboard Discharge Assistance Program

The Maine Overboard Discharge Assistance Program shall provide assistance to homeowners whose homes are serviced by substandard or malfunctioning waste water treatment systems, including straight pipe discharges, individual overboard discharge systems, subsurface waste water disposal systems, septic tanks, leach fields and cesspools, which systems result in direct discharges of domestic pollutants to the surface waters of the State.

1. Operation. The authority shall administer the Maine Overboard Discharge Assistance Program which may be operated in conjunction with other programs of the authority and in cooperation with the Department of Environmental Protection. Other programs of the authority may be used to supplement or be used in conjunction with the Maine Overboard Discharge Assistance Program to achieve the purpose of this subchapter.

A. Money in the fund may be used as security for or be applied in payment of principal, interest, fees and other charges due on loans made or insured under this program.

B. Money in the fund may be used as grants to assist homeowners who qualify for grant assistance under this program.

2. Provisions governing use of money. The fund shall be administered subject to this section. Priority shall be given to homeowners who are or are likely to be in noncompliance with the state waste classification program, Title 38, chapter 3, article 4-A and who do not have access to adequate capital or credit to remove, rehabilitate or replace the waste water treatment system. For purposes of this subchapter, homeowner includes the owner of a mobile home or manufactured housing unit and the owner of rental housing.

A. The authority, by rules adopted in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, shall establish priorities of assistance to homeowners. These priorities shall be based on:

(1) The assets of the homeowner;

(2) The availability of credit or assistance or income from other sources, including financial institutions, investments, trust funds and other similar sources;

(3) The degree of environmental or public health hazard;

(4) The immediacy of the need for assistance; and

(5) Any other variables considered important by the authority.

B. Grants, not to exceed \$5,000 per homeowner household, may be provided to a homeowner if:

(1) The grant is essential to providing housing to the homeowner; and

(2) The income of the homeowner is insufficient to repay any loan or portion of a loan.

C. Loans from the fund shall not exceed \$10,000 per homeowner household at rates of interest not to exceed 8% per year.

D. Loans from the fund may be made for periods of up to 30 years. If a homeowner cannot repay a loan in full within the 30-year period, the authority may extend the repayment period if the authority determines that the loan can be repaid during the extension period. The authority may waive the payment of interest on any loan or portion of a loan for which the interest payment will be an undue hardship on a household.

E. Money in the fund may be used to reduce interest rates on loans provided by financial institutions located in this State to homeowners who meet the eligibility requirements of this program.

F. The program shall be directed primarily at households without access to adequate capital or credit and which meet the eligibility requirements of this program.

G. The program shall be directed secondarily at eliminating overboard discharges into shellfish growing areas designated by the Department of Marine Resources.

3. Loan insurance. The authority may insure payments due under a loan or lease and may pledge money in the fund as security for such loan or lease, which may be in addition to or in lieu of insurance provided under other provisions of this chapter. Loans or leases shall not constitute any debt or liability on the part of the authority or the State, except to the extent specifically provided by contract executed by the authority.

4. Use of loans and grants. Loans and grants provided in this subchapter may be used for refinancing mortgages, or the payment of interest or a portion of the interest on loans.

5. Procedures. The authority may adopt rules in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, to implement the program.

**§4928. Bonds; issuance; separability of provisions**

The authority may issue bonds from time to time to carry out the purposes of this subchapter. These bonds shall be secured in such manner as the authority may by resolution provide. The bonds shall be known as overboard discharge assistance bonds. The authority to issue the bonds under this subchapter constitutes a complete, additional and alternative method for the issuance of bonds from that authority provided in any other subchapter in this chapter. No limitation or restriction as to use of proceeds or total authorized amount of obligations outstanding stated in this subchapter may apply to bonds issued under any other subchapter of this chapter, nor may restrictions or limitations recited in other subchapters apply to bonds issued under this subchapter. Sections 4901 to 4907 do not apply to bonds issued under this subchapter. All other provisions of this chapter apply to bonds issued under this subchapter.

The authority shall not have, in the aggregate principal amount outstanding, overboard discharge assistance bonds in excess of \$10,000,000. In computing the total amount of bonds of the authority which may at any time be outstanding, the amount of the outstanding bonds refunded or to be refunded from the proceeds of the sale of new bonds or by exchange of new bonds shall be excluded.

**Sec. 8. 30-A MRSA §4934, sub-§1-A** is enacted to read:

**1-A. Application.** The Housing Mortgage Insurance Program may be made available to persons who have not financed housing through a program of the Maine State Housing Authority.

**Sec. 9. 30-A MRSA §4934, sub-§4** is enacted to read:

**4. Surplus revenues.** Any revenues in excess of the money required to insure housing mortgages under this subchapter shall first be used to repay any loans from the General Fund. After repayment to the General Fund, any surplus money may be allocated to the Housing Opportunities for Maine Program.

**Sec. 10. 30-A MRSA §4951, sub-§1,** as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is further amended to read:

**1. Study of the inventory of state-owned land.** The Maine State Housing Authority, following completion of the inventory of state-owned land pursuant to Title 5, section 1742, subsection 23, shall determine sites that will be suitable for the construction of affordable housing to meet the needs of the State, particularly housing for low-income persons and middle-income households.

**Sec. 11. 30-A MRSA §4952** is enacted to read:

**§4952. Surplus land in trust**

The Maine State Housing Authority and the Department of Administration shall develop a procedure by which

state-owned land and structures determined to be surplus and useable or needed for the furtherance of the development of affordable housing for low-income and moderate-income households shall be held in trust for this purpose and may not be sold or used for other purposes, except with the approval of the Commissioner of Administration and the Director of the Maine State Housing Authority.

**1. Procedure.** The procedure established under this section shall include provisions for the expeditious transfer of title to surplus land and structures to the Maine State Housing Authority to be used for affordable housing for low-income and moderate-income households. Transfer of title to specific parcels of land and structures shall occur after the Maine State Housing Authority prepares plans for housing projects for these specific parcels or structures.

**2. Transfer of surplus property.** Any transfer to the trust of surplus land and buildings under this section must be approved by law.

**3. Surplus property removed from trust.** Before removing any surplus property from the trust, the Maine State Housing Authority shall hold a hearing within the municipality in which the property is located. The hearing shall be conducted in accordance with the notice provisions of Title 5, section 8053.

**4. Report to Legislature.** The Maine State Housing Authority shall report to the joint standing committee of the Legislature having jurisdiction over housing matters by the 3rd Wednesday in January of each First Regular Session with respect to the implementation and impact of this section.

**Sec. 12. 30-A MRSA c. 201, sub-c. XII** is enacted to read:

**SUBCHAPTER XII****PRESERVATION OF MODERATE-INCOME AND LOW-INCOME HOUSING CONSTRUCTED WITH FEDERAL ASSISTANCE****§4971. Purpose**

The State is experiencing severe shortages of affordable housing in various parts of the State. The affordable housing shortage is contributing to an ever-increasing class of working poor people and creating severe hardships for a significant number of Maine citizens.

The housing shortage problem may soon be intensified by the conversion of moderate-income and low-income rental housing units into housing for higher income persons and families. Many moderate-income and low-income rental housing units were constructed with federal assistance nearly 20 years ago with an agreement that the mortgagee may pay the mortgage after 20 years and not be subject to any of the restrictions in the initial agreement. As the mortgagees pay the mortgages, it is essential for the State to preserve as much of this housing as possible at affordable costs for the citizens of the State.



**§4972. Definition**

For the purpose of this subchapter, "low-income rental housing" means residential housing projects in which a majority of the units are subject to federal income eligibility restrictions and the rents within the projects are controlled by a federal agency pursuant to a regulatory or rental assistance agreement.

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

Any person who has a controlling interest in any low-income housing may not sell, transfer title or take other action in regard to the property which 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 Maine State Housing Authority and the municipal housing authority, if any, in the region where the property is located, as provided in this section.

1. Notice. The notice shall be made to the Maine State Housing Authority and the local housing authority serving the area, if any, when the owner enters into a contract for the sale or transfer or takes other action in regard to the property. This notice shall include a copy of any contract of sale.

2. Right of first refusal. The Maine State Housing Authority has the right of first refusal to purchase the property. The authority shall hold the right of first refusal for not more than 30 days from receipt of the notice required by this section. Failure to respond to the notice of first refusal in 30 days constitutes a waiver of that right of first refusal by the authority. By stating in writing its intention to pursue its right of first refusal during the 30-day period, the authority has an additional 60 days, beginning on the date of the termination of the first refusal period, to buy or to produce a buyer for the property. This additional 60-day period may be extended by mutual agreement between the authority and the owner of the property.

A. Nothing in this section prevents an owner of the property from withdrawing the property from the market and revoking the notice required by subsection 1 at any time before the 90-day period expires or until the authority provides its notice of taking by eminent domain. The withdrawal or revocation extinguishes any right of first refusal held by the Maine State Housing Authority.

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

**§4974. Purchase property; construct housing**

The Maine State Housing Authority or any municipal housing authority may purchase or acquire property to preserve or provide affordable housing to moderate-income

and low-income people and provide for the management and maintenance of this property.

1. Construction. The Maine State Housing Authority or any municipal housing authority may construct or reconstruct housing for moderate-income and low-income households.

2. Rehabilitation. The Maine State Housing Authority or any municipal housing authority may rehabilitate buildings to provide affordable housing to moderate-income and low-income households.

**§4975. Provide financing**

The Maine State Housing Authority or any municipal housing authority may provide low interest or no interest financing to any person who agrees to construct, reconstruct, rehabilitate or purchase property to provide housing for moderate-income and low-income households.

**§4976. Conversion of property**

Any owner of low-income rental housing who pre-pays the mortgage and any person who purchases low-income rental housing and who intends to convert the facility from low-income rental housing to any other use, including other residential uses, shall allow the current tenants to remain in the units for 6 months from the date of prepayment or transfer of title, at the rents charged to the tenants before mortgage prepayment or transfer of title or at the rents provided under the assistance program to which the housing is subject if such assistance is not terminated, or the owner may relocate the tenants to comparable units with comparable rents in accordance with the procedure established by rules of the Maine State Housing Authority.

1. Rules. The Maine State Housing Authority, pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, shall adopt rules with respect to relocation standards to be applied under this section. These standards shall include, but are not limited to, assistance with moving expenses and rental assistance payments necessary to maintain comparable rents for the displaced tenants.

**§4977. Rules**

The Maine State Housing Authority may adopt rules in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, to implement this subchapter.

**§4978. Penalty**

Any person who fails to give notice as provided in this subchapter commits a civil violation for which a penalty of not less than \$2,500 may be adjudged.

**§4979. Repeal**

This subchapter is repealed on August 1, 1989.

**Sec. 13. 30-A MRSA §5903, sub-§3-A is enacted to read:**

**3-A. Capital reserve fund.** “Capital reserve fund” means any capital reserve fund created or established as provided in section 6006, subsection 1-A.

**Sec. 14. 30-A MRSA §5903, sub-§§6-A and 6-B** are enacted to read:

**6-A. Median household income.** “Median household income” means the income computed based on the most current census information available, as provided by the State Planning Office.

**6-B. Municipal bond.** “Municipal bond” means a bond or note or evidence of debt issued by a municipality and payable from taxes or from rates, charges or assessments, but does not include any bond or note or evidence of debt issued under chapter 213 or Title 10, chapter 110, subchapter IV.

**Sec. 15. 30-A MRSA §5903, sub-§7-A** is enacted to read:

**7-A. Municipality.** “Municipality” means any city, town, special district, county, plantation or municipal village corporation within the State.

**Sec. 16. 30-A MRSA §5903, sub-§9,** as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is further amended to read:

**9. Required debt service reserve.** “Required debt service reserve” means the amount required to be on deposit in the reserve fund as prescribed by section 6006, subsection 1.

**Sec. 17. 30-A MRSA §5903, sub-§9-A** is enacted to read:

**9-A. Required minimum reserve.** “Required minimum reserve” means the amount required to be on deposit in a capital reserve fund as prescribed by section 6006, subsection 1-A.

**Sec. 18. 30-A MRSA §5903, sub-§12** is enacted to read:

**12. Revolving loan fund.** “Revolving loan fund” means that revolving loan fund created under section 6006-A.

**Sec. 19. 30-A MRSA §5953-A** is enacted to read:

**§5953-A. Loans from revolving loan fund**

**1. Loan application.** A municipality may apply for a loan from the revolving loan fund, the proceeds of which shall be used to acquire, design, plan, construct, enlarge, repair or improve a publicly owned sewage system, sewage treatment plant or to implement a related management program.

The bank may prescribe any application form or procedure required of a municipality for a loan under this section. The

application shall include any information that the bank determines necessary for the purpose of implementing this section and section 6006-A.

**2. Loan; loan agreements.** Loans are subject to this subsection.

**A.** The bank may make loans from the revolving loan fund to a municipality for one or more of the purposes set forth in subsection 1. Each of the loans shall be made subject to the following conditions.

(1) The total amount of loans outstanding at any one time from the revolving loan fund may not exceed the balance of the fund, provided that the proceeds of bonds or notes of the bank deposited in the fund and binding financial commitments of the United States to deposit money in the fund are included in determining the fund balance.

(2) The loan shall be evidenced by a municipal bond, payable by the municipality over a term not to exceed 20 years with annual principal and interest payments commencing not later than one year after the project being financed is completed.

(3) The rate of interest charged for the loans shall be at or below market interest rates.

(4) Subject to the limitations of subparagraph (3), the rate of interest charged for the loans made to municipalities under this section or the manner of determining the rate of interest shall be established from time to time by direction of the bank, taking into consideration the current average rate on outstanding marketable obligations, as well as the policies of the Department of Environmental Protection.

**B.** Loans made to a municipality by the bank under this section shall be evidenced by and made in accordance with the terms and conditions specified in a loan agreement to be executed by the bank and the municipality. The loan agreement shall specify the terms and conditions of disbursement of loan proceeds. The loan agreement shall state the term and interest rate of the loan, the scheduling of loan repayments and any other terms and conditions determined necessary or desirable by the bank.

**3. Eligibility certification.** No loan to a municipality may be made under this section until:

**A.** The applicant certifies to the bank that it has secured all permits, licenses and approvals necessary to construct the improvements to be financed by the loan;

**B.** The applicant demonstrates to the bank that it has established a rate, charge or assessment schedule

which will generate annually sufficient revenue to pay, or has otherwise provided sufficient assurances that it will pay, the principal of and interest on the municipal bond or other debt instrument which evidences the loan made by the bank to the municipality under this section and to pay reasonably anticipated costs of operating and maintaining the financed project and the system of which it is a part;

C. The applicant certifies to the bank that it has created a dedicated source of revenue, which may constitute general revenues of the applicant through a general obligation pledge of the applicant, for repayment of the loan;

D. The applicant and the project to be financed by the proceeds of the loan have been designated by the Department of Environmental Protection as eligible to participate in a construction or implementation program funded wholly or in part by the State and from the proceeds of the revolving loan fund;

E. The Department of Environmental Protection certifies to the bank that any management program to be financed complies with all applicable state and federal laws and all rules and regulations adopted under those laws; and

F. The Department of Environmental Protection certifies to the bank that the loan eligibility priority, established under section 6006-A, subsection 3, entitles the applicant to immediate financing or assistance under this section.

**Sec. 20. 30-A MRSA §5959** is enacted to read:

**§5959. Rules; reports**

**1. Rules.** The Department of Environmental Protection and the bank may adopt rules and policies necessary to implement sections 5953-A and 6006-A to ensure the self-sustaining nature of the fund created under section 6006-A and also to ensure compliance with the Federal Water Pollution Control Act, Title VI.

**2. Contractual authority; reports.** The Department of Environmental Protection and the bank may enter into agreements and shall provide notice as provided in this subsection.

A. The Department of Environmental Protection and the bank may enter into agreements on behalf of the State with agencies of the United States as may be necessary to obtain grants and awards in furtherance of the stated purposes for which the revolving loan fund created under section 6006-A is established and take all other actions necessary to comply with the Federal Water Pollution Control Act, Title VI, provided that notice of each of the agreements is made in a timely fashion to the Governor.

B. Annually, the Department of Environmental Protection and the bank shall notify the Governor of

the amount of the fund created under section 6006-A anticipated to be available for the next fiscal year.

C. The bank is designated by the State as the instrumentality empowered to administer the revolving loan fund in conjunction with the Department of Environmental Protection to accept capitalization grants made under the Federal Water Pollution Control Act, Title VI and to manage the revolving loan fund in accordance with that Act.

**Sec. 21. 30-A MRSA §6003, sub-§1, ¶A-1** is enacted to read:

**A-1. The making of deposits to the revolving loan fund;**

**Sec. 22. 30-A MRSA §6003, sub-§2,** as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is further amended to read:

**2. Bonds as general obligation bonds; additional security.** Except as expressly provided otherwise in this chapter or by the bank, every issue of bonds shall be general obligations of the bank payable out of any revenues or funds of the bank, subject only to any agreements with the holders of particular bonds pledging any particular revenues or funds. Bonds that are not general obligations of the bank shall be special obligations of the bank payable solely from any revenues or funds of the bank pledged for that purpose and subject only to any agreements with the holders of particular notes and bonds pledging any particular revenues or funds. General obligation Any bonds may be additionally secured by a pledge of any grants, subsidies, contributions, funds or money from the Federal Government, the State, any governmental unit, any person or a pledge of any income or revenues, funds or money of the bank from any source.

**Sec. 23. 30-A MRSA §6003, sub-§9** is enacted to read:

**9. Taxation of interest.** The bank may covenant and consent, at or before the issuance of its bonds or notes, to the inclusion of interest on any of its bonds or notes, under the United States Internal Revenue Code of 1986 or any subsequent corresponding internal revenue law of the United States, in the gross income of the holders of any such bonds or notes 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 of the bonds or notes under the United States Internal Revenue Code or any such subsequent law.

**Sec. 24. 30-A MRSA §6006, sub-§1, ¶A and B,** as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, are further amended to read:

A. Money in the reserve fund shall be held and applied solely to the payment of the interest on and principal of bonds secured by the reserve fund and sinking fund payments mentioned in this chapter with respect to bonds secured by the reserve fund as

the interest, principal and sinking fund payments become due and payable; and for the retirement of bonds, including the payment of any redemption premium required to be paid when any bonds are redeemed or retired before maturity. Money may not be withdrawn from the fund if the withdrawal would reduce the amount in the reserve fund to an amount less than the required debt service reserve, except for:

- (1) Payment of interest then due and payable on bonds;
- (2) Payment of the principal of bonds then maturing and payable;
- (3) Sinking fund payments mentioned in this chapter with respect to bonds;
- (4) The retirement of bonds in accordance with the terms of any contract between the bank and its bondholders; and
- (5) The payment for which other money of the bank is not then available for payment of interest, principal or sinking fund payments or the retirement of bonds in accordance with the terms of any such contract.

B. As used in this chapter, "required debt service reserve" means, as of any date of computation, the amount or amounts required to be on deposit in the reserve fund as provided by resolution of the bank. The required debt service reserve shall be, as of any date of computation, an aggregate amount equal to at least the largest amount of money, required by the terms of all contracts between the bank and its ~~bondholders~~ holders of bonds secured by the reserve fund, to be raised in the then current or any succeeding calendar year for:

- (1) The payment of interest on and maturing principal of that portion of outstanding bonds secured by the reserve fund, the proceeds of which were applied solely to the purchase of municipal securities; and
- (2) Sinking fund payments required by the terms of any such contracts to sinking funds established for the payment or redemption of those bonds.

Sec. 25. 30-A MRSA §6006, sub-§1-A is enacted to read:

1-A. Capital reserve fund. This subsection applies to capital reserve funds.

A. The bank may establish and maintain one or more special funds called "capital reserve funds" in which there shall be deposited:

- (1) All money appropriated by the State for the purpose of those funds;
- (2) All proceeds of bonds required to be deposited in those funds by the terms of any contract between the bank and its bondholders or any resolution of the bank with respect to the proceeds of bonds;
- (3) Any other money or funds of the bank which it determines to deposit in those funds; and
- (4) Any other money made available to the bank only for the purposes of the fund from any other source or sources.

B. Money in any capital reserve fund shall be held and applied solely:

- (1) To pay the interest on and principal of bonds secured by the capital reserve fund and sinking fund payments mentioned in this chapter with respect to bonds secured by the capital reserve fund as the interest and principal becomes due and payable; and
- (2) To retire bonds secured by the capital reserve fund, including the payment of any redemption premium required to be paid when any such bonds are redeemed or retired before maturity.

C. The minimum amount of any capital reserve fund shall be equal to the amounts required under the resolutions pursuant to which the bonds secured by the capital reserve fund are issued. These amounts are referred to in this chapter as the "required minimum reserve." With respect to bonds secured by a capital reserve fund for which the resolution authorizing the issuance of those bonds states that the provisions of subsection 5 apply, the required minimum reserve shall be, as of any date of computation, an aggregate amount equal to at least the largest amount of money required by the terms of all contracts between the bank and its bondholders of the bonds to be raised in the then current or any succeeding calendar year for the payment of interest on and maturing principal of that portion of the outstanding bonds, the proceeds of which were applied solely to the purchase of municipal securities or municipal bonds and sinking fund payments required by the terms of any such contracts to sinking funds established for the payment or redemption of the bonds, all calculated on the assumption that the bonds will cease to be outstanding after the date of the computation because of the payment of the bonds at their respective maturities and the payments of the required money to sinking funds and the application thereof in accordance with the terms of all such contracts to the retirement of the bonds.

D. Money in any capital reserve fund shall not be withdrawn if the withdrawal would reduce the amount in the capital reserve fund to an amount less than the required minimum reserve for all such bonds issued and to be issued which will be secured by the capital reserve fund, except for payment of interest then due and payable on bonds secured by the capital reserve fund and the principal of bonds secured by the capital reserve fund then maturing and payable and sinking fund payments required by the terms of any such contracts to sinking funds established for the payment or redemption of the bonds, and for the retirement of bonds secured by the capital reserve fund in accordance with the terms of any contract between the bank and its bondholders and for the payments on account of which interest or principal or sinking fund payments or retirement of bonds secured by the capital reserve fund other money of the bank is not then available in accordance with the terms of any such contract.

**Sec. 26. 30-A MRSA §6006, sub-§§2 to 6,** as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, are repealed and the following enacted in their place:

**2. Transfer.** Money in the reserve fund at any time in excess of the required debt service reserve, whether by reason of investment or otherwise, may be withdrawn at any time by the bank and transferred to any other fund or account of the bank.

Money in any capital reserve fund at any time in excess of the required minimum reserve, whether by reason of investment or otherwise, may be withdrawn at any time by the bank and transferred to any other fund or account of the bank.

**3. Investment.** Money at any time in the reserve fund or any capital reserve fund may be invested in the same manner as permitted for investment of funds belonging to the State or held in the treasury.

**4. Reserve.** Notwithstanding any other provision of this chapter, the bank may not issue any bonds to be secured by the reserve fund or by a capital reserve fund for which the resolution authorizing the issuance of those bonds states that subsection 5 applies unless:

A. If the bonds are to be secured by the reserve fund, there is in the reserve fund the required debt service reserve for all bonds then issued and outstanding which are secured by the reserve fund and the bonds to be issued which will be secured by the reserve fund; or

B. If the bonds are to be secured by a capital reserve fund for which the resolution authorizing the issuance of the bonds states that subsection 5 applies, there is in the capital reserve fund the required minimum reserve for all bonds secured by the capital reserve fund then issued and outstanding and the bonds to be issued which will be secured by the capital reserve fund.

Nothing in this chapter prevents the bank from satisfying this requirement by depositing so much of the proceeds of the bonds to be issued, upon their issuance, as is needed to achieve the required debt service reserve or required minimum reserve, as applicable. The bank may at any time issue its bonds or notes for the purpose of providing any amount necessary to increase the amount in the reserve fund to the required debt service reserve, to increase the amount in any capital reserve fund to the required minimum reserve or to meet any higher or additional reserve as may be fixed by the bank with respect to such fund.

**5. Restoration.** In order to ensure the maintenance of the required debt service reserve in the reserve fund, there shall be annually appropriated and paid to the bank for deposit in the fund, the sum, if any, certified by the chair of the bank to the Governor. On or before December 1st of each year, the chair shall make and deliver to the Governor a certificate stating the sum, if any, required to restore the reserve fund to an amount equal to the required debt service reserve and the sum or sums so certified shall be appropriated and paid to the bank during the then current state fiscal year.

In order to ensure the maintenance of the required minimum reserve in any capital reserve fund to which, at the direction of the bank pursuant to the resolution establishing the capital reserve fund, this provision applies, there shall be annually appropriated and paid to the bank for deposit in the fund, the sum, if any, certified by the chair of the bank to the Governor. On or before December 1st of each year, the chair shall make and deliver to the Governor a certificate stating the sum, if any, required to restore the fund to an amount equal to the required minimum reserve, and the sum or sums so certified shall be appropriated and paid to the bank during the then current state fiscal year.

**6. Valuation.** In computing the amount of the required debt service reserve or the required minimum reserve, investments held as a part of those reserves shall be valued in the manner provided in the applicable bond resolution.

**7. Exclusions.** The bank may provide from time to time by resolution for the issuance of its bonds or notes which are not secured by the reserve fund or any capital reserve fund, as set forth in the resolution authorizing its bonds or notes. The bank may, pursuant to a resolution or other agreement, establish the security for any of its bonds, including, but not limited to, policies of insurance and letters of credit, as the bank in its discretion determines necessary, desirable or convenient to further the accomplishment of the purposes of the bank. The security may, if so provided by a resolution or other agreement of the bank, to the extent set forth in the resolution or agreement, satisfy the provisions of the resolution or agreement with respect to any required debt service reserve, required minimum reserve or other reserve.

Sec. 27. 30-A MRSA §6006-A is enacted to read:

§6006-A. Revolving loan fund

1. Establishment; administration. A revolving loan fund is established as provided in this section.

A. There is established in the custody of the bank a special fund to be known as the revolving loan fund which shall be used to provide loans to municipalities for acquiring, designing, planning, constructing, enlarging, repairing or improving publicly owned sewage systems and sewage treatment plants as provided in Title 38, section 411, and for implementing related management programs.

B. The bank shall administer the revolving loan fund. The fund shall be invested in the same manner as permitted for investment of funds belonging to the State or held in the State Treasury. The fund shall be established and held separate and apart from any other funds or money of the State or the bank and shall be used and administered exclusively for the purpose of this section and section 5953-A. The fund shall consist of the following:

(1) Such sums as may be appropriated by the Legislature or transferred to the fund from time to time by the Treasurer of State;

(2) Principal and interest received from the repayment of loans made from the fund;

(3) Capitalization grants and awards made to the State or an instrumentality of the State by the United States for any of the purposes for which the fund has been established. These amounts shall be paid directly into the fund without need for appropriation by the State;

(4) Interest earned from the investment of fund balances;

(5) Private gifts, bequests and donations made to the State for any of the purposes for which the fund has been established;

(6) The proceeds of notes or bonds issued by the bank for the purpose of deposit in the fund; and

(7) Other funds from any public or private source received for use for any of the purposes for which the fund has been established.

2. Uses. The revolving loan fund may be used for one or more of the following purposes:

A. To make loans to municipalities under this section and section 5953-A;

B. To make loans to refund bonds or notes of a municipality issued after March 7, 1985 for the purpose of financing the construction of any capital improvement or management program described in section 5953-A, subsection 1 and certified under section 5953-A, subsection 3;

C. To guarantee or insure, directly or indirectly, the payment of notes or bonds issued or to be issued by a municipality for the purpose of financing the construction of any capital improvement or management program described in section 5953-A, subsection 1 and certified under section 5953-A, subsection 3;

D. To guarantee or insure, directly or indirectly, funds established by municipalities for the purpose of financing construction of any capital improvement described in section 5953-A, subsection 1;

E. To invest available fund balances and to credit the net interest income on those balances to the revolving loan fund;

F. To invest as a source of revenue or security for the payment of principal and interest on general or special obligations of the bank if the proceeds of the sale of the obligations have been deposited in the fund, or as a source of revenue to subsidize municipal loan payment obligations;

G. To pay the costs of the bank and the Department of Environmental Protection staff associated with the administration of the revolving loan fund and projects financed by it; provided that no more than the lesser of 2% of the aggregate of the highest fund balances in any fiscal year and 4% of any capitalization grants provided by the United States for deposit in the revolving loan fund shall be used for these purposes; and

H. To pay the costs required under the Federal Water Pollution Control Act, Title VI.

3. Priorities for financial assistance. Periodically, and at least annually, the Department of Environmental Protection shall prepare and certify to the bank a project priority list of those municipalities whose publicly owned projects are eligible for financing or assistance under this section. The factors to be considered in developing the priority list shall include, but are not limited to:

A. Water supply protection;

B. Shellfishery protection;

C. Nuisance conditions;

D. Fisheries protection;

E. Facility needs; and

F. Median household income.

**4. Eligibility for financial assistance.** No financial assistance for a project may be granted under this section until the Department of Environmental Protection certifies to the bank that the project is eligible for immediate financing under this section and is on the priority list prepared under subsection 3.

**5. Establishment of accounts.** The bank may establish accounts and subaccounts within the revolving fund as it determines desirable to effectuate the purposes of this section, including, but not limited to, accounts to segregate a portion or portions of the revolving loan fund as security for bonds issued by the bank for deposit in the revolving loan fund and to be invested for the benefit of specified projects receiving financial assistance from the revolving loan fund.

**Sec. 28. 30-A MRSA §6007, sub-§1, ¶B,** as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is further amended to read:

B. Any money which the bank transfers to the general fund from the reserve fund or any capital reserve fund under section 6006, subsection 2;

**Sec. 29. 30-A MRSA §6007, sub-§2,** as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is further amended to read:

**2. Use of general fund.** Any money in the general fund may, subject to any contracts between the bank and its bondholders or noteholders, be transferred to the reserve fund or any capital reserve fund. If it is not so transferred, the money shall be used to pay the principal of or interest on bonds or notes of the bank when the principal or interest becomes due and payable, whether at maturity or upon redemption, including the payment of any premium upon redemption before maturity.

A. Any money available in the general fund may also be used for:

- (1) The purchase of municipal securities;
- (2) The purchase or redemption of its bonds or notes. Any such bonds purchased for retirement shall be thereupon cancelled; and
- (3) All other purposes of the bank including the payment of its operating expenses.

(a) No amount may be expended for the bank's operating expenses in any year out of the general fund or from any account in that fund established for that purpose, in excess of the amount provided for the bank's operating expenses by the annual budget for that year or any amendment of the annual budget in effect at the time of the payment or expenditure for operating expenses.

B. The bank may create and establish in the general fund any accounts which in the opinion of the bank are necessary, desirable or convenient for the purposes of the bank under this chapter.

- (1) The bank may establish an account in the general fund for the purpose of paying its operating expenses.

**Sec. 30. Transition clause.** The following provisions apply to the transition from the Maine Revised Statutes, Title 30 to Title 30-A.

**1. Personnel.** This Act does not affect the term or appointment of any officer, official, employee or other personnel of any county, municipality, plantation, village, quasi-municipal corporation or any state agency, department or board governed by any statute repealed or amended by this Act.

**2. Agreements, leases, contracts, authorizations or bonds.** All agreements, leases, contracts, authorizations, notes or bonds issued before the effective date of this Act under provisions repealed or amended by this Act shall continue to be valid under the terms of issuance until they expire or are rescinded, amended or revoked.

**3. Ordinances, rules and regulations.** All ordinances, rules and regulations enacted or adopted by any county, municipality, plantation, village, quasi-municipal corporation or any state agency, department or board under the authority of any provision repealed or amended by this Act shall continue in force until they are repealed, rescinded, amended or revoked.

**4. Dedicated revenues.** This Act shall not be construed to change the status of any dedicated revenues. All dedicated revenues existing prior to this Act shall not lapse because of this Act, but shall be transferred to the funds of the same name which are created by this Act.

**Sec. 31. Effective date.** This Act shall be retroactive to February 28, 1989.

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

Effective April 21, 1989.

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## CHAPTER 49

H.P. 464 - L.D. 629

### An Act to Change the Name of the Governor's Committee on Employment of the Handicapped to the Governor's Committee on Employment of People with Disabilities

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

**Sec. 1. 3 MRSA §507, sub-§4, ¶B,** as amended by PL 1987, c. 887, §1, is further amended to read: