

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 1243

H. P. 1012

House of Representatives, March 23, 1977

On Motion of Mr. Curran of South Portland referred to the Committee on State Government. Sent up for concurrence and 2,000 ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Martin of Eagle Lake.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT Creating the Maine Development Foundation.

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

Sec. 1. 10 MRSA c. 107 is enacted to read:

CHAPTER 107

MAINE DEVELOPMENT FOUNDATION

§ 915. Legislative findings and intent

The State of Maine has long had serious conditions of unemployment, underemployment, low per capital income and resource underutilization which cause substantial hardships to many individuals and families, impede the economic and physical development of various regions of the State, and adversely affect the general welfare and prosperity of the State.

There is a need to establish a new basis for a creative partnership of the private and public sectors for economic development, a partnership which can capitalize on the interests, resources and efforts of each sector, but which does not compromise the public interest or the profit motive. The state's solitary burden to provide for development should lessen through involving the private sector in a leadership role.

§ 916. Establishment

The Maine Development Foundation is hereby established to foster, support and assist economic growth and revitalization in Maine. The foundation shall carry out its purposes in complement to and in coordination with

the economic development activities of the private sector, community and regional agencies and State Government.

The foundation shall exist as a not-for-profit corporation with a public purpose, and the exercise by the foundation of the powers conferred by this chapter shall be deemed and held to be an essential governmental function.

§ 917. Purpose

The Maine Development Foundation is authorized and directed to provide services to the State and to quasi-public, public and private entities, and to foster, assist and participate in efforts for economic growth and revitalization, with a particular concern for assistance to the state's existing small and medium size businesses;

1. Management and technical assistance. Management and technical assistance to businesses and to communities for economic growth and revitalization, with a particular concern for assistance to the state's existing small and medium size businesses;
2. Debt and equity capital. Debt and equity capital, with a particular concern for assistance to the state's small and medium size businesses;
3. New product development and marketing. New product development and marketing, with a particular concern for the most productive use of the state's human and natural resources;
4. Industrial land and buildings. The development of industrial land and buildings;
5. Economic opportunities. Identification and development of specific economic opportunities in the State;
6. Climate for economic development. Promotion of an improved climate for economic development in the State; and
7. Coordination of development efforts. Coordination of development efforts for more successful project development through serving as a broad liaison with diverse groups and parties in all sectors and bringing together needed resources for particular projects.

§ 918. Corporators

Corporators, who shall elect members of the board of directors as provided in section 919, shall consist of individuals and organizations classified as private sector corporators, public sector corporators and ex officio corporators.

1. Private sector corporators. Private sector corporators shall be those **individuals, partnerships, firms, corporations** and other organizations providing support of at least \$250 annually to the foundation.

2. Public sector corporators. Public sector corporators shall be those agencies of government and other organizations providing support of at least \$50 annually to the foundation. For the purposes of this chapter, public sector corporators shall include: Municipal and county government; councils

of government; local and area development corporations; regional planning commissions; development districts; state agencies; higher educational facilities, including the components of the state university system, the Maine Maritime Academy, private colleges and post-secondary schools, and vocational-technical institutes; and such other public or quasi-public entities as may be approved by the directors of the foundation.

3. **Ex officio corporators.** Ex officio corporators shall consist of the heads of the major state departments and agencies and the Chancellor of the University of Maine. State department and agency heads shall include the following:

- Director of the State Planning Office;
- Director of the State Development Office;
- Commissioner of Agriculture;
- Commissioner of Business Regulation;
- Commissioner of Conservation;
- Commissioner of Educational and Cultural Services;
- Commissioner of Environmental Protection;
- Commissioner of Finance and Administration;
- Commissioner of Human Services;
- Commissioner of Indian Affairs;
- Commissioner of Inland Fisheries and Wildlife;
- Commissioner of Manpower Affairs;
- Commissioner of Marine Resources;
- Commissioner of Mental Health and Corrections;
- Commissioner of Transportation;
- Executive Director of the Maine Guarantee Authority;
- Executive Director of the Maine Municipal Bond Bank; and
- Executive Director of the Maine State Housing Authority.

4. **Voting rights.** Each corporator shall have a vote in such affairs of the foundation as may involve the corporators, provided that, in the case where the corporator is an organization and not an individual, the governing body of that organization shall designate the individual who is to exercise the voting right.

§ 919. Board of directors; officers

The Board of Directors of the Maine Development Foundation shall consist of 15 directors. The corporators shall elect 12 directors from among

the corporators, provided that 7 directors shall be elected from among the private sector corporators and 5 directors shall be elected from among the public sector corporators. The Governor shall appoint 2 directors from among the ex officio corporators. No person shall serve as a director for more than 5 years in succession. There shall be a chairman, a vice chairman and a treasurer elected by the corporators from among the board of directors. The president of the foundation shall be appointed by the directors so elected or appointed and shall become a director and chief executive officer of the foundation. The president shall not be appointed from among the other directors.

§ 920. General powers

The Maine Development Foundation is empowered to:

1. Suit. Sue or be sued in its own name;
2. Application for and receipt of funds. Apply for and receive funds from any private source or governmental entity, whether by way of grant, donation or loan or any other manner;
3. Economic development services; fees. Provide services to public or private entities to assist their efforts in economic development in Maine and to charge such fees for these services as it may deem appropriate;
4. Real and personal property. Purchase, receive, hold, lease or acquire by foreclosure, and operate, manage, license and sell, convey, transfer, grant or lease real and personal property, together with such rights and privileges as may be incidental and appurtenant thereto and the use thereof, including, but not restricted to, any real or personal property acquired by the foundation from time to time in the satisfaction of debts or enforcement of obligations;
5. Expenditures and obligations regarding real and personal property. Make all expenditures and incur any obligations reasonably required in the exercise of sound business principles to secure possession of, preserve, maintain, insure and improve real and personal property or interests therein acquired by the foundation;
6. Securities. Acquire, subscribe for, own, hold, sell, assign, transfer, mortgage or pledge the stock, shares, bonds, debentures, notes or other securities and evidences of interest in or indebtedness of any person, firm, corporation, joint stock company, partnership, association or trust, and, while the owner or holder thereof, exercise all the rights, powers and privileges of ownership, including the right to vote thereon;
7. Encumbrance of property. Mortgage, pledge or otherwise encumber any property right or thing of value acquired pursuant to the powers contained in subsections 4, 5 or 6 as security for the payment of any part of the purchase price thereof;
8. Equity investments and loans. Make direct equity investments in or loans to local and regional economic development corporations and to small and medium size businesses;

9. **Contracts and liabilities.** Make contracts, including contracts for services and incur liabilities for any of the purposes authorized therein;

10. **Debt.** Borrow money for any of the purposes authorized herein; incur debt, including the power to issue therefor its bonds, debentures, notes or other evidences of indebtedness, whether secured or unsecured; and secure the same by mortgage, pledge, deed of trust or other lien on its property, rights and privileges of every kind and nature, or any part thereof, or interest therein;

11. **Cooperation with agencies and organizations.** Cooperate with and avail itself of the services of governmental agencies; and cooperate and assist and otherwise encourage organizations, local or regional, private or public, in the various communities of the State in the promotion, assistance and development of the business prosperity and economic welfare of such communities and the State; and

12. **Bylaws.** Adopt bylaws not inconsistent herewith for the governance of its affairs, to have the general powers accorded corporations under Title 13-A, section 202, and do all other things necessary or convenient to carry out the lawful purposes of the foundation.

§ 921. Limitation of powers

The foundation, notwithstanding the foregoing, shall have no power or authority to enter into contracts, obligations or commitments of any kind on behalf of the State or any of its agencies, nor shall it have the power of eminent domain or any other power not provided to business corporations generally. Bonds, notes and other evidences of indebtedness of the foundation shall not in any way be a debt or liability of the State or constitute a pledge of the faith and credit of the State.

§ 922. Liability of officers, directors

All officers, directors, employees and other agents of the foundation entrusted with the custody of the securities of or authorized to disburse the funds of the foundation shall be bonded, either by a blanket bond or by individual bonds, with a surety bond or bonds with a minimum limitation of \$100,000 coverage for each person covered thereby, conditioned upon the faithful performance of their duties, the premiums for which shall be paid out of the assets of the foundation.

§ 923. Prohibited interests of officers, directors and employees

No officer, director or employee of the foundation or their spouses or dependent children shall receive any direct personal benefit from the activities of the foundation in assisting any private entity. This provision shall not prohibit corporations or other entities with which an officer or director is associated by reason of ownership or employment from participating in economic development activities with the foundation, provided that such ownership or employment is made known to the board, and the officer or director abstains from voting on matters relating to such participation. This prohibition does not extend to corporators who are not officers or directors of the foundation.

§ 924. Donations to the State

The State of Maine, through the Governor, may accept donations, bequests, devises, grants or other interests of any nature on behalf of the foundation and transfer such funds, property or other interests to the foundation.

§ 925. Annual report, audit

The foundation shall provide an annual report and an independent audit of its activities to the Governor, the Legislature, its incorporators and members. The foundation shall be subject to such further audit and review as deemed necessary by the Governor or the Legislative Council at the expense of the State.

§ 926. General conditions; dissolution

The Maine Development Foundation shall operate as a not-for-profit organization consistent with its composition and broad public purposes. The following conditions shall apply to the operation or dissolution of the foundation.

1. Net earnings of the foundation. No part of the net earnings of the foundation shall inure to the benefit of any incorporator, officer, director or employee except that the foundation shall be authorized and empowered to pay reasonable compensation for services rendered, and otherwise hold, manage and dispose of its property in furtherance of the purposes of the foundation.

2. Dissolution of foundation. Upon dissolution of the foundation, the incorporators shall, after paying or making provision for the payment of all liabilities of the foundation, cause all of the remaining assets of the foundation to be transferred to the State.

§ 927. Liberal construction

This chapter shall be construed liberally to effect the interest and purposes of the foundation for an improved economic development effort in the State and shall be broadly interpreted to effect such intent and purposes and not as a limitation of powers.

§ 928. Initial organization

In order to provide for the initial organization of the foundation, the Governor shall appoint an organizing committee of 14 persons, 7 of whom shall be eligible to be private sector incorporators, 5 of whom shall be eligible to be public sector incorporators and 2 of whom shall be state department and agency heads from among the list set forth in section 3. The Governor shall designate the chairman of the committee. The organizing committee shall solicit individuals and corporations from the private and public sectors as described in this chapter to be incorporators of the Maine Development Foundation.

The committee shall call and hold an initial meeting of the incorporators no later than 6 months from the effective date of this Act. The initial meeting shall be for the election of directors and officers of the foundation. The committee shall prepare an agenda for and the chairman shall chair the initial meeting. The committee shall serve as the nominating committee for the

initial election only, and may submit suggested bylaws and procedures for consideration by the incorporators.

After the initial meeting of the incorporators, the organizing committee shall be dissolved and its members shall serve the foundation only as they may be qualified as incorporators. The State Development Office and the State Planning Office may provide assistance to the organizing committee in the initial development of the foundation.

Sec. 2. Appropriation. There is appropriated from the General Fund the sum of \$500,000 for the fiscal years 1977-78 and 1978-79 to assist the foundation in its efforts to foster, support and assist economic growth and revitalization in the State. It is provided, however, that no amount of the appropriation shall be provided to the foundation unless the foundation can demonstrate a matching and equal fiscal support from its private and public incorporators and members described in Title 10, chapter 107. Any appropriated funds not matched by the foundation shall not lapse and shall be carried forward. The breakdown shall be as follows:

	1977-78	1978-79
MAINE DEVELOPMENT FOUNDATION		
All Other	\$250,000	\$250,000

STATEMENT OF FACT

This Act creates the Maine Development Foundation to foster and support economic growth in the State, as recommended by the Governor's Task Force on Economic Development.

The Maine Development Foundation serves to establish a partnership between the public sector and the private sector. In particular, the foundation should help the State to capitalize on the initiative and the investments of the private sector through involving the private sector in a leadership role in the economic development effort. The foundation involves State Government, community and regional agencies and the private sector in a wide range of economic development activities to assist and complement existing development efforts and to stimulate new efforts and approaches. Those activities may relate to technical and management assistance, land development, the availability of capital and the promotion of an improved economic climate in the State.

The broad strength of the foundation will come from the interests, resources and energies of its members. The State will provide basic support to the foundation by providing \$250,000 annually to be matched evenly by contributions from other public and private organizations and from individuals. It will be directed by a board made up of 7 private directors, 7 public directors and a president. Its memberships will consist of private and public

organizations and individuals contributing to the foundation, and of ex officio members from the University of Maine and major state agencies.

The Maine Development Foundation should not overshadow or replace the development effort of other public and private organizations but should serve to assist and complement those efforts. The foundation should serve as the basis for sustained economic development resulting from the partnership of the public and private sectors.