

CHAPTER 413

HEALTH FACILITIES AUTHORITY

§2051. Title

This chapter shall be known as, and may be cited as, the "Maine Health and Higher Educational Facilities Authority Act." [PL 1979, c. 680, §1 (AMD).]

SECTION HISTORY

PL 1971, c. 303, §1 (NEW). PL 1979, c. 680, §1 (AMD).

§2052. Declaration of necessity

It is declared that for the benefit of the people of the State, the increase of their commerce, welfare and prosperity and the improvement of their health and living conditions, it is essential that health care facilities within the State be provided with appropriate additional means to expand, enlarge and establish health care facilities and other related facilities; that this and future generations of students be given the fullest opportunity to learn and to develop their intellectual capacities; and that it is the purpose of this chapter to provide a measure of assistance and an alternative method to enable health care facilities, institutions for higher education and nonprofit institutions providing an educational program in the State to provide the facilities and structures needed to accomplish the purposes of this chapter, all to the public benefit and good, and the exercise of the powers, to the extent and manner provided in this chapter, is declared the exercise of an essential governmental function. [PL 2007, c. 354, §1 (AMD).]

SECTION HISTORY

PL 1971, c. 303, §1 (NEW). PL 1973, c. 713, §1 (AMD). PL 1979, c. 680, §2 (AMD). PL 1991, c. 50, §§1-5 (AMD). PL 1993, c. 390, §1 (AMD). PL 2007, c. 354, §1 (AMD).

§2053. Definitions

As used in this chapter, the following words and terms shall have the following meanings unless the context indicates another or different meaning or intent. [PL 1971, c. 303, §1 (NEW).]

1. Authority. "Authority" means the Maine Health and Higher Educational Facilities Authority created and established as a public body corporate and politic of the State of Maine by section 2054 or any board, body, commission, department or officer succeeding to the principal functions thereof or to whom the powers conferred upon the authority by this chapter shall be given by law. [PL 1979, c. 680, §3 (AMD).]

2. Bonds and notes. "Bonds" and "notes" mean bonds and notes of the authority issued under this chapter, including refunding bonds, notwithstanding that the same may be secured by mortgage or the full faith and credit of the authority or the full faith and credit of a participating health care facility, a participating institution for higher education or a participating institution providing an educational program, or any other lawfully pledged security of a participating health care facility, a participating institution for higher education or a participating institution providing an educational program. [PL 2007, c. 354, §2 (AMD).]

2-A. Community health or social service facility. "Community health or social service facility" means a community-based facility that provides medical or medically related diagnostic or therapeutic services, mental health services, services for persons with intellectual disabilities or autism, substance use disorder services or family counseling and domestic abuse intervention services and is licensed by the State.

[PL 2017, c. 407, Pt. A, §74 (AMD).]

2-B. Community health center. "Community health center" means an incorporated nonprofit health facility that provides comprehensive primary health care to citizens in a community.

[PL 1993, c. 390, §4 (NEW).]

2-C. Congregate housing facility.

[PL 1995, c. 670, Pt. C, §1 (RP); PL 1995, c. 670, Pt. D, §5 (AFF).]

3. Cost. "Cost" as applied to a project or any portion thereof financed under this chapter shall mean the cost of construction, building, acquisition, equipping, alteration, enlargement, reconstruction and remodeling of a project and acquisition of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements and interest acquired, necessary, used for or useful for or in connection with a project and all other undertakings which the authority deems reasonable or necessary for the development of a project, including but not limited to the cost of demolishing or removing any building or structures on land so acquired, the cost of acquiring any lands to which such building or structures may be moved, the cost of all machinery and equipment, financing charges, interest prior to and during construction, and if judged advisable by the authority, for a period after completion of such construction, the cost of financing the project, including interest on bonds and notes issued by the authority to finance the project; provisions for working capital; reserves for principal and interest and for extensions, enlargements, additions and improvements; cost of architectural, engineering, financial, legal or other special services, plans, specifications, studies, surveys, estimates of cost and revenues; administrative and operating expenses; expenses necessary or incident to determining the feasibility or practicability of constructing the project; and such other expenses necessary or incident to the construction and acquisition of the project, the financing of such construction, and acquisition and the placing of the project in operation.

[PL 1971, c. 303, §1 (NEW).]

3-A. Health care facility. "Health care facility" means a nursing home that is, or will be upon completion, licensed under chapter 405; a residential care facility that is, or will be upon completion, licensed under chapter 1663; a continuing care retirement community that is, or will be upon completion, licensed under Title 24-A, chapter 73; an assisted living facility that is, or will be upon completion, licensed under chapter 1664; a hospital; a community mental health facility; a scene response air ambulance licensed under Title 32, chapter 2-B and the rules adopted thereunder; a facility of a hospice program that is, or will be upon completion, licensed under chapter 1681; a nonprofit statewide health information network incorporated in the State for the purpose of exchanging health care information among licensed health care providers in the State; or a community health center.

[PL 2007, c. 72, §1 (AMD).]

3-B. Eligible entity. "Eligible entity" means a facility or institution eligible to participate in financing or other borrowing services authorized by this chapter and includes a participating community health or social service facility, a participating health care facility, a participating institution for higher education or a participating institution providing an educational program.

[PL 2007, c. 354, §3 (AMD).]

4. Hospital. "Hospital" means any private, nonprofit or charitable institution or organization which is either:

A. Engaged in the operation of, or formed for the purpose of operating, a hospital which is, or will be upon completion, licensed as a hospital under the laws of the State; or [PL 1983, c. 199, §1 (NEW).]

B. Whose sole members are 2 or more institutions or organizations which are licensed as hospitals or nursing homes under the laws of the State. [PL 1983, c. 199, §1 (NEW).]

[PL 1983, c. 199, §1 (RPR).]

4-A. Nursing home.

[PL 1991, c. 584, §2 (RP).]

4-B. Institution for higher education. "Institution for higher education" means:

A. Any private, nonprofit, governmental or charitable institution or organization engaged in the operation of, or formed for the purpose of operating, an educational institution within this State, including the Maine Community College System and the University of Maine System, that, by virtue of law or charter, is an educational institution empowered to provide a program of education beyond the high school level; [PL 2015, c. 363, §6 (AMD).]

B. The Maine School of Science and Mathematics, as established in Title 20-A, chapter 312; and [PL 2015, c. 363, §6 (AMD).]

C. The Maine School for Marine Science, Technology, Transportation and Engineering, as established in Title 20-A, chapter 312-A. [PL 2015, c. 363, §6 (NEW).]
[PL 2015, c. 363, §6 (AMD).]

4-C. Participating community mental health facility.

[PL 1993, c. 390, §6 (RP).]

4-D. Participating community health or social service facility. "Participating community health or social service facility" means a community health or social service facility that is exempt from taxation under section 501 of the United States Internal Revenue Code and that, pursuant to this chapter, undertakes the financing and construction or acquisition of a project or undertakes the refunding or refinancing of existing indebtedness as provided in and committed by this chapter.
[PL 1995, c. 179, §2 (NEW).]

4-E. Institution providing an educational program. "Institution providing an educational program" means a nonprofit or charitable institution, public or private, that is exempt from federal taxation pursuant to the United States Internal Revenue Code of 1986, as amended, Section 501 and that provides a program of education for the purpose of enhancing the knowledge or abilities of its members or the general public.
[PL 2007, c. 354, §4 (NEW).]

5. Participating health care facility. "Participating health care facility" means a health care or licensed assisted living facility that, pursuant to this chapter, undertakes the financing and construction or acquisition of a project or undertakes the refunding or refinancing of existing indebtedness as provided in and permitted by this chapter.
[PL 1995, c. 670, Pt. C, §3 (AMD); PL 1995, c. 670, Pt. D, §5 (AFF).]

5-A. Participating institution for higher education. "Participating institution for higher education" means an institution for higher education which, pursuant to this chapter, shall undertake the financing and construction or acquisition of a project or shall undertake the refunding or refinancing of obligations or of a mortgage or of advances as provided in and permitted by this chapter.
[PL 1979, c. 680, §5 (NEW).]

5-B. Participating institution providing an educational program. "Participating institution providing an educational program" means an institution providing an educational program that, pursuant to this chapter, undertakes the financing and construction or acquisition of a project or undertakes the refunding or refinancing of obligations or of a mortgage or of advances as provided in and permitted by this chapter.
[PL 2007, c. 354, §5 (NEW).]

6. Project. "Project" means:

A. In the case of a participating health care facility or a participating community health or social service facility, the acquisition, construction, improvement, reconstruction or equipping of, or construction of an addition or additions to, a structure designed for use as a health care facility, community health or social service facility, congregate housing facility, laboratory, laundry, nurses or interns residence or other multiunit housing facility for staff, employees, patients or relatives of patients admitted for treatment in the health care facility, community health or social service facility, doctors office building, administration building, research facility, maintenance, storage or utility facility or other structures or facilities related to any of the foregoing or required or useful for the operation of the project, or the refinancing of existing indebtedness in connection with any of the foregoing, including parking and other facilities or structures essential or convenient for the orderly conduct of the health care facility or community health or social service facility. "Project" also includes all real and personal property, lands, improvements, driveways, roads, approaches, pedestrian access roads, rights-of-way, utilities, easements and other interests in land, parking lots, machinery and equipment, and all other appurtenances and facilities either on, above or under the ground that are used or usable in connection with the structures mentioned in this paragraph, and includes landscaping, site preparation, furniture, machinery and equipment and other similar items necessary or convenient for the operation of a particular facility or structure in the manner for which its use is intended, but does not include such items as food, fuel, supplies or other items that are customarily considered as a current operating charge. In the case of a hospital, as defined in subsection 4, paragraph B, a community health center or a community health or social service facility, "project" does not include any facilities, structures or appurtenances, the use of which is not directly related to the provision of patient care by its members; [PL 2007, c. 354, §6 (AMD).]

B. In the case of a participating institution for higher education, the acquisition, construction, improvement, reconstruction or equipping of, or construction of an addition or additions to, any structure designed for use as a dormitory or other housing facility, dining facility, student union, academic building, administrative facility, library, classroom building, research facility, faculty facility, office facility, athletic facility, health care facility, laboratory, maintenance, storage or utility facility or other building or structure essential, necessary or useful for instruction in a program of education provided by an institution for higher education, including a parking facility, or any multipurpose structure designed to combine 2 or more of the functions performed by the types of structures enumerated in this paragraph. "Project" includes all real and personal property, lands, improvements, driveways, roads, approaches, pedestrian access roads, rights-of-way, utilities, easements and other interests in land, machinery and equipment, and all appurtenances and facilities either on, above or under the ground that are used or usable in connection with any of the structures mentioned in this paragraph, and also includes landscaping, site preparation, furniture, machinery, equipment and other similar items necessary or convenient for the operation of a particular facility or structure in the manner for which its use is intended, but does not include such items as books, fuel, supplies or other items that are customarily considered as a current operating charge; and [PL 2007, c. 354, §6 (AMD).]

C. In the case of a participating institution providing an educational program, the acquisition, construction, improvement, reconstruction or equipping of, or construction of an addition or additions to, any structure designed for use as a dormitory or other housing facility, dining facility, student union, academic building, administrative facility, library, classroom building, research facility, faculty facility, office facility, athletic facility, health care facility, laboratory, maintenance, storage or utility facility, exhibition facility or space, performing arts facility, museum, theater, studio or other building or structure essential, necessary or useful to the participating institution providing an educational program, including a parking facility or any multipurpose structure designed to combine 2 or more of the functions performed by the types of structures enumerated in this paragraph. "Project" includes all real and personal property, lands, improvements, driveways, roads, approaches, pedestrian access roads, rights-of-way, utilities,

easements and other interests in land, machinery and equipment, and all appurtenances and facilities either on, above or under the ground that are used or usable in connection with any of the structures mentioned in this paragraph, and also includes landscaping, site preparation, furniture, machinery, equipment and other similar items necessary or convenient for the operation of a particular facility or structure in the manner for which its use is intended, but does not include such items as books, fuel, supplies or other items that are customarily considered as a current operating charge. [PL 2007, c. 354, §6 (NEW).]

[PL 2007, c. 354, §6 (AMD).]

7. Refinancing of existing indebtedness. "Refinancing of existing indebtedness" means liquidation, with the proceeds of bonds or notes issued by the authority, of an indebtedness of a health care facility, an institution for higher education or a participating institution providing an educational program incurred to finance or aid in financing a lawful purpose of that health care facility, institution for higher education or participating institution providing an educational program not financed pursuant to this chapter that would constitute a project had it been undertaken and financed by the authority, or consolidation of such indebtedness with indebtedness of the authority incurred for a project related to the purpose for which the indebtedness of the health care facility, institution for higher education or participating institution providing an educational program was incurred.

[PL 2007, c. 354, §7 (AMD).]

SECTION HISTORY

PL 1971, c. 303, §1 (NEW). PL 1973, c. 713, §§2-5 (AMD). PL 1979, c. 680, §§3-7 (AMD). PL 1983, c. 199, §§1,2 (AMD). RR 1991, c. 2, §78 (COR). PL 1991, c. 584, §§1-3 (AMD). PL 1993, c. 390, §§2-9 (AMD). PL 1993, c. 661, §1 (AMD). PL 1993, c. 706, §A5 (AMD). PL 1995, c. 179, §§1-3 (AMD). PL 1995, c. 362, §§1,2 (AMD). PL 1995, c. 452, §1 (AMD). PL 1995, c. 670, §§C1-3 (AMD). PL 1995, c. 670, §D5 (AFF). PL 1997, c. 385, §1 (AMD). PL 2001, c. 590, §4 (AMD). PL 2001, c. 596, §B7 (AMD). PL 2001, c. 596, §B25 (AFF). PL 2003, c. 20, §§OO2,DDD1 (AMD). PL 2003, c. 20, §OO4 (AFF). PL 2005, c. 407, §1 (AMD). PL 2007, c. 72, §1 (AMD). PL 2007, c. 354, §§2-7 (AMD). PL 2011, c. 542, Pt. A, §30 (AMD). PL 2015, c. 363, §6 (AMD). PL 2017, c. 407, Pt. A, §74 (AMD).

§2054. Health Facilities Authority; executive director

1. Authority. The Maine Health and Higher Educational Facilities Authority, established by Title 5, chapter 379, is constituted a public body corporate and politic and an instrumentality of the State, and the exercise by the authority of the powers conferred by this chapter is deemed and held to be the performance of an essential public function. The authority consists of 12 members, one of whom must be the Superintendent of Financial Institutions, ex officio; one of whom must be the Commissioner of Health and Human Services, ex officio; one of whom must be the Commissioner of Education, ex officio; one of whom must be the Treasurer of State, ex officio; and 8 of whom must be residents of the State appointed by the Governor. Not more than 4 of the appointed members may be members of the same political party. Three of the appointed members must be trustees, directors, officers or employees of health care facilities and one of these appointed members must be a person having a favorable reputation for skill, knowledge and experience in state and municipal finance, either as a partner, officer or employee of an investment banking firm that originates and purchases state and municipal securities, or as an officer or employee of an insurance company or bank whose duties relate to the purchase of state and municipal securities as an investment and to the management and control of a state and municipal securities portfolio. Of the 3 members first appointed who are trustees, directors, officers or employees of hospitals, one shall serve for 2 years, one for 3 years and one for 4 years. Of the 5 remaining members initially appointed, one shall serve for one year, one for 2 years, one for 3 years, one for 4 years and one for 5 years. For the 2 members whose terms expire in 1980 and 1981, the Governor shall appoint as successors, for terms of 5 years each, persons who are trustees, members of a corporation or board of governors, officers or employees of institutions for higher education.

Annually, the Governor shall appoint, for a term of 5 years, a successor to the member whose term expires. Members shall continue in office until their successors have been appointed and qualified. The Governor shall fill any vacancy for the unexpired terms. A member of the authority is eligible for reappointment. Any non-ex officio member of the authority may be removed by the Governor, after hearing, for misfeasance, malfeasance or willful neglect of duty. Each member of the authority before entering upon the member's duties must take and subscribe the oath or affirmation required by the Constitution of Maine, Article IX. A record of each such oath must be filed in the office of the Secretary of State. The Superintendent of Financial Institutions, the Treasurer of State, the Commissioner of Health and Human Services and the Commissioner of Education may designate their deputies to represent them with full authority and power to act and vote in their behalf or, in the case of the Superintendent of Financial Institutions, the Commissioner of Health and Human Services and the Commissioner of Education, any member of their staffs to represent them as members at meetings of the authority with full power to act and, in the case of the Superintendent of Financial Institutions, the Commissioner of Health and Human Services and the Commissioner of Education, to vote in their behalf.

[PL 1993, c. 390, §10 (AMD); PL 2001, c. 44, §11 (AMD); PL 2001, c. 44, §14 (AFF); PL 2003, c. 689, Pt. B, §7 (REV).]

2. Chair, vice-chair; executive director. The authority shall annually elect one of its members as chair and one as vice-chair and shall also appoint an executive director who is not a member of the authority and who serves at the pleasure of the authority and receives such compensation as set by the authority.

[RR 2021, c. 2, Pt. B, §114 (COR).]

3. Duties of executive director. The executive director shall keep a record of the proceedings of the authority and is the custodian of all books, documents and papers filed with the authority and of the minute book or journal of the authority and of its official seal. The executive director may cause copies to be made of all minutes and other records and documents of the authority and may give certificates under the official seal of the authority to the effect that such copies are true copies, and all persons dealing with the authority may rely upon the certificates.

[RR 2021, c. 2, Pt. B, §115 (COR).]

4. Powers of authority. The powers of the authority are vested in its members, and 5 members of the authority constitute a quorum at any meeting of the authority. A vacancy in the membership of the authority does not impair the right of a quorum to exercise all the rights and perform all the duties of the authority. An action taken by the authority under this chapter may be authorized by resolution approved by a majority of the members present at any regular or special meeting, which resolution takes effect immediately, or an action taken by the authority may be authorized by a resolution circularized or sent to each member of the authority, which resolution takes effect at such time as a majority of the members have signed an assent to such resolution. Resolutions of the authority need not be published or posted. The authority may delegate by resolution to one or more of its members or its executive director such powers and duties as it considers proper.

The authority may meet by telephonic, video, electronic or other similar means of communication with less than a quorum assembled physically at the location of a public proceeding identified in the notice required by Title 1, section 406 only if:

A. Each member can hear all other members, speak to all other members and, to the extent reasonably practicable, see all other members by videoconferencing or other similar means of communication during the public proceeding, and members of the public attending the public proceeding at the location identified in the notice required by Title 1, section 406 are able to hear and, to the extent reasonably practicable, see all members participating from other locations by videoconferencing or other similar means of communication; [PL 2015, c. 449, §2 (NEW).]

B. Each member who is not physically present at the location of the public proceeding and who is participating through telephonic, video, electronic or other similar means of communication identifies all persons present at the location from which the member is participating; [PL 2015, c. 449, §2 (NEW).]

C. A member who participates while not physically present at the location of the public proceeding identified in the notice required by Title 1, section 406 does so only when the member's attendance is not reasonably practical. The reason that the member's attendance is not reasonably practical must be stated in the minutes of the meeting; and [PL 2015, c. 449, §2 (NEW).]

D. Each member who is not physically present at the location of the public proceeding and who is participating through telephonic, video, electronic or other similar means of communication has received prior to the public proceeding all documents and materials discussed at the public proceeding, with substantially the same content as those presented at the public proceeding. Documents or other materials made available at the public proceeding may be transmitted to the member not physically present during the public proceeding if the transmission technology is available. Failure to comply with this paragraph does not invalidate an action taken by the authority at the public proceeding. [PL 2015, c. 449, §2 (NEW).]

[PL 2015, c. 449, §2 (AMD).]

5. Bond. Each member of the authority shall execute a surety bond in the penal sum of \$50,000 and the executive director shall execute a surety bond in the penal sum of \$100,000, or, in lieu thereof, the chair of the authority shall execute a blanket position bond covering each member, the executive director and the employees of the authority, each surety bond to be conditioned upon the faithful performance of the duties of the office or offices covered, to be executed by a surety company authorized to transact business in this State as surety and to be approved by the Attorney General and filed in the office of the Secretary of State. The cost of each bond must be paid by the authority. [RR 2021, c. 2, Pt. B, §116 (COR).]

6. Expenses. The members of the authority shall be compensated according to the provisions of Title 5, chapter 379. [PL 1983, c. 812, §125 (RPR).]

7. Conflict of interest. Notwithstanding any other law to the contrary, it does not constitute a conflict of interest for a trustee, director, officer or employee of a health care facility or a participating institution providing an educational program or for a trustee, member of a corporation or board of governors, officer or employee of an institution for higher education to serve as a member of the authority if that trustee, director, member of a corporation or board of governors, officer or employee abstains from deliberation, action and vote by the authority under this chapter in specific respect to the health care facility, institution for higher education or participating institution providing an educational program of which that member is a trustee, director, member of a corporation or board of governors, officer or employee.

[PL 2007, c. 354, §8 (AMD).]

SECTION HISTORY

PL 1971, c. 303, §1 (NEW). PL 1973, c. 585, §11 (AMD). PL 1973, c. 713, §6 (AMD). PL 1973, c. 788, §84 (AMD). PL 1975, c. 771, §217 (AMD). PL 1979, c. 533, §§11-13 (AMD). PL 1979, c. 680, §§8,9 (AMD). PL 1983, c. 812, §§124,125 (AMD). PL 1987, c. 403, §4 (AMD). PL 1989, c. 700, §A76 (AMD). PL 1991, c. 50, §§6,7 (AMD). PL 1993, c. 390, §§10,11 (AMD). PL 2001, c. 44, §11 (AMD). PL 2001, c. 44, §14 (AFF). PL 2003, c. 689, §B7 (REV). PL 2007, c. 354, §8 (AMD). PL 2015, c. 449, §2 (AMD). RR 2021, c. 2, Pt. B, §§114-116 (COR).

§2055. Powers of authority

The purpose of the authority is to assist participating health care facilities, participating institutions providing an educational program and participating institutions for higher education in the undertaking of projects and the refinancing of existing indebtedness that are declared to be public purposes, and for the purposes of this chapter the authority is authorized and empowered: [PL 2007, c. 354, §9 (AMD).]

1. Bylaws. To have perpetual succession as a body politic and corporate and to adopt bylaws for the regulation of its affairs and the conduct of its business;
[PL 1971, c. 303, §1 (NEW).]

2. Seal. To adopt an official seal and alter the same at pleasure;
[PL 1971, c. 303, §1 (NEW).]

3. Office. To maintain an office at such place or places as it may designate;
[PL 1971, c. 303, §1 (NEW).]

4. Sue. To sue and be sued in its own name, and plead and be impleaded;
[PL 1971, c. 303, §1 (NEW).]

5. Projects. To determine the location and character of any project to be financed under this chapter and to acquire, construct, reconstruct, renovate, improve, replace, maintain, repair, extend, enlarge, operate, lease, as lessee or lessor, and regulate the same, to enter into contracts for any or all of such purposes, to enter into contracts for the management and operation of a project, and to designate a participating health care facility, a participating institution for higher education or a participating institution providing an educational program as its agent to determine the location and character of a project undertaken by the participating health care facility, participating institution for higher education or participating institution providing an educational program under this chapter and, as the agent of the authority, to acquire, construct, reconstruct, renovate, improve, replace, maintain, repair, extend, enlarge, operate, lease, as lessee or lessor, and regulate the same and, as the agent of the authority, to enter into contracts for any or all of such purposes, including contracts for the management and operation of such project;
[PL 2007, c. 354, §10 (AMD).]

6. Bonds. To borrow money and issue bonds, notes, bond anticipation notes and other obligations of the authority for any of its corporate purposes, and to fund or refund the same, all as provided in this chapter;
[PL 1971, c. 303, §1 (NEW).]

7. Rates and fees. Generally, to fix and revise from time to time and charge and collect rates, rents, fees and charges for the use of and for the services furnished or to be furnished by a project or any portion thereof and to contract with any person, partnership, association or corporation or other body public or private in respect thereof;
[PL 1971, c. 303, §1 (NEW).]

8. Rules. To establish rules for the use of a project or any portion thereof and to designate a participating health care facility, a participating institution for higher education or a participating institution providing an educational program as its agent to establish rules for the use of a project undertaken by the participating health care facility, participating institution for higher education or participating institution providing an educational program;
[PL 2007, c. 354, §11 (AMD).]

9. Consultants and agents. To employ consulting engineers, architects, attorneys, accountants, construction and financial experts, superintendents, managers and such other employees and agents as may be necessary in its judgment, and to fix their compensation;
[PL 1971, c. 303, §1 (NEW).]

10. Grants. To receive and accept from the Federal Government or the State or any other public agency loans or grants for or in aid of the construction of a project or any portion thereof, and to receive

and accept loans, grants, aid or contributions from any source of either money, property, labor or other things of value, to be held, used and applied only for the purposes for which such loans, grants, aid and contributions are made;

[PL 1971, c. 303, §1 (NEW).]

11. Mortgages. To mortgage any project and the site thereof for the benefit of the holders of bonds or notes or other obligations issued to finance such project;

[PL 1971, c. 303, §1 (NEW).]

12. Loans. To make loans to a participating health care facility, participating institution for higher education, participating institution providing an educational program, other entity eligible to use the authority or consortium of entities eligible to use the authority for the cost of a project in accordance with an agreement between the authority and the participating entity or entities, except that no such loan may exceed the total cost of the project as determined by the participating entity or entities and approved by the authority;

[PL 2007, c. 354, §12 (AMD).]

13. Refund. To make loans to a participating health care facility, a participating institution for higher education or a participating institution providing an educational program to refund outstanding obligations, mortgages or advances issued, made or given by such a participating health care facility, participating institution for higher education or participating institution providing an educational program for the cost of the project;

[PL 2007, c. 354, §13 (AMD).]

14. Apportionment. To charge to and equitably apportion among participating health care facilities, participating institutions for higher education and participating institutions providing an educational program its administrative costs and expenses incurred in the exercise of the powers and duties conferred by this chapter;

[PL 2007, c. 354, §14 (AMD).]

15. Other acts. To do all things necessary or convenient to carry out the purposes of this chapter. In carrying out the purposes of this chapter, the authority may undertake a project for 2 or more participating health care facilities jointly, 2 or more participating institutions for higher education jointly or 2 or more participating institutions providing educational programs, and, upon undertaking the project, all other provisions of this chapter apply to and for the benefit of the authority and such joint participants;

[PL 2007, c. 354, §15 (AMD).]

16. Bulk purchases. To purchase, lease or otherwise acquire, finance, sell and transfer for, to or on behalf of itself and any eligible entities organized pursuant to the United States Internal Revenue Code, Section 501 or in partnership with any of its eligible entities organized pursuant to the United States Internal Revenue Code, Section 501 commodities necessary for the daily operation of the facilities of the eligible entities, including, but not limited to, electricity, petroleum products, fuel oil and natural gas. For purposes authorized in this subsection, the University of Maine System and its colleges and universities are eligible participating institutions under the definition of eligible participant for the authority; and

[PL 1999, c. 231, §1 (AMD).]

17. Nonprofit corporation. In accordance with the limitations and restrictions of this chapter, to cause any of its powers, duties, programs or operations to be carried out by one or more nonprofit corporations. Nonprofit corporations acting at the direction of the authority must be organized and operated under the Maine Nonprofit Corporation Act. For the purposes authorized in this section the University of Maine System and its colleges and universities are eligible participating institutions under the definition of eligible participant for the authority.

[PL 1997, c. 385, §4 (NEW).]

SECTION HISTORY

PL 1971, c. 303, §1 (NEW). PL 1979, c. 680, §§10-13 (AMD). PL 1981, c. 470, §A82 (AMD). PL 1991, c. 50, §§8-13 (AMD). PL 1991, c. 584, §4 (AMD). PL 1993, c. 390, §§12-18 (AMD). PL 1997, c. 385, §§2-4 (AMD). PL 1999, c. 231, §1 (AMD). PL 2007, c. 354, §§9-15 (AMD).

§2056. Payment of expenses

All expenses incurred in carrying out this chapter shall be payable solely from funds provided under the authority of this chapter and no liability or obligation shall be incurred by the authority beyond the extent to which moneys shall have been provided under this chapter. [PL 1971, c. 303, §1 (NEW).]

SECTION HISTORY

PL 1971, c. 303, §1 (NEW).

§2057. Acquisition of property by authority

The authority is authorized and empowered, directly or by and through a participating health care facility, a participating institution for higher education or a participating institution providing an educational program, as its agent, to acquire by purchase or by gift or devise such lands, structures, property, real or personal, rights and air rights, rights-of-way, franchises, easements and other interests in lands, including lands lying under water and riparian rights, and air rights, that are located inside or outside the State, as it determines necessary or convenient for the construction or operation of a project, upon such terms and at such prices as may be considered by it to be reasonable and can be agreed upon between it and the owner of lands, including lands lying under water and riparian rights, and air rights, that are located inside or outside the State, and to take title to lands, including lands lying under water and riparian rights, and air rights, that are located inside or outside the State in the name of the authority or in the name of a participating health care facility, a participating institution for higher education or a participating institution providing an educational program as its agent. [PL 2007, c. 354, §16 (AMD).]

SECTION HISTORY

PL 1971, c. 303, §1 (NEW). PL 1979, c. 680, §14 (AMD). PL 1991, c. 50, §14 (AMD). PL 1993, c. 390, §19 (AMD). PL 2007, c. 354, §16 (AMD).

§2058. Conveyance of title to participating institutions

When the principal of and interest on bonds of the authority issued to finance the cost of a particular project or projects for a participating health care facility, a participating institution for higher education or a participating institution providing an educational program, including any refunding bonds issued to refund and refinance such bonds, have been fully paid and retired or when adequate provision has been made to fully pay and retire the same, and all other conditions of the resolution or trust agreement authorizing and securing the same have been satisfied and the lien of such resolution or trust agreement has been released in accordance with the provisions of the bonds, the authority shall promptly do such things and execute such deeds and conveyances as are necessary and required to convey title to such project or projects to such participating health care facility, participating institution for higher education or participating institution providing an educational program, free and clear of all liens and encumbrances, all to the extent that title to such project or projects is not, at the time, vested in such participating health care facility, participating institution for higher education or participating institution providing an educational program. [PL 2007, c. 354, §17 (AMD).]

SECTION HISTORY

PL 1971, c. 303, §1 (NEW). PL 1979, c. 680, §15 (AMD). PL 1991, c. 50, §15 (AMD). PL 1993, c. 390, §20 (AMD). PL 2007, c. 354, §17 (AMD).

§2059. Notes of the authority

The authority is authorized from time to time to issue its negotiable notes for any corporate purpose, including the payment of all or any part of the cost of any project, and renew from time to time any notes by the issuance of new notes, whether the notes to be renewed have or have not matured. The authority may issue notes partly to renew notes or to discharge other obligations then outstanding and partly for any other purpose. The notes may be authorized, sold, executed and delivered in the same manner as bonds. Any resolution or resolutions authorizing notes of the authority or any issue thereof may contain any provisions which the authority is authorized to include in any resolution or resolutions authorizing bonds of the authority or any issue thereof, and the authority may include in any notes any terms, covenants or conditions which it is authorized to include in any bonds. All such notes shall be payable from the proceeds of bonds or renewal notes or from the revenues of the authority or other moneys available therefor and not otherwise pledged, subject only to any contractual rights of the holders of any of its notes or other obligations then outstanding. [PL 1971, c. 303, §1 (NEW).]

SECTION HISTORY

PL 1971, c. 303, §1 (NEW).

§2060. Bonds of the authority

1. Negotiable. The authority is authorized from time to time to issue its negotiable bonds for the purpose of financing all or a part of the cost of any projects authorized hereby. In anticipation of the sale of such bonds, the authority may issue negotiable bond anticipation notes and may renew the same from time to time. Such notes shall be paid from any revenues of the authority or other moneys available therefor and not otherwise pledged, or from the proceeds of sale of the bonds of the authority in anticipation of which they were issued. The notes shall be issued in the same manner as the bonds. Such notes and the resolution or resolutions authorizing the same may contain any provisions, conditions or limitations which a bond resolution of the authority may contain. [PL 1971, c. 303, §1 (NEW).]

2. General obligations. Except as may otherwise be expressly provided by the authority, every issue of its bonds, notes or other obligations is a general obligation of the authority payable from revenues or money of the authority available for the payment of the obligation and not otherwise pledged, subject only to agreements with the holders of particular bonds, notes or other obligations pledging particular revenues or money and subject to any agreements with a participating health care facility, participating institution for higher education or participating institution providing an educational program. Notwithstanding that such bonds, notes or other obligations may be payable from a special fund, they are and must be deemed to be for all purposes negotiable instruments within the meaning of and for all the purposes of the Uniform Commercial Code, Article 8, subject only to the provisions of such bonds, notes or other obligations for registration. [PL 2007, c. 354, §18 (AMD).]

3. Issuance. The bonds may be issued as serial bonds or as term bonds, or the authority, in its discretion, may issue bonds of both types. The bonds shall be authorized by resolution of the members of the authority and shall bear such date or dates, mature at such time or times, not exceeding 50 years from their respective dates, bear interest at such rate or rates, be payable at such time or times, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places, and be subject to such terms of redemption, as such resolution or resolutions may provide. The bonds or notes may be sold at public or private sale for such price or prices as the authority shall determine. The power to fix the date of sale of bonds, to receive bids or proposals, to award and sell bonds, and to take all other necessary action to sell and deliver bonds may be delegated to the executive director of the authority by resolution of the authority. Pending preparation of the definitive bonds, the authority may issue interim receipts or certificates which shall be exchanged for such definitive bonds. [PL 1971, c. 303, §1 (NEW).]

4. Provisions. Any resolution or resolutions authorizing any bonds or any issue of bonds may contain provisions, which shall be a part of the contract with the holders of the bonds to be authorized, as to:

A. Pledging the full faith and credit of the authority, the full faith and credit of a participating health care facility, a participating institution of higher education or a participating institution providing an educational program, all or a part of the revenues of a project or a revenue-producing contract or contracts made by the authority with an individual, partnership, corporation or association or other body, public or private, to secure the payment of the bonds or of a particular issue of bonds, subject to such agreements with bondholders as may then exist; [PL 2007, c. 354, §19 (AMD).]

B. The rentals, fees and other charges to be charged, and the amounts to be raised in each year thereby, and the use and disposition of the revenues; [PL 1971, c. 303, §1 (NEW).]

C. The setting aside of reserves or sinking funds, and the regulation and disposition thereof; [PL 1971, c. 303, §1 (NEW).]

D. Limitations on the right of the authority or its agent to restrict and regulate the use of the project; [PL 1971, c. 303, §1 (NEW).]

E. Limitations on the purpose to which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the bonds or any issue of the bonds; [PL 1971, c. 303, §1 (NEW).]

F. Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured and the refunding of outstanding bonds; [PL 1971, c. 303, §1 (NEW).]

G. The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given; [PL 1971, c. 303, §1 (NEW).]

H. Limitations on the amount of moneys derived from the project to be expended for operating, administrative or other expenses of the authority; [PL 1971, c. 303, §1 (NEW).]

I. Defining the acts or omissions to act which shall constitute a default in the duties of the authority to holders of its obligations and providing the rights and remedies of such holders in the event of a default; [PL 1971, c. 303, §1 (NEW).]

J. The mortgaging of a project and the site thereof for the purpose of securing the bondholders; and [PL 1971, c. 303, §1 (NEW).]

K. Such other additional covenants, agreements and provisions as are judged advisable or necessary by the authority for the security of the holders of such bonds. [PL 1971, c. 303, §1 (NEW).]

[PL 2007, c. 354, §19 (AMD).]

5. Personal liability. Neither the members of the authority nor any person executing the bonds or notes shall be liable personally on the bonds or notes or be subject to any personal liability or accountability by reason of the issuance thereof.

[PL 1971, c. 303, §1 (NEW).]

6. Purchase. The authority shall have power out of any funds available therefor to purchase its bonds or notes. The authority may hold, pledge, cancel or resell such bonds, subject to and in accordance with agreements with bondholders.

[PL 1971, c. 303, §1 (NEW).]

SECTION HISTORY

PL 1971, c. 303, §1 (NEW). PL 1979, c. 680, §§16,17 (AMD). PL 1991, c. 50, §§16,17 (AMD). PL 1993, c. 390, §§21,22 (AMD). PL 2007, c. 354, §§18, 19 (AMD).

§2061. Procedure before issuance of bonds

Notwithstanding any other provisions of this chapter, the authority is not empowered to undertake any project authorized by this chapter unless, prior to the issuance of any bonds or notes hereunder, the authority has determined that: [PL 1975, c. 264 (RPR).]

1. Assistance. Such a project will enable or assist a health care facility to fulfill its obligation to provide health care facilities, an institution for higher education to provide educational facilities within the State or a participating institution providing an educational program to fulfill its mission within the State;
[PL 2007, c. 354, §20 (AMD).]

2. Review. Each project for a health care facility has been reviewed and approved to the extent required by the agency of the State that serves as the designated planning agency of the State or by the Department of Health and Human Services in accordance with the provisions of the Maine Certificate of Need Act of 2002, as amended;
[PL 2011, c. 90, Pt. J, §19 (AMD).]

3. Lease. Such a project will be leased to, or owned by, a health care facility, institution for higher education or institution providing an educational program inside the State;
[PL 2007, c. 354, §21 (AMD).]

4. Payment. Adequate provision has been or will be made for the payment of such project and that under no circumstances will the State be obligated for the payment of such project, or for the payment of the principal of, or interest on, any obligations issued to finance such project; and
[PL 2001, c. 609, §2 (AMD).]

5. Projects for program of independent housing with services not required to be licensed. If the project is for a program of independent housing with services that is not required to be licensed under this Title, the participating health care facility has agreed to comply with the requirements applicable to assisted living providers with regard to the standardized contract under section 7862 and residents' rights under section 7853, subsection 6 and rules adopted pursuant to those provisions. This requirement does not apply to the refinancing of an authority loan outstanding on April 1, 2002 or to a project specifically authorized under this chapter.
[PL 2023, c. 405, Pt. A, §53 (AMD).]

SECTION HISTORY

PL 1971, c. 303, §1 (NEW). PL 1973, c. 713, §7 (AMD). PL 1975, c. 264 (RPR). PL 1979, c. 680, §18 (AMD). PL 1981, c. 455 (AMD). PL 1983, c. 579, §11 (AMD). PL 1991, c. 50, §§18-20 (AMD). PL 1991, c. 584, §5 (AMD). PL 1993, c. 390, §§23-25 (AMD). PL 2001, c. 609, §§1-3 (AMD). RR 2003, c. 2, §71 (COR). PL 2003, c. 469, §C16 (AMD). PL 2003, c. 510, §A16 (AMD). PL 2003, c. 599, §6 (AMD). PL 2003, c. 689, §B6 (REV). PL 2007, c. 354, §§20, 21 (AMD). PL 2011, c. 90, Pt. J, §19 (AMD). PL 2023, c. 405, Pt. A, §53 (AMD).

§2062. Trust agreement to secure bonds

In the discretion of the authority, any bonds issued under this chapter may be secured by a trust agreement by and between the authority and a corporate trustee or trustees, which may be any trust company or bank having the powers of a trust company within or without the State. Such trust agreement or the resolution providing for the issuance of such bonds may pledge or assign the revenues to be received or proceeds of any contract or contracts pledged and may convey or mortgage the project or any portion thereof. Such trust agreement or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may

be reasonable and proper, and not in violation of law, including particularly such provisions as have been specifically authorized to be included in any resolution or resolutions of the authority authorizing bonds thereof. Any bank or trust company incorporated under the laws of this State, which may act as depository of the proceeds of bonds or of revenues or other moneys, may furnish such indemnifying bonds or pledge such securities as may be required by the authority. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee or trustees, and may restrict the individual right of action by bondholders. In addition, any such trust agreement or resolution may contain such other provisions as the authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out such trust agreement or resolution may be treated as a part of the cost of the operation of a project. [PL 1971, c. 303, §1 (NEW).]

SECTION HISTORY

PL 1971, c. 303, §1 (NEW).

§2063. Credit of State not pledged

Bonds and notes issued under this chapter do not constitute or create a debt or debts, liability or liabilities on behalf of the State or of a political subdivision of the State other than the authority or a loan of the credit of the State or a pledge of the faith and credit of the State or of any such political subdivision other than the authority, but are payable solely from the funds provided for the bonds and notes. All such bonds and notes must contain on the face of the bonds and notes a statement to the effect that neither the State nor a political subdivision of the State is obligated to pay the same or the interest on the bonds and notes, except from revenues of the project or the portion of the project for which they are issued and that neither the faith and credit nor the taxing power of the State or of a political subdivision of the State is pledged to the payment of the principal of or the interest on such bonds or notes. The issuance of bonds or notes under this chapter may not directly or indirectly or contingently obligate the State or a political subdivision of the State to levy or to pledge any form of taxation whatever for the bonds and notes or to make an appropriation for their payment. Nothing in this section may prevent nor be construed to prevent the authority from pledging its full faith and credit or the full faith and credit of a participating health care facility, participating institution for higher education or participating institution providing an educational program to the payment of bonds or notes or issue of notes or bonds authorized pursuant to this chapter. [PL 2007, c. 354, §22 (AMD).]

SECTION HISTORY

PL 1971, c. 303, §1 (NEW). PL 1979, c. 680, §19 (AMD). PL 1991, c. 50, §21 (AMD). PL 1993, c. 390, §26 (AMD). PL 2007, c. 354, §22 (AMD).

§2064. Rents and charges

The authority is authorized to fix, revise, charge and collect rates, rents, fees and charges for the use of and for the services furnished or to be furnished by each project and to contract with a person, partnership, association or corporation, or other body, public or private, in respect of rates, rents, fees and charges. Such rates, rents, fees and charges must be fixed and adjusted in respect of the aggregate of rates, rents, fees and charges from such project so as to provide funds sufficient with other revenues or money available for the project, if any, to pay the cost of maintaining, repairing and operating the project and each and every portion of the project, to the extent that the payment of such cost has not otherwise been adequately provided for, to pay the principal of and the interest on outstanding bonds or notes of the authority issued in respect of such project as the same become due and payable, and to create and maintain reserves required or provided for in a resolution authorizing, or trust agreement securing, such bonds or notes of the authority. Such rates, rents, fees and charges are not subject to supervision or regulation by a department, commission, board, body, bureau or agency of this State other than the authority. A sufficient amount of the revenues derived in respect of a project, except such part of such revenues as may be necessary to pay the cost of maintenance, repair and operation and to provide reserves and for renewals, replacements, extensions, enlargements and improvements

as may be provided for in the resolution authorizing the issuance of bonds or notes of the authority or in the trust agreement securing the same, must be set aside at such regular intervals as may be provided in such resolution or trust agreement in a sinking or other similar fund that is pledged to, and charged with, the payment of the principal of and the interest on such bonds or notes as the same become due, and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge is valid and binding from the time when the pledge is made; the rates, rents, fees and charges and other revenues or other money so pledged and later received by the authority are immediately subject to the lien of such pledge without any physical delivery of the revenues or money or further act, and the lien of any such pledge is valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority, irrespective of whether such parties have notice of the lien. Neither the resolution nor a trust agreement nor any other agreement nor any lease by which a pledge is created need be filed or recorded except in the records of the authority. The use and disposition of money to the credit of such sinking or other similar fund are subject to the resolution authorizing the issuance of such bonds or notes or of such trust agreement. Except as may otherwise be provided in such resolution or such trust agreement, such sinking or other similar fund may be a fund for all such bonds or notes issued to finance projects at a particular participating health care facility, participating institution for higher education or participating institution providing an educational program without distinction or priority of one over another, provided the authority in any such resolution or trust agreement may provide that such sinking or other similar fund is the fund for a particular project at a participating health care facility, participating institution for higher education or participating institution providing an educational program and for the bonds issued to finance a particular project and may, additionally, permit and provide for the issuance of bonds having a subordinate lien in respect of the security authorized in this chapter to other bonds of the authority, and, in such case, the authority may create separate sinking or other similar funds in respect of such subordinate lien bonds. [PL 2007, c. 354, §23 (AMD).]

SECTION HISTORY

PL 1971, c. 303, §1 (NEW). PL 1973, c. 713, §8 (AMD). PL 1979, c. 680, §20 (AMD). PL 1991, c. 50, §22 (AMD). RR 1993, c. 2, §12 (COR). PL 1993, c. 390, §27 (AMD). PL 2007, c. 354, §23 (AMD).

§2065. Trust funds

All moneys received pursuant to the authority of this chapter whether as proceeds from the sale of bonds or notes or as revenues, are trust funds to be held and applied solely as provided in this chapter. Any officer with whom, or any bank or trust company with which, such moneys are deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes of this chapter, subject to such regulations as this chapter and the resolution authorizing the bonds or notes of any issue or the trust agreement securing such bonds or notes provide. [PL 1971, c. 303, §1 (NEW).]

SECTION HISTORY

PL 1971, c. 303, §1 (NEW).

§2066. Enforcement of rights and duties

Any holder of bonds, notes, bond anticipation notes, other notes or other obligations issued under this chapter or any of the coupons appertaining thereto, and the trustee or trustees under any trust agreement, except to the extent the rights herein given may be restricted by any resolution authorizing the issuance of, or any such trust agreement securing, such bonds, may, either at law or in equity, by suit, action, mandamus or other proceedings, protect and enforce any and all rights under the laws of the State or granted under this chapter or under such resolution or trust agreement, and may enforce and compel the performance of all duties required by this chapter or by such resolution or trust agreement to be performed by the authority or by any officer, employee or agent thereof, including the fixing, charging and collecting of the rates, rents, fees and charges herein authorized and required by

such resolution or trust agreement to be fixed, established and collected. [PL 1971, c. 303, §1 (NEW).]

SECTION HISTORY

PL 1971, c. 303, §1 (NEW).

§2067. Exemption from taxation

The exercise of the powers granted by this chapter will be in all respects for the benefit of the people of the State, for the increase of their commerce, welfare and prosperity, and for the improvement of their health and living conditions, and will constitute the performance of an essential governmental function, and neither the authority nor its agent shall or may be required to pay any taxes or assessments upon or in respect of a project or projects or any property acquired, used by the authority or its agent or under the jurisdiction, control, possession or supervision of the same or upon the activities of the authority or its agent in the operation or maintenance of a project or projects under this chapter, or upon income or other revenues received therefrom, and any bonds, notes and other obligations issued under this chapter, their transfer and the income therefrom, including any profit made on the sale thereof, as well as the income and property of the authority, are at all times exempt from taxation of every kind by the State and by the municipalities and all other political subdivisions of the State. [PL 1971, c. 303, §1 (NEW).]

SECTION HISTORY

PL 1971, c. 303, §1 (NEW).

§2068. Bonds declared legal investments

Bonds and notes issued by the authority under this chapter are hereby made securities in which all public officers and public bodies of the State and its political subdivisions, all insurance companies and associations and other persons carrying on an insurance business, trust companies, banks, bankers, banking associations, savings banks and savings associations, including savings and loan associations, credit unions, building and loan associations, investment companies, executors, administrators, trustees and other fiduciaries, pension, profit-sharing, retirement funds and other persons carrying on a banking business, and all other persons whatsoever, who are now or may hereafter be, authorized to invest in bonds or other obligations of the State, may properly and legally invest funds, including capital in their control or belonging to them. Such bonds and notes are hereby made securities which may properly and legally be deposited with and received by any state or municipal or public officer or any agency or political subdivision of the State for any purpose for which the deposit of bonds or other obligations of the State is now or may hereafter be authorized by law. [PL 1971, c. 303, §1 (NEW).]

SECTION HISTORY

PL 1971, c. 303, §1 (NEW).

§2069. Annual reports

Within 4 months after the close of each fiscal year of the authority, the executive director of the authority shall prepare and submit a complete financial report to the Governor and to the Legislature, duly audited and certified by the auditor of accounts of the operations and activities of the authority during the preceding fiscal year to be distributed in the same way as state departmental reports. Within 5 months after the close of the authority's fiscal year, the executive director shall prepare and submit to the Legislature a detailed report on the activities of the authority during the preceding fiscal year. The report must contain information concerning the authority's financial and operational activities, including, but not limited to, resolutions, projects, grants, mortgages and loans. The report also must address continuing and potential problems with finances, operations and projects. [PL 1999, c. 122, §1 (AMD).]

SECTION HISTORY

PL 1971, c. 303, §1 (NEW). PL 1975, c. 771, §218 (AMD). PL 1999, c. 122, §1 (AMD).

§2070. Refunding bonds

1. Refunding. The authority is authorized to provide for the issuance of bonds of the authority for the purpose of refunding any bonds of the authority then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the earliest or subsequent date of redemption, purchase or maturity of such bonds, and, if deemed advisable by the authority, for the additional purpose of paying all or any part of the cost of constructing and acquiring additions, improvements, extensions or enlargements of a project or any portion thereof.

[PL 1971, c. 303, §1 (NEW).]

2. Use of proceeds. The proceeds of any such bonds issued for the purpose of refunding outstanding bonds may, in the discretion of the authority, be applied to the purchase or retirement at maturity or redemption of such outstanding bonds either on their earliest or any subsequent redemption date or upon the purchase or at the maturity thereof and may, pending such application, be placed in escrow to be applied to such purchase or retirement at maturity or redemption on such date as may be determined by the authority.

[PL 1971, c. 303, §1 (NEW).]

3. Escrow proceeds. Any such escrowed proceeds, pending such use, may be invested and reinvested in obligations of, or guaranteed by, the United States of America, or in certificates of deposit or time deposits secured by obligations of, or guaranteed by, the United States of America, maturing at such time or times as shall be appropriate to assure the prompt payment, as to principal, interest and redemption premium, if any, of the outstanding bonds to be so refunded. The interest, income and profits, if any, earned or realized on any such investment may also be applied to the payment of the outstanding bonds to be so refunded. After the terms of the escrow have been fully satisfied and carried out, any balance of such proceeds and interest, income and profits, if any, earned or realized on the investments thereof may be returned to the authority for use by it in any lawful manner.

[PL 1971, c. 303, §1 (NEW).]

4. Investments. The portion of the proceeds of any such bonds issued for the additional purpose of paying all or any part of the cost of constructing and acquiring additions, improvements, extensions or enlargements of a project may be invested and reinvested in obligations of, or guaranteed by, the United States of America, or in certificates of deposit or time deposit secured by obligations of, or guaranteed by, the United States of America, maturing not later than the time or times when such proceeds will be needed for the purpose of paying all or any part of such cost. The interest, income and profits, if any, earned or realized on such investment may be applied to the payment of all or any part of such cost or may be used by the authority in any lawful manner.

[PL 1971, c. 303, §1 (NEW).]

5. Conditions. All such bonds shall be subject to this chapter in the same manner and to the same extent as other bonds issued pursuant to this chapter.

[PL 1971, c. 303, §1 (NEW).]

SECTION HISTORY

PL 1971, c. 303, §1 (NEW).

§2071. Source of payment of expenses

All expenses incurred in carrying out this chapter shall be payable solely from funds provided under the authority of this chapter and no liability or obligation shall be incurred by the authority under this chapter beyond the extent to which moneys shall have been provided under this chapter. [PL 1971, c. 303, §1 (NEW).]

SECTION HISTORY

PL 1971, c. 303, §1 (NEW).

§2072. Agreement of the State

The State pledges to and agrees with the holders of bonds, notes and other obligations issued under this chapter, and with those parties who may enter into contracts with the authority pursuant to this chapter, that the State will not limit, alter, restrict or impair the rights hereby vested in the authority and the participating health care facilities, the participating institutions for higher education and the participating institutions providing an educational program to acquire, construct, reconstruct, maintain and operate a project as defined in this chapter or to establish, revise, charge and collect rates, rents, fees and other charges as may be convenient or necessary to produce sufficient revenues to meet the expenses of maintenance and operation of the project and to fulfill the terms of any agreements made with the holders of bonds, notes or other obligations authorized and issued by this chapter, and with the parties who may enter into contracts with the authority pursuant to this chapter, or in any way impair the rights or remedies of the holders of such bonds, notes or other obligations of such parties until the bonds, notes and such other obligations, together with interest on the bonds, notes and other obligations, with interest on any unpaid installment of interest and all costs and expenses in connection with an action or proceeding by or on behalf of the bondholders, are fully met and discharged and such contracts are fully performed on the part of the authority. Nothing in this chapter precludes such limitation or alteration if and when adequate provision is made by law for the protection of the holders of such bonds, notes or other obligations of the authority or those entering into such contracts with the authority. The authority is authorized to include this pledge and undertaking for the State in such bonds, notes or other obligations or contracts. [PL 2007, c. 354, §24 (AMD).]

SECTION HISTORY

PL 1971, c. 303, §1 (NEW). PL 1979, c. 680, §21 (AMD). PL 1993, c. 390, §28 (AMD). PL 2007, c. 354, §24 (AMD).

§2073. Act cumulative; no notice required

Neither this chapter nor anything contained in this chapter is or shall be construed as a restriction or limitation upon any powers which the Maine Health and Higher Educational Facilities Authority might otherwise have under any laws of this State, and this chapter is cumulative of any such powers. This chapter does and shall be construed to provide a complete, additional and alternative method for the doing of the things authorized thereby and shall be regarded as supplemental and additional to powers conferred by other laws. Neither the making of contracts nor the issuance of bonds, notes, refunding bonds and other obligations pursuant to the provisions of this chapter need comply with the requirements of any other state law applicable to the making of contracts and the issuance of bonds, notes and other obligations, for the construction and acquisition of any project undertaken pursuant to this chapter. No proceedings, notice or approval shall be required for the issuance of any bonds, notes and other obligations or any instrument as security therefor, except as is provided in this chapter. [PL 1979, c. 680, §22 (AMD).]

SECTION HISTORY

PL 1971, c. 303, §1 (NEW). PL 1979, c. 680, §22 (AMD).

§2074. Act liberally construed

This chapter, being necessary for the welfare of the State and its inhabitants, shall be liberally construed so as to effect its purposes. [PL 1971, c. 303, §1 (NEW).]

SECTION HISTORY

PL 1971, c. 303, §1 (NEW).

§2075. Maine Health Facilities' Reserve Fund

1. Maine Health Facilities' Reserve Fund. The authority shall establish and maintain a reserve fund called the "Maine Health Facilities' Reserve Fund" in which is deposited all money appropriated by the State for the purpose of that fund, all proceeds of bonds required to be deposited in the fund by terms of any contract between the authority and its bondholders or any resolution of the authority with respect to the proceeds of bonds and any other money or funds of the authority that the authority determines to deposit in the fund and any other money made available to the authority only for the purposes of the fund from any other source or sources.

A. Money in the reserve fund is held and applied solely to the payment of the interest on and principal of bonds secured by the reserve fund and sinking fund payments referred to 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 reduces 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 referred to in this chapter with respect to bonds;
- (4) The retirement of bonds in accordance with the terms of any contract between the authority and its bondholders; or
- (5) The payment for which other money of the authority 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. [PL 1991, c. 584, §6 (NEW).]

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 authority. For purposes of this chapter, the amount of any letter of credit, insurance contract, surety bond or similar financial undertaking available to be drawn upon and applied to obligations to which money in the reserve fund may be applied is deemed to be and must be counted as money in the Maine Health Facilities' Reserve Fund, capital reserve funds or any other reserve fund as provided by resolution of the authority. The required debt service reserve is, 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 authority and holders of bonds secured by the reserve fund to be raised in the 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; 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. [PL 1995, c. 179, §4 (AMD).]

C. To ensure the maintenance of the required debt service reserve in the reserve fund, there must be annually appropriated and paid to the authority for deposit in the fund the sum, if any, certified by the executive director of the authority to the Governor, required to restore the reserve fund to an amount equal to the required debt service reserve. On or before December 1st of each year, the executive director shall make and deliver to the Governor a certificate stating the sum and the sum or sums so certified must be appropriated and paid to the authority during the current state fiscal year.

To ensure the maintenance of the required debt service reserve in any capital reserve fund to which, at the direction of the authority pursuant to the resolution or resolutions establishing a capital reserve fund, this provision applies, there is annually appropriated and paid to the authority for

deposit in the fund the sum, if any, certified by the executive director of the authority to the Governor, required to restore the reserve fund to an amount equal to the required debt service reserve. On or before December 1st of each year, the director shall make and deliver to the Governor a certificate stating the sum and the sum or sums so certified must be appropriated and paid to the authority during the current state fiscal year. [PL 1991, c. 584, §6 (NEW).]

[PL 1995, c. 179, §4 (AMD).]

2. Capital reserve fund. This subsection applies to capital reserve funds.

A. The authority may establish and maintain one or more special funds called "capital reserve funds" in which must 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 authority and its bondholders or any resolution of the authority with respect to the proceeds of bonds;
- (3) Any other money or funds of the authority that the authority determines to deposit in those funds; and
- (4) Any other money made available to the authority only for the purposes of the fund from any other source or sources. [PL 1991, c. 584, §6 (NEW).]

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

- (1) To pay the interest on and principal of bonds secured by the capital reserve fund and sinking fund payments referred to 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. [PL 1991, c. 584, §6 (NEW).]

C. The minimum amount of any capital reserve fund must 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 1, paragraph C apply, the required minimum reserve is, 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 authority and its bondholders of the bonds to be raised in the current or any succeeding calendar year for the payment of interest on and maturing principal of that portion of the outstanding bonds or 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 of the sinking funds in accordance with the terms of all such contracts to the retirement of the bonds. [PL 1991, c. 584, §6 (NEW).]

D. Money in any capital reserve fund may not be withdrawn if the withdrawal reduces 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 that are secured by the capital reserve fund, except for:

- (1) Payment of interest then due and payable on bonds secured by the capital reserve fund then maturing and payable;
- (2) Sinking fund payments required by the terms of any such contracts to sinking funds established for the payment of redemption of the bonds;

(3) The retirement of bonds secured by the capital reserve fund in accordance with the terms of any contract between the authority and its bondholders; and

(4) The payments for which other money of the authority is not then available for payment of interest or principal or sinking fund payments or retirement of bonds secured by the capital reserve fund in accordance with the terms of any such contract. [PL 1991, c. 584, §6 (NEW).]

[PL 1991, c. 584, §6 (NEW).]

SECTION HISTORY

PL 1991, c. 584, §6 (NEW). PL 1995, c. 179, §4 (AMD).

§2076. Authority to intercept federal and state aid

1. Treasurer to withhold funds. When the authority notifies the Treasurer of State in writing that an entity eligible to use the authority is in default as to the payment of principal or interest on any securities of that entity sold through or by the authority, or that the authority has reasonable grounds to predict that the entity will not be able to make a full payment when that payment is due, the Treasurer of State shall withhold any funds in the Treasurer of State's custody that are due or payable to the eligible entity until the amount of the principal or interest due or anticipated to be due has been paid to the authority or the trustee for the bondholders, or the authority notifies the Treasurer of State that satisfactory arrangements have been made for the payment of the principal and interest. Funds subject to withholding under this subsection include, but are not limited to, federal and state grants, contracts, allocations or appropriations.

[PL 1991, c. 584, §7 (NEW).]

2. Withheld funds to be made available to authority. If the authority further notifies the Treasurer of State in writing that no other arrangements are satisfactory, the Treasurer of State shall deposit in the General Fund and make available to the authority any funds withheld from the eligible entity under this section. The authority shall apply the funds to the costs incurred by the eligible entity, including payments required to be made to the authority or trustee for any bondholders of debt service on any debt issued by the authority for the eligible entity or required by the terms of any other law or contract to be paid to the holders or owners of debt issued on behalf of the eligible entity upon failure or default, or reasonable expectation of failure or default, of the eligible institution to pay the principal or interest on its securities when due.

[PL 1991, c. 584, §7 (NEW).]

3. Other agencies to be notified. Concurrent with any notice from the authority to the Treasurer of State under this section, the authority shall notify any other agency, department or authority of State Government that exercises regulatory, supervisory or statutory control over the operations of the eligible entity. Upon notification, the agency, department or authority shall immediately undertake reviews to determine what action, if any, that agency, department or authority should undertake to assist in the payment by the eligible entity of the money due or steps that the agencies of the State other than the Treasurer of State or the authority should take to assure the continued prudent operation of the eligible entity or provision of services to the people served by the eligible entity.

[PL 1991, c. 584, §7 (NEW).]

SECTION HISTORY

PL 1991, c. 584, §7 (NEW).

§2077. Lease finance program

1. Establishment; administration. A lease finance program under the jurisdiction and direction of the authority is established to provide for or assist with financing leases for eligible entities to acquire the use of personal or real property. The lease finance program must provide methods of direct or indirect financing, insurance, borrowing, credit enhancement and other financial tools for the lease,

lease-purchase, rental or right of use of any real or personal property or other authorized activity of an eligible entity. For the purposes authorized in this section the University of Maine System and its colleges and universities are eligible participating institutions under the definition of eligible participant for the authority.

[PL 1997, c. 385, §5 (NEW).]

2. Eligible entity defined. For purposes of this section "eligible entity" means an eligible entity, as defined in section 2053, subsection 3-B, that is organized pursuant to the United States Internal Revenue Code, Section 501.

[PL 1997, c. 385, §5 (NEW).]

3. Powers. The authority may make loans or borrow money on behalf of any eligible entity for any of the purposes of this section. The authority may purchase, refinance or enter into leases with or on behalf of any eligible entity. The authority may purchase or refinance for or on behalf of any eligible entity any lease that is held or issued by a 3rd party. The authority may issue its bonds or notes for the purchase of leases on behalf of any eligible entity or any group of those entities or for the establishment of a pool of funds to be used for the purchase, financing or other means of acquisition of leases. The authority shall establish prudent standards for the terms and conditions of any lease financing made available to any eligible entity or any group of those entities. Terms and conditions include, but are not limited to, the general obligation of the eligible entity, liens on any real or personal property held by the eligible entity whether financed by the specific lease or not and sinking funds held by or available to the eligible entity.

[PL 1997, c. 385, §5 (NEW).]

4. Application; eligibility. The authority may prescribe and require an application or procedure for an eligible entity to participate in any form of lease financing assistance made available under this section. An application must include any information that the authority decides is necessary for implementing this section, including, but not limited to, supporting documents, certifications, feasibility studies, financial data, utilization studies or other applicable information. An eligible entity may not participate in any lease finance assistance made available under this section unless, in the sole judgment of the authority, the eligible entity has satisfactorily demonstrated that it will pay the principal, interest, fees and related charges on the bond, debt, or other instrument issued by the authority on its behalf or purchased by the bank from the eligible entity as well as the costs for operation and maintenance of any real or personal property acquired or made available for use by the eligible entity by virtue of the lease assistance. Satisfactory assurance can be demonstrated if an eligible entity has:

A. Established a method of payment by fee, rate, charges, assessment or other mechanism satisfactory to the authority; or [PL 1997, c. 385, §5 (NEW).]

B. Provided collateral sufficient to ensure payment. [PL 1997, c. 385, §5 (NEW).]

[PL 1997, c. 385, §5 (NEW).]

5. State not liable. Bonds, notes, leases or other forms of debt or liability entered into or issued by the authority under this section are not in any way a debt or liability of the State and do not constitute a loan of the credit of the State or create any debt or debts, liability or liabilities on behalf of the State or constitute a pledge of the faith and credit of the State. Each bond, note, lease or other evidence of debt or liability entered into by the authority must contain a statement to the effect that the authority is obligated to pay the principal, interest, redemption premium, if any, and any other amounts payable solely from the sources pledged for that purpose by the authority and that neither the faith and credit nor the taxing power of the State is pledged to the payment of the principal, interest, premium, charge, fee or other amount of the bond, note, lease or other form of indebtedness, as the case may be.

[PL 1997, c. 385, §5 (NEW).]

6. Lease finance agreement. Lease financing and refinancing, lease purchase, loans and other forms of indebtedness or obligations incurred by an eligible entity due the authority under the terms of

this section must be evidenced by and be made in accordance with the terms and conditions specified in a lease finance agreement to be executed by the authority and any eligible entity or any group of those entities. The lease finance agreement must specify, among other things, the terms and conditions for the disbursement of lease finance proceeds, the term and interest rate of the lease, the scheduling of lease payments or bond payments, as the case may be, and any other terms and conditions determined necessary or desirable by the authority.

[PL 1997, c. 385, §5 (NEW).]

7. Utilization of municipal lease finance program. The authority, for the benefit of its eligible entities, may utilize the municipal lease finance program created in Title 30-A, section 6006-C for the purposes of this section.

[PL 1997, c. 385, §5 (NEW).]

SECTION HISTORY

PL 1997, c. 385, §5 (NEW).

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