

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 1, 2010 to June 29, 2011**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 28, 2011**

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

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**Augusta, Maine**  
**2011**

E. A request for funds for expert or investigative assistance that is submitted by an indigent party or by an attorney on behalf of an indigent client is confidential. The decision of the executive director of the commission hired pursuant to section 1804, subsection 1, or the executive director's designee, to grant or deny such a request is not confidential after a case has been completed. A case is completed when the judgment is affirmed on appeal or the period for appeal has expired.

F. Any information obtained or gathered by the commission when performing an evaluation of an attorney is confidential, except that it may be disclosed to the attorney being evaluated.

See title page for effective date.

**CHAPTER 261**

**S.P. 324 - L.D. 1091**

**An Act To Expand the Availability of Natural Gas to the Citizens of Maine**

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

**Sec. 1. 10 MRSA §963-A, sub-§12**, as enacted by PL 1985, c. 344, §7, is amended to read:

**12. Energy distribution system project.** "Energy distribution system project" means an energy distribution system owned, in whole or in part, by an individual, municipality, corporation or other governmental entity or business association and ~~which~~ that uses biomass, peat, solar, waste, water and related dams, wind, wood, coal or natural gas or that distributes or transmits natural gas.

**Sec. 2. 10 MRSA §1043, sub-§2, ¶M**, as amended by PL 2009, c. 517, §8, is further amended to read:

M. In the case of an Efficiency Maine project, as defined in section 963-A, subsection 10-A, there is a reasonable likelihood that the income, proceeds, revenues and funds of Efficiency Maine Trust derived from or held for activities under Title 35-A, chapter 97 or otherwise pledged to payment of the bonds will be sufficient to pay the principal, the interest and all other amounts that may at any time become due and payable under the bonds. In making this determination, the authority shall consider Efficiency Maine Trust's analysis of the proposed bond issue and the revenues to make payments on the bonds and may require such information, projections, studies and independent analyses as it considers necessary or desirable and may charge Efficiency Maine Trust reasonable fees and expenses. The authority may

require that it be indemnified, defended and held harmless by Efficiency Maine Trust for any liability or cause of action arising out of or with respect to the bonds. The principal and interest of bonds must be made payable solely from the income, proceeds, revenues and funds of Efficiency Maine Trust derived from or held for activities under Title 35-A, chapter 97 or other provision of law. Payment of the principal and interest of bonds may be further secured by a pledge of a loan, grant or contribution from the Federal Government or other source in aid of activities of Efficiency Maine Trust under Title 35-A, chapter 97; ~~and~~

**Sec. 3. 10 MRSA §1043, sub-§2, ¶N**, as enacted by PL 2009, c. 517, §9, is amended to read:

N. In the case of recovery zone facility bonds, the project will benefit the county or counties in which it is located; ~~and~~

**Sec. 4. 10 MRSA §1043, sub-§2, ¶O** is enacted to read:

O. In the case of an energy distribution system project regulated by the Public Utilities Commission with respect to rates or terms of service or that requires, for construction or operation, authorization or certification from the commission, the following conditions are met.

(1) The energy distribution system project has received all authorizations or certifications from the Public Utilities Commission necessary for construction and operation of the project. The authority may issue a certificate of approval for a project that has received conditional approvals or certifications from the commission, except that the authority's certificate becomes legally effective only upon fulfillment of the conditional provisions of the commission's certificates or approvals. If the commission has approved rates to be charged by the project or has issued a certificate of public convenience and necessity for the project, the authority shall take into consideration any findings and conclusions of law of the commission, including any findings and conclusions pertaining to the need for the project and the financial viability of the project.

(2) The authority has reviewed and considered any comments provided by the Director of the Governor's Office of Energy Independence and Security and the Public Advocate.

(3) The authority has determined that the applicant is creditworthy and that there is a reasonable likelihood that the revenue obligation securities will be repaid through the revenues of the project and any other sources of reve-

nues and collateral pledged to the repayment of those securities. In order to make these determinations, the authority shall consider such factors as it considers necessary and appropriate in light of the special purpose or other nature of the business entity owning the project and the specific purposes of the project to measure and evaluate the project and the sufficiency of the pledged revenues to repay the obligations, including, but not limited to:

(a) Whether the individuals or entities obligated to repay the obligations have demonstrated sufficient revenues from the project or from other sources to repay the obligations and a reasonable probability that those revenues will continue to be available for the term of the revenue obligation securities;

(b) Whether the applicant demonstrates a reasonable probability that the project will continue to operate and provide the public benefits projected to be created for the term of the revenue obligation securities;

(c) Whether the applicant's creditworthiness is demonstrated by factors such as its historical financial performance, management ability, plan for marketing its product or service and ability to access conventional financing;

(d) Whether the applicant meets or exceeds industry average financial performance ratios commonly accepted in determining creditworthiness in that industry;

(e) Whether the applicant demonstrates that the need for authority assistance is due to the reduced cost and increased flexibility of the financing for the project that result from authority assistance and not from an inability to obtain necessary financing without the capital reserve fund security provided by the authority;

(f) Whether collateral securing the repayment obligation is reasonably sufficient under the circumstances;

(g) Whether the proposed project enhances the opportunities for economic development;

(h) The effect that the proposed project financing has on the authority's financial resources;

(i) The financial performance of similar projects;

(j) The need for the project, as determined by the Public Utilities Commission and as indicated by any comments provided by the Director of the Governor's Office of Energy Independence and Security, other public officials and members of the public;

(k) The nature and extent of customer commitment to use the project or the fuel or energy the project distributes or transmits; and

(l) The cost advantages to end users of the fuel or energy to be distributed or transmitted by the project, to the extent those advantages may affect market penetration by the project.

**Sec. 5. 10 MRSA §1043, sub-§5** is enacted to read:

**5. Assistance.** In considering any request for financial assistance from an applicant for a project regulated by the Public Utilities Commission with respect to rates or terms of service or that requires for construction or operation authorization or certification from the commission, the commission, upon request of the authority, shall provide assistance in analyzing financial, economic or technical issues on which the commission has expertise. At the request of the commission, the authority shall assess the applicant a fee to be paid to the commission to reimburse the commission for any costs incurred by the commission that cannot be absorbed within its existing resources.

**Sec. 6. 10 MRSA §1053, sub-§6, ¶A,** as repealed and replaced by PL 1999, c. 531, Pt. G, §1, is amended to read:

A. The sum of \$330,000,000 consisting of not more than \$275,000,000 for loans and up to \$55,000,000 for use of bond proceeds to fund capital reserve funds for revenue obligation securities issued pursuant to this subchapter relating to loans for electric rate stabilization projects or loans for energy distribution system projects, except that the authority's maximum financial liability for any energy distribution system project may not exceed the limits established annually by the authority;

See title page for effective date.

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## CHAPTER 262

### S.P. 239 - L.D. 795

#### An Act To Expand Net Energy Billing