

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

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Legislative Document

No. 419

S. P. 164

In Senate, January 30, 1973

On motion of Senator Richardson of Cumberland referred to Committee on Appropriations and Financial Affairs. Sent down for concurrence and ordered printed.

HARRY N. STARBRANCH, Secretary

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-THREE

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**AN ACT Creating the Maine Veterans Small Business Loan Authority  
Board and Establishing a Mortgage Insurance Fund.**

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

Whereas, it is essential to the safety, health and welfare of the people of the entire State to enlarge the opportunities for business enterprises and self-employment of Maine's veterans; and

Whereas, the following legislation is vitally necessary for the creation of such business and employment opportunities; 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. R. S., T. 37-A, c. 2, sub-c. II, additional.** Chapter 2 of Title 37-A of the Revised Statutes, as enacted by section 1 of chapter 580 of the public laws of 1971, is amended by adding a new subchapter II to read as follows:

**SUBCHAPTER II**

**MAINE VETERANS SMALL BUSINESS LOAN ACT**

**§ 41. Organization of Loan Authority Board**

The Maine Veterans Small Business Loan Authority Board is hereby created and established a body corporate and politic, hereinafter in this subchapter called the "loan authority board" and is constituted a public instru-

mentality of the State, and the exercise by the loan authority of the powers conferred by this subchapter shall be deemed and held to be the performance of essential governmental functions. The loan authority board shall consist of 9 members, including the Director of Veterans Services and 8 members at large appointed by the Governor, with the advice and consent of the Council, for a period of 4 years provided that of the members first appointed, 2 shall be appointed for a term of one year, 2 for a term of 2 years, 2 for a term of 3 years and 2 for a term of 4 years. A vacancy in the office of an appointive member, other than by expiration, shall be filled in like manner as an original appointment but only for the remainder of the term of the retiring member. Appointive members may be removed by the Governor, with the advice and consent of the Council, for cause. The loan authority board shall elect one of its members as chairman, one as vice-chairman, one as treasurer, and shall employ a manager, who shall be secretary. The secretary and treasurer shall be bonded as the loan authority board shall direct. Five members of the loan authority board shall constitute a quorum. The affirmative votes of 5 members present and voting shall be necessary for any action taken by the loan authority board. No vacancy in the membership of the loan authority board shall impair the right of the quorum to exercise all rights and perform all the duties of the loan authority board.

All the members of the loan authority board shall be reimbursed for their actual expenses necessarily incurred in the performance of their duties and by a per diem of \$25. for each monthly meeting attended.

The manager shall be appointed by the Director of Veterans Services with the approval of the loan authority board and his tenure of office shall be at the pleasure of the director. He shall receive such compensation as shall be fixed by the director with the approval of the loan authority board.

The manager shall be the chief administrative officer for the loan authority board and as such shall direct and supervise the administrative affairs and technical activities of the loan authority board in accordance with rules, regulations and policies as set forth by the loan authority board. It shall be the duty of the manager among other things to:

1. Attend meetings and keep minutes. Attend all meetings of the loan authority board and to act as its secretary and keep minutes of all its proceedings;
2. Approve accounts and expenses. Approve all accounts for salaries, per diems, allowable expenses of the loan authority board or of any employee or consultant thereof, and expenses incidental to the operation of the loan authority board;
3. Appoint employees. Appoint, under the Personnel Law, such employees as the loan authority board may require, and such assistants, agents or consultants as may be necessary for carrying out the purposes of this chapter;
4. Reports. Make to the loan authority board and the Bureau of Veterans Services an annual report documenting the actions of the loan authority board and such other reports as the loan authority board may request;

5. Recommendations. Make recommendations and reports to the loan authority board on the merits of any proposed eligible project;

6. Other duties. Perform such other duties as may be directed by the loan authority board in the carrying out of the purposes of the chapter.

No member of the loan authority board shall participate in any decision involving insurances of payments on a loan if said member has any interest in or connection with any firm, partnership, corporation or association which intends to rent, lease or otherwise use the property securing said loan.

#### § 42. Powers of loan authority board

The board is authorized and empowered:

1. Rules. To adopt rules for the regulation of its affairs and the conduct of its business;

2. Seal. To adopt an official seal and alter the same at pleasure;

3. Office. To maintain an office at such place or places within the State as it may designate;

4. Sue and be sued; service of process. To sue and be sued in its own name, plead and be impleaded;

Service of process in any action shall be made by service upon the manager of said board either in hand or by leaving a copy of the process at the office of the manager;

5. Employees. To employ such assistants, agents, consultants and other employees as may be necessary or desirable for its purposes and to fix their compensation; and to utilize the services of other governmental agencies; such employment shall be consistent with the Personnel Law.

6. Agreements for eligible projects. To enter into agreements with prospective borrowers and lenders for the purpose of planning, designing, constructing, acquiring, altering and financing eligible projects;

7. Use of property; powers and duties. To acquire, hold and dispose of real and personal property and make and enter into all contracts, leases, agreements and arrangements necessary or incidental to the performance of its duties and the execution of its powers under this subchapter;

8. Loans from and agreements with federal agency. To accept from a federal agency, loans or grants for the planning or financing of any eligible project, and to enter into agreements with such agency respecting any such loans or grants;

9. Express powers. To do all acts and things necessary or convenient to carry out the powers expressly granted in this subchapter.

#### § 43. Credit of State pledged

The Maine Veterans Small Business Loan Authority is authorized to insure the payment of up to 80% of mortgage loans, secured by eligible

projects, and to this end the faith and credit of the State is pledged, consistent with the terms and limitations of the Constitution of the State of Maine, Article IX, section 14-E.

#### § 44. Expenses of loan authority board

The loan authority board may in its discretion expend out of the fund such monies as may be necessary for any expenses of the loan authority board including administrative, legal, actuarial and other services. All such expenses incurred by the loan authority board shall be paid by the loan authority board and shall be charged to the fund. All proceeds received by the loan authority board from the disposal by sale or in some other manner of property it may have acquired in accordance with section 50 shall be credited to the fund.

#### § 45. Definitions

As used in this subchapter, the following words and terms shall have the following meaning unless the context shall indicate another or different meaning or intent:

1. Borrower. "Borrower" shall mean the original borrower under a note and his successors and assigns, and shall be limited to veterans of the State of Maine.

2. Cost of project. "Cost of project" shall mean the cost or fair market value of lands, buildings, real estate improvements, fishing vessels, new machinery and equipment including the installation thereof, stock, merchandise, used machinery and equipment, property rights, easements, franchises, financing charges, interest, engineering and legal services, plans, specifications, surveys, cost estimates, studies and other expenses as may be necessary or incident to the development, construction, financing and placing in operation of an eligible project.

3. Eligible loan. "Eligible loan" shall mean any business or recreational facilities or any lands, buildings, real estate improvements or machinery and equipment, merchandise and stock, with auxiliary real and personal property, located within the State, used by a commercial, industrial, manufacturing, mining, fishing or agricultural enterprise, sales and service, or both, the manufacturing, processing, assembling or preparing for market of raw materials or other products, or for the purposes of research and development for such enterprises.

4. Federal agency. "Federal agency" shall mean and include the United States of America, the President of the United States of America, and any department of, or corporation, agency or instrumentality heretofore or hereafter created, designated or established by the United States of America.

5. Lender. "Lender" shall mean the original lender of funds, and his successors and assigns approved by the authority and may include all insurance companies, trust companies, banks, investment companies and savings banks, executors, trustees and other fiduciaries, including pension and retirement funds.

6. Loan payments. "Loan payments" shall mean periodic payments called for by the note, including, but not limited to, payments covering interest, installments of principal, taxes and assessments, loan insurance premiums and hazard insurance premiums.

7. Maturity date. "Maturity date" shall mean the date on which the loan indebtedness would be extinguished if paid in accordance with periodic payments provided for in the note.

8. Mortgage. "Mortgage" shall mean a first lien on an eligible project such as commonly given to secure advances on, or the unpaid purchase price of, real estate or personal property under the laws of the State of Maine together with the credit instruments, if any, secured thereby.

9. Resident. "Resident" shall mean anyone who entered the Armed Forces of the United States from Maine or who has established a legal residence in Maine of at least 6 months duration immediately prior to making application for a loan under this subchapter and who has received certification as an eligible Maine resident veteran from the Maine Bureau of Veterans Services.

10. Veteran. "Veteran" shall be construed to mean any person who served in the Armed Forces of the United States on active duty during World War I, World War II, the Korean War or Viet Nam War, not dishonorably discharged. A veteran of the Viet Nam War shall have served on active duty for a period of more than 180 days, any part of which occurred after August 4, 1964, except if he was discharged for a service connected disability after such date.

#### § 46. Loan Insurance Fund

1. There is established a Veteran Small Business Loan Insurance Fund, hereinafter in this subchapter referred to as the "fund," shall be used by the loan authority board as a nonlapsing, revolving fund for carrying out this subchapter. This fund shall initially be the sum of \$200,000. To this sum shall be charged any and all expenses of the loan authority board in connection with their operation under this subchapter, including interest and principal payments required by loan defaults, and to the sum shall be credited all income of the board, including loan insurance premiums and sale, disposal, lease or rental proceeds.

2. Deposited with Treasurer of State or invested. Moneys in the fund, not needed currently to meet the obligations of the loan authority board in the exercise of its responsibilities as insurer as provided for in this subchapter, shall be deposited with the Treasurer of State to the credit of the fund or may be invested in such manner as is provided for by statute.

#### § 47. Additions to

If from time to time in the opinion of the loan authority board the addition of moneys to the fund may be required to meet obligations, the loan authority board shall in writing request the Governor and Council to provide moneys in such amounts as may be necessary for the purpose. The Governor and

Council shall transfer to this fund sufficient moneys for said purpose from the State Contingent Account or from the proceeds of bonds to be issued as provided in this section. If bonds are to be issued, the Governor and Council shall order the Treasurer of State to issue bonds in the amount requested, but not exceeding in the aggregate at any one time outstanding the amount set forth in the Constitution of Maine, Article IX, Section 14-E, as it may be from time to time amended, to mature serially or made to run for such periods as the Governor and Council may determine, but none of them shall run for a longer period than 20 years and at such rates of interest and on such terms and conditions as the Governor and Council shall determine. The bonds so issued shall be deemed a pledge of the faith and credit of the State.

#### § 48. Insurance of loans

The loan authority board is authorized upon application of the proposed lender to insure loan payments required by the first mortgage on any eligible project, upon such terms and conditions as the loan authority board may prescribe, provided the aggregate amount of principal obligations of all mortgages so insured outstanding at any one time shall not exceed \$2,000,000. To be eligible for insurance under this subchapter a loan shall:

1. Lender. Be one which is to be made and held by a lender approved by the loan authority board as responsible and able to service the loan properly;

2. Maturity; limit. Have a maturity satisfactory to the loan authority board;

3. Amortization. Contain complete amortization provisions satisfactory to the loan authority board requiring periodic payments by the mortgagor which shall include principal and interest payments, cost of local property taxes and assessments, land lease rents, if any, hazard insurance on the property and such loan insurance premiums as are required under section 49;

4. Other terms. Contain such terms and provisions with respect to property insurance, repairs, alterations, payment of taxes and assessments, default reserves, delinquency charges, default remedies, anticipation of maturity, additional and secondary liens and other matters as the loan authority board may prescribe;

5. Principal obligation; limit. Involve a principal obligation not to exceed \$15,000;

6. Nonassignability of proceeds. No right, payment or proceeds of any loan made under this subchapter or statutes supplementary thereof shall be subject to garnishment, attachment or execution of the claim of any other creditor other than the lender; nor shall any such right or payment be capable of assignment except under such rules and regulations as may be prescribed by the manager.

#### § 49. Loan insurance premiums

The loan authority board is authorized to fix loan insurance premiums for the insurance of loan payments under this subchapter, such premiums to be computed as a percentage of the principal obligation of the loan outstanding

at the beginning of each year. Such insurance premiums shall not be less than  $\frac{1}{2}$  of 1% per year nor more than 2% per year of said outstanding principal obligation. Such premiums shall be payable by the lenders in such manner as shall be prescribed by the loan authority board.

#### § 50. Acquisition and disposal of property

The loan authority board may take assignments of insured loans and other forms of security and may take title by foreclosures or conveyance to any eligible project when an insured loan thereon is clearly in default and when in the opinion of the loan authority board such acquisition is necessary to safeguard the loan insurance fund, and may sell, or on a temporary basis lease or rent, such eligible project for a use other than that specified.

#### § 50-A. Loans eligible for investment

Loans insured by the loan authority board are made legal investments for all insurance companies, trust companies, banks, investment companies, savings banks, savings and loan associations, executors, trustees and other fiduciaries, pension or retirement funds.

#### § 50-B. Loans with little or no collateral

The loan authority board may insure a loan to a borrower with less than full collateral or even no collateral other than the loan proceeds providing said borrower is of good character and has a good personal credit record.

#### § 50-C. Safeguarding the fund

When a loan insured under this chapter is clearly in default, the loan authority board may assent to the extension of the time of payment of such insured loan, may extend the insurance thereon accordingly and may waive loan insurance premiums thereon, when in the opinion of the loan authority board any such action is necessary to safeguard the fund.

#### § 50-D. Accounts

The loan authority board shall keep proper records of accounts and shall make an annual report of its condition to the Bank Commissioner.

#### § 50-E. Records confidential

No member of the loan authority board, agent or employee thereof shall divulge or disclose any information obtained from the records and files or by virtue of such person's office concerning the name of any lessee or tenant or information supplied by any lessee, tenant or lender in support of an application for loan insurance. Annual returns filed with the loan authority board by a lender, lessee or tenant shall be privileged and confidential.

#### § 50-F. Title

This subchapter shall be known and may be cited as the "Maine Veterans Small Business Loan Act."

**Sec. 2. Appropriation.** For the establishment of the Veterans Small Business Loan Insurance Fund there is appropriated the sum of \$200,000 from the Unappropriated Surplus of the General Fund.



**Emergency clause.** In view of the emergency cited in the preamble, this Act shall take effect when approved.

#### FISCAL NOTE

The sum of \$200,000 as provided for in the revolving insurance fund shall be used to cover the cost of operation of approximately \$50,000 per year and the balance of \$100,000 shall be used for any defaults that might occur during the biennium.

#### STATEMENT OF FACT

It is declared that there is a genuine desire of the State of Maine to recognize the service and sacrifice of those sons and daughters of Maine chosen to defend the United States in time of war. It is further declared that there is a state-wide need to provide enlarged opportunities for gainful employment by the veterans of Maine and to thus insure the preservation and betterment of the economy of the entire state and all its inhabitants. It is further declared that there is a need to stimulate a larger flow of private investment funds from banks, investment houses, insurance companies, and other financial institutions, including pension and retirement funds, to help finance acquisition or expansion of business and recreational facilities. The Maine Veterans Small Business Loan Division of the Bureau of Veterans Services is created to encourage the expansion of small business loans with little or no collateral to qualified Maine veterans in accordance with the direction in the Constitution of Maine, Article IX, section 14-E.