

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT
OF THE
ATTORNEY GENERAL

For the Years
1967 through 1972

enterprises.” (Ibid.) The Legislature expressly authorized the Maine Industrial Building Authority to “. . . encourage the making of mortgage loans for the purpose of furthering expansion of such enterprises in the State.” (Ibid.)

It is clear from the legislative language that the Maine Industrial Building Authority is authorized to aid already existing as well as new Maine firms, provided: (1) that the firm is either an industrial, manufacturing, fishing or agricultural enterprise; and (2) that aid by the Maine Industrial Building Authority is for the purpose of providing enlarged opportunities for gainful employment by the people of Maine.

The first criterion is fulfilled in each of the above-stated fact situations in that each activity is a manufacturing enterprise.

The second criterion requires a judgment that enlarged employment opportunities will result by such aid. This judgment must be reached by an assessment of all the available facts in each case. The Legislature has vested the power of making such a judgment solely in the sound discretion of the MIBA.

CHARLES R. LAROUCHE
Assistant Attorney General

November 23, 1970
Maine State Ferry Service

Richard Spear, Manager

Ferry Service to *All* Islands in Casco Bay

SYLLABUS:

The Maine Port Authority may conduct ferry service between the mainland and any island in Casco Bay located within the city limits of Portland and the Town of Cumberland, provided that the Public Utilities Commission has determined that private service to those islands is not feasible.

FACTS:

The Maine Port Authority has been authorized by Special Acts of this State to conduct ferry service from the mainland to certain islands in Casco Bay. The Port Authority wishes to conduct its own ferry service to islands other than those specifically mentioned in the Special Acts of this State.

QUESTION:

Whether the Maine Port Authority may conduct ferry service to islands other than those specifically mentioned in the laws of this State.

ANSWER:

Yes, provided certain conditions are first met.

REASON:

The Maine Port Authority was originally created as the “Port of Portland Authority”

by Special Act of the Eighty-Fourth Legislature in 1929. In that Act it was provided that:

“Sec. 1. ‘Port of Portland Authority,’ created. There is hereby created ‘Port of Portland Authority’, hereinafter referred to as the ‘Port Authority’, which shall be a body corporate and politic, having the same rights, privileges and powers as have corporations organized under the general law in addition to, and except insofar as inconsistent with, the powers herein enumerated, with the right to adopt a common seal and to establish by-laws and regulations for the management of its affairs not repugnant to its charter and the laws of this state”. 1929 Priv. & Spec. ch. 114.

The purposes and powers of the Port Authority were as follows:

“(b) Purposes; powers. The . . . Authority is constituted a public agency of the State of Maine for the general purpose of acquiring, constructing and operating piers and terminal facilities at the Port of Portland. . . . ; it may acquire, hold and operate lighters and other vessels necessary or convenient; it may establish and collect the fees, rates, rentals and other compensation for the use of its property and facilities,” 1929 Priv. & Spec. ch. 114.

In 1945 the name was changed from the “Port of Portland Authority” to the “Maine Port Authority.”

In 1957 the legislature enacted a special law which imposed on the Maine Port Authority:

“. . . the duty . . . to operate a ferry line or lines between the mainland and the towns of North Haven, Vinalhaven, Islesboro and Swan’s Island for the purpose of transporting vehicles, freight and passengers to and from said towns.” 1957 Priv. & Spec. ch. 190 Sec. 1.

In this same Act, chapter 114 of the 1929 Act was amended by adding a new subsection (e) of section 1 which read as follows:

“(e) Ferry service for North Haven, Vinalhaven, Islesboro and Swan’s Island. It shall be the duty of the Maine Port Authority to operate a ferry line or lines between the mainland and the towns of North Haven, Vinalhaven, Islesboro and Swan’s Island for the purpose of transporting vehicles, freight and passengers to and from said towns.” 1957 Priv. & Spec. ch. 190, Sec. 11.

The above quoted subsection was further amended in 1959, by adding the following language:

“. . . and the Maine Port Authority may operate such ferry line or lines to and from Long Island Plantation.” 1959 Priv. & Spec. ch. 125 Sec. 1.

In 1959 the original purposes of the 1929 charter were expanded to include the following:

“. . . and for the purpose of securing and maintaining adequate ferry transportation for persons and property between the mainland and the islands in Casco Bay located within the limits of the City of Portland and the Town of Cumberland” 1959 Priv. & Spec. ch. 79 Sec. 2.

In addition, the 1959 Act provided that:

“(f) Whenever it is determined by the Public Utilities Commission that ferry transportation for persons and property between the mainland and the islands in Casco Bay located within the limits of the City of Portland and the Town of Cumberland can no longer feasibly be provided by private operators the Port Authority shall take such means as shall be necessary to secure such service” 1959 Priv. & Spec. ch. 79, sec. 3.

It is important to note that the Authority has the specific duty to provide ferry

service between certain islands and the mainland while it is imposed with the more general duty of "... securing and maintaining adequate ferry transportation for persons . . . between the mainland and the Islands in Casco Bay . . .". 1959 Priv. & Spec. ch. 79 Sec. 2.

This latter duty of the Authority may include providing and conducting the service, itself, if the Public Utilities Commission determines that the ferry service cannot be provided by private operators.

In conclusion, if the Maine Port Authority wishes to provide ferry service to islands in Casco Bay, other than North Haven, Vinalhaven, Islesboro, Swan's Island, and Long Island Plantation, it may do so provided that they are located within the limits of the City of Portland and the Town of Cumberland and provided further that the Public Utilities Commission has determined that ferry service by private operators, if any, is not longer feasible.

CLAYTON N. HOWARD
Assistant Attorney General

November 24, 1970
Banks and Banking

Elmer W. Campbell, Commissioner

Permitted charges under 9 M.R.S.A. Section 229

SYLLABUS:

Charges for credit insurance made in connection with a loan governed by 9 M.R.S.A. § 229 are not to be added to the other loan charges in determining whether the loan charges are in excess of the maximum interest permitted for loans in excess of \$2000 if such insurance charges are within the scope of 24-A M.R.S.A. Section 2861.

FACTS:

A loan company is engaged in loaning funds which are subject to 9 M.R.S.A. § 229. Section 229 prohibits the company from charging more than 16% per year, simple interest on its loans. In conjunction with its loans the loan company is also charging for credit insurance which is issued through it to its debtors. The loan company is not including the credit insurance charges in its calculation of annual interest charges for the purpose of determining compliance with 9 M.R.S.A. § 229.

QUESTION:

Do charges for credit insurance issued through a creditor for a debtor constitute a charge which is to be included in calculating the interest rate for purposes of determining whether the rate charged exceeds the maximum chargeable under 9 M.R.S.A. § 229?

ANSWER:

No, with the exceptions indicated below.

REASONS: