

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND FIFTEEN

S.P. 544 - L.D. 1443

**An Act To Merge the Maine Educational Loan Authority with the Finance
Authority of Maine**

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

Sec. 1. 3 MRSA §959, sub-§1, ¶E, as amended by PL 2013, c. 505, §1, is further amended to read:

E. The joint standing committee of the Legislature having jurisdiction over education and cultural affairs shall use the following list as a guideline for scheduling reviews:

- (2) Department of Education in 2021;
- (2-A) State Board of Education in 2021;
- (3) Maine Arts Commission in 2015;
- (5) Maine Historic Preservation Commission in 2015;
- (5-A) Notwithstanding section 952, Maine Historical Society in 2015;
- (6) Maine Library Commission in 2015;
- (6-A) Maine State Cultural Affairs Council in 2015;
- (6-B) Maine State Library in 2015;
- (6-C) Maine State Museum in 2015;
- (7) Maine State Museum Commission in 2015;
- (8) Office of State Historian in 2015;
- (9) Board of Trustees of the Maine Maritime Academy in 2017;
- (10) Board of Trustees of the University of Maine System in 2017;
- (12) Maine Community College System in 2017; and
- (13) Maine Health and Higher Educational Facilities Authority in 2019; and
- ~~(14) Maine Educational Loan Authority in 2019.~~

Sec. 2. 5 MRSA §1547, sub-§3, as enacted by PL 1999, c. 731, Pt. RRR, §1 and amended by PL 2003, c. 20, Pt. OO, §2 and affected by §4 and amended by PL 2007, c. 58, §3, is further amended to read:

3. Component units. Component units of the State include, but are not limited to, the following organizations: the Loring Development Authority of Maine; the Finance Authority of Maine; ~~the Maine Educational Loan Authority~~; the Maine Municipal Bond Bank; the Maine Health and Higher Education Facilities Authority; the Maine Governmental Facilities Authority; the Maine Maritime Academy; the Maine State Housing Authority; the University of Maine System; the Maine Community College System; and the Maine Public Employees Retirement System. The State Controller may identify additional component units in accordance with standards established by a governmental accounting standards board.

Sec. 3. 5 MRSA §12004-F, sub-§15, as enacted by PL 1989, c. 503, Pt. A, §11, is repealed.

Sec. 4. 5 MRSA §12021, sub-§6, ¶G, as enacted by PL 2011, c. 616, Pt. A, §1, is repealed.

Sec. 5. 10 MRSA §363, sub-§8, as amended by PL 2003, c. 112, §2 and PL 2007, c. 273, Pt. B, §5 and affected by c. 695, Pt. A, §47, is further amended to read:

8. Additional allocation to the Finance Authority of Maine pursuant to Title 20-A, chapter 417-A. That portion of the state ceiling allocated to the issuance of bonds by the ~~Maine Educational Loan Authority~~ Finance Authority of Maine pursuant to Title 20-A, chapter 417-A must be allocated to the ~~Maine Educational Loan Authority~~ Finance Authority of Maine.

A. Prior to issuing loans funded through an allocation of the state ceiling for the issuance of education loans under this section, an issuer or lender must provide to the appropriate agency within the Department of Professional and Financial Regulation examples of the disclosures to be made to loan recipients or obligors. The information must be provided to the Bureau of Financial Institutions if the issuer or lender is a financial institution or credit union established pursuant to state or federal law or to the Bureau of Consumer Credit Protection for all other issuers or lenders. This information must be provided to the appropriate agency within the Department of Professional and Financial Regulation upon request, or in the course of an examination of the issuer or lender by the agency, and must include a description of any interest rate or other discounts offered that clearly identifies all of the terms and conditions of obtaining any discount, a projection of the approximate number or percentage of loan obligors who are likely to benefit from the discounts and any other disclosures pursuant to guidelines established by the Bureau of Financial Institutions and the Bureau of Consumer Credit Protection for the issuance of education loans that would benefit from an allocation of the state ceiling. The Bureau of Financial Institutions and the Bureau of Consumer Credit Protection shall jointly adopt, to the extent allowed by law, rules to carry out the provisions of this paragraph by establishing uniform disclosure requirements and sanctions for noncompliance. Rules adopted pursuant to this paragraph are routine technical rules, as defined in

Title 5, chapter 375, subchapter 2-A. All information provided to the appropriate agencies within the Department of Professional and Financial Regulation must include the source of the information and the basis for any projections.

B-1. All education loans made under the federal Higher Education Act of 1965, 20 United States Code, Chapter 28 that are purchased or originated with proceeds of tax-exempt bonds using a portion of the state ceiling on private activity bonds must be guaranteed by the state agency designated as administrator of federal guaranteed student loan programs pursuant to Title 20-A, chapter 417, subchapter 1, ~~provided~~ except that this requirement does not apply to serial loans of a borrower that are guaranteed by a different guarantee agency and acquired or financed with tax-exempt bond proceeds prior to the effective date of this paragraph. The state agency designated as administrator of federal guaranteed student loan programs pursuant to Title 20-A, chapter 417, subchapter 1 shall use its best efforts to provide competitive rates for the guarantee function.

Sec. 6. 10 MRSA §965, sub-§4-A, as enacted by PL 1999, c. 728, §9, is amended to read:

4-A. Director; serving on more than one board. With the exception of a member serving in an ex officio capacity pursuant to subsection 4, a member may not serve at the same time as a director or officer of ~~the Maine Educational Loan Authority~~, of any nonprofit corporation formed pursuant to the former Title 20, section 2237 and Title 20-A, section 11407 or of any entity that has a contract to provide a significant level of administrative services to the authority, ~~to the Maine Educational Loan Authority~~ or to any nonprofit corporation formed pursuant to the former Title 20, section 2237 and Title 20-A, section 11407.

Sec. 7. 20-A MRSA §11407, sub-§3, as amended by PL 2003, c. 112, §4, is further amended to read:

3. Board of directors. The board of directors of a nonprofit corporation formed under this section consists of 7 members. Four members representing the public with full voting rights must be appointed by the Governor, subject to review and approval by the joint standing committee of the Legislature having jurisdiction over business and economic development matters and confirmation by the Legislature. The terms of the initial members must be staggered: 2 members must be appointed to 2-year terms and 2 members must be appointed to 3-year terms. On the expiration of a term of any member, a successor must be appointed to a 3-year term. A member serves until a successor is appointed and qualified. A member is eligible for reappointment. If a member is appointed to fill a vacancy in an unexpired term, that member may serve only for the remainder of that term until a successor is appointed. An officer, director or employee of a nonprofit corporation formed under this section may not at the same time serve as an officer, director or employee of the ~~Maine Educational Loan Authority~~ Finance Authority of Maine, of the state agency designated as administrator of federal guaranteed student loan programs pursuant to chapter 417, subchapter 1 or of any entity that has a contract to provide a significant level of administrative services to a nonprofit corporation formed under this section, ~~to the Maine Educational Loan Authority~~ or to the state agency

designated as administrator of federal guaranteed student loan programs pursuant to chapter 417, subchapter 1.

Sec. 8. 20-A MRSA §11411, as enacted by PL 1987, c. 807, §3, is repealed and the following enacted in its place:

§11411. Maine Educational Loan Program

There is established the Maine Educational Loan Program, referred to in this chapter as "the program" and administered by the Finance Authority of Maine, to carry out the purposes of this chapter.

Sec. 9. 20-A MRSA §11413, sub-§§1, 2 and 4, as enacted by PL 1987, c. 807, §3, are amended to read:

1. Authority. "Authority" means the Finance Authority of Maine, including in its capacity as successor to the Maine Educational Loan Authority and its the Finance Authority of Maine's successors or assigns.

2. Authority loans. "Authority loans" means loans made under this chapter by the authority to institutions of higher education, students or other persons for the purpose of funding, financing or acquiring education loans.

4. Borrower. "Borrower" means a student who has received an education loan or any parent who has received or agreed to repay an education loan under this chapter.

Sec. 10. 20-A MRSA §11413, sub-§§7 and 8, as enacted by PL 1987, c. 807, §3, are amended to read:

7. Default insurance. "Default insurance" means insurance ~~which~~ that insures authority loans or bonds made or issued under this chapter against default.

8. Default Reserve Fund. "Default Reserve Fund" means a fund established by the authority for the purpose of securing authority loans or bonds made or issued under this chapter.

Sec. 11. 20-A MRSA §11413, sub-§9, as amended by PL 1989, c. 502, Pt. A, §59, is further amended to read:

9. Education loan. "Education loan" means a loan ~~which~~ made under this chapter ~~that~~ is made by the authority or by, or on behalf of, an institution to a student or to parents of a student, or both, in amounts not in excess of the maximum amounts specified by the authority to finance a part or all of the student's cost of attendance at an institution. An education loan ~~shall constitute~~ constitutes an authority loan.

Sec. 12. 20-A MRSA §11413, sub-§§10 and 12, as enacted by PL 1987, c. 807, §3, are amended to read:

10. Education loan series portfolio. "Education loan series portfolio" means all education loans made by a specific institution ~~which~~ that are funded from or acquired by

the proceeds of an authority loan to the institution of higher education out of the proceeds of a related specific bond issue through the authority under this chapter.

12. Loan funding deposit. "Loan funding deposit" means money or other property deposited by an institution with the authority or a trustee or custodian, in amounts the authority determines necessary as a condition for an institution's participation in the authority's programs under this chapter, to:

- A. Provide security for bonds;
- B. Fund a default reserve fund;
- C. Acquire default insurance; or
- D. Defray costs of the authority.

Sec. 13. 20-A MRSA §11414, as enacted by PL 1987, c. 807, §3, is repealed and the following enacted in its place:

§11414. Finance Authority of Maine; successor

The Finance Authority of Maine is the successor to the Maine Educational Loan Authority. All properties, rights in land, buildings and equipment and any funds, moneys, revenues and receipts or assets of the Maine Educational Loan Authority, including funds previously appropriated by the State for the Maine Educational Loan Authority, belong to the Finance Authority of Maine as successor, subject to all liens and pledges thereon made by the Maine Educational Loan Authority. All liabilities of the Maine Educational Loan Authority are liabilities of the Finance Authority of Maine. All contracts and undertakings of the Maine Educational Loan Authority are contracts of the Finance Authority of Maine. Any resolution with respect to the making of loans or issuance of bonds by the Maine Educational Loan Authority and any other action taken by them with respect to assistance provided under this chapter must be a resolution of the Finance Authority of Maine or an action taken by the Finance Authority of Maine. All bond obligations of the Maine Educational Loan Authority and all contracts, agreements, obligations, certifications and undertakings of the Maine Educational Loan Authority are obligations, contracts, agreements, certifications and undertakings of the Finance Authority of Maine, except that nothing in this section may be construed to make any obligation of the Maine Educational Loan Authority that is not a general obligation of the Maine Educational Loan Authority a general obligation of the Finance Authority of Maine, and any limitations on these obligations of the Maine Educational Loan Authority, whether by contract or indenture, are limitations on the obligations of the Finance Authority of Maine as successor. Notwithstanding this section, the Finance Authority of Maine shall administer and carry out, as obligations of the Finance Authority of Maine, all obligations of the Maine Educational Loan Authority.

Sec. 14. 20-A MRSA §11415, as amended by PL 2005, c. 397, Pt. C, §12, is repealed.

Sec. 15. 20-A MRSA §11416, as enacted by PL 1987, c. 807, §3, is repealed.

Sec. 16. 20-A MRSA §11417, as amended by PL 1999, c. 728, §§14 to 16, is further amended to read:

§11417. Supplemental powers and functions

1. General. ~~The~~ In addition to the powers given to the authority under Title 10, section 969-A, for the purposes of carrying out the purposes of this chapter, the authority may, subject to any limitation of this chapter:

- A. Borrow money or otherwise obtain credit in its own name;
- B. Lend money or otherwise extend credit to any person and exercise all powers of a lender or creditor;
- C. Insure or guarantee performance of any loan agreement or other obligation;
- D. Acquire, use, manage, improve or dispose of any interest in, or type of, real or personal property, including grant, purchase, sale, borrow, loan, lease, foreclosure, mortgage, assignment or other lawful means, with or without public bidding and also including the assessment of fees, the forgiveness of indebtedness, the receipt of reimbursements for expenses incurred in carrying out its purposes and the expenditure or investment of its funds;
- E. Purchase, sell, service, pledge, invest in, hold, trade, accept as collateral or otherwise deal in, acquire or transfer, on such terms and conditions as the authority may specify, any loan, loan pass-through certificate, pledge, including any pledge of loan revenue, loan participation certificate or other loan-backed or loan-related security;
- F. Obtain, develop or disseminate any information useful or convenient for carrying out any purpose or power of the authority. The authority may conduct hearings, hear testimony under oath, administer oaths, issue subpoenas requiring the attendance of witnesses or the production of records or other things and may issue commissions for the examination of witnesses who are outside of the State, unable to attend or are excused from attendance;
- G. Procure insurance in aid of any of its corporate purposes;
- I. Obtain any certification, warranty, affidavit or other representation necessary or useful for carrying out any of its powers or duties;
- J. Employ persons, including private legal counsel and financial experts, on either a temporary or permanent basis, in order to carry out any of its powers and duties. Employees of the authority ~~shall~~ are not be subject to Title 5, chapters 71 and 372, subchapter ~~H~~ 2;
- K. Sue or initiate or appear in any proceeding. The authority may be sued on its written contracts or in accordance with Title 1, section 409; Title 5, chapter 375; or Title 14, chapter 741;
- ~~L. Maintain an office at a place designated by it within the State;~~
- ~~M. Adopt an official seal and alter it at pleasure;~~

N. Pursuant to Title 5, chapter 375, subchapter ~~H 2~~, adopt any rules, including its bylaws, necessary or useful for carrying out any of its powers or duties, which are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A;

O. Make, modify and carry out any agreement, including issuing any bond, necessary or useful for carrying out any of its powers, duties or purposes; and

P. Do any act or thing necessary or useful for carrying out any of its powers, duties or purposes.

2. Programs. Without limiting the generality of this chapter, the authority is authorized to carry out one or more programs making financial and other assistance available to borrowers, institutions, or both, to finance costs of attendance. The authority is further authorized to issue its bonds, lend the proceeds of the bonds and exercise any other power set forth in this chapter for these purposes.

3. Policies. The members of the authority ~~shall~~ have the power and duty to establish and revise, from time to time, rules pertaining to participation in ~~programs of the authority~~ the program, issuing bonds and borrowing money by the authority for the program, a process for allocation and carry-forward of that portion of the state ceiling on issuance of tax-exempt bonds allocated to the authority for the program pursuant to Title 10, chapter 9; and servicing and collection of loans made pursuant to ~~programs of the authority and other policies governing the operation of the authority~~ the program. In addition, the members of the authority may, by resolution of the members, determine that the authority may borrow money for the program in accordance with any such resolution. ~~All other powers and duties of the authority shall be vested in the executive director who~~ The authority, by rule, may delegate certain powers to its chief executive officer, and in such cases, the chief executive officer shall carry out such powers and duties in accordance with this chapter and the rules of the authority.

~~**4. Administration.** In carrying out its powers under this chapter, the authority shall, whenever determined desirable by the authority, contract with the secondary market or other persons or entities for necessary clerical and administrative services. The contracts must be awarded by a competitive bidding process subject to approval by a vote of a majority of the members of the authority.~~

5. Loan origination. The powers of the authority set forth in subsection 1, paragraph B and in subsection 2 are limited as set forth in this subsection. The authority is authorized to originate supplemental loans.

~~**6. Business plan.** Within 90 days after the effective date of this subsection and thereafter within the period set forth in Title 5, section 8060, subsection 2, the authority shall prepare and distribute to persons who request it a statement of the authority's goals and objectives for the calendar year and a regulatory agenda in accordance with Title 5, section 8060.~~

7. Operating contracts. ~~The~~ In carrying out its powers under this chapter, the authority shall adopt rules, after notice and hearing in accordance with Title 5, section 8053, providing that may enter into loan origination, servicing and other substantial operating contracts ~~may not be entered into without prior public notice and opportunity~~

~~for interested persons to make proposals. In adopting rules, the members of the authority shall, to the extent possible, follow the rules and procedures with respect to the competitive bidding process set forth in Title 5, chapter 155, subchapter I-A. The authority may not enter into any contract except after review of the proposals by the members and approval of the contract by the members after consideration of written recommendations of the executive director. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A, in compliance with its procurement policies and any applicable authority rule.~~

Sec. 17. 20-A MRSA §11418, sub-§1, as enacted by PL 1987, c. 807, §3, is amended to read:

1. Confidential information. Records containing any information acquired by the authority or a member, officer, employee or agent of the authority from applicants for or recipients of financial assistance provided pursuant to ~~a the program administered or established by the authority shall be deemed~~ are confidential for purposes of Title 1, section 402, subsection 3, paragraph A.

Sec. 18. 20-A MRSA §11419, as enacted by PL 1987, c. 807, §3, is repealed.

Sec. 19. 20-A MRSA §11420, as enacted by PL 1987, c. 807, §3, is amended to read:

§11420. Bonds

1. Issuance; purpose; payment; authorization; interim receipts or certificates. The authority may, at any time and from time to time, issue bonds ~~for any corporate purpose, including, without limitation,~~ for the purpose of making authority loans to institutions participating in ~~a the program of the authority~~ for the purpose of providing education loans, for acquiring existing portfolios of education loans from institutions or for financing or funding education loans directly or indirectly to borrowers. The bonds of each issue ~~shall~~ must be payable from sources specified in the agreement with bondholders, including without limitation, principal and interest on loans; payments by institutions, banks, insurance companies or others pursuant to letters of credit or purchase agreements; investment earnings from funds or accounts maintained pursuant to a trust agreement or other document; insurance proceeds; loan funding deposits; proceeds of sales of education loans; proceeds of refunding bonds; and other fees, charges or revenues of the authority if so specified.

Bonds ~~shall~~ must be authorized by the authority and ~~shall~~ must:

- A. Bear the date or dates, and mature at a time or times, whether as serial bonds or as term bonds, or both, determined by the authority;
- B. Bear interest at a rate or rates determined by the authority, including, but not limited to, fixed, variable, floating or adjustable interest rates;
- C. Be payable at a time or times, in the denominations and form, either coupon or registered or both, and carry the registration and privileges as to conversion and for the replacement of mutilated, lost or destroyed bonds as the authority may establish;

- D. Be negotiable and be payable in lawful money of the United States at a designated place or be payable in another form of currency if the authority so designates;
- E. Be subject to redemption in accordance with the agreement with bondholders;
- F. Be executed by the manual or facsimile signatures of the officers or designees of the authority;
- G. Be sold in the manner and upon the terms determined by the authority at public or private sale, with or without public bidding;
- H. Be conclusively presumed to be fully and duly authorized and issued under the laws of the State and any person or governmental unit ~~shall~~ must be estopped from questioning their authorization, sale, issuance, execution or delivery by the authority; and
- I. Be deemed to be negotiable instruments issued under the laws of the State.

Pending preparation of the definitive bonds, the authority may issue interim receipts or certificates, which ~~shall~~ must be exchanged for such definitive bonds.

Bonds issued under this chapter ~~shall do~~ not constitute or create any debt or debts, liability or liabilities on behalf of the State or of any 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 ~~shall~~ be are payable solely from the funds provided. All such bonds ~~shall~~ must contain on the face of the bonds a statement to the effect that neither the State nor any political subdivision of the State ~~shall be~~ is obligated to pay the same or the interest on the bonds, except from revenues derived pursuant to one or more agreements, and that neither the faith and credit nor the taxing power of the State or of any political subdivision of the State is pledged to the payment of the principal of, premium, if any, or the interest on such bonds. The issuance of bonds under this chapter ~~shall~~ must not directly or indirectly or contingently obligate the State or any political subdivision of the State to levy or to pledge any form of taxation whatever or to make any appropriation for their payment. Nothing in this section contained may prevent nor be construed to prevent the authority from pledging its full faith and credit or the full faith and credit of an institution to the payment of bonds or issue of bonds authorized pursuant to this chapter.

2. Provisions in bond resolution or other document. Any bond resolution or other document may contain provisions, which ~~shall~~ must be a part of the contract with the holders of the bonds to be authorized under this chapter, as to:

- A. Pledging or assigning the revenues derived from authority loans, education loans or other sources with respect to which the bonds are to be issued;
- B. The fees and other charges to be collected and the sums to be raised in each year, and the use, investment and disposition of such sums;
- C. The setting aside of loan funding deposits, debt service reserves, capitalized interest accounts, cost of issuance accounts and sinking funds, and the regulation, investment and disposition;
- D. Limitations on the use of proceeds of loans;

E. Limitations on the purpose to which or the investments in which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied;

F. Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured, the terms upon which additional bonds may rank on a parity with, or be subordinate or superior to, other bonds;

G. The refunding or refinancing of outstanding bonds;

H. The procedure, if any, by which the terms of any contract with bondholders may be altered or amended and the amount of bonds the holders of which must consent thereto, and the manner in which consent ~~shall~~ must be given;

I. Defining the acts or omissions ~~which shall~~ that constitute a default in the duties of the authority to holders of its obligations and providing the rights or remedies of such holders in the event of a default;

J. Providing for guarantees, pledges of endowments, letters of credit, property or other security, or insurance for the benefit of the holders of the bonds; and

K. Any other matter relating to the bonds ~~which~~ that the authority determines appropriate.

3. Liability. No member or employee of the authority nor any person executing the bonds issued under this chapter may be liable personally on the bonds or subject to any personal liability by reason of the issuance of the bonds.

4. Purchasing, refunding or refinancing by authority. The authority may purchase its bonds issued under this chapter out of any available funds and may hold, pledge, cancel or resell the bonds subject to and in accordance with agreements with bondholders.

The authority may refund or refinance any of its bonds issued under this chapter.

5. Security for series or issue of bonds. The authority may pledge the repayments of authority loans as security for a series or issue of bonds issued under this chapter. Notwithstanding any other provision contained in this chapter, the authority may commingle and pledge as security for a series or issue of such bonds, with the consent of all of the institutions ~~which that~~ are participating in the series or issue; the education loan series portfolios and some or all future education loan series portfolios of the institutions; and the loan funding deposits of the institutions if education loan series portfolios and other security and money set aside in any fund or funds pledged for any series or issue of such bonds are held for the sole benefit of the series or issue separate and apart from education loan series portfolios and other security and money pledged for any other series or issue of such bonds of the authority.

The authority may provide for transfer of registration of its registered bonds issued under this chapter by book entry on the records of the entity designated for that purpose and may enter into any agreement ~~which~~ it ~~deems~~ considers necessary to accomplish these purposes.

Sec. 20. 20-A MRSA §§11421 and 11422, as enacted by PL 1987, c. 807, §3, are amended to read:

§11421. Refunding bonds

The authority may provide for issuance of refunding bonds of the authority to refund any outstanding bonds issued under this chapter, including the payment of any redemption premium and any interest accrued or to accrue to the date of redemption, ~~and, if deemed advisable by the authority, for any other purpose of the authority.~~ The authority may provide for the issuance of bonds of the authority for the combined purpose of refunding any outstanding bonds, including refunding bonds issued under this chapter. The issuance of the bonds, the maturities and other details, the rights and remedies of the holders and the rights, powers, privileges, duties and obligations of the authority ~~shall be~~ are governed by the provisions of this chapter insofar as they are applicable.

§11422. Loan transactions

~~The~~ In furtherance of the purposes of this chapter, the authority may purchase, sell, service, pledge, invest in, hold, trade, accept as collateral or otherwise deal in, acquire or transfer, all on such terms and conditions as the authority may specify, any loan, loan pass-through certificate, pledge, including any pledge of loan revenue, loan participation certificate or other loan-backed or loan-related security. Any such transaction may be conducted by public or private offering, with or without public bidding. In connection with ~~the~~ such purchase or sale of a loan or of a beneficial interest or participation in a loan, the authority may enter into one or more agreements providing for the custody, control and administration of the loan. Any such agreement may provide that the authority, a financial institution or other person shall act as trustor, trustee or custodian under the agreement. Any such agreement may provide that, with respect to loans governed by the agreement, title to a loan, or to a beneficial interest or participation in a loan, ~~shall~~ must be deemed to have been transferred on terms and to the extent specified in that agreement and that the effect of a sale of a beneficial interest or participation in a loan is the same as a sale of a loan. ~~The~~ In furtherance of the purposes of this chapter, the authority may also issue or cause to be issued certificates or other instruments evidencing the holder's fractional interest in a pool of loans, which interest may be undivided or limited to one or more specific loans. Whether or not the certificates or instruments are of such form or character as to be negotiable instruments under Title 11, Article 8, the certificates or instruments ~~shall~~ must be and are made negotiable instruments within the meaning of and for all purposes of Title 11, Article 8, subject only to such registration requirements as the authority may establish.

Sec. 21. 20-A MRSA §11423, sub-§§2 to 4, as enacted by PL 1987, c. 807, §3, are amended to read:

2. Pledge. Any trust agreement entered into pursuant to a bond issue under this chapter may pledge or assign any revenues to be received by the authority or proceeds or benefits of any contract and may serve to convey or mortgage or otherwise secure any property or property rights, contain provisions for protecting and enforcing the rights and remedies of bondholders, restrict the individual right of action by bondholders and contain such other provisions as the authority deems appropriate, including the right to

the appointment of a receiver and the right to the issuance of an order of specific performance by a court of competent jurisdiction.

3. Education loan program. Any expense incurred in carrying out the trust agreement entered into pursuant to a bond issue under this chapter may be treated as a part of the cost of the operation of an education loan program.

4. Valid and binding. A pledge by the authority of revenues as security for an issue of bonds ~~shall be~~ issued under this chapter is valid and binding from the time when the pledge is made.

The revenues pledged ~~shall~~ are immediately ~~be~~ subject to the lien of the pledge without any physical delivery, recording of any instrument or further act and the lien of any pledge ~~shall be~~ is valid and binding against any person having any claim of any kind in tort, contract or otherwise against the authority or any participating institution or borrower, irrespective of whether the person has notice.

No bond resolution, trust agreement or financing statement, continuation statement or other instrument adopted or entered into by the authority under this chapter need be filed or recorded in any public record other than the records of the authority in order to perfect the lien against 3rd persons, regardless of any contrary provision of law.

Sec. 22. 20-A MRSA §11424, sub-§1, as amended by PL 2011, c. 401, §1, is further amended to read:

1. Capital reserve fund. ~~The~~ In connection with bonds issued under this chapter, the authority may create and establish one or more capital reserve funds and may pay into any such capital reserve fund any money appropriated and made available by the State for the purposes of any such fund, any proceeds of the sale by the authority of bonds to the extent determined by the authority and any other money available to the authority. ~~The authority may not create or establish any capital reserve fund under this section after June 30, 2017.~~

Sec. 23. 20-A MRSA §11424, sub-§2, as amended by PL 2009, c. 40, §2, is further amended to read:

2. Application. Money held in any capital reserve fund created in connection with bonds issued under this chapter, except as provided in this section, ~~shall~~ must be used solely with respect to bonds, repayment of which is secured by any such fund and solely for the payment of principal of bonds, the purchase or redemption of those bonds, including any fees or premiums and the payment of interest on those bonds. In addition, if the authority obtains a letter of credit, insurance contract, surety bond or similar financial undertaking to establish and fund a capital reserve fund under this section, money in that capital reserve fund may be used to pay, as and when due, all reimbursement obligations of the authority established in connection with that letter of credit, insurance contract, surety bond or similar financial undertaking, including, but not limited to, all fees, expenses, indemnities and commissions. Money in excess of the reserve requirement set forth in subsection 3 may be transferred to other funds and accounts of the authority.

Sec. 24. 20-A MRSA §11424, sub-§4, as enacted by PL 1987, c. 807, §3, is amended to read:

4. Issuance limit. The authority may provide that it ~~shall~~ will not issue bonds under this chapter if the capital reserve requirement with respect to bonds outstanding and then to be issued and secured by any such fund will exceed the amount of any such fund at the time of issuance, unless the authority, at the time of issuance of the bonds, ~~shall deposit deposits~~ deposits in any such fund from proceeds of the bonds to be issued, or from other sources, an amount ~~which that~~, together with the amount then in any such fund, will not be less than the capital reserve requirement.

Sec. 25. 20-A MRSA §11427, as amended by PL 1999, c. 728, §17, is further amended to read:

§11427. Accounts and reports

The authority shall keep full and accurate accounts of its activities and operations under this chapter and shall, within 120 days after the end of each of its fiscal years, make and deliver a report to the Governor, the Speaker of the House, the President of the Senate and the joint standing committee of the Legislature having jurisdiction over education. The report must cover the preceding fiscal year and must include a complete operating and financial statement for that year and a breakdown showing the geographic distribution and distribution between institutions of higher learning of its student loans among residents of this State. The report must demonstrate that all revenues, including reserves, that are acquired with proceeds of tax-exempt bonds issued under this chapter using a portion of the state ceiling on private activity bonds, are being used in a manner consistent with the public purpose for which the bonds are issued. The authority shall cause an audit of its books and accounts related to its operations under this chapter to be made at least once each year by independent certified public accountants ~~and the~~. The audit may be combined with audits of other activities of the authority. ~~The cost must of the audit may~~ be paid by the authority from funds available to it pursuant to this chapter.

Sec. 26. 20-A MRSA §§11429, 11431, 11432, 11433 and 11434, as enacted by PL 1987, c. 807, §3, are amended to read:

§11429. Tax exemption

The exercise of the powers granted by this chapter ~~shall~~ must 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 constitutes the performance of an essential governmental function. Neither the authority nor any of its agents may be required to pay any taxes or assessments upon or in respect of education loans or any property acquired, used by the authority or any of its agents or under the jurisdiction, control, possession or supervision of, or upon the activities of, the authority or any of its agents in the operation of any program under this chapter, or upon income or other revenues received and any bonds issued under this chapter, the transfer and the income from the bonds, including any profit made on the sale of the bonds, as well as the income and property of the authority derived under this chapter, 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.

§11431. Agreement of the State

The State hereby pledges to and agrees with the holders of any bonds issued under this chapter and with those parties who may enter into any contract with the authority pursuant to this chapter that the State will not limit, alter, restrict or impair the rights vested in the authority and the participating institutions under this chapter until the bonds, together with interest, including interest on any unpaid installment of interest and all costs and expenses in connection with any actions or proceedings 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 that limitation or alteration if and when adequate provision is made by law for the protection of the holders of bonds of the authority issued under this chapter or those entering into contracts with the authority pursuant to this chapter. The authority is authorized to include this pledge and undertaking for the State in those bonds or contracts.

§11432. Termination of existence of authority

~~The authority in its corporate existence shall continue until terminated by law but no~~
A law terminating its the existence shall of the authority may not take effect as long as any bonds of the authority issued under this chapter are outstanding and unpaid without adequate provision for payment having been made. ~~Upon termination of its existence, all rights, privileges and property of the authority shall pass to and be vested in the State or such entity as the State by proper act shall designate.~~

§11433. Chapter cumulative; no notice required

Neither this chapter nor anything contained in this chapter may be construed as a restriction or limitation upon any powers ~~which~~ that the authority might otherwise have under any laws of this State and this chapter is cumulative of any such powers. Neither the making of contracts nor the issuance of bonds pursuant to this chapter need comply with the requirements of any other state law applicable to the making of contracts, the issuance of bonds or the construction, acquisition or management of any project undertaken pursuant to this chapter. No proceedings, notice or approval ~~shall be~~ is required for the issuance of any bonds or any instrument as security therefor under this chapter, except as is provided in this chapter or in the code, if applicable.

§11434. Chapter liberally construed

This chapter being necessary for the welfare of the State and its inhabitants ~~shall~~ must be liberally construed so as to effect its purposes.

Sec. 27. 20-A MRSA §11435, as amended by PL 2005, c. 397, Pt. B, §4, is repealed.

Sec. 28. Maine Revised Statutes headnote amended; revision clause. In the Maine Revised Statutes, Title 20-A, chapter 417-A, in the chapter headnote, the

words "maine educational loan authority" are amended to read "maine educational loan program" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

Sec. 29. Transition. All books, records, papers, documents, contracts, obligations, liabilities and pending business in any way pertaining to the Maine Educational Loan Authority are transferred to the Finance Authority of Maine as successor to the Maine Educational Loan Authority, but any rights or obligations of any person under any contract made by the Maine Educational Loan Authority are unaffected by this transfer. All bonds, notes or other evidences of indebtedness outstanding on the effective date of this Act are unaffected by the Finance Authority of Maine becoming successor to the Maine Educational Loan Authority. A rule, regulation, standard, criterion or guideline adopted, established or approved by the Maine Educational Loan Authority pursuant to an exercise of any right, power, duty or responsibility assumed by and transferred to the Finance Authority of Maine under the Maine Revised Statutes, Title 20-A, chapter 417-A is not affected by this assumption and transfer, and all such rules, regulations, standards, criteria and guidelines become those of the Finance Authority of Maine until such time as they are amended or repealed by the Finance Authority of Maine.

It is hereby determined that by virtue of the amendments to Title 20-A, chapter 417-A providing that the Finance Authority of Maine is the successor to the Maine Educational Loan Authority, adequate provision is being made by law for the protection of the holders of bonds of the Maine Educational Loan Authority and adequate provision for payment has been made by the assumption of these bonds by the Finance Authority of Maine and that adequate provision has been made by law for the protection of all others who have entered into contracts with the Maine Educational Loan Authority.

As successor to the Maine Educational Loan Authority, the Finance Authority of Maine affirmatively assumes and agrees to be obligated in the place of the Maine Educational Loan Authority and to continue to abide by the terms of all bonds and all documents, contracts and undertakings in connection with the bonds.

Sec. 30. Contingent effective date. This Act does not take effect until the Executive Director of the Maine Educational Loan Authority certifies in writing to the Chief Executive Officer of the Finance Authority of Maine that any consents required under documents of the Maine Educational Loan Authority in connection with outstanding bonds of the Maine Educational Loan Authority, if any, have been received. Copies of this certification must be submitted by the Chief Executive Officer of the Finance Authority of Maine to the Secretary of State, the Secretary of the Senate, the Clerk of the House of Representatives and the Revisor of Statutes. In no event may this Act take effect until 90 days after the adjournment of the First Regular Session of the 127th Legislature.