

CHAPTER 29

MAINE PUBLIC UTILITY FINANCING BANK ACT

§2901. Title

This chapter shall be known and may be cited as the "Maine Public Utility Financing Bank Act." [PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW).

§2902. Findings and declaration of purpose

It is declared to be in the public interest and to be the policy of the State: [PL 1987, c. 141, Pt. A, §6 (NEW).]

1. To promote markets for borrowing. To foster and promote by all reasonable means the provision of adequate markets and costs for borrowing money by public utilities, for the financing of the provision, manufacture, transmission and distribution of electricity, gas and water and for the financing of energy conservation measures and renewable energy resources designed to reduce the use of electricity and gas;

[PL 1999, c. 398, Pt. A, §40 (AMD); PL 1999, c. 398, Pt. A, §§104, 105 (AFF).]

2. Creation of indebtedness. To assist those public utilities in fulfilling their needs for these purposes by creation of indebtedness and to the extent possible to encourage continued investor interest in the bonds of those public utilities as sound and preferred securities for investment; and

3. Encourage independent undertakings. To encourage its public utilities to continue independently the undertakings of subsection 1 and to assist them therein by making funds available at reduced interest costs for orderly financing of those undertakings particularly for those public utilities not otherwise able readily to borrow for those purposes at reasonable rates of interest.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). PL 1999, c. 398, §A40 (AMD). PL 1999, c. 398, §§A104,105 (AFF).

§2903. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1987, c. 141, Pt. A, §6 (NEW).]

1. Bank. "Bank" means the Maine Public Utility Financing Bank created by this chapter. [PL 1987, c. 141, Pt. A, §6 (NEW).]

2. Bondholder or holder or noteholder. "Bondholder," "holder" or "noteholder" or any similar term when used with reference to a bond or note of the bank means any person who is the bearer of any outstanding bond or note of the bank registered to bearer or not registered, or the registered owner of any outstanding bond or note of the bank which is, at the time, registered to one other than the bearer. [PL 1987, c. 141, Pt. A, §6 (NEW).]

3. Bonds. "Bonds" means bonds of the bank issued pursuant to this chapter. [PL 1987, c. 141, Pt. A, §6 (NEW).]

4. Chapter. "Chapter" means the Maine Public Utility Financing Bank Act.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

5. Fully marketable form. "Fully marketable form" means a public utility security duly executed and accompanied by an approving legal opinion of counsel of recognized standing in the field of public utility financing, whose opinions have been and are accepted by purchasers of like public utility bonds, provided that the public utility security so executed need not be printed or lithographed nor be in more than one denomination.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

6. Notes. "Notes" means any notes of the bank issued pursuant to this chapter.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

7. Public utility. "Public utility" means any transmission and distribution utility, water utility or gas utility that is subject to the jurisdiction of the commission.

[PL 1999, c. 398, Pt. A, §41 (AMD); PL 1999, c. 398, Pt. A, §§104, 105 (AFF).]

8. Public utility bond or utility bond. "Public utility bond" or "utility bond" means a bond, note or evidence of debt issued by a public utility located in or serving any inhabitants of the State and payable from rates, charges or other revenues.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

9. Revenues. "Revenues" means all fees, charges, money, profits, payments of principal of or interest on utility bonds and other investments, gifts, grants, contributions, appropriations and all other income derived or to be derived by the bank under this chapter.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). PL 1999, c. 398, §A41 (AMD). PL 1999, c. 398, §§A104,105 (AFF).

§2904. Creation of bank and membership

1. Creation of bank. There is established a public body corporate and politic to be known as the "Maine Public Utility Financing Bank." The bank is an instrumentality of the State exercising public and essential governmental functions and which has perpetual succession. The exercise by the bank of the powers conferred by this Act is an essential governmental function of the State.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

2. Commissioners. The bank shall be under the direction of a board of 5 commissioners comprised of the commissioners of the Maine Municipal Bond Bank who shall be commissioners ex officio.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

3. Election and appointment of officers. The board of commissioners shall:

A. Elect one of its members as chair and one as vice-chair; and [RR 2021, c. 1, Pt. B, §409 (COR).]

B. Appoint an executive director who shall also serve as both secretary and treasurer. [PL 1987, c. 141, Pt. A, §6 (NEW).]

[RR 2021, c. 1, Pt. B, §409 (COR).]

4. Powers and quorum. The powers of the bank are vested in the commissioners in office from time to time and 3 commissioners of the bank constitute a quorum at any meeting. Action may be taken and motions and resolutions adopted by the bank at any meeting by the affirmative vote of at least 3 commissioners of the bank. No vacancy in the office of commissioner of the bank impairs the right of a quorum of the commissioners to exercise all the powers and perform all the duties of the bank.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

5. Security bonds. Before the issuance of any bonds or notes under this Act, each commissioner of the bank shall execute a surety bond in the penal sum of \$25,000 and the executive director of the bank shall execute a surety bond in the penal sum of \$50,000, each such surety bond to be conditioned upon the faithful performance of the duties of the office of the commissioner or executive director to be executed by a surety company authorized to transact business in the State as surety and to be approved by the Attorney General and filed in the office of the Secretary of State. At all times after the issuance of any bonds or notes by the bank, each commissioner of the bank and the executive director shall maintain those surety bonds in full force and effect. All costs of those surety bonds shall be borne by the bank.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

6. Compensation and expenses. Each member of the board of commissioners must receive \$50 per day for the time actually spent in the discharge or performance of that member's duties as a commissioner in addition to other compensation that member may receive as a Commissioner of the Maine Municipal Bond Bank.

Each commissioner must be reimbursed for that commissioner's reasonable expenses incurred in carrying out that commissioner's duties under this chapter. An officer or employee of the State does not forfeit office or employment or any benefits or emoluments of that office or employment by accepting the office of commissioner of the bank or that officer's or employee's services in the bank.

[RR 2021, c. 1, Pt. B, §410 (COR).]

7. Executive director. The board of commissioners shall fix the duties and compensation of the executive director. The executive director may:

A. Employ, upon approval of the board of commissioners, a general counsel, architects, engineers, accountants, attorneys, financial advisors or experts and such other or different officers, agents and employees as may be required; and [PL 1987, c. 141, Pt. A, §6 (NEW).]

B. Determine their qualifications, terms of office, duties and compensation. [PL 1987, c. 141, Pt. A, §6 (NEW).]

[PL 1987, c. 141, Pt. A, §6 (NEW).]

8. Subordinate staff. To the maximum extent feasible and consistent with the other obligations of the Maine Municipal Bond Bank, the executive director and all subordinate staff shall be drawn from the staff of the Maine Municipal Bond Bank and the facilities of the Maine Municipal Bond Bank shall be used or shared by the bank.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). RR 2021, c. 1, Pt. B, §§409, 410 (COR).

§2905. Lending and borrowing powers generally

1. Purchase of utility bonds. The bank, for the purposes authorized by this chapter, may lend money to public utilities by purchasing public utility bonds in full marketable form.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

2. Purpose of loans. Loans to public utilities may be made for any purpose for which those public utilities may issue bonds and also may be made in connection with the financing of facilities, or any interest in facilities, located outside of the State if the facilities or the interest is reasonably related to the provision of public utility services to inhabitants of the State.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

3. Bank may issue bonds and notes. The bank, for the purposes authorized by this chapter, may authorize and issue its bonds and notes payable solely from the revenues or funds available to the bank for those purposes, and to otherwise assist public utilities as provided in this chapter.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

4. Bonds and notes issued not debt of state. Bonds and notes of the bank issued under this chapter 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 debts or liabilities on behalf of the State but all such bonds and notes, unless funded or refunded by bonds or notes of the bank, are payable solely from revenues or funds pledged or available for their payment as authorized in this chapter. Each bond and note shall contain on its face a statement to the effect that the bank is obligated to pay the principal or interest and redemption premium, if any, only from the revenues or funds pledged or available for those purposes and that neither the faith and credit nor the taxing power of the State is pledged for the payment of the principal or the interest on those bonds or notes.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

5. Expenses. All expenses incurred in carrying out the purposes of this chapter are payable solely from revenues or funds provided or to be provided under this chapter. Nothing in this chapter may be construed to authorize the bank to incur any indebtedness or liability on behalf of or payable by the State.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW).

§2906. Corporate powers

1. Powers. The bank, for carrying out the purposes of this chapter, has the following powers:

A. To sue and be sued; [PL 1987, c. 141, Pt. A, §6 (NEW).]

B. To adopt and have an official seal and alter that seal at pleasure; [PL 1987, c. 141, Pt. A, §6 (NEW).]

C. To make and enforce bylaws and rules for the conduct of its affairs and business and for use of its services and facilities; [PL 1987, c. 141, Pt. A, §6 (NEW).]

D. To maintain an office at such place or places inside the State as it may determine; [PL 1987, c. 141, Pt. A, §6 (NEW).]

E. To acquire, hold, use and dispose of its income, revenue, funds and money; [PL 1987, c. 141, Pt. A, §6 (NEW).]

F. To acquire, rent, lease, hold, use and dispose of other personal and real property for its purposes; [PL 1989, c. 374, §2 (AMD).]

G. To borrow money; to issue its negotiable bonds or notes; to provide for and secure the payment of its bonds and notes; to provide for the rights of the holders of them; and to purchase, hold and dispose of any of its bonds or notes; [PL 1987, c. 141, Pt. A, §6 (NEW).]

H. To fix and revise from time to time and charge and collect fees and charges for the use of its services or facilities; [PL 1987, c. 141, Pt. A, §6 (NEW).]

I. To accept gifts or grants of property, funds, money, materials, labor, supplies or services from the United States, this State or any other state, agencies or departments of the State, or from any political subdivision or any person to carry out the terms or provisions or make agreements with respect to any gifts or grants and to perform any acts necessary, useful, desirable or convenient in connection with procurement, acceptance or disposition of those gifts or grants; [PL 1987, c. 141, Pt. A, §6 (NEW).]

J. To perform any acts and things authorized by this chapter under, through or by means of its officers, agents or employees or by contracts with any person; [PL 1987, c. 141, Pt. A, §6 (NEW).]

K. To make, enter into and enforce all contracts or agreements necessary or desirable for the purposes of the bank or pertaining to any loan to a public utility or any purchase or sale of public utility bonds or other investments or to the performance of its duties and execution or carrying out of any of its powers under this chapter; [PL 1987, c. 141, Pt. A, §6 (NEW).]

L. To purchase or hold public utility bonds at such prices and in such manner as the bank determines advisable and to sell public utility bonds acquired or held by it at such prices without relation to cost and in such manner as the bank determines advisable; [PL 1987, c. 141, Pt. A, §6 (NEW).]

M. To invest any funds or money of the bank not then required for loan to public utilities and for the purchase of public utility bonds in the same manner as permitted for investment of funds belonging to the State or held in the State Treasury, except as otherwise permitted or provided by this chapter; [PL 1987, c. 141, Pt. A, §6 (NEW).]

N. To fix and prescribe any form of application or procedure to be required of a public utility for the purpose of any loan or the purchase of its public utility bonds and to fix the terms and conditions of any such loan or purchase and to enter into agreements with public utilities with respect to any such loan or purchase; [PL 1987, c. 141, Pt. A, §6 (NEW).]

O. To contract with the Maine Municipal Bond Bank for the use of its staff, facilities or consultants, for temporary advances of funds or for any other matter, which contracts may provide for payment to the Maine Municipal Bond Bank for any goods or services received and for repayment of any temporary advances of funds made; and [PL 1987, c. 141, Pt. A, §6 (NEW).]

P. To do all acts necessary, convenient or desirable to carry out the powers expressly granted or necessarily implied in this chapter. [PL 1987, c. 141, Pt. A, §6 (NEW).]

[PL 1989, c. 374, §2 (AMD).]

2. Allocation of state ceiling. The bank may establish a process for allocation and carry-forward of that portion of the state ceiling on issuance of tax-exempt bonds allocated to the bank under Title 10, chapter 9. The executive director is designated as the state official authorized to issue the certification under the United States Code, Title 26, Section 149(e)(2)(F), as amended, for allocations of the state ceiling allocated to the bank pursuant to Title 10, chapter 9.

[PL 1989, c. 224, §4 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). PL 1989, c. 224, §4 (AMD). PL 1989, c. 374, §2 (AMD).

§2907. Prohibited acts and limitation of powers

Nothing in this chapter permits or authorizes the bank to: [PL 1987, c. 141, Pt. A, §6 (NEW).]

1. Loans. Make loans of money to any person other than a public utility or purchase securities issued by any person other than a public utility or for investment, except as provided in this chapter; [PL 1987, c. 141, Pt. A, §6 (NEW).]

2. Banking business. Issue bills of credit; accept deposits of money for time or demand deposit; administer trusts; engage in any manner in, or in the conduct of, any private or commercial banking business; or act as a savings bank or savings and loan association; [PL 1987, c. 141, Pt. A, §6 (NEW).]

3. Bank and trust company. Be or constitute a bank or trust company within the jurisdiction or under the control of the Bureau of Financial Institutions, the Superintendent of Financial Institutions, the Comptroller of the Currency of the United States or the United States Department of the Treasury; [PL 1987, c. 141, Pt. A, §6 (NEW); PL 2001, c. 44, §11 (AMD); PL 2001, c. 44, §14 (AFF).]

4. Security business. Be or constitute a dealer in securities within the meaning of or subject to any securities law, securities exchange law or securities dealers law of the United States, of this State or of any other state or jurisdiction; or [PL 1987, c. 141, Pt. A, §6 (NEW).]

5. Public utility. Be a public utility or own and operate for its own account, and not as part of a financing undertaken pursuant to this chapter, any public utility plant, system or facility. [PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). PL 2001, c. 44, §11 (AMD). PL 2001, c. 44, §14 (AFF).

§2908. Bonds and notes of the bank

1. Issuance of bonds; purposes. The bank may, from time to time, issue its bonds in such principal amounts as it determines necessary to provide funds for any purposes authorized by this chapter, including:

A. The making of loans; [PL 1987, c. 141, Pt. A, §6 (NEW).]

B. The payment, funding or refunding of the principal of, or interest or redemption premiums on, any bonds issued by it whether the bonds or interest to be funded or refunded have or have not become due or subject to redemption prior to maturity in accordance with their terms; [PL 1987, c. 141, Pt. A, §6 (NEW).]

C. The establishment or increase of the reserves to secure or to pay the bonds or interest on them; and [PL 1987, c. 141, Pt. A, §6 (NEW).]

D. All other costs or expenses of the bank incident to and necessary or convenient to carry out its corporate purposes and powers. [PL 1987, c. 141, Pt. A, §6 (NEW).]

2. Bonds are special obligations of the bank. Except as otherwise expressly provided in this chapter or by the bank, every issue of bonds shall be special obligations of the bank payable solely from the revenues or funds of the bank made available for the purpose and subject to any agreements with the holders of particular bonds pledging any particular revenues or funds. The bonds may be additionally secured by a pledge of any grants, subsidies, contributions, funds or money from the United States, this State or any political subdivision of the State, any person or a pledge of any income or revenues, funds or money of the bank from any source.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

3. Issuance of notes. The bank may issue its notes for any corporate purpose of the bank from time to time, in such principal amounts as it determines necessary, and may renew or pay and retire or refund the notes from the proceeds of bonds or of other notes, or from any other funds or money of the bank available or to be made available for that purpose, in accordance with any contract between the bank and the holder of the notes and not otherwise pledged. The notes shall be issued in the same manner as bonds and the notes and the resolution or resolutions authorizing the notes may contain any provisions, conditions or limitations which the bonds or a bond resolution of the bank may contain. Unless provided otherwise in any contract between the bank and the holders of notes and unless the notes have been otherwise paid, funded or refunded, the proceeds of any bonds of the bank issued, among other things, to fund the outstanding notes, shall be held, used and applied by the bank to the payment and retirement of the principal of those notes and the interest due and payable. The bank may make contracts for the future sale from time to time of the notes, pursuant to which the purchaser shall

be committed to purchase the notes from time to time on terms and conditions stated in the contracts, and the bank may pay such consideration as it determines proper for the commitments.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

4. Bonds and notes are negotiable instruments. Whether or not the bonds or notes of the bank are of such form and character as to be negotiable instruments under the Uniform Commercial Code, Title 11, Article 8, the bonds and notes are negotiable instruments within the meaning of and for all the purposes of the Uniform Commercial Code, Title 11, Article 8, subject only to the provisions of the bonds and notes for registration.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

5. Bonds or notes authorized by resolution. Bonds or notes of the bank shall be authorized by resolution of the bank and may be issued in one or more series and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates of interest per year, be in such denomination or denominations, be in such coupon or registered form, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable from such sources in such medium of payment at such place or places inside or outside the State and be subject to such terms of redemption, with or without premium, as the resolution or resolutions may provide.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

6. Signature of officers. If any officer whose signature appears on the bonds, notes or bond coupons ceases to be an officer before the delivery of the bonds, notes or bond coupons, that officer's signature is valid for all purposes as if that officer had remained in office.

[RR 2021, c. 1, Pt. B, §411 (COR).]

7. Sale of bonds or notes. Bonds or notes of the bank may be sold at a public or private sale at a time and at a price determined by the bank.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

8. No consent required for issuance. Bonds or notes of the bank may be issued under this chapter without obtaining the consent of any department, division, commission, board, bureau or agency of the State, and without any other proceedings or the happening of any other conditions or acts than those proceedings, conditions or acts which are specifically required by this chapter.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

9. Notes refunded or retired. The bank may from time to time issue its notes as provided under this chapter and pay and retire or fund or refund its notes from proceeds of bonds or of other notes, or from any other funds or money of the bank available or to be made available for this purpose in accordance with any contract between the bank and the holders of the notes. Unless provided otherwise in any contract between the bank and the holders of notes and unless the notes have been otherwise paid, funded or refunded, the proceeds of any bonds of the bank issued, among other things to fund outstanding notes, shall be held, used and applied by the bank to the payments and retirement of the principal of the notes and the interest due and payable on the notes.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). RR 2021, c. 1, Pt. B, §411 (COR).

§2909. Resolutions and indentures

In any resolution of the bank authorizing or relating to the issuance of any bonds or notes, the bank, in order to secure the payment of the bonds or notes and in addition to its other powers, shall have power by provisions in the resolution which constitute covenants by the bank and contracts with the holders of the bonds or notes to enter into any trust agreement or trust indenture with a corporate trustee, which may be any trust company or national banking association or state bank having the powers of a trust company inside or outside the State. The trust agreement, indenture or the resolution providing

for the issuance of the bonds or notes may pledge or assign the revenues of the bank, and may contain provisions for protecting and enforcing the rights and remedies of the holder of such bonds and notes as may be reasonable and proper and not in violation of law, including the custody, safeguarding and application of all money. A trust agreement may set forth the rights and remedies of the holders of the bonds and notes and of the trustee, and may restrict the individual right of action by those holders. The bank may provide by the trust indenture for the payment of the proceeds of the bonds and notes and the revenues to the trustee under the trust indenture or other depository, and for the method of disbursement of those payments, with safeguards and restrictions as it may determine. All expenses incurred in carrying out the trust indenture may be treated as a part of the operating expenses of the bank. If the bonds are secured by a trust indenture, the bondholder has no authority to appoint a separate trustee to represent them. [PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW).

§2910. Intent of pledge

Any pledge of revenue or other money made by the bank is valid and binding from time to time when the pledge is made. The revenue or other money pledged and received by the bank is immediately subject to the lien of the pledge without any physical delivery of the revenue or other money or further act and the lien of any pledge is valid and binding as against all persons having claims of any kind in tort, contract or otherwise against the bank, irrespective of whether those persons have notice of the lien. Neither the resolution nor any other instrument by which a pledge is created need be filed or recorded, except in the records of the bank. [PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW).

§2911. Reserves and funds

1. Establishment. The bank may establish such reserves and such other funds or accounts as may be, in its discretion, necessary, desirable or convenient to further the accomplishment of the purposes of the bank or to comply with the provisions of any agreement made by or any resolution of the bank. [PL 1987, c. 141, Pt. A, §6 (NEW).]

2. Investment. Money at any time in the reserve fund may be invested in the same manner as permitted for investment of funds belonging to the State or held in the treasury. [PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW).

§2912. Personal liability

Neither the commissioners of the bank nor any person executing bonds or notes issued pursuant to this chapter is liable personally on the bonds or notes by reason of the issuance of the bonds or notes. [PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW).

§2913. Purchase of bonds and notes of bank

The bank may purchase bonds or notes of the bank out of any funds or money of the bank available for that purpose. The bank may hold, cancel or resell the bonds or notes subject to and in accordance with agreements with holders of its bonds or notes. [PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW).

§2914. Bonds as legal investments and security

Notwithstanding any restrictions contained in any other law, the State and all public officers, governmental units and agencies; all national banking associations, state banks, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking business; all insurance companies, insurance associations and other persons carrying on an insurance business; and all executors, administrators, guardians, trustees and other fiduciaries may legally invest any sinking funds, money or other funds belonging to them or within their control in any bonds or notes issued by the bank pursuant to this chapter and the bonds or notes shall be authorized security for any and all public deposits. [PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW).

§2915. Tax exemptions

All bonds and notes issued under this chapter are deemed to be held or issued in connection with essential public and governmental purposes and those bonds and notes so issued, their transfer and the income from them, including any profits made on their sale, are at all times exempt from taxation within the State. [PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW).

§2916. Exemption of property from execution sale; actions to set aside resolutions

1. Bank property exempt. All property of the bank is exempt from levy and sale by virtue of an execution and no execution or other judicial process may issue against the bank's property nor may any judgment against the bank be a charge or lien upon its property; provided that nothing contained in this chapter applies to or limits the rights of the holder of any bonds or notes to pursue any remedy for the enforcement of any pledge or lien given by the bank on its revenues or other money. [PL 1987, c. 141, Pt. A, §6 (NEW).]

2. Action to set aside resolution. An action or proceeding in any court to set aside a resolution authorizing the issuance of bonds or notes by the bank under this chapter or to obtain any relief upon the ground that the resolution is invalid must be commenced within 30 days after the adoption of the resolution by the bank. After the expiration of the period of limitation, no right of action or defense founded upon the invalidity of the resolution or any of its provisions may be asserted nor may the validity of the resolution or any of its provisions be open to question in any court on any ground. [PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW).

§2917. Insurance or guaranty

The bank may obtain from any department or agency of the United States or the State or nongovernmental insurer any insurance or guaranty, to the extent available, as to the payment or repayment of interest or principal, or both, or any part of the interest or principal, on any bonds or notes issued by the bank, or on any public utility bonds purchased or held by the bank, pursuant to this chapter; and may enter into any agreement or contract with respect to any insurance or guaranty, except to the extent that the agreement or contract would in any way impair or interfere with the ability of the bank to perform and fulfill the terms of any agreement made with the holders of the bonds or notes of the bank. [PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW).

§2918. Annual report

No later than the last day of December, the bank shall make an annual report of its activities for the preceding fiscal year to the Governor. Each report shall set forth a complete operating and financial statement covering its operations during the year. The bank shall cause an audit of its books and accounts to be made at least once in each year by certified public accountants. The cost of the audit shall be considered an expense of the bank. The bank shall file a copy of the audit with the Treasurer of State. [PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW).

§2919. Additional powers

In order to carry out the purposes and provisions of this chapter, the bank, in addition to any powers granted to it elsewhere in this chapter, may: [PL 1987, c. 141, Pt. A, §6 (NEW).]

1. Loans. In connection with any loan to a public utility, consider the need, desirability or eligibility of the loan, the ability of the public utility to secure borrowed money from other sources and the costs of the loan and the particular public improvement or purpose to be financed; [PL 1987, c. 141, Pt. A, §6 (NEW).]

2. Charges. Impose and collect charges for its costs and services in review or consideration of any proposed loan to a public utility or purchase of public utility bonds whether or not the loan has been made or the public utility bonds have been purchased; [PL 1987, c. 141, Pt. A, §6 (NEW).]

3. Purchase. Fix and establish terms and provisions with respect to any purchase of public utility bonds by the bank, including dates and maturities of the bonds, provisions as to redemption or payment prior to maturity and other matters which in connection with such a purchase are necessary, desirable or advisable in the judgment of the bank; [PL 1987, c. 141, Pt. A, §6 (NEW).]

4. Hearings. Conduct examinations and hearings and hear testimony and take proof, under oath or affirmation, at public or private hearings, on any matter material for its information and necessary to carry out this chapter; [PL 1987, c. 141, Pt. A, §6 (NEW).]

5. Insurance. Procure insurance against any losses in connection with its property, operations or assets in and from such amounts and from such insurers as it determines desirable; and [PL 1987, c. 141, Pt. A, §6 (NEW).]

6. Modification. To the extent permitted under its contracts with the holders of bonds or notes of the bank, consent to any modification with respect to rate of interest, time and payment of any installment of principal or interest, security or any other term of bond or note, contract or agreement of any kind to which the bank is a party. [PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW).

§2920. Undertakings of depositories

All national banking associations or state banks, trust companies, savings banks, investment companies and other persons carrying on a banking business may give the bank a good and sufficient

undertaking with sureties that are approved by the bank to the effect that the national banking association or state bank or banking institution as described faithfully keeps and pays over to the order of or upon the warrant of the bank or its authorized agent all funds that may be deposited with it by the bank and agreed interest on the funds under this chapter, at such times or upon such demands as are agreed with the bank or in lieu of such sureties, deposit with the bank or its authorized agent or any trustee or for the holders of any bonds, as collateral, such securities as the bank approves. The deposits of the bank may be evidenced by an agreement in such form and upon such terms and conditions as are agreed upon by the bank and the national banking association or state bank or banking institution. [PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW).

§2921. Purchase of public utility securities

1. Authorizations of public utilities. Every public utility may:

A. Contract to pay interest on, or an interest cost per year for, money borrowed from the bank and evidenced by its public utility bond purchased by the bank; [PL 1987, c. 141, Pt. A, §6 (NEW).]

B. Contract with the bank with respect to that loan or purchase and the contract shall contain the terms and conditions of the loan or purchase; [PL 1987, c. 141, Pt. A, §6 (NEW).]

C. Pay fees and charges required to be paid to the bank for its services; and [PL 1987, c. 141, Pt. A, §6 (NEW).]

D. Sell bonds to the bank on such terms and conditions as may be agreed to by it and the bank and approved by the commission. [PL 1987, c. 141, Pt. A, §6 (NEW).]

[PL 1987, c. 141, Pt. A, §6 (NEW).]

2. Officers' signatures on bonds. If any officer whose signature appears on the public utility bonds ceases to be an officer before the delivery of those bonds, that officer's signature is valid for all purposes as if that officer had remained in office.

[RR 2021, c. 1, Pt. B, §412 (COR).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). RR 2021, c. 1, Pt. B, §412 (COR).

§2922. Remedies on default of public utility securities

In the event of default by a public utility in the payment of interest on, or principal of, any public utility bond owned or held by the bank as and when due and payable the bank shall proceed to enforce or cause to be enforced payment pursuant to applicable provisions of law of that interest or principal or other amounts then due and payable. [PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW).

§2923. Purchase of anticipation notes

The bank may purchase notes of any public utility issued in anticipation of the sale of public utility bonds in an amount not exceeding at any one time the outstanding authorized amount of the public utility bonds. In connection with any such purchase of anticipation notes, the bank may by agreement with the public utility impose such terms, conditions and limitations as in its opinion are proper in the circumstances and for the purposes and security of the bank and the holders of its bonds or notes. The bank shall enforce all such rights, remedies and provisions of law as it has under this section or this chapter or as otherwise provided by law. [PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW).

§2924. Budget

No later than June 1st each year, the bank shall prepare and file in the office of the Bureau of the Budget a budget of its operating expenses for the ensuing fiscal year. The budget shall be prepared on the basis of quarterly requirements so that it is possible to determine from the budget the operating expenses for each quarter of the year, and shall set forth the general categories of anticipated expenditures and the amount on account of each and shall include provision for reserve for contingencies and for over-expenditures. The budget may set forth such additional material as the bank may determine. [PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW).

§2925. State services

1. State may render services to bank. All officers, departments, boards, agencies, divisions and commissions of the State, including, without limitation, the Maine Municipal Bond Bank, may render any services to the bank which are within the area of their respective governmental functions as established by law and which are requested by the bank.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

2. State to comply with bank requests. All of the officers, departments, boards, agencies, divisions and commissions shall comply promptly with any reasonable request by the bank as to the making of any study or review as to desirability, need, cost or expense with respect to any public project, purpose or improvement or the financial feasibility of any project, purpose or improvement or the financial or fiscal responsibility or ability in connection with any project, purpose or improvement of any public utility making application for loan to the bank and for the purchase by the bank of public utility bonds.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

3. Cost and expense of state services. At the request of the officer, department, board, agency, division or commission rendering the service, the bank shall pay for the cost and expense of services it has requested. The Maine Municipal Bond Bank may make temporary advances of funds to the bank from such funds as it determines are available and on such terms and conditions as it determines.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW).

§2926. Agreements with financial institutions

1. Public utility bonds. The bank may enter into such agreements or contracts with any commercial banks, trust companies, banking or other financial institutions inside or outside the State as are necessary, desirable or convenient as determined by the bank, for rendering services to the bank in connection with:

A. The care, custody or safekeeping of public utility bonds or other investments held or owned by the bank; [PL 1987, c. 141, Pt. A, §6 (NEW).]

B. The payment or collection of amounts due and payable as to principal or interest; and [PL 1987, c. 141, Pt. A, §6 (NEW).]

C. The delivery to the bank of public utility bonds or other investments purchased by it or sold by it and may pay the cost of these services. [PL 1987, c. 141, Pt. A, §6 (NEW).]

[PL 1987, c. 141, Pt. A, §6 (NEW).]

2. Bank may require security. The bank may also, in connection with services to be rendered by commercial banks, trust companies or banking or other financial institutions, as to the custody and safekeeping of any of its public utility bonds or investments, require security in the way of collateral bonds, surety agreements or security agreements in such form and in such amount as are necessary or desirable for the purpose of the bank, as determined by the bank.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW).

§2927. Form of public utility securities and investments

All public utility or other investments of money of the bank permitted or provided for under this chapter shall at all times be purchased and held in fully marketable form, subject to provision for any registration in the name of the bank. All public utility bonds at any time purchased, held or owned by the bank shall upon delivery to the bank be accompanied by documentation, including approving legal opinion, certification and guaranty as to signatures, certification as to absence of litigation and such other or further documentation as shall from time to time be required in the municipal bond market.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW).

§2928. Presumption of validity

After issuance, all bonds or notes of the bank are conclusively presumed to be fully authorized and issued under the laws of the State and any person or public utility is estopped from questioning their authorization, sale, issuance, execution or delivery by the bank. [PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW).

§2929. Other laws

To the extent that this chapter is inconsistent with or in conflict with any private or special law, this chapter shall be effective and such other private or special law is of no effect. [PL 1987, c. 141, Pt. A, §6 (NEW).]

It is not intended that the general laws relating to public utilities shall be in any way affected by this chapter. [PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW).

§2930. Liberal construction of chapter

This chapter shall be construed liberally to effectuate the legislative intent and the purposes of this chapter. [PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW).

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