LAWS

OF THE

STATE OF MAINE

AS PASSED BY THE

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Penmor Lithographers
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ble, protected wood frame or heavy timber construction. Such existing facilities must be protected by a complete approved automatic sprinkler system and meet all other requirements of residential-custodial care facilities as required by the Commissioner of Public Safety.

Existing boarding care facilities licensed pursuant to Title 22, ~~subtitle~~ Subtitle 6~~,~~ must comply with the applicable fire safety requirements of the Life Safety Code adopted by the Commissioner of Public Safety pursuant to Title 22, section 7856.

Existing children's homes licensed pursuant to Title 22, Subtitle 6~~,~~ must comply with the applicable fire safety requirements of the Life Safety Code of the National Fire Protection Association adopted by the Commissioner of Public Safety pursuant to Title 22, section 8103.

See title page for effective date.

CHAPTER 536

H.P. 1264 - L.D. 1742

An Act To Amend the Laws Regarding Humane Agents and Kennel Licenses

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

Sec. 1. 7 MRSA §3906-B, sub-§9-A, ¶F, as enacted by PL 2003, c. 405, §2, is amended to read:

F. Training ~~for humane agents~~.

Sec. 2. 7 MRSA §3907, sub-§17, as amended by PL 1995, c. 409, §1, is further amended to read:

17. Kennel. "Kennel" means ~~one pack or collection of~~ 5 or more dogs or wolf hybrids kept in a single location under one ownership for breeding, hunting, show, training, field trials and exhibition purposes. The sale or exchange of one litter of puppies within a 12-month period alone does not constitute the operation of a kennel.

Sec. 3. 7 MRSA §3909, sub-§3-A, as enacted by PL 2003, c. 405, §6, is amended to read:

3-A. Humane agents; training requirements. Continuing employment of a humane agent hired after October 1, 2003 is contingent upon the successful completion by that agent of a 100-hour service training program at the Maine Criminal Justice Academy or a nationally recognized training program on investigation and enforcement of animal welfare laws and the successful completion of an examination on state animal welfare laws and rules adopted pursuant to this Part.

A humane agent, regardless of appointment date, shall complete training in the handling of small and large animals and a minimum of 40 hours of training each year, including a combination of classroom and hands-on training.

Sec. 4. 7 MRSA §3923-C, sub-§1, as amended by PL 1997, c. 690, §17, is further amended to read:

1. License necessary. A person having ~~a pack or collection of~~ 5 or more dogs for the purposes set forth in section 3907, subsection 17 shall obtain a kennel license from the clerk of the municipality where the dogs are kept and that person is subject to rules adopted by the department. The sex, registered number and description are not required ~~of~~ for the dogs covered by a kennel license. The license expires December 31st annually. The kennel license permits the licensee or authorized agent to transport under control and supervision the kennel dogs in or outside the State.

See title page for effective date.

CHAPTER 537

H.P. 1288 - L.D. 1766

An Act To Simplify the Finance Authority of Maine Act

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

Sec. 1. 10 MRSA §962, sub-§1, as amended by PL 1985, c. 344, §5, is further amended to read:

1. Loans. Encourage the making of ~~mortgage~~ loans to finance the planning, development, acquisition, construction, improvement, expansion and placing in operation of industrial, manufacturing, recreational, fishing, agricultural and other business and natural resource enterprises;

Sec. 2. 10 MRSA §962, sub-§4, as amended by PL 1989, c. 559, §1, is further amended to read:

4. Small businesses and veteran-owned small businesses. Encourage the making of ~~mortgage~~ loans to small businesses and veteran-owned small businesses;

Sec. 3. 10 MRSA §963-A, sub-§§6 and 8, as enacted by PL 1985, c. 344, §7, are amended to read:

6. Commitment to issue loan insurance. "Commitment to issue ~~mortgage~~ loan insurance" means a commitment to provide insurance for ~~mortgage~~ loan payments subject to terms specified by the authority.

8. Eligible collateral. "Eligible collateral" means ~~an eligible project~~ accounts, as-extracted collateral, chattel paper, commercial tort claims, consumer goods, deposit accounts, documents, equipment, farm products, fixtures, general intangibles, instruments, investment property, inventory, letter of credit rights, manufactured homes, money, real estate, supporting obligations and accessions to any of the foregoing and any other business assets.

Sec. 4. 10 MRSA §963-A, sub-§10, as corrected by RR 1999, c. 1, §§7 to 9, is amended to read:

10. Eligible project. "Eligible project" ~~or "eligible collateral"~~ means any of the following:

A. Any ~~real property located within the State, including without limitation any land, buildings, fixture, improvement, easement, right of way, water right, land lying under water or air right~~ eligible enterprise;

~~B. Any personal property, including without limitation any leasehold, inventory, account receivable, patent, license, franchise, machinery, equipment, merchandise, raw material, supply, product, work in process, stock in trade, capital stock, note, guaranty, insurance contract, bond, mortgage, letter of credit or security agreement;~~

~~C. Any fishing vessel documented or to be documented under laws of the United States or registered or to be registered under a state's law which is designed to be used for catching, processing or transporting fish and any vessel outfitted for any such activity;~~

D. Any vessel registered under the law of the United States or a state;

E. Any energy conservation project;

F. Any energy distribution system project;

G. Any energy generating system project;

H. Any pollution-control project;

I. Any water supply system project;

J. Any underground oil storage facility replacement project, including equipment installed to meet requirements for gasoline service station vapor control and petroleum liquids transfer vapor recovery;

K. Any overboard discharge replacement project;

L. Any hazardous waste or solid waste recycling or reduction project;

M. Any aboveground oil replacement or upgrade project, including equipment installed to meet requirements for gasoline service station vapor control and petroleum liquids transfer vapor recovery;

N. Any electric rate stabilization project;

O. Any major business expansion project;

P. Any workers' compensation residual market mechanism project;

Q. Any clean fuel vehicle project;

R. Any paper industry job retention project; and

S. Any transmission facilities project.

In addition to and without limiting this subsection, "eligible project" ~~or "eligible collateral"~~ also means any project ~~or collateral~~, the financing of which through the issuance of revenue obligation securities would result in the interest on the revenue obligation securities qualifying, as of the date of issuance, as tax-exempt under the United States Code, Title 26, Section 103, as amended.

Sec. 5. 10 MRSA §963-A, sub-§15, as enacted by PL 1985, c. 344, §7, is amended to read:

15. Facility. "Facility" means an eligible project ~~or any eligible collateral~~.

Sec. 6. 10 MRSA §963-A, sub-§27, as enacted by PL 1985, c. 344, §7, is amended to read:

27. Loan. "Loan" ~~or "mortgage loan"~~ means an extension of credit made in consideration of a written promise of repayment or any other conditions ~~which~~ that may be established by the authority, performance of which may be secured by mortgage.

Sec. 7. 10 MRSA §963-A, sub-§27-A, as enacted by PL 1993, c. 460, §2, is amended to read:

27-A. Loan insurance agreement. "Loan insurance agreement~~,~~" ~~"mortgage insurance agreement" or "mortgage insurance contract"~~ means an agreement pursuant to which the authority insures payment of a ~~mortgage~~ loan pursuant to ~~chapter 110,~~ subchapter ~~II~~ 2, and also means an agreement pursuant to which the authority insures or guarantees an insured certificate, if the authority's loan insurance liability for insuring an insured certificate is in lieu of and not in addition to

its liability for insuring that portion of a mortgage loan represented by the insured certificate.

Sec. 8. 10 MRSA §963-A, sub-§§30 and 31, as enacted by PL 1985, c. 344, §7, are repealed.

Sec. 9. 10 MRSA §963-A, sub-§36, as enacted by PL 1985, c. 344, §7, is amended to read:

36. Loan Insurance Program. "~~Mortgage~~ Loan Insurance Program" means the program governed by subchapter ~~II~~ 2.

Sec. 10. 10 MRSA §963-A, sub-§37, as enacted by PL 1985, c. 344, §7, is repealed.

Sec. 11. 10 MRSA §963-A, sub-§38, as enacted by PL 1985, c. 344, §7, is amended to read:

38. Loan payments. "~~Mortgage~~ Loan payments" means payments required by or received on account of a mortgage or any other financial document, including, but not limited to, payments covering interest, installments of principal, taxes, assessments, loan insurance premiums and hazard insurance premiums.

Sec. 12. 10 MRSA §963-A, sub-§44, as enacted by PL 1985, c. 344, §7, is amended to read:

44. Project. "Project" means any eligible project ~~or eligible collateral~~.

Sec. 13. 10 MRSA §964, sub-§1, ¶A, as enacted by PL 1983, c. 519, §6, is amended to read:

A. ~~Mortgage~~ Loan Insurance Program;

Sec. 14. 10 MRSA §964, sub-§1, ¶D, as enacted by PL 1983, c. 519, §6, is repealed.

Sec. 15. 10 MRSA §964, sub-§1, ¶E, as amended by PL 1985, c. 344, §8, is repealed.

Sec. 16. 10 MRSA §969-A, sub-§5, as amended by PL 1991, c. 511, Pt. A, §3, is further amended to read:

5. Loan transactions. Purchase, sell, service, pledge, invest in, hold, trade, accept as collateral or otherwise deal in, acquire or transfer, on such terms and conditions as the authority may specify, any ~~mortgage~~ loan, ~~mortgage~~ pass-through certificate, pledge including any pledge of ~~mortgage~~ revenue~~,~~ ~~mortgage~~ participation certificate, revenue obligation security or other mortgage-backed or mortgage-related security. Any such transaction may be conducted by public or private offering, with or without public bidding. In connection with the purchase or sale of a ~~mortgage~~ loan or of a beneficial interest or participation in a ~~mortgage~~ loan, the authority may enter into one or more agreements providing for the custody, control and administration of the ~~mortgage~~ loan. Any such agreement may provide that the authority, a financial institution or other person shall act as trustor, trustee or custodian under the agreement. Any such agreement may provide that, with respect to ~~mortgage~~ loans governed by the agreement, title to a ~~mortgage~~ loan, or to a beneficial interest or participation in a ~~mortgage~~ loan, is deemed to have been transferred on terms and to the extent specified in that agreement and that the effect of a sale of a beneficial interest or participation in a ~~mortgage~~ loan is the same as a sale of a ~~mortgage~~ loan.

The authority may issue or cause to be issued certificates or other instruments evidencing the holder's fractional interest in a pool of ~~mortgage~~ loans, which interest may be undivided or limited to one or more specific loans. Whether or not the certificates or instruments are of such form or character as to be negotiable instruments under Title 11, article ~~8~~ 3-A, the certificates or instruments are negotiable instruments within the meaning of and for all the purposes of Title 11, article ~~8~~ 3-A, subject only to such registration requirements as the authority may establish.

In connection with the exercise of the powers authorized in this subsection and those powers otherwise granted to the authority, the authority may create and operate a secondary market and warehousing facility or facilities for ~~mortgage~~ loans or the insured portion of ~~mortgage~~ loans that provide liquidity to lenders making ~~mortgage~~ loans;

Sec. 17. 10 MRSA §975-A, sub-§1, ¶A, as enacted by PL 1985, c. 344, §25, is amended to read:

A. After filing of a written application or proposal for financial assistance or property transfer, in form specified by or acceptable to the authority:

(1) Names of recipients of or applicants for financial assistance, including principals, where applicable;

(2) Amounts, types and general terms of financial assistance provided to those recipients or requested by those applicants;

(3) Descriptions of projects and businesses benefiting or to benefit from the financial assistance;

(4) Names of transferors or transferees, including principals, of property to or from the authority, the general terms of transfer and the purposes for which transferred property will be used;

(5) Number of jobs and the amount of tax revenues projected or resulting in connection with a project;

(6) Upon the authority's satisfaction of its ~~mortgage~~ loan insurance liability, the amount of any ~~mortgage~~ loan insurance payments with respect to a ~~mortgage~~ loan insurance contract; and

(7) Names of financial institutions participating in providing financial assistance and the general terms of that financial assistance;

Sec. 18. 10 MRSA §986, sub-§4, as enacted by PL 1983, c. 519, §7, is amended to read:

4. Procure insurance. The authority may procure insurance from public or private entities against any loss in connection with its operations and property interests, including insurance for any loss in connection with any bonds or obligations held by it and any of its property or assets and for payment of any bonds or obligations issued by it. To the maximum extent possible, the authority shall use the ~~mortgage~~ loan insurance program established pursuant to subchapter ~~II~~ 2.

Sec. 19. 10 MRSA §997, sub-§2, ¶C, as amended by PL 1985, c. 344, §36, is further amended to read:

C. ~~Mortgage~~ Loan insurance for loans ~~which~~ that satisfy the following requirements:

(1) The lender must be a seller of agricultural land and other eligible collateral:

(a) Who is a natural person; or

(b) ~~Which~~ That is a family farm corporation;

(2) The borrower must be an entrant to natural resource enterprises;

(3) The loan must be made for the purpose of financing all or part of the purchase price of agricultural land and other eligible collateral; and

(4) The interest rate on the loan must be significantly less than the market interest rate, if required by the authority; and

Sec. 20. 10 MRSA §1023-D, sub-§3, as amended by PL 2001, c. 231, §3, is further amended to read:

3. Application of fund. Money in the fund may be applied to carry out any power of the authority under this section or under or in connection with section ~~1026-F~~ 1026-A, subsection 1, paragraph A, subparagraph (1), division (b), including, but not limited to, to pledge or transfer and deposit money in the fund as security for and to apply money in the fund in payment of principal, interest and other amounts due on insured loans. Except as otherwise prohibited under this subsection, money in the fund may be used for direct loans or grants for all or part of underground oil storage facility projects, underground oil storage tank projects, aboveground oil storage tank or facility construction or replacement projects or gasoline service station vapor control or petroleum liquids transfer vapor recovery projects when the authority determines that:

A. One or more of the following circumstances exists:

(1) The underground oil storage facility or tank is leaking or has been identified by the Department of Environmental Protection as posing an environmental threat, or removal is required by applicable law;

(2) The applicant is required to install equipment related to the improvement of air quality pursuant to requirements for gasoline service station vapor control and petroleum liquids transfer vapor recovery;

(3) The applicant is constructing, replacing or renovating a tank or facility used for the aboveground storage of oil and the work is supervised by a state-registered professional engineer with training and experience in aboveground oil storage facility installation; or

(4) The applicant is renovating an underground oil storage tank or facility, the work is supervised by an underground oil storage tank installer certified by the Board of Underground Storage Tank Installers under Title 32, chapter 104-A and the estimated cost of the work exceeds ~~$1000~~ $1,000;

B. The applicant, if the applicant is not a unit of local government, demonstrates financial need for the assistance; and

C. If the assistance includes a loan, there is a reasonable likelihood that the applicant will be able to repay the loan.

Applicants demonstrating the requirement to install equipment related to the improvement of air quality pursuant to section ~~1026-F~~ 1026-A, subsection 1, paragraph A, subparagraph (1), division (b) and who own fewer than 15 service stations, and who are not able to repay a loan, are eligible to receive no more

than $35,000 per service station in grants for the payment of expenses relating to the installation of this equipment.

The authority, pursuant to Title 5, chapter 375, subchapter ~~II~~ 2, shall adopt rules for determining eligibility, feasibility, terms, conditions and security for the loans and grants. In the case of loans, the authority may charge an interest rate that may be as low as 0% and may be greater, depending on the financial ability of the applicant to pay as determined by the authority, up to a maximum of the prime rate of interest charged by major New York banks. The maximum the authority may loan or grant to any one borrower, including related entities as determined by the authority, is $600,000. Loans or grants for the purposes listed in paragraph A, subparagraph (3) may not exceed $1,000,000 in a 12-month period. Grants may not be made for the purpose listed in paragraph A, subparagraph (4). Money in the fund not needed currently to meet the obligations of the authority as provided in this section may be invested as permitted by law.

Sec. 21. 10 MRSA §1023-D, sub-§5, as enacted by PL 1987, c. 521, §4, is amended to read:

5. Revolving fund. The fund ~~shall be~~ is a nonlapsing, revolving fund. All money in the fund ~~shall~~ must be continuously applied by the authority to carry out this section and section ~~1026-F~~ 1026-A, subsection 1, paragraph A, subparagraph (1), division (b).

Sec. 22. 10 MRSA §1023-E, as enacted by PL 1987, c. 846, §5, is repealed.

Sec. 23. 10 MRSA §1023-F, as repealed and replaced by PL 1989, c. 878, Pt. A, §25, is repealed.

Sec. 24. 10 MRSA §1023-I, sub-§5, as amended by PL 1993, c. 722, Pt. B, §1 and affected by §3, is further amended to read:

5. Revolving fund. The fund is a nonlapsing, revolving fund. All money in the 1992 Bond Proceeds Account of the fund must be continuously applied by the authority to carry out this section and section 1026-J and all money in the 1994 Bond Proceeds Account of the fund must be continuously applied by the authority to carry out this section ~~and sections~~, section 1026-A, subsection 1, paragraph A, subparagraph (2) and section 1026-J ~~and 1026-K~~.

Sec. 25. 10 MRSA §1023-K, sub-§3, as amended by PL 2001, c. 714, Pt. JJ, §2, is further amended to read:

3. Application of fund. The fund may be applied to carry out any power of the authority under or in connection with section ~~1026-P~~ 1026-A, subsection 1, paragraph A, subparagraph (1), division (c), including, but not limited to, the pledge or transfer and deposit of money in the fund as security for and the application of the fund to pay principal, interest and other amounts due on insured loans. The fund may be used for direct loans to finance all or part of any clean fuel vehicle project when the authority determines that:

A. The applicant demonstrates a reasonable likelihood that the applicant will be able to repay the loan;

B. The applicant demonstrates a reasonable likelihood that the applicant will not be able to obtain the funds necessary to undertake all or any part of the project from any other source, including a loan insured under section ~~1026-P~~ 1026-A, subsection 1, paragraph A, subparagraph (1), division (c);

C. The project is technologically feasible; and

D. The project will contribute to a reduction of or more efficient use of fossil fuels.

The authority shall adopt rules for determining eligibility, project feasibility, terms, conditions and security for loans under this section. Rules adopted pursuant to this section are routine technical rules under Title 5, chapter 375, subchapter ~~II-A~~ 2-A. Money in the fund not currently needed to meet the obligations of the authority as provided in this section may be invested in such a manner as permitted by law.

Sec. 26. 10 MRSA §1023-K, sub-§5, as enacted by PL 1997, c. 500, §5, is amended to read:

5. Revolving fund. The fund is a nonlapsing, revolving fund. The fund must be continuously applied by the authority to carry out this section and section ~~1026-P~~ 1026-A, subsection 1, paragraph A, subparagraph (1), division (c).

Sec. 27. 10 MRSA §1023-L, sub-§3-A, as enacted by PL 2001, c. 356, §6, is amended to read:

3-A. Use of funds by authority. The authority may use money in the fund to carry out any power of the authority under this section, section 1023-M~~,~~ ~~section 1026-R~~ or section ~~1026-S~~ 1026-A, subsection 1, paragraph A, subparagraph (1), division (d) or (e), including, but not limited to, the pledge or transfer and deposit of money in the fund as security for and the application of money in the fund in payment of principal, interest and other amounts due on insured loans. Money in the fund not needed to meet the obligations of the authority as provided in this section or section 1023-M may be invested as permitted by law. Any costs incurred by the authority in adminis-

tering this fund may be taken from interest from all sources of the fund.

Sec. 28. 10 MRSA §1023-M, sub-§2, as amended by PL 2003, c. 129, §§1 and 2 and affected by §5, is further amended to read:

2. Eligibility to participate in loan program. The authority may use money in the fund to carry out any power of the authority under this section or under section ~~1026-S~~ 1026-A, subsection 1, paragraph A, subparagraph (1), division (e), including, but not limited to, the pledge or transfer and deposit of money in the fund as security for and the application of money in the fund in payment of principal, interest and other amounts due on insured loans. Money in the fund may be used for direct loans or deferred loans for all or part of the costs of the Plymouth waste oil site remedial study, past cost settlement, implementation of institutional controls selected by the United States Environmental Protection Agency to prevent use of contaminated groundwater by nearby residents and time-critical removal action costs when the authority determines that:

A-1. The applicant has been identified by the United States Environmental Protection Agency as a potentially responsible party with respect to the waste oil disposal site and the applicant is alleged by the United States Environmental Protection Agency to have generated waste oil from an address or location within the State;

B. The applicant has signed the Administrative Order by Consent pursuant to United States Environmental Protection Agency Docket No. CERCLA 1-2000-0004;

B-1. The applicant has signed the West Site/Hows Corner RI/FS Group Agreement;

B-2. The applicant has entered into a consent decree with the United States and the State regarding past cost settlement at the Plymouth waste oil disposal site and the applicant is a participant in that consent decree or the applicant has entered into an inability-to-pay settlement with the United States Environmental Protection Agency;

C. The applicant is not a state or federal agency; and

D. There is a reasonable likelihood that the applicant will be able to repay the loan.

Money in the fund may not be used for attorney's fees associated with costs of the Plymouth waste oil site remedial study, past cost settlement, implementation of institutional controls or time-critical removal action, except that money in the fund may be used for attorney's fees incurred for the preparation of restrictive covenants, including deed and title research, for the properties within the area identified by the United States Environmental Protection Agency as the institutional control zone in order to implement the institutional controls selected by the United States Environmental Protection Agency.

A past cost settlement share may not be paid from the fund to a person if the United States Environmental Protection Agency has waived payment of the share based on the person's financial capacity. The authority may condition payments related to the Plymouth waste oil disposal site on receipt of an ability-to-pay determination from the agency.

The authority, pursuant to Title 5, chapter 375, subchapter ~~II~~ 2, shall adopt rules for determining eligibility, feasibility, terms, conditions, security and fees for the loans, including deferred loans. The authority shall adopt rules that provide for a simplified loan application process for loan requests of under ~~$2000~~ $2,000. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter ~~II-A~~ 2-A. The authority shall charge an interest rate of 0% on all loans. Loan repayment must be deferred until the United States Environmental Protection Agency determines that construction of the final remedy is complete. If the total amount of the loan requests exceeds funds available under section 1023-L, the authority shall prorate the amount of the loan available to each applicant by the ratio of the funds available to the total loans requested.

Sec. 29. 10 MRSA §1024, sub-§1, as amended by PL 1989, c. 543, §4, is further amended to read:

1. Request for funds. If at any time the money in the Mortgage Insurance Fund and the money in the Loan Insurance Reserve Fund, exclusive of the money pledged or assigned as security for specific obligations of the authority, is insufficient to meet expenses and obligations of the authority, as these expenses and obligations are projected by the authority to become due and payable, the authority shall in writing request the Governor to provide the necessary money. The Governor shall transfer sufficient money to the Mortgage Insurance Fund or Loan Insurance Reserve Fund, as directed by the authority, from the State Contingent Account or the proceeds of bonds of the State issued pursuant to subsection 2. If at any time the money in the Underground Oil Storage Replacement Fund, exclusive of any amounts reserved by law for direct loans pursuant to section 1023-D, subsection 3, is insufficient to meet the expenses and obligations of the authority incurred pursuant to section ~~1026-F~~ 1026-A, subsection 1, paragraph A, subparagraph (1), division (b), as these expenses and obligations are projected by the authority to become due and payable,

the authority shall in writing request the Governor to provide the necessary money. Within 30 days of receipt of the request, the Governor shall transfer sufficient money to the Underground Oil Storage Replacement Fund from the Ground Water Oil Clean-up Fund or the proceeds of bonds of the State issued pursuant to subsection 2. ~~If at any time the money in the Overboard Discharge Replacement Fund, exclusive of any amounts reserved by law or rule for direct loans pursuant to section 1023-E, subsection 3, is insufficient to meet the expenses and obligations of the authority incurred pursuant to section 1026-G, as these expenses and obligations are projected by the authority to become due and payable, the authority shall request, in writing, the Governor to provide the necessary money. Within 30 days of receipt of the request, the Governor shall transfer sufficient money to the Overboard Discharge Replacement Fund from the State Contingent Account or the proceeds of bonds of the State issued pursuant to subsection 2.~~

Sec. 30. 10 MRSA §1026-A, as amended by PL 1993, c. 319, §1, is further amended to read:

§1026-A. Insurance of loans

1. Insurance. The authority may make commitments and agreements to insure ~~mortgage~~ loan payments. Any ~~mortgage~~ loan insurance ~~shall~~ must be subject to the following:

A. ~~A mortgage payment may not be applied in a manner that would, for any one project, increase the percentage of mortgage payments insured by the authority, except that this paragraph does not apply when insurance payments for any one project may not in the aggregate exceed the lesser of 25% of the original principal amount of the mortgage loan or~~ Loan insurance may not exceed:

(1) ~~In the case of insurance provided pursuant to section 1026-B, $250,000;~~ One hundred percent of the principal amount of the loan made to any borrower including related entities for any of the following types of loans or projects:

(a) Loans to veterans and wartime veterans, except that the authority may not at any time have, in the aggregate amount of the principal and interest outstanding, loan insurance obligations pursuant to this division exceeding $5,000,000;

(b) Underground and aboveground oil storage facility projects and projects to install equipment related to the improvement of air quality pursuant to requirements for gasoline service station vapor control and petroleum liquids transfer vapor recovery, except that the authority may not at any time have, in the aggregate amount of the principal and interest outstanding, loan insurance obligations pursuant to this division exceeding $5,000,000;

(c) Clean fuel vehicle projects, except that the authority may not at any time have, in the aggregate amount of the principal and interest outstanding, loan insurance obligations pursuant to this division exceeding $5,000,000;

(d) Waste oil disposal site clean-up projects, except that the authority may not at any time have, in the aggregate amount of the principal and interest outstanding, loan insurance obligations pursuant to this division exceeding $1,000,000; or

(e) The Plymouth waste oil remedial study, except that the authority may not at any time have, in the aggregate amount of the principal and interest outstanding, loan insurance obligations pursuant to this division exceeding $1,000,000; and

(2) ~~In the case of insurance provided pursuant to section 1026-C, $25,000; or~~ Ninety percent of the principal amount of the loan made to any borrower, including related entities for any other manufacturing enterprise, industrial enterprise, recreational enterprise, fishing enterprise, agricultural enterprise, natural resource enterprise or any other eligible business enterprise;

~~(3) In the case of insurance provided pursuant to section 1026-D, $1,000,000;~~

B. The loan ~~shall~~ must be serviced as required by the authority; ~~and~~

~~C. Such other terms as may be required by law or by the authority.~~

D. The authority must determine that there is a reasonable prospect that the loan will be repaid;

E. The loan must be in compliance with the credit policy of the authority;

F. Loan insurance payments may not exceed the lesser of:

(1) Principal, outstanding accrued interest and collection costs approved by the authority; and

(2) The original insured amount; and

G. Terms other than those specified in paragraphs A to F as may be required by law or by rule of the authority.

The authority may provide insurance for related entities of up to $7,000,000.

Notwithstanding any provision to the contrary in this chapter, the authority may provide special loan insurance benefits to veterans and wartime veterans determined by rule of the authority developed in consultation with the Department of Defense, Veterans and Emergency Management, Bureau of Maine Veterans' Services.

For all loan insurance liability in excess of $1,000,000 and in other instances when the authority determines it is appropriate, the authority shall obtain a written assessment from the Department of Environmental Protection of the environmental conditions known by the department to exist at a project location so that the authority fully considers environmental risks when making its decisions. Environmental conditions posing risks that must be considered include, but are not limited to, licensing obligations, existing or historic regulatory noncompliance and site clean-up responsibilities.

~~**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.~~

2. Loan eligibility. The authority may insure ~~mortgage~~ loan payments under this subchapter subject to the following requirements:

A. The ~~mortgage shall~~ loan must be secured by a lien on or a security interest in eligible collateral, subject to such encumbrances, including, without limitation, coordinate first liens, as are acceptable to the authority~~, except that, where the original principal amount of the mortgage insurance exceeds $1,000,000, the lien or security interest shall be a first lien or first security interest~~;

B. The eligible collateral ~~shall~~ must be owned, leased, used or held by or ~~shall~~ otherwise benefit an eligible enterprise;

C. The ~~mortgage and related~~ documents ~~shall~~ must contain provisions satisfactory to the authority pertaining to the payment of principal and interest and ~~shall~~ contain covenants and other provisions satisfactory to the authority pertaining to ~~real estate~~ taxes, assessments, repairs, maintenance, ~~hazard~~ insurance, ~~mortgage insurance,~~ default, remedies, transfer or alteration of eligible collateral, change in management or control of the ~~mortgagor~~ business and such other matters as the authority may determine; and

D. Other conditions ~~which may have been~~ prescribed by law or by the authority must have been complied with.

~~**3. Mortgage insured loan limitation for small businesses.** Whenever an applicant applies for mortgage insurance under sections 1026-B and 1026-C or sections 1026-C and 1026-K, the authority may insure mortgage loans for which the combined principal amounts of mortgage insurance of both sections do not exceed $1,100,000.~~

4. Ineligible for loan insurance. The authority may not provide loan insurance for the following:

A. Investment real estate;

B. Religious organizations;

C. Fraternal organizations;

D. Residential housing, other than congregate or group housing; or

E. Consumer loans.

5. Limitations on loan insurance. The authority may establish a maximum insurance liability for particular sectors by rule. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 31. 10 MRSA §1026-B, as amended by PL 1999, c. 504, §9, is repealed.

Sec. 32. 10 MRSA §1026-C, as amended by PL 1997, c. 455, §6 and c. 489, §6, is repealed.

Sec. 33. 10 MRSA §1026-D, as amended by PL 2001, c. 417, §15, is repealed.

Sec. 34. 10 MRSA §1026-E, first ¶, as amended by PL 1985, c. 714, §25, is further amended to read:

In addition to its other powers under this chapter, subject to the limitations of this subchapter, ~~except section 1026-A, subsection 1, paragraph A, and sections 1026-B, 1026-C and 1026-D,~~ the authority may insure mortgage payments with respect to mortgage loans designated as one or more pools or other segregated portfolios. Any such insurance ~~shall~~ may not exceed 50% of the aggregate principal balances of the mortgage loans as of the date on which the mortgage loans are designated for inclusion in a pool. The authority shall, by rulemaking pursuant to Title 5, chapter 375, subchapter ~~II~~ 2, establish requirements for demonstrating project feasibility and for collateral.

Sec. 35. 10 MRSA §1026-F, as amended by PL 1993, c. 601, §3, is repealed.

Sec. 36. 10 MRSA §1026-G, as enacted by PL 1987, c. 846, §9, is repealed.

Sec. 37. 10 MRSA §1026-H, as enacted by PL 1989, c. 552, §14, is repealed.

Sec. 38. 10 MRSA §1026-K, as enacted by PL 1993, c. 319, §2, is repealed.

Sec. 39. 10 MRSA §1026-O, as enacted by PL 1997, c. 217, §1, is repealed.

Sec. 40. 10 MRSA §1026-P, as enacted by PL 1997, c. 500, §6, is repealed.

Sec. 41. 10 MRSA §1026-R, as reallocated by RR 1999, c. 1, §14, is repealed.

Sec. 42. 10 MRSA §1026-S, as enacted by PL 1999, c. 713, §4, is repealed.

Sec. 43. 10 MRSA §1029, as amended by PL 1987, c. 846, §10, is further amended to read:

§1029. Insurance of subchapter 3 loans

1. Eligible for insurance. All payments required under a mortgage, a loan agreement or related documents for a project financed by revenue obligation securities issued pursuant to subchapter ~~III~~ 3, including revenue obligation securities ~~which may~~ that provide full or partial financing for more than one project, ~~shall be~~ are eligible for insurance to the extent permitted under this subchapter.

2. Insurance payment. In any case ~~where~~ when the authority becomes obligated by contract or other agreement to make an insurance payment with respect to any insured mortgage or other agreement issued with respect to insured subchapter ~~III~~ 3 loans, the authority shall:

A. Make the payment at the time and in the manner provided by the applicable contract or agreement, charging the payment to the Mortgage Insurance Fund, Loan Insurance Reserve Fund or, in the case of payments required under agreements issued ~~pursuant to section 1026-F~~ for aboveground and underground storage facility replacement projects, to the Underground Oil Storage ~~Facility~~ Replacement Fund ~~or, in the case of payments required under agreements issued pursuant to section 1026-G, to the Overboard Discharge Replacement Fund~~;

D. Take all reasonable steps to enforce the payment of amounts due from the mortgagor.

The trustee for any bond or note issued in anticipation of the bond~~,~~ or, if there is no trustee, the holder of any bond or note ~~shall have~~ has the right to bring suit against the authority for payment in accordance with the contract or other agreement executed by the authority.

Sec. 44. 10 MRSA §1030, as amended by PL 1987, c. 846, §11, is further amended to read:

§1030. Incontestability

Any ~~mortgage~~ loan insurance commitment or contract executed and delivered by the authority under this subchapter ~~shall be~~ is conclusive evidence of the eligibility of the ~~mortgage~~ loan for insurance subject to satisfaction of any conditions set forth in the ~~mortgage~~ loan insurance contract or commitment and that the requirements of sections 1026-A ~~to 1026-G~~ and 1026-E have, to the extent determined applicable by the authority, been satisfied or made conditions of the ~~mortgage~~ loan insurance commitment or contract, and the validity of any ~~mortgage~~ loan insurance commitment or contract so executed and delivered ~~shall be~~ is incontestable in the hands of an insured except for fraud or misrepresentation on the part of the insured.

Sec. 45. 10 MRSA §1031, as amended by PL 1985, c. 344, §54, is further amended to read:

§1031. Loans eligible for investment

~~Mortgages~~ Loans insured under this subchapter 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.

Sec. 46. 10 MRSA §1032, sub-§3, as amended by PL 1993, c. 410, Pt. EEEE, §2, is further amended to read:

3. Security for loans. With respect to any ~~mortgage~~ loans that may be insured under this subchapter, interest rate swap agreements benefiting eligible enterprises and loans to the authority to be used for direct loans to eligible enterprises or students pursuing higher education, the authority may provide that such ~~mortgage~~ loans, interest rate swap agreements or loans to the authority must 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 are applicable to ~~mortgage~~ loans, but not interest rate swap agreements or loans to the authority, 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 that demonstrate the ability to honor the swap agreement as determined by the authority and that 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 is conclusive evidence of the eligibility of the ~~mortgage~~ loan for insurance and the validity of any such commitment or contract is incontestable in the hands of a ~~mortgage~~ lender, swap counterparty or lender to the authority except for fraud or misrepresentation on the part of the ~~mortgage~~ lender, swap counterparty or lender to the authority. ~~Mortgages~~ Loans 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.

Sec. 47. 10 MRSA §1032, sub-§6, as amended by PL 1997, c. 217, §2, is further amended to read:

6. Obligations outstanding. The authority may 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 $150,000,000, 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 obligation securities that are not taken into account pursuant to section 1053, subsection 6, may not be taken into account for purposes of determining the amount that may be outstanding under this section. ~~Of the $150,000,000, $1,000,000 must be reserved for loans insured pursuant to section 1026-O.~~ Notwithstanding the foregoing, the authority may additionally have outstanding at any one time up to $3,500,000 of obligations relating to direct loans to students pursuing higher education.

Sec. 48. 10 MRSA §1041-A, first ¶, as enacted by PL 1991, c. 606, Pt. F, §2, is amended to read:

The authority may not provide financing from proceeds of revenue obligation securities issued by the authority for any housing that is eligible for financing by the Maine State Housing Authority except with respect to property that the authority has acquired or may acquire on account or in anticipation of imminent or actual default under the ~~mortgage~~ insurance program.

Sec. 49. 10 MRSA §1044, sub-§9, as amended by PL 1985, c. 714, §31, is further amended to read:

9. Credit not pledged. Except as provided in this subsection, securities issued under this subchapter ~~shall~~ do not constitute any debt or liability of the State or of any municipality therein or any political subdivision thereof, or of the authority or a pledge of the faith and credit of the State or of any such municipality or political subdivision, but ~~shall be~~ are payable solely from the revenues of the project or projects for which they are issued or from other eligible collateral or the revenues or proceeds of other eligible collateral pledged to the payment of the revenue obligation securities and all such securities ~~shall~~ must contain on their face a statement to that effect. The issuance of securities under this subchapter ~~shall~~ does not directly or indirectly or contingently obligate the State or any municipality or political subdivision to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment. Under subchapter ~~II~~ 2, the authority may insure ~~mortgage~~ loans made with the proceeds of revenue obligation securities. To these ends, the faith and credit of the State may be pledged, under and consistent with the terms and limitations of the Constitution of Maine, Article IX, Section 14-A or 14-D, and such further limitations, if any, as may be provided by statute.

Sec. 50. 10 MRSA §1044, sub-§11, as enacted by PL 1985, c. 344, §71, is repealed and the following enacted in its place:

11. Environmental protection. For all revenue obligation securities in excess of $1,000,000 and in other instances when the authority determines it is appropriate, the authority shall obtain a written assessment from the Department of Environmental Protection of the environmental conditions known by the department to exist at a project location so that the

authority fully considers environmental risks when making its decisions. Environmental conditions posing risks that must be considered include, but are not limited to, licensing obligations, existing or historic regulatory noncompliance and site clean-up responsibilities.

Sec. 51. 10 MRSA §1048, 3rd ¶, as enacted by PL 1993, c. 741, §2, is amended to read:

If, in connection with any outstanding revenue obligation securities issued under previous chapter 104, any predecessor to the authority financed or guaranteed more than 90% of the total value of a project, the authority, in connection with issuing its revenue refunding securities, may continue to finance or guarantee the corresponding percentage of the total value of the project financed or guaranteed by its predecessor, notwithstanding section ~~1026-D~~ 1026-A, subsection ~~2~~ 1, paragraph ~~B~~ A, subparagraph (1).

Sec. 52. 10 MRSA §1063, sub-§2, ¶E, as repealed and replaced by PL 1989, c. 878, Pt. A, §28, is repealed and the following enacted in its place:

E. For all revenue obligation securities in excess of $1,000,000 and in other instances when the authority determines it is appropriate, the Department of Environmental Protection has provided a written assessment to the authority of the environmental conditions known by the department to exist at a project location so that the authority fully considers environmental risks when making its decisions. Environmental conditions posing risks that must be considered include, but are not limited to, licensing obligations, existing or historic regulatory noncompliance and site clean-up responsibilities.

Sec. 53. Effective date. This Act takes effect January 1, 2005.

Effective January 1, 2005.

CHAPTER 538

H.P. 1319 - L.D. 1797

An Act To Clarify the Standards for Granting a Name Change

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

Sec. 1. 18-A MRSA §1-701, sub-§§(e) and (f) are enacted to read:

(e) The judge may require the person seeking a name change to undergo one or more of the following background checks: a criminal history record check; a motor vehicle record check; or a credit check. The judge may require the person to pay the cost of each background check required.

(f) The judge may not change the name of the person if the judge has reason to believe that the person is seeking the name change for purposes of defrauding another person or entity or for purposes otherwise contrary to the public interest.

See title page for effective date.

CHAPTER 539

H.P. 1299 - L.D. 1777

An Act To Authorize the Commissioner of Administrative and Financial Services To Execute Easements

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

Sec. 1. 5 MRSA §282-A is enacted to read:

§282-A. Commissioner of Administrative and Financial Services authorized to execute easements

1. Authority. The Commissioner of Administrative and Financial Services is authorized to release, grant or receive title to nonfee interests such as easements or rights-of-way in property held by state agencies over which the Department of Administrative and Financial Services has jurisdiction in accordance with the following:

A. A release of an interest in property is authorized upon the commissioner's finding that the interest no longer contributes to the value of the state property or that the release does not detract from the value of state property;

B. The granting of an interest in property is authorized upon the commissioner's finding that such interest does not detract from the value of state property; and

C. Receiving title to an interest in property is authorized upon the commissioner's finding that the value of state property is enhanced.

The authority granted to the commissioner under this subsection does not apply to state park lands protected by the Constitution of Maine, Article IX, Section 23 and designated in Title 12, section 598-A.

2. Appraisal. In order to release, grant or receive title to nonfee interests pursuant to subsection 1, the Commissioner of Administrative and Financial