

MAINE STATE LEGISLATURE

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REPORT OF THE JOINT STANDING
COMMITTEE ON STATE GOVERNMENT
ON ITS STUDY OF THE MAINE STATE
HOUSING AUTHORITY

110th Legislature
Committee on State Government

Senate Members

David R. Ault, Kennebec, Chairman
Barbara A. Gill, Cumberland
Paul E. Violette, Aroostook

House Members

Judy C. Kany, Waterville, Chairman
Patrick E. Paradis, Augusta
John N. Diamond, Bangor
Dan A. Gwadowsky, Skowhegan
Patrick K. McGowan, Pittsfield
George L. Boyce, Auburn
Nancy N. Masterton, Cape Elizabeth
Susan J. Bell, Paris
Robert G. Dillenback, Cumberland
Muriel D. Holloway, North Edgecomb

TABLE OF CONTENTS

	<u>PAGE</u>
I. Background-----	1
II. Recommendations-----	2
Recommendation 1--The Committee recommends pas- sage of LD's 2012 and 2013-----	2
Recommendation 2--The Committee recommends several statutory changes be considered by the 111th Legislature when it convenes in Jan- uary, 1983-----	2
Recommendation 3--The Committee advises the Legislature of several areas of probable future concern-----	3

APPENDICES

Appendix 1--Authority for the study-----	4
Appendix 2--Legislation recommended by the Committee-----	8

I. BACKGROUND

This is a report of a study of the Maine State Housing Authority, authorized by the Legislative Council (see Appendix 1 for the text of the Study Order).

Although this report has the endorsement of the full committee, most of the work was done by a Subcommittee consisting of Committee Chairpersons Senator Ault and Representative Kany; Senator Gill; and Representatives Paradis, Diamond, and Bell. The subcommittee held a number of meetings, beginning in the Summer of 1981 and ending in the Spring of 1982. It met with members of Federal, State, and local governments; the financial community; and representatives of trade associations.

The Subcommittee completed several tasks:

1. It learned of the present and likely future state of housing--supply and demand for units; changes in financing practices; and status of the homebuilding industry;
2. It learned of the operations of current Federal, State, and local government housing programs and likely changes over the next several years;
3. It made judgments on what ought to be done legislatively for housing in Maine--those judgments are the recommendations of this report.

II. RECOMMENDATIONS

Two observations can be made of housing, today, relevant to this report. First, housing is in the worst situation it has been in decades. Mortgage money is either not available or not affordable. New construction is virtually non-existent. The prospects for improvement are bleak.

Second, and particularly as regards Federal housing programs, it is not certain what the next several years will bring. The preliminary report of the President's Commission on housing has proposed dramatic changes in Federal housing programs, and the expectation is that many of these recommendations will be implemented. These include shifts away from programs favoring construction; toward "vouchers" for housing; and favoring taxable bonds. The Mortgage Subsidy Bond Tax Act of 1980 has effectively prevented issuance of bonds for single family mortgage insurance without financial assistance from a third party, notably government. The fate is uncertain for amendments that have been proposed to liberalize that Act. Because of these uncertainties, the Committee recommends passage of 2 Bills before the 2nd regular session of the 110th Legislature.

Recommendation 1--The Committee recommends passage of LD's 2012 and 2015. These Bills will help the State adjust to some of the Federal limits and changes expected over the next year or so.

LD 2012 includes an appropriation of \$4.25 million and statutory authority that will permit compliance with the 1980 Federal Act, thereby allowing the State to issue up to \$60 million of bonds under existing bonding authority, to finance mortgage purchase programs for first time homebuyers, home improvement loan programs, and rental conversion and rehabilitation programs.

LD 2015 makes changes in current laws, primarily to accommodate expected changes in Federal laws, and changes in housing and financial markets. These changes include authority to issue taxable bonds, to make mortgage loans on leased land, and to change reserve fund requirements for bond issues.

Enactment of these Bills will permit immediate State initiatives of a significant magnitude. In addition, the Committee suggests that the 111th Legislature consider several relatively minor statutory changes.

Recommendation 2--The Committee recommends several statutory changes be considered by the 111th Legislature when it convenes in January, 1983. The text of these proposed changes is in a draft bill at Appendix 2 of this report. Significant elements of that Bill include proposals to:

1. Limit the area of operation of a municipal housing authority;
2. Change the size and composition of the State authority's advisory board;
3. Change the numbers, term of office and composition of the commissioners of the State housing authority, and the term and method of removal of its director; and
4. Expand the obligation of local and State authorities to cooperate fully with local governments and housing authorities.

Little more in the way of specific recommendations can be made, in view of the expected very major changes in Federal laws, and the dynamics of housing and financial markets. The Committee does, however, have advice on areas of future concern for the Legislature.

Recommendation 3--The Committee advises the Legislature of several areas of probable future concern:

1. The State Housing Authority's current mortgage purchase bond authority of \$555 million is sufficient for the short run. As early as next year, however, these bond levels ought to be re-examined for adequacy in light of success with programs authorized by this legislature, and changes in Federal legislation and housing and financial markets.
2. Changes in Federal legislation resulting from the President's Commission report and amendments to 1980 Mortgage Subsidy Board Tax Act will significantly affect State and local programs. Illustrative of the possible changes will be new requirements and incentives for issuing taxable and non-taxable bonds; a consolidation of programs and a devolution of housing program responsibility from Federal to State and local governments, both of which will require the Legislature to determine who should make policy and administer programs; and more reliance on the market to determine housing outcomes.
3. Changes in the regulation of financial institutions of Federal and State governments will affect housing--for example, the nature of mortgages may continue to change, and there may be reduced availability of loan funds in areas of the State not well served by financial institutions, notably certain rural areas.

The one certainty is that the housing picture will be changing dramatically and it is in the interest of the Legislature to be on top of the changes in case legislative action is needed.

APPENDICES

APPENDIX 1

Authority for this study

STATE OF MAINE

Inter-Departmental Memorandum Date June 9, 1981

To Chairmen, State Government Committee Dept. _____
From Rep. Libby Mitchell, Chairman, Dept. Legislative Council
Subject Committee Study, Housing Policy

The Legislative Council today, June 9, 1981, approved the State Government Committee's study of Maine Housing Policy as outlined in the attached Joint Order. The Council will assign a budget to the study at its next meeting.

enclosure
HTG/elk

cc: Members, Legislative Council

D.V.
STATE OF MAINE

In House

Rep Kas
Waterman

~~Ordered~~

Whereas, the demand for affordable housing in Maine has begun to exceed the supply and this could reach crisis proportions within a couple of years; and

Whereas, there is certain to be a dramatic change in Federal housing programs, which finance a significant share of Maine's housing, and the State needs to be prepared for these changes, which will include drastic cuts in funds for some programs and shifts in emphasis in other programs; and

Whereas, in the past several years there have been a number of new programs proposed, some of which have been adopted, and the Legislature needs to evaluate these and other programs to determine how well they have done and whether they may contribute to solving future housing problems; and

Whereas, the state government's housing policy is exercised primarily through the Maine/^{State}Housing Authority; now, therefore, be it

Ordered, the Senate concurring, subject to the Legislative Council's review and determinations hereinafter provided, that the Joint Standing Committee on State Government shall study the appropriate role of the/^{Maine}State Housing Authority in the provision of affordable, decent, single-family, multi-family and congregate housing; the study to include factors affecting the state's housing policy, the content of the housing policy and execution of housing policy; and be it further

~~Ordered~~

~~Ordered~~

Ordered, that the committee report its findings and recommendations, together with all necessary implementing legislation in accordance with the Joint Rules, to the Legislative Council for submission in final form at the Second Regular Session of the 110th Legislature; and be it further

Ordered, that the Legislative Council, before implementing this study and determining an appropriate level of funding, shall first ensure that this directive can be accomplished within the limits of available resources, that it is combined with other initiatives similar in scope to avoid duplication and that its purpose is within the best interests of the State; and be it further

Ordered, upon passage in concurrence, that a suitable copy of this Order shall be forwarded to members of the committee.

(Mrs. Kany)
NAME: Judy C. Kany
TOWN: Waterville

(Sen. Ault)
COSPONSOR: _____
COUNTY: Kennebec

APPENDIX 2

Legislation recommended
by the Committee
for consideration in 1983

Section 1. 30 MRSA §4552, sub-§1 is amended to read:

1. Area of operation. "Area of operation" of a municipal authority shall include all of the municipality for which it is created ~~an authority of a town shall include all of the town for which it is created, and the area of operation of a housing authority of a city shall include the city and the area within 10 miles outside the territorial boundaries thereof. The area of operation of the housing authority of a city shall not include any area which lies within the territorial boundaries of any other city nor shall it include any portion of a town for which a housing authority has been organized without the consent by resolution of the selectmen of the town or the governing body of the other city.~~ No authority shall operate in any area in which an authority already established is operating without the consent by resolution of the authority already operating therein or the consent by resolution of the governing body. The area of operation of the state authority is the entire State. The state authority or an authority of a municipality shall not operate in any area in which an authority of a city or town already established pursuant to chapter 239, subchapters II or III, is operating without the consent by resolution of the authority operating therein. In the case of the state authority, the requirements of coordination and local approval specified in sections 4651, subsection 10 and 4701 may be complied with by passage by the local governing body of the following resolution:

The Maine State Housing Authority is authorized to seek and may contract for financial assistance from the Federal Government for the purpose of providing housing for low-income persons and families in (Name of Municipality).

Passage of such resolution is conclusive evidence of compliance with the referenced sections. ~~The local governing body municipal officers may is entitled to~~ repeal the resolution, provided that any contract for federal assistance entered into between the Maine State Housing Authority and any person, firm or corporation in or with respect to the municipality in question after passage of the original resolution and prior to its repeal shall not be affected by the repeal and provided further that the security of the authority's mortgage interest or the obligation or repayment of debt to bondholders is not affected by the repeal.

The authority shall meet and discuss with the ~~local governing body municipal officers~~ concerning permissible and preferred developers, housing management entities and sites in anticipation of a preliminary designation of a proposal project.

When the authority has made a preliminary designation of a proposed project, it shall so notify the municipality within 30 days. If the local governing body of the municipality or municipal officers disapproves of the preliminary designation, it shall so notify the authority within the 45 25 day period following the notice of selection. The notice of disapproval shall have the effect of repealing the consent resolution for that proposed project.

Sec. 2. 30 MRSA §4552, sub-§13 is repealed.

Sec. 3. 30 MRSA §4556, title is changed to read:

§4556. Severability Savings clause

Sec. 4. 30 MRSA §4557, sub-§1, ¶B is amended to read:

B. Statements of financial condition of an individual, partnership, or corporation or information pertaining thereto submitted to an authority or a member, officer, employee or agent thereof, in connection with an application for mortgage purchase or mortgage insurance ~~or in connection with an authority's administration of a purchased or insured mortgage.~~

Sec. 5. 30 MRSA §4601 is amended to read:

§4601. Creation of city and town authorities

In each ~~city and in each town~~ municipality there is created a public body corporate and politic to be known as the "Housing Authority" of the municipality city or town. Such authority shall not transact any business or exercise its powers until or unless the governing body ~~of the city or any regular, special or other duly constituted meeting of the town, as the case may be,~~ by proper resolution shall declare that there is need for an authority to function in such city or town municipality. Any housing authority created and existing pursuant to the public laws of 1943, chapter 260, shall, notwithstanding the expiration of that chapter, continue in existence for the purposes of and shall have the powers granted by this subchapter, if the governing body ~~of the city or any regular, special or other duly constituted meeting of the town for which such housing authority was created~~ declares by proper resolution that there is need for such housing authority to exercise the powers granted by this subchapter. The governing body ~~of the city or any regular, special or other duly constituted meeting of the town~~ shall give consideration as to the need for an authority on its own motion or upon filing with the mayor or the selectmen, as the case may be, of a petition signed by 25 qualified voters of the municipality, city or town, ~~as the case may be,~~ asserting that there is need for an authority to function in such city or town the municipality and requesting that its governing body ~~or any regular, special or other duly constituted meeting of the town~~ so declare. The governing body ~~of the city or any regular, special or other duly constituted meeting of the town~~ shall adopt a resolution declaring that there is need for an authority in the city or town municipality ~~as the case may be,~~ if it shall find that

insanitary or unsafe inhabited dwelling accommodations or blighted areas exist in ~~such city or town~~ the municipality, or that there is a shortage of safe or sanitary dwelling accommodations in the municipality ~~such city or town~~ available to persons of low income at rentals or prices they can afford.

Upon the adoption of a resolution by the governing body ~~of a city or any regular, special or other duly constituted meeting of a town~~, the mayor of the city or the selectmen of the town, as the case may be, shall proceed to appoint the commissioners of the authority.

Sec. 6. 30 MRSA §4602, sub-§2, ¶A, 1st ¶ is amended to read:

A. The state authority shall have a 21 ~~15~~-person advisory board, appointed by the Governor representing the several aspects of the housing industry. The advisory board at all times shall have members who represent each of the following: at least 3 municipal officials; and representatives of financiers, licensed real estate brokers, builders, architects, labor, sponsors of housing corporations, elderly residents of housing projects, and low-income residents of housing projects who are not otherwise in the employ of the State of Maine.

Sec. 7. 30 MRSA §4602, sub-§2, ¶A, last ¶ is amended to read:

The president of the advisory board may call such meetings of the board as he shall deem necessary. The president of the advisory board shall call at least one meeting of the board each year at a time which will allow the board to meet jointly with the commissioners of the state authority. The advisory board shall make recommendations annually to the Governor.

Sec. 8. 30 MRSA §4602, sub-§2, ¶A, 1st ¶ is amended to read:

B. The State authority shall have 7 ~~9~~ commissioners, 5 ~~8~~ of whom shall be appointed by the Governor, subject to review by the Joint Standing Committee on State Government and to confirmation by the Legislature, ~~and one of whom shall be~~ The Treasurer of State or his designee, ex officio, shall serve as a nonvoting member. The designee of the Treasurer of State shall be the Deputy Treasurer of State. The 7th ~~8th~~ commissioner shall be the director of the state authority serving ex officio, who shall be chairman of the commissioners and who shall be a voting member. The director of the state authority shall be appointed by the Governor, subject to review by the Joint Standing Committee on State Government and to confirmation by the Legislature. ~~Said 5~~ The 7 commissioners shall include, but not be limited to, 1 representative of bankers; ~~and of low income or elderly people;~~ two ~~one~~ commissioner who shall be a residents of housing which is subsidized or assisted by programs of the United States Department of Housing and Urban Development or of the Maine State Housing Authority; 2 locally elected officials; and 2 commissioners appointed at large. In making ~~such~~ such appointment, of residents of housing subsidized or assisted the Governor shall give priority consideration to nominations

that may be made by tenant associations established in the State.

Section 9. 30 MRSA §4602, sub-§2, ¶C, 3rd sentence is amended to read:

The director of the state authority shall serve on a full-time basis for ~~a 4-year-term~~ of office concurrent with the Governor and may be removed from office only for cause. The Director may serve, and until his successor has been appointed and qualified.

Sec. 9. 30 MRSA §4602, sub-§2, ¶C, last sentence is amended to read:

The director of the state authority and at least one other Commissioner shall attend any ~~and all~~ meetings of the advisory board ~~or of the commissioners~~.

Sec. 10. 30 MRSA §4602, sub-§2, ¶D, 2nd sentence is amended to read:

Each commissioner, except for the director and the Treasurer of State, and each advisory board member shall serve at a ~~4~~ 3 year term commencing with the expiration of the term of his predecessor, provided that a vacancy occurring in such a position prior to the normal expiration of the appointment shall be filled as soon as practicable by a new gubernatorial appointee who shall serve for the balance of the unexpired term.

Section 11. 30 MRSA §4603 is amended by adding at the end a new sentence to read:

The provisions of Title 17, section 3104 shall not apply to any employee or commissioner of any authority.

Section 12. 30 MRSA §4651, sub-§3 is amended to read:

3. Housing needs. To undertake and carry out studies and analyses of the housing needs within its area of operation and of the meeting of such needs, including data with respect to population and family groups, and the distribution thereof according to income groups, the amount and quality of available housing, including manufactured housing, and its distribution according to rentals and sales prices, employment, wages and other factors affecting the local housing needs, including needs for rehabilitation and improving energy efficiency, and the meeting thereof, and to make the results of such studies and analyses available to the public and the building, housing and supply industries; and to engage in research and disseminate information on housing;

Section 13. 30 MRSA §4651, sub-§7 is amended to read:

7. Deteriorated housing conditions. ~~Slum-clearance-~~ Within its area of operation: To determine where ~~slum-areas-~~ deteriorated housing conditions exist or where there is a shortage of safe, energy efficient and sanitary dwelling accommodations for persons of low income; to make studies and recommendations relating to the problem of clearing, replanning and recon-

structing of ~~slum~~ deteriorated areas and the problem of providing dwelling accommodations for persons of low income; and to cooperate with the city or town, the county, the State or any political subdivision thereof in action taken in connection with such problems;

Section 14. 30 MRSA §4651, sub-§10 is amended to read:

10. Coordination with governing body. The commissioners of a city, town authority or the director of the state authority shall cooperate fully with local governments and housing authorities and shall establish procedures by which the governing body of the city or the regular, special or duly constituted meeting of the town, as the case may be, municipal officers may review proposed projects and plans for financing same;

STATEMENT OF FACT

The purposes of this Bill are:

1. To limit the area of operation of a municipal authority to its municipality, unless it has the consent of the housing authority or the governing body in another municipality in which it wishes to operate (Section 1);
2. To limit the records that may be considered confidential (Section 4);
3. To change the size and composition of the State Authority's advisory board and to require it to report annually to the Governor (Sections 6 and 7).
4. To change the size and composition of the State housing authority; to change the term of the director of the authority and the method of his removal; to reduce the term of the commissioners and advisory board members; and to require that the director and at least 1 other commissioner attend all meetings of the advisory board (Sections 8-10);
5. To exempt employees and commissioners from a statutory prohibition to contract with any State agency (Section 11);
6. To clarify the State Authority's powers to study housing needs (Section 12);
7. To expand the obligation of local and state authorities to cooperate fully with local governments and housing authorities; and
8. To make technical changes (Sections 2, 3, 5, and 13).