

MAINE STATE LEGISLATURE

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132nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2025

Legislative Document

No. 1217

S.P. 506

In Senate, March 20, 2025

**An Act Regarding the New Markets Tax Credit and the Maine New
Markets Capital Investment Program**

Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator STEWART of Aroostook.
Cosponsored by Speaker FECTEAU of Biddeford and
Senator: BICKFORD of Androscoggin.

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

2 **Sec. 1. 10 MRSA §1100-Z, sub-§3, ¶B-1** is enacted to read:

3 B-1. A qualified community development entity that seeks certification as a Maine
4 fund for an allocation of tax credit authority shall apply to the authority. The applicant
5 shall submit an application on a form that the authority provides.

6 (1) In addition to the requirements specified in paragraph B, subparagraphs (1)
7 and (4), the applicant shall include in the application evidence of at least one
8 executive officer whose primary residence is located in this State, who is employed
9 or engaged to manage the funds associated with the allocation of tax credit
10 authority requested under this subsection and who has a minimum of 5 years of
11 money management experience in the venture capital or private equity or lending
12 industry.

13 (2) As used in this paragraph, "Maine fund" has the same meaning as in subsection
14 8, paragraph A, subparagraph (4).

15 **Sec. 2. 10 MRSA §1100-Z, sub-§3, ¶B-2** is enacted to read:

16 B-2. A qualified community development entity that seeks certification as a diverse
17 Maine fund for an allocation of tax credit authority shall apply to the authority. The
18 applicant shall submit an application on a form that the authority provides.

19 (1) In addition to the requirements specified in paragraph B, subparagraphs (1)
20 and (4) and paragraph B-1, the applicant shall include in the application evidence
21 that the entity is:

22 (a) More than 50% owned and controlled by individuals who are racial or
23 ethnic minorities or members of a federally recognized Indian nation, tribe or
24 band in this State; or

25 (b) Governed by a board of directors more than 50% of which is composed of
26 individuals who are racial or ethnic minorities or members of a federally
27 recognized Indian nation, tribe or band in this State.

28 (2) As used in this paragraph, unless the context indicates otherwise, the following
29 terms have the following meanings.

30 (a) "Diverse Maine fund" has the same meaning as in subsection 8, paragraph
31 A, subparagraph (2).

32 (b) "Principal place of business" has the same meaning as in subsection 8,
33 paragraph A, subparagraph (6).

34 **Sec. 3. 10 MRSA §1100-Z, sub-§3, ¶F**, as enacted by PL 2011, c. 380, Pt. Q, §1
35 and affected by §7, is amended to read:

36 F. Within 24 months with respect to program 1 tax credit authority and 6 months with
37 respect to program 2 tax credit authority, after receipt of the notice of the allocation of
38 tax credit authority, the qualified community development entity shall issue the
39 qualified equity investments or long-term debt securities and receive cash in the
40 amount of the total amount of tax credit authority that the qualified community
41 development entity was allocated. The qualified community development entity shall

1 provide the authority with evidence of the entity's receipt of the cash investment within
2 10 business days after receipt. If the qualified community development entity does not
3 issue the qualified equity investment or long-term debt security and receive the cash
4 purchase price within 24 months with respect to program 1 tax credit authority and 6
5 months with respect to program 2 tax credit authority following receipt of the tax credit
6 authority notice for any portion of its allocation, such unused allocation of tax credit
7 authority lapses and the qualified community development entity may not issue the
8 qualified equity investments or long-term debt securities without reapplying to the
9 authority for additional tax credit authority. Any tax credit authority that lapses reverts
10 back to the authority and may be reissued only in accordance with the application
11 process outlined in this section.

12 **Sec. 4. 10 MRSA §1100-Z, sub-§4**, as amended by PL 2011, c. 548, §5, is repealed
13 and the following enacted in its place:

14 **4. Limit on amount of tax credits authorized.** Tax credits issued by the authority
15 are limited as provided in this subsection.

16 A. With respect to program 1 tax credit authority, the maximum aggregate amount of
17 qualified equity investments for which the authority may issue tax credit authority
18 under this section is \$250,000,000; a tax credit claim may not exceed \$20,000,000 in
19 any one state fiscal year over the 7 years of the tax credit allowance dates as described
20 in Title 36, section 5219-HH, subsection 1, paragraph A.

21 B. With respect to program 2 tax credit authority, the maximum aggregate amount of
22 qualified equity investments for which the authority may issue tax credit authority
23 under this section is \$250,000,000; a tax credit claim may not exceed \$20,000,000 in
24 any one state fiscal year over the 7 years of the tax credit allowance dates as described
25 in Title 36, section 5219-HH, subsection 1, paragraph A.

26 **Sec. 5. 10 MRSA §1100-Z, sub-§6**, as enacted by PL 2011, c. 380, Pt. Q, §1 and
27 affected by §7, is amended to read:

28 **6. Report.** The authority shall report no later than January 1, ~~2015~~ 2030 with respect
29 to program 2 tax credit authority to the joint standing committee of the Legislature having
30 jurisdiction over appropriations and financial affairs and the joint standing committee of
31 the Legislature having jurisdiction over taxation matters on the activities of the program,
32 including, but not limited to, the amount of private investment received and the total
33 number of jobs created or retained.

34 **Sec. 6. 10 MRSA §1100-Z, sub-§7**, as enacted by PL 2011, c. 380, Pt. Q, §1 and
35 affected by §7, is amended to read:

36 **7. Rules.** By December 30, 2011, the authority shall adopt rules necessary to
37 implement this section. By December 31, 2025, the authority shall adopt rules necessary to
38 implement this section with respect to program 2 tax credit authority. Rules adopted
39 pursuant to this subsection are routine technical rules under Title 5, chapter 375, subchapter
40 2-A.

41 **Sec. 7. 10 MRSA §1100-Z, sub-§8** is enacted to read:

42 **8. Impact qualified equity investments.** Impact qualified equity investments are
43 subject to the provisions of this subsection.

1 A. As used in this subsection, unless the context otherwise indicates, the following
2 terms have the following meanings.

3 (1) "Community development financial institution" has the same meaning as in 12
4 United States Code, Section 4702(5).

5 (2) "Diverse Maine fund" means an entity that is a Maine fund as defined in
6 subparagraph (4) or is a community development financial institution with its
7 principal place of business located in this State. In addition, the entity must either:

8 (a) Be more than 50% owned and controlled by individuals who are racial or
9 ethnic minorities or members of a federally recognized Indian nation, tribe or
10 band in this State; or

11 (b) Be governed by a board of directors more than 50% of which is composed
12 of individuals who are racial or ethnic minorities or members of a federally
13 recognized Indian nation, tribe or band in this State.

14 (3) "Impact qualified equity investment" means a qualified equity investment if the
15 cash purchase price, as defined in Title 36, section 5219-HH, subsection 1,
16 paragraph F, is used to make an investment in a qualified active low-income
17 community business.

18 (4) "Maine fund" means a qualified community development entity as defined in
19 Section 45D(c) of the United States Internal Revenue Code of 1986, as amended,
20 that has its principal place of business in this State.

21 (5) "Principal business operations location" means the physical location of a
22 business where at least 60% of the employees of the business work.

23 (6) "Principal place of business" means the primary physical location where an
24 entity's officer or officers direct, control and coordinate the entity's activities.

25 (7) "Qualified active low-income community business" has the same meaning as
26 in Title 36, section 5219-HH, subsection 1, paragraph G except that:

27 (a) The entity's principal business operations location is in this State; and

28 (b) The entity is more than 50% owned by individuals who are racial or ethnic
29 minorities; members of a federally recognized Indian nation, tribe or band in
30 this State; or veterans who are disabled.

31 (8) "Qualified community development entity" means an entity that is a:

32 (a) Diverse Maine fund;

33 (b) Maine fund;

34 (c) Qualified community development entity as defined in Section 45D(c) of
35 the United States Internal Revenue Code of 1986, as amended; or

36 (d) Community development financial institution.

37 (9) "Qualified equity investment" means any equity investment in, or long-term
38 debt security issued by, a qualified community development entity that:

39 (a) Has at least 85% of its cash purchase price, as defined in Title 36, section
40 5219-HH, subsection 1, paragraph F, used by the issuer to make qualified low-

1 income community investments in qualified active low-income community
2 businesses located in the State by the 2nd anniversary of the initial credit
3 allowance date, as defined in Title 36, section 5219-HH, subsection 1,
4 paragraph D;

5 (b) Is acquired after December 31, 2011 at its original issuance solely in
6 exchange for cash; and

7 (c) Is designated by the issuer as a qualified equity investment and is certified
8 by the authority pursuant to subsection 3, paragraph G. "Qualified equity
9 investment" includes any qualified equity investment that does not meet the
10 provisions of subsection 3, paragraph G if the investment was a qualified
11 equity investment in the hands of a prior holder.

12 (10) "Qualified low-income community investment" has the same meaning as in
13 Title 36, section 5219-HH, subsection 1, paragraph J and, with respect to an
14 individual qualified active low-income community business, no more than
15 \$5,000,000 of an impact qualified equity investment may be made with the
16 proceeds of a qualified equity investment that has been certified.

17 B. A qualified active low-income community business is deemed to have its principal
18 business operations location in this State if the business agrees to use the proceeds of
19 a qualified low-income community investment in the business for:

20 (1) The relocation of employees to this State, if the business is not located in this
21 State at the time of application; or

22 (2) The hiring of employees in this State, if the business is located in this State.

23 The requirements of this paragraph must be met at least 90 days prior to receiving the
24 qualified low-income community investment or by another date as agreed to by the
25 business and the authority.

26 C. The authority shall certify \$30,000,000 in impact qualified equity investments, of
27 which 50% must be reserved for diverse Maine funds. The limitations of subsection 4
28 apply to impact qualified equity investments certified under this paragraph.

29 D. Qualified community development entities shall keep sufficiently detailed books
30 and records with respect to the investments made with the proceeds of the qualified
31 equity investments to allow the direct tracing of the proceeds into qualified low-income
32 community investments in qualified active low-income community businesses in the
33 State.

34 E. Except as specifically otherwise provided in this subsection, an impact qualified
35 equity investment is subject to the provisions of this section and Title 36, section
36 5219-HH.

37 **Sec. 8. 36 MRSA §5219-HH, sub-§1, ¶E-1** is enacted to read:

38 E-1. "Program 1 tax credit authority" means tax credit authority allocated by the
39 authority before January 1, 2026.

40 **Sec. 9. 36 MRSA §5219-HH, sub-§1, ¶E-2** is enacted to read:

41 E-2. "Program 2 tax credit authority" means tax credit authority allocated by the
42 authority on or after January 1, 2026.

1 **Sec. 10. 36 MRSA §5219-HH, sub-§1, ¶H**, as enacted by PL 2011, c. 548, §33
2 and affected by §35, is repealed and the following enacted in its place:

3 H. "Qualified community development entity" means an entity that:

4 (1) Is a Maine fund, as defined in Title 10, section 1100-Z, subsection 8, paragraph
5 A, subparagraph (4); or

6 (2) If not located in this State, is a qualified community development entity as
7 defined in the Code, Section 45D(c), except that the entity must have entered into
8 an allocation agreement with the Community Development Financial Institutions
9 Fund of the United States Department of the Treasury with respect to credits
10 authorized by the Code, Section 45D.

11 **Sec. 11. 36 MRSA §5219-HH, sub-§7, ¶C**, as enacted by PL 2011, c. 548, §33
12 and affected by §35, is amended to read:

13 C. The qualified community development entity fails to invest at least 85% of the
14 purchase price of the qualified equity investment in qualified low-income community
15 investments in qualified active low-income community businesses located in the State
16 within 24 months of the issuance of the qualified equity investment with respect to
17 program 1 tax credit authority and within 12 months of the issuance of the qualified
18 equity investment with respect to program 2 tax credit authority and maintain this level
19 of investment in qualified low-income community investments in qualified active low-
20 income community businesses located in the State until the last credit allowance date
21 for the qualified equity investment. For purposes of calculating the amount of qualified
22 low-income community investments held by a qualified community development
23 entity, an investment is considered held by the qualified community development entity
24 even if the investment has been sold or repaid as long as the qualified community
25 development entity reinvests an amount equal to the capital returned to or recovered
26 from the original investment, exclusive of any profits realized, in another qualified
27 active low-income community business in this State within 12 months of the receipt of
28 the capital. A qualified community development entity may not be required to reinvest
29 capital returned from qualified low-income community investments after the 6th
30 anniversary of the issuance of the qualified equity investment, the proceeds of which
31 were used to make the qualified low-income community investment, and the qualified
32 low-income community investment is considered to be held by the issuer through the
33 qualified equity investment's final credit allowance date.

34 **SUMMARY**

35 This bill amends the Maine New Markets Capital Investment Program and the new
36 markets capital investment income tax credit to establish a new tax credit authority, referred
37 to as "the program 2 tax credit authority," for tax credit authority allocated by the Finance
38 Authority of Maine on or after January 1, 2026. This bill establishes an application process
39 for community development entities recognized as Maine funds and diverse Maine funds
40 to receive an allocation of tax credit authority.

41 The effect of this change on the Maine New Markets Capital Investment Program is to
42 shorten the period, from 24 months to 6 months after receipt of the notice of allocation of
43 the tax credit authority, by which a community development entity must issue the equity

1 investments or debt securities and receive cash in the total amount of tax credits authorized.
2 The limit on the amount of tax credits authorized is unchanged.

3 The effect of this change on the new markets capital investment tax credit is to shorten
4 the time, from 24 months to 12 months after issuance of the qualified equity investment,
5 by which a community development entity must invest at least 85% of the purchase price
6 of the qualified equity investment in qualified low-income community investments before
7 recapture of the credit is allowed.

8 This bill makes conforming changes to the new markets capital investment tax credit
9 provisions to integrate impact qualified equity investments into the existing provisions
10 governing the eligibility for an allocation of tax credits under the Maine New Markets
11 Capital Investment Program. Under the bill, "impact qualified equity investment" means a
12 qualified equity investment if the cash purchase price is used to make an investment in a
13 qualified active low-income community business, which is a corporation, including a
14 nonprofit corporation, that serves economically disadvantaged areas, that has a principal
15 business operations location in this State and that is more than 50% owned by individuals
16 who are racial or ethnic minorities; members of a federally recognized Indian nation, tribe
17 or band; or veterans who are disabled.

18 Under the bill, the Finance Authority of Maine is required to certify \$30,000,000 in
19 impact qualified equity investments, which may be made in exchange for tax credits. Fifty
20 percent of impact qualified equity investments must be reserved for diverse Maine funds,
21 which are community development financial institutions that have their principal place of
22 business in this State and are more than 50% owned and controlled by individuals who are
23 racial or ethnic minorities or members of a federally recognized Indian nation, tribe or band
24 in this State or are governed by a board of directors more than 50% of which is composed
25 of individuals who are racial or ethnic minorities or members of a federally recognized
26 Indian nation, tribe or band in this State.

27 The maximum amount of an investment made with a qualified equity investment by a
28 qualified community development entity in a qualified active low-income community
29 business is \$5,000,000.