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An Act To Ensure the Availability of Supplemental Educational Loans

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, unprecedented turbulence in the capital markets has made it necessary to replace existing auction rate bond financing for supplemental or alternative student loans with financing supported by a capital reserve fund; and

Whereas, if financing supported by a capital reserve fund cannot be made available, Maine students and families may be adversely affected by increased costs of education borrowing or limited availability of supplemental loans, which may affect the number of Maine students pursuing a higher education because they cannot secure the necessary financing; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 20-A MRSA §11424, sub-§1, as enacted by PL 1987, c. 807, §3, is amended to read:

1. Capital reserve fund. 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, 2011.

Sec. 2. 20-A MRSA §11424, sub-§2, as enacted by PL 1987, c. 807, §3, is amended to read:

2. Application. Money held in any capital reserve fund, except as provided in this section, shall 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. 3. 20-A MRSA §11424, sub-§6, as enacted by PL 1987, c. 807, §3, is amended to read:

6. Bonds outstanding. The authority ~~shall~~may not have at any one time outstanding bonds to which subsection 5 is stated in the trust agreement or other document to apply in principal amount exceeding ~~\$50,000,000~~\$300,000,000. The amount of bonds issued to refund bonds previously issued ~~shall~~may not be taken into account in determining the principal amount of the bonds outstanding, ~~provided that~~as long as the proceeds of the refunding bonds are applied as promptly as possible to the refunding of the previously issued bonds. In computing the total amount of bonds of the authority ~~which~~that may at any time be outstanding for any purpose, the amount of the outstanding bonds that have been issued as capital appreciation bonds or as similar instruments ~~shall~~must be valued as of any date of calculation at their current accreted value rather than their face value.

Sec. 4. Report of bond and loan activity. The Maine Educational Loan Authority shall submit a report to the Joint Standing Committee on Education and Cultural Affairs no later than April 2, 2010 summarizing the authority's bond and loan activity from the effective date of this Act through March 15, 2010. The report must include an account of tax exempt bonds issued during this period with amounts and rates for each issue. The report must include an account of bonds issued prior to the effective date of this Act that have been refinanced, the change in interest rates for these bonds and the bond cap available as of March 15, 2010.

The Maine Educational Loan Authority shall also report the rates on alternative loans originating after the effective date of this Act and changes in rates for loans outstanding on the effective date of this Act. The report must also include an account of any fees in excess of \$50,000 paid to entities outside the authority.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective April 17, 2009.