

# MAINE STATE LEGISLATURE

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1 (New Draft of S.P. 534, L.D. 1565)

2 FIRST REGULAR SESSION  
3

4 ONE HUNDRED AND ELEVENTH LEGISLATURE  
5

6 Legislative Document

No. 1747

8 S.P. 612

In Senate, June 8, 1983

9 Reported by Senator Violette of Aroostook from the Committee on State  
10 Government and printed under Joint Rule 2.

11 Original bill presented by Senator Trafton of Androscoggin. Cosponsored  
by Senator Twitchell of Oxford, Representative Gwadosky of Fairfield and  
Representative Dillenback of Cumberland.

JOY J. O'BRIEN, Secretary of the Senate

12  
13 STATE OF MAINE  
14

15 IN THE YEAR OF OUR LORD  
16 NINETEEN HUNDRED AND EIGHTY-THREE  
17

18 AN ACT to Create the Finance Authority  
19 of Maine.  
20

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

23 Sec. 1. 5 MRSA §7002, sub-§2, ¶K is enacted to  
24 read:

25 K. The director may provide financial and tech-  
26 nical assistance to local development corpora-  
27 tions to create community industrial buildings in  
28 industrial parks.

29 Sec. 2. 5 MRSA c. 361, sub-c. II is enacted to  
30 read:

31 SUBCHAPTER II

1                   COMMUNITY INDUSTRIAL BUILDINGS PROGRAM

2       §7010. Definitions

3           As used in this subchapter, unless the context  
4 otherwise indicates, the following terms have the  
5 following meanings.

6           1. Carrying costs. "Carrying costs" means  
7 reasonable costs incurred for the maintenance, pro-  
8 tection and security of a community industrial build-  
9 ing prior to occupancy, including, but not limited to,  
10 to, insurance, taxes and interest.

11           2. Community industrial building. "Community  
12 industrial building" means a building of flexible  
13 design whose construction or carrying costs, or both,  
14 are financed through this subchapter for the purpose  
15 of creating new jobs in a municipality resulting from  
16 the sale or lease of the building.

17           3. Industrial park. "Industrial park" means an  
18 area of land that is planned and designed for one or  
19 more industrial buildings.

20           4. Lease. "Lease" means a contract providing  
21 for the use of a project or portions of a project for  
22 a term of years for a designated or determinable  
23 rent. A lease may include an installment sales con-  
24 tract.

25           5. Lessee. "Lessee" means a tenant under lease  
26 and may include an installment purchaser.

27           6. Local development corporation. "Local devel-  
28 opment corporation" means any nonprofit organization  
29 created by a municipality; incorporated under Title  
30 13, chapter 81; Title 13-B or otherwise chartered by  
31 the State; and designed to foster, encourage and  
32 assist the settlement or resettlement of industrial,  
33 manufacturing, fishing, agricultural, recreational  
34 and other business enterprises within the State. A  
35 majority vote of the municipal officers is sufficient  
36 to form a local development corporation, notwith-  
37 standing Title 13, chapter 81.

1           7. Municipality. "Municipality," as used in  
2 this subchapter, means any county, city or town in  
3 the State.

4           8. Rural area. "Rural area" means any area that  
5 is not an urban area as defined in this subchapter.

6           9. Urban area. "Urban area" means any munici-  
7 pality with a population greater than 10,000 persons.

8           §7011. Community Industrial Buildings Fund

9           1. Creation. The Community Industrial Buildings  
10 Fund is created as a nonlapsing revolving fund to be  
11 used by the State Development Office only for the  
12 purposes of this subchapter. There is created within  
13 the fund separate accounts for rural and urban areas,  
14 respectively called the "rural" and "urban" accounts,  
15 which shall be separately charged and credited as  
16 provided under this section according to the location  
17 in a rural or urban area of each community industrial  
18 building.

19           2. Items charged or credited. Operating  
20 expenses of the State Development Office incurred  
21 under this subchapter shall be charged to the fund  
22 and all payments required by this subchapter shall be  
23 credited to it. All State Development Office expenses  
24 that arise out of assistance to local development  
25 corporations under this subchapter shall be charged  
26 solely against the proceeds of the sale or rental of  
27 a community industrial building or all or part of an  
28 industrial park assisted under this subchapter.

29           3. Deposited funds. Money in the fund not cur-  
30 rently needed to meet the obligations of the State  
31 Development Office under this subchapter shall be  
32 deposited with the Treasurer of State to the credit  
33 of the fund with all interest earned by the deposit  
34 credited to the fund.

35           4. Successor to fund. The State Development  
36 Office shall be the successor to the Maine Guarantee  
37 Authority for the purposes of this subchapter. All  
38 properties, rights in land, buildings and equipment  
39 and any funds, moneys, revenues and receipts or  
40 assets of the Maine Guarantee Authority as they apply

1 to the Community Industrial Buildings Program,  
2 including funds previously appropriated by the State  
3 for the Community Industrial Buildings Program, shall  
4 belong to the State Development Office as successor  
5 to the Maine Guarantee Authority. All liabilities of  
6 the Maine Guarantee Authority with respect to the  
7 Community Industrial Buildings Program shall become  
8 liabilities of the State Development Office. Any ac-  
9 tion taken by the Maine Guarantee Authority with  
10 respect to assisting a local development corporation  
11 to create community industrial buildings shall be an  
12 action taken by the State Development Office.

13 §7012. Assistance to development corporations

14 The State Development Office may assist a local  
15 development corporation to construct a community  
16 industrial building by loaning it money, for con-  
17 struction or carrying costs, or both, for the  
18 project, subject to subsection 1.

19 1. Project. The following conditions apply to  
20 the project.

21 A. The project shall be within the scope of this  
22 subchapter, shall be of public use and benefit  
23 and shall reasonably be expected to create new  
24 employment opportunities.

25 B. Within the separate rural and urban accounts,  
26 preference shall be given to projects in economi-  
27 cally deprived areas within labor market dis-  
28 tricts declared to be in need of economic devel-  
29 opment assistance by the Department of Labor; and

30 C. No more than one unoccupied community indus-  
31 trial building project may be financed in a  
32 county at one time.

33 2. Local development corporation. The local  
34 development corporation shall comply with the follow-  
35 ing.

36 A. The local development corporation shall own  
37 or hold on long-term lease the site for the  
38 project.

1 B. The local development corporation, in the  
2 opinion of the State Development Office, shall be  
3 responsible and shall present evidence of its  
4 ability to carry out the project as planned.

5 C. The site owned or leased by the local devel-  
6 opment corporation shall be not less than 4 times  
7 the size of the community industrial building.

8 D. The local development corporation shall pro-  
9 vide and maintain, with funds other than those  
10 provided by the State Development Office, an ade-  
11 quate access road from a public highway to the  
12 proposed site and water, sewer and power facili-  
13 ties. The development corporation will also be  
14 responsible for plowing out the plant site at all  
15 times and for landscaping the building in an  
16 attractive fashion until the building is occupied  
17 by an industrial tenant.

18 E. The local development corporation's project  
19 plans shall comply with applicable zoning, plan-  
20 ning and sanitary regulations in the municipality  
21 where it is to be located. No loan may be  
22 approved and no certificate of approval for the  
23 project or for any subsequent enlargement or ad-  
24 dition to the project may be issued until the  
25 Department of Environmental Protection has certi-  
26 fied to the State Development Office that all  
27 licenses required from the department have been  
28 issued or that none are required.

29 F. The local development corporation shall make  
30 adequate provisions for insurance protection,  
31 fire protection and maintenance of the building  
32 while it is unoccupied.

33 3. Loan terms. Terms for a loan are as follows.

34 A. The State Development Office may prescribe  
35 the terms and conditions of the loan.

36 B. Loans shall be repaid in full, including  
37 interest and other charges within 90 days after  
38 the building is occupied.

1 C. The building financed by a State Development  
2 Office loan may not be sold or leased without the  
3 express approval of the State Development Office  
4 of the purchaser or lessee. If the local develop-  
5 ment corporation and the State Development Office  
6 agree that a community industrial building is  
7 unlikely to be sold in the near future despite a  
8 marketing effort, the State Development Office  
9 may permit an interim lease upon terms it deems  
10 appropriate for the protection of the fund.  
11 Occupation of the premises under an interim lease  
12 shall not require payment in full of the entire  
13 loan within 90 days, as provided in paragraph B.

14 4. Promotion and development. The State Devel-  
15 opment Office shall undertake promotional and public-  
16 ity activities on behalf of community industrial  
17 buildings to properly market them to prospective pur-  
18 chasers or tenants. The office shall maintain a con-  
19 stant and continual effort to secure suitable tenants  
20 or purchasers for these buildings and shall prepare  
21 necessary advertising and promotional materials.

22 5. Taxes. While the community industrial build-  
23 ing remains unoccupied and a first mortgage is held  
24 by the State Development Office, it is declared to be  
25 property held for a legitimate public use and benefit  
26 and shall be exempt from all taxes and special  
27 assessments of the State or any of its political sub-  
28 divisions. This section shall not apply to any commu-  
29 nity industrial building whose construction is not  
30 financed under this chapter.

31 6. Municipality. A municipality may raise or  
32 appropriate money supporting and guaranteeing the  
33 obligation of a chamber of commerce, a board of  
34 trade, a local development corporation, a chamber of  
35 commerce and a local development corporation or a  
36 board of trade and local development corporation for  
37 the purpose of constructing a community industrial  
38 building subject to the provisions of this subchap-  
39 ter.

40 Sec. 3. 5 M RSA c. 401, as amended, is repealed.

41 Sec. 4. 10 M RSA c. 109 is enacted to read:

1 CHAPTER 109

2 MAINE NATURAL RESOURCE CAPITAL CORPORATION

3 §956. Formation; name; purpose

4 There is authorized the formation by the Division  
5 of Natural Resources Financing and Marketing under  
6 Title 13-A of a private investment corporation to be  
7 named the "Maine Natural Resource Capital Corpora-  
8 tion" for the purpose of providing investment capital  
9 to new state natural resource enterprises or to  
10 existing state natural resource enterprises for pur-  
11 poses of expansion.

12 §957. Limitations on purposes and powers

13 The Maine Natural Resource Capital Corporation  
14 shall have all of the general powers of business cor-  
15 porations enumerated in Title 13-A, section 202,  
16 except that:

17 1. Investments and related business deal-  
18 ings. Its financings and related business dealings  
19 shall be restricted to persons eligible for financial  
20 assistance under chapter 110, subchapter I-A. Any  
21 funds so invested in state natural resource enter-  
22 prises by purchase of stock or otherwise shall be  
23 used solely for the purpose of enhancing their pro-  
24 ductive capacities or ability to do business within  
25 the State, or to facilitate their ability to generate  
26 value added within the State to goods or services for  
27 export to out-of-state markets. Financings may  
28 include, in any combination and without limitation,  
29 equity investments, loans, guarantees and commitments  
30 for these financings;

31 2. Investment limited. Its investment in any  
32 one state natural resource enterprise under this  
33 chapter shall be limited to a maximum of \$200,000.  
34 The Maine Natural Resource Capital Corporation shall  
35 not invest in any firm in which a person, or his  
36 spouse or dependent children, owning common stock of  
37 the Maine Natural Resource Capital Corporation holds  
38 over a 25% interest;



1           3. Maximum capitalization. Its maximum capital-  
2 ization shall not exceed \$1,000,000 and shall consist  
3 of 10,000 shares of common stock having a par value  
4 of \$100 per share. All shares offered for sale by the  
5 corporation shall be for cash at their par value;

6           4. Commencement of business. Before it com-  
7 mences doing business, the corporation shall have and  
8 thereafter maintain a board of 11 directors, 7 of  
9 whom shall be the members of the Maine Natural  
10 Resource Financing and Marketing Board and 4 of whom  
11 shall be elected by the shareholders;

12           5. Amount of stock and dividends. The amount of  
13 stock held, its tax status and dividends payable by  
14 the Maine Natural Resource Capital Corporation shall  
15 be governed by the same provisions as applicable to  
16 the Maine Capital Corporation pursuant to section  
17 952, subsections 5 and 6; and

18           6. Financial statement. The Division of Natural  
19 Resources Financing and Marketing shall include in  
20 its report to the authority under section 992 an  
21 audited financial statement detailing the investment  
22 and financial activities of the Maine Natural  
23 Resource Capital Corporation.

24           §958. Initial organization; approval of Commissioner  
25 of Business Regulation

26           The Division of Natural Resources Financing and  
27 Marketing shall take the necessary steps as incorpo-  
28 rators to provide for the initial organization of the  
29 Maine Natural Resource Capital Corporation. The  
30 agency shall file with the Secretary of State the  
31 articles of incorporation of the corporation which  
32 shall reflect the purposes set forth in this section.  
33 It shall further submit to the Commissioner of Busi-  
34 ness Regulation for his approval of their conformity  
35 with the limitations set forth in section 957 the  
36 proposed bylaws of the Maine Natural Resource Capital  
37 Corporation, which shall not be adopted or later  
38 amended without his approval.

39           §959. Subscription and sales of stock; first stock-  
40 holders meeting

1           The division, as and when it deems practicable,  
2 may solicit and receive subscriptions for the issu-  
3 ance and purchase of the shares of the common stock  
4 of the Maine Natural Resource Capital Corporation,  
5 provided that subscriptions for amounts exceeding 10  
6 shares shall be reduced pro rata among subscribers  
7 subscribing for more than 10 shares in the event the  
8 issue is over-subscribed by the termination date as  
9 may be set by the division. At any time in its dis-  
10 cretion after the division has received subscriptions  
11 for at least 2,500 shares, it may call and hold an  
12 organizational shareholders meeting for the purpose  
13 of adopting the proposed bylaws, electing directors  
14 and officers, issuing shares of stock and conducting  
15 any other business which may properly come before the  
16 meeting.

17           Sec. 5. 10 MRSA c. 110, first 2 lines, as  
18 enacted by PL 1981, c. 476, §2, are repealed and the  
19 following enacted in their place:

20                           CHAPTER 110

21                           FINANCE AUTHORITY OF MAINE

22           Sec. 6. 10 MRSA c. 110, sub-c. I, as amended, is  
23 repealed and the following enacted in its place:

24                           SUBCHAPTER I

25                           FINANCE AUTHORITY OF MAINE ACT

26           §961. Finance Authority of Maine Act

27           This chapter shall be known and may be cited as  
28 the "Finance Authority of Maine Act."

29           §962. Purpose

30           There is a statewide need to provide enlarged  
31 opportunities for gainful employment to the people of  
32 the State and to insure the preservation and better-  
33 ment of the economy of the State and its inhabitants;  
34 to provide a more healthy environment through the  
35 restoration of purity to the air, the water or the  
36 earth of the State which are fouled with, among other  
37 things, industrial and other waste materials and

1 pollutants, and to insure the preservation and bet-  
2 terment of the living standards and health of its  
3 inhabitants; to stimulate a larger flow of private  
4 investment funds from banks, investment house insur-  
5 ance companies and other financial institutions,  
6 including pension and retirement funds, to help  
7 finance expansion of industrial, manufacturing,  
8 recreational, fishing, agricultural and other natural  
9 resource based enterprises; and to increase the ac-  
10 cess of smaller business and veterans to financing at  
11 reasonable terms and rates.

12 For these purposes, the Finance Authority of  
13 Maine is established to:

14 1. Mortgage loans. Encourage the making of  
15 mortgage loans to finance the development and expan-  
16 sion of industrial, manufacturing, recreational,  
17 fishing, agricultural and other natural resource  
18 based enterprises;

19 2. Revenue obligation securities. Issue revenue  
20 obligation securities to finance projects permitted  
21 under the United States Internal Revenue Service  
22 Code;

23 3. Assist municipalities. Assist municipalities  
24 to issue revenue obligation securities for financing  
25 projects permitted under the United States Internal  
26 Revenue Service Code;

27 4. Small businesses and veteran-owned small  
28 businesses. Encourage the making of mortgage loans  
29 to small businesses and veteran-owned small busi-  
30 nesses; and

31 5. Natural resource financing. Provide natural  
32 resource financing.

33 The authority will serve a public purpose and  
34 perform an essential governmental function in the  
35 exercise of the powers and duties conferred upon it  
36 by this chapter. Any benefits accruing to private  
37 individuals or associations, as a result of the ac-  
38 tivities of the authority, are deemed by the Legis-  
39 lature to be incidental to the public purposes to be  
40 achieved by the implementation of this Part.

1     §963. Definitions

2             As used in this chapter, unless the context  
3 otherwise indicates, the following terms have the  
4 following meanings.

5             1. Authority. "Authority" means the Finance  
6 Authority of Maine as established by this chapter.

7             2. Maine Small Business Loan Program. "Maine  
8 Small Business Loan Program" means the program as de-  
9 defined in subchapter V.

10            3. Maine Veterans' Small Business Loan Program.  
11 "Maine Veterans' Small Business Loan Program" means  
12 the program as defined in subchapter VI.

13            4. Mortgage Insurance Program. "Mortgage Insur-  
14 ance Program" means the program as defined in sub-  
15 chapter II.

16            5. Municipal Securities Approval Program.  
17 "Municipal Securities Approval Program" means the  
18 program as defined in subchapter IV.

19            6. Natural Resources Financing and Marketing  
20 Programs. "Natural Resources Financing and Marketing  
21 Programs" means the program as authorized under sub-  
22 chapter I-A.

23            7. Revenue Obligation Securities Program. "Rev-  
24 enue Obligation Securities Program" means the program  
25 as defined in subchapter III.

26     §964. Organization and responsibility

27            1. Finance Authority of Maine. The Finance  
28 Authority of Maine is established as a body corporate  
29 and politic and a public instrumentality of the  
30 State, and the exercise by the authority of the  
31 powers conferred by this chapter shall be deemed and  
32 held to be the performance of essential governmental  
33 functions.

34     The Finance Authority of Maine shall be responsible  
35 for the administration of the:

1       A. Mortgage Insurance Program;

2       B. Revenue Obligation Securities Program;

3       C. Municipal Securities Approval Program;

4       D. Maine Small Business Loan Program;

5       E. Maine Veterans' Small Business Loan Program;  
6       and

7       F. Natural Resources Financing and Marketing  
8       Programs.

9           2. Divisions. The Finance Authority of Maine  
10 shall consist of 2 divisions to implement the pro-  
11 grams and perform the duties as defined in this chap-  
12 ter and as required by the authority. The divisions  
13 shall be entitled:

14       A. The Division of Maine Business Development  
15 and Finance; and

16       B. The Division of Natural Resources Financing  
17 and Marketing.

18       §965. Membership

19           The authority shall consist of 12 voting members  
20 and one nonvoting member as follows.

21           1. Selected board members. Four members of the  
22 authority shall consist of:

23       A. Two veterans who shall be selected by the  
24 Governor from the at-large members of the Maine  
25 Veterans' Small Business Loan Authority Board;  
26 and

27       B. Two members who shall be selected by the Gov-  
28 ernor from the public members of the Natural  
29 Resources Financing and Marketing Board.

30           2. Designated members. Three members appointed  
31 by the Governor and subject to review by the joint  
32 standing committee of the Legislature having juris-  
33 isdiction over State Government and subject to confir-  
34 mation by the Legislature shall consist of:

1           A. One member who is a certified public account-  
2           ant;

3           B. One member who is an attorney; and

4           C. One member who is a commercial banker.

5           3. At-large members. Three members appointed by  
6           the Governor and subject to review by the joint  
7           standing committee of the Legislature having juris-  
8           isdiction over State Government and subject to confir-  
9           mation by the Legislature shall be appointed from at  
10          large.

11          4. State members. Three members of the author-  
12          ity shall represent the State and shall consist of:

13          A. The Director of the State Development Office;

14          B. One natural resources commissioner from the  
15          Department of Agriculture, Food and Rural  
16          Resources; the Department of Conservation; or the  
17          Department of Marine Resources; and

18          C. The Treasurer of State as an ex officio, non-  
19          voting member.

20          §966. Terms of office

21          The terms of office for the designated and at-  
22          large members defined in section 965, subsections 2  
23          and 3, shall be for 4 years, except for initial  
24          appointees. The terms of office for the appointees  
25          who are selected board members, as defined in section  
26          965, subsection 1, shall be coterminous with their  
27          terms of office with the boards from which they are  
28          selected.

29          1. Initial terms of office. The initial terms  
30          of office shall apply to the initial designated and  
31          at-large appointees, as defined in section 965, sub-  
32          sections 2 and 3. The initial terms of office for  
33          these members shall be as follows:

34          A. One shall be appointed for one year;

35          B. Two shall be appointed for 2 years;

1           C. Two shall be appoint for 3 years; and

2           D. One shall be appointed for one year.

3 For purposes of determining eligibility for reap-  
4 pointment of the designated and at-large members, the  
5 initial appointments for one or 2 years, as described  
6 in paragraphs A and B, shall not be deemed to be full  
7 terms.

8           2. Limitation on terms; removal. Except for  
9 state members, a member of the authority shall serve  
10 no more than 2 full consecutive terms. Any member of  
11 the board may be removed by the Governor for cause.

12 §967. Compensation; expenses; indemnification

13           A member of the authority shall:

14           1. Compensation. Receive the same per diem  
15 salary as paid to a Legislator for time spent in per-  
16 formance of his duties, except that the state members  
17 shall receive no per diem compensation;

18           2. Expenses. Be reimbursed for actual expenses  
19 at the same rate as paid to state employees; and

20           3. Legal expenses. Be indemnified by the  
21 authority against expenses actually and necessarily  
22 incurred by him in connection with the defense of any  
23 action or proceeding in which he is made a party by  
24 reason of his being or having been a member of the  
25 authority, against any final judgment rendered  
26 against him in that action or proceeding.

27 §968. Administration

28           The authority shall elect one of its members as  
29 chairman; one member as vice-chairman, who shall  
30 serve as secretary; one member as treasurer; and  
31 shall employ a chief executive officer.

32 §969. Powers and duties of the authority

33           The authority may:

34           1. Bylaws. Adopt bylaws for the regulation of  
35 its affairs and the conduct of its business;

1       2. Seal. Adopt an official seal and alter it at  
2 pleasure;

3       3. Office. Maintain an office at a place or  
4 places within the State as it may designate;

5       4. Sue and be sued; services of process. Sue  
6 and be sued in its own name and plead and be  
7 impleaded.

8 Services of process in any action shall be made by  
9 service upon the chief executive officer of the  
10 authority, either in hand or by leaving a copy of the  
11 process at the office of the chief executive officer,  
12 and by sending a copy to the Attorney General;

13       5. Employees. The authority may employ a chief  
14 executive officer and other staff, who shall be  
15 bonded to limits set by the authority. Before the  
16 issuance of any bonds or notes under this chapter,  
17 each employee of the authority shall execute a surety  
18 bond in the penal sum required by the authority, each  
19 such surety bond to be conditioned upon the faithful  
20 performance of the duties of the office of each such  
21 employee, to be executed by a surety company author-  
22 ized to transact business in the State as surety and  
23 to be approved by the Attorney General and filed in  
24 the office of the Secretary of State. At all times  
25 after the issuance of any bonds or notes by the  
26 authority, each employee of the authority shall main-  
27 tain those surety bonds in full force and effect. All  
28 costs of surety bonds shall be borne by the author-  
29 ity. Private legal counsel and other technical and  
30 financial experts, on either a temporary or permanent  
31 basis, may also be employed. The authority shall  
32 determine the qualifications, duties and compensation  
33 of its employees who shall not be subject to Title 5,  
34 chapters 57 and 59. The authority may establish stan-  
35 dards pursuant to which it may delegate its powers  
36 and duties to its staff;

37       6. Agreements for eligible projects. Enter into  
38 agreements with prospective mortgagees and mortgagors  
39 for the purpose of planning, designing, constructing,  
40 acquiring, altering and financing eligible projects;

41       7. Borrow money. Borrow money and issue bonds  
42 as provided in this chapter;



1           8. Use of property. Acquire real or personal  
2 property, or any interest therein, including rights  
3 or easements, on either a temporary or long-term  
4 basis in the name of the authority by gift, purchase,  
5 transfer, foreclosure, lease or otherwise; improve,  
6 hold, sell with or without public bidding, assign,  
7 lease, rent, encumber, mortgage or otherwise dispose  
8 of any real or personal property, or any interest  
9 therein, or mortgage interest owned by it or in its  
10 control, custody or possession and release or relin-  
11 quish any right, title claim, lien, interest, ease-  
12 ment or demand, however acquired, including threat of  
13 foreclosure;

14           9. Lease or rent. Lease or rent any lands,  
15 buildings, structures, facilities or equipment to  
16 further the purposes of this chapter;

17           10. Contracts. Enter into any contracts, leases  
18 and agreements, all other instruments and arrange-  
19 ments necessary, incidental or convenient to the per-  
20 formance of its duties and the execution of its  
21 powers under this chapter;

22           11. Agreements, cooperation, combination with  
23 federal agency and state programs. Also:

24           A. Serve as a clearinghouse for information  
25 relating to financing, management, marketing con-  
26 cerns of Maine businesses and may gather and dis-  
27 seminate information regarding these activities.  
28 The authority shall encourage and coordinate  
29 effective use of existing and new services to  
30 assist Maine business development;

31           B. Receive advice and assistance from, coordi-  
32 nate its programs with or enter into agreements  
33 with the State Development Office, State Planning  
34 Office, Maine State Housing Authority, Maine  
35 Development Foundation, Maine Capital Corpora-  
36 tion, Maine Natural Resource Capital Corporation  
37 and other state agencies with relevant expertise.  
38 Programs authorized in this chapter may be coordi-  
39 minated or combined with other public and private  
40 national, state, regional or local programs that  
41 the authority determines will facilitate the pur-  
42 pose of this subchapter; and

1           C. Enter into agreements with any other state  
2           public body for joint participation in projects;

3           12. Agreements; any person. Enter into agree-  
4           ments or other transactions with any person to fur-  
5           ther the purposes of the authority, including con-  
6           struction agreements, purchase or acquisition agree-  
7           ments, loan or lease agreements, including agreements  
8           conditioned upon the subleasing of the demised prem-  
9           ises, partnership agreements, including limited part-  
10           nership agreements, joint ventures, participation  
11           agreements or loan agreements with leasing corpora-  
12           tions or other financial intermediaries;

13           13. Receive and accept loans, aid or contribu-  
14           tions. Receive and accept loans, aid or contribu-  
15           tions from any source of money, property, labor or  
16           other things of value, to be held, used and applied  
17           to carry out the purposes of this chapter, subject to  
18           the conditions upon which the loans, grants and con-  
19           tributions may be made, including, but not limited  
20           to, loans, gifts or grants from any federal agency,  
21           governmental subdivision or the State and its agen-  
22           cies for any purpose consistent with this chapter;

23           14. Loans. Make, participate in, purchase or  
24           sell loans, or make commitments to do so in accord-  
25           ance with the provisions of this chapter;

26           15. Guarantees. Provide guarantees of the  
27           repayment of loans or other obligations of indebted-  
28           ness provided that guarantees shall be limited to  
29           such percentage of the cost of the project as the  
30           authority may, by rule or statute, determine most  
31           efficacious in achieving the purpose of this chapter;

32           16. Modification and foreclosure. Subject to  
33           any agreement with bondholders or noteholders, the  
34           authority may, where repayment is in default, renegot-  
35           iate the terms of the financing assistance, includ-  
36           ing waiver of the default, or forbearance of all or  
37           part of the financing assistance; or may commence,  
38           prosecute and enforce a judgment in any action,  
39           including, but not limited to, a foreclosure action,  
40           to protect or enforce any right conferred upon it by  
41           law or agreement. The authority may bid for and pur-  
42           chase or otherwise acquire or take possession of

1 property, may complete, administer, pay the principal  
2 of and interest on any obligations incurred in con-  
3 nection with the property and may dispose of and  
4 otherwise deal with the property so as to protect its  
5 interests and the interests of the State as a whole;

6 17. Procure insurance. Procure insurance  
7 against any loss in connection with its property and  
8 other assets in such amounts and from such insurers  
9 as it deems desirable;

10 18. Broker. Serve as a broker, agent or other  
11 financial intermediary or participant for the  
12 encouragement of the flow of private funds into natu-  
13 ral resource enterprises in this State and for the  
14 purchasing, pooling or secondary marketing of obli-  
15 gations issued or incurred in connection with the  
16 financing of projects pursuant to subchapter I-A;

17 19. Fees. Establish and collect fees and  
18 charges for each project authorized under this chap-  
19 ter or other financing assistance, advances, insur-  
20 ance, commitments, technical assistance, publications  
21 and other programs and, to the extent that these  
22 funds or other returns earned by activities of the  
23 authority are not pledged to the repayment of bonds  
24 or notes or other interest on those bonds or notes,  
25 to utilize any accumulated fees to cover the cost of  
26 administration of this chapter;

27 20. Approval of programs and policies. Approve  
28 or disapprove programs and policies presented by the  
29 Board of Directors of the Division of Natural  
30 Resource Financing and Marketing and the Maine Vet-  
31 erans' Small Business Loan Board;

32 21. Expenses. Pay for its administrative,  
33 legal, actuarial and other services, charging  
34 expenses to the appropriate fund;

35 22. Invest funds. Except as otherwise provided  
36 in this chapter, invest any funds not needed for  
37 immediate use, including any funds held in reserve,  
38 in property or securities in which fiduciaries in the  
39 State may legally invest funds;

1           23. Servicing. Contract with other financing  
2 institutions or regional or local agencies for the  
3 origination or servicing of the loans made or pur-  
4 chased by the authority;

5           24. Appearance. Appear in its own behalf before  
6 boards, commissions, departments or agencies of  
7 municipal government, State Government or Federal  
8 Government;

9           25. Other powers. Do any acts and things neces-  
10 sary or convenient to carry out the powers expressly  
11 granted or reasonably implied in this chapter; and

12           26. Establish rules. Establish rules in a man-  
13 ner consistent with the Maine Administrative Proce-  
14 dure Act, Title 5, chapter 375, as it deems necessary  
15 or convenient to carry out the purposes of this chap-  
16 ter.

17           §970. Insured or guaranteed loans for industrial  
18 projects

19           1. Consideration of application. The authority,  
20 prior to its consideration of an application for an  
21 insured or guaranteed industrial development loan or  
22 bonds shall require the applicant to apply to repu-  
23 table firms for insured industrial development bonds.  
24 The authority shall not consider the issuance or the  
25 guarantee of a loan or bonds for an industrial  
26 project unless the applicant:

27           A. Provides satisfactory evidence that applica-  
28 tions to secure insured industrial development  
29 bonds through reputable firms have been denied;  
30 or

31           B. Provides satisfactory evidence that an appli-  
32 cation to secure insured industrial development  
33 bonds through a reputable firm have been approved  
34 and the total cost of the project exceeds  
35 \$2,500,000.

36           The authority shall not insure or guarantee the ini-  
37 tial \$2,500,000 of any and all loans for an indus-  
38 trial project or issue bonds for the initial  
39 \$2,500,000 of an industrial project which is to be

1 insured by a reputable industrial development bond  
2 insurance firm.

3 2. First mortgage or first lien on assets. The  
4 authority shall insure or guarantee an industrial  
5 loan or issue bonds only for which it is the first  
6 mortgagee or holds a first lien on assets satisfac-  
7 tory to support the mortgage or lien. The authority,  
8 together with a reputable industrial development bond  
9 insurance firm, may divide and determine the assets  
10 upon which each shall be the first mortgagee or  
11 secure the first lien.

12 3. Exclusions. This section shall not pertain  
13 to commercial, recreational or other nonindustrial  
14 projects.

15 §971. Decisions of the authority

16 Seven members of the authority shall constitute a  
17 quorum. The affirmative vote of 7 members, present  
18 and voting, shall be necessary for any action taken  
19 by the authority. No vacancy in the membership of the  
20 authority may impair the right of the quorum to exer-  
21 cise all rights and perform all duties of the author-  
22 ity.

23 §972. Chief executive officer

24 The chief executive officer shall be the chief  
25 administrative officer of the authority and shall be  
26 appointed by the Governor, subject to review by the  
27 joint standing committee of the Legislature having  
28 jurisdiction over the State Government and to confir-  
29 mation by the Legislature. At least 10 days before  
30 the Governor seeks review by the joint standing com-  
31 mittee, he shall consult with the Maine Finance  
32 Authority Board regarding his proposed appointee.

33 The chief executive officer shall supervise the  
34 administrative affairs and technical activities of  
35 the authority in accordance with rules and policies  
36 set forth by the authority. The duties of the chief  
37 executive officer shall be to:

38 1. Appoint directors. With the approval of the  
39 authority, appoint the directors of the Division of

1 Business Development and Finance and the Division of  
2 Natural Resources Financing and Marketing. During  
3 the selection process, the authority or its designee,  
4 the chief executive officer, shall consult with the  
5 Natural Resources Financing and Marketing Board con-  
6 cerning the appointment of a director of the Division  
7 of Natural Resources Financing and Marketing;

8       2. Appoint professional and nonprofessional  
9 staff. In consultation with the authority appoint  
10 professional and nonprofessional staff to the Finance  
11 Authority of Maine and to the divisions within the  
12 authority. The staff shall serve at the pleasure of  
13 the chief executive officer. One professional staff  
14 member shall be a veteran and, among other duties,  
15 shall be assigned to work with the Maine Veterans'  
16 Small Business Loan Program. The staff shall be  
17 compensated at a rate determined by the authority;

18       3. Provide for coordination of staff and pro-  
19 grams. Provide for the sharing of staff among the  
20 divisions and the authority and provide for the coor-  
21 dination of administration of common projects and  
22 programs in accordance with section 1002, subsection  
23 2, paragraph N;

24       4. Attend meetings. Attend meetings of the  
25 authority;

26       5. Approve expenses. Approve all accounts for  
27 salaries, per diems, allowable expenses of the  
28 authority, or of any employee or consultant, and  
29 expenses incidental to the operation of the author-  
30 ity;

31       6. Publish an annual report. Make an annual  
32 report to the authority documenting its actions and  
33 make other reports at the request of the authority;

34       7. Maintain a liaison with other state agencies.  
35 Maintain a close liaison with the State Development  
36 Office; Department of Agriculture, Food and Rural  
37 Resources; Department of Conservation; Department of  
38 Marine Resources; and Maine Natural Resource Capital  
39 Corporation and provide assistance to its various  
40 divisions to facilitate the planning and financing of  
41 eligible projects;

1           8. Perform other duties. Perform other duties  
2 directed by the authority in carrying out the pur-  
3 poses of this chapter; and

4           9. Provide information to the Maine Aid to Fam-  
5 ilies with Dependent Children Coordinating Committee.  
6 Provide information to the Maine Aid to Families with  
7 Dependent Children Coordinating Committee established  
8 pursuant to Title 22, section 3773, regarding employ-  
9 ment opportunities available to recipients of Aid to  
10 Families with Dependent Children under this chapter  
11 and assist the committee in the referral and place-  
12 ment of these persons.

13 §973. Conflicts of interest

14           In addition to the limitations of Title 5,  
15 section 18, no member, employee or agent of the  
16 authority and divisions specified in subchapters I-A  
17 and I-B may participate in any action or deliberation  
18 on any contract entered into by a municipality or by  
19 the divisions and authority under this chapter or in  
20 any action or deliberation involving insurance of  
21 payments on a loan to any eligible borrower if the  
22 member has any interest, individually or in any firm,  
23 partnership, corporation, water company, association,  
24 local development corporation or financing institu-  
25 tion which may be a party to the contract or which  
26 may lease, rent, occupy or use a property constructed  
27 by a municipality, financed by the authority or  
28 secured by loan under this chapter, including, but  
29 not limited to, an interest in a financing institu-  
30 tion requesting a loan from or offering to sell loans  
31 or other obligations to the authority. The interest  
32 shall be disclosed to the authority in writing and  
33 shall be set forth in the minutes of the authority.

34 §974. Annual report; audit

35           1. Report. The authority shall submit to the  
36 Governor, the Speaker of the House of Representa-  
37 tives, the President of the Senate and the joint  
38 standing committee of the Legislature having juris-  
39 isdiction over State Government, not later than January  
40 15th of each year, a complete report on the activi-  
41 ties of the authority. The report shall include all  
42 of the following:

1           A. A description of its operations, including a  
2           description of projects financed under subchap-  
3           ters I-A to VI;

4           B. An accounting of its receipts and expendi-  
5           tures, assets and liabilities at the end of its  
6           fiscal year;

7           C. A schedule of the bonds and notes outstanding  
8           at the end of its fiscal year and a statement of  
9           the amounts redeemed and issued during its fiscal  
10          year, including a report on its reserve funds;

11          D. A statement of its proposed and projected ac-  
12          tivities for the ensuing year and the relation-  
13          ship of these activities to the state's economic  
14          development policies;

15          E. Recommendations as to further actions which  
16          may be suitable for achieving the purposes of  
17          this chapter; and

18          F. A statement of the defaults, if any, of per-  
19          sons, firms, corporations and other organizations  
20          receiving assistance under this chapter. This  
21          information shall also be cumulative and shall  
22          include an annual default rate as a percentage of  
23          the total amount of moneys provided in this chap-  
24          ter.

25           2. Treasurer of State; annual financial  
26          report. The authority shall provide the Treasurer of  
27          State, within 90 days of the close of its fiscal  
28          year, its annual financial report certified by an  
29          independent certified public accountant, who may be  
30          the accountant or a member of the firm of accountants  
31          who regularly audits the books and accounts of the  
32          authority, selected by the authority. The authority  
33          shall also be subject to the provisions of Title 5,  
34          chapter 11.

35          §975. Records confidential

36           Except as provided in this section and in sec-  
37          tions 1043 and 1063, no member, officer, agent or  
38          employee of the authority may knowingly divulge or  
39          disclose any information submitted to, or developed



1 by, the authority in connection with an application  
2 for mortgage insurance, revenue obligation securities  
3 or financing of any project under this chapter,  
4 except to the extent that the disclosure is deemed by  
5 the authority to be necessary or convenient for  
6 evaluation of any application submitted to the  
7 authority or for the offering or sale of its bonds or  
8 obligations. This rule of confidentiality shall also  
9 apply to any officer, agent or employee of various  
10 state departments and offices who are concerned with  
11 any project proposal under this chapter.

12 The following exceptions apply to the confiden-  
13 tiality of records.

14 1. Statistical and impersonal information to  
15 Legislature, state or federal agency. The members  
16 may supply statistical and other impersonal informa-  
17 tion about applicants and loans in response to  
18 requests from the Legislature or any state or federal  
19 agency.

20 2. Federal farm credit systems; other financing  
21 institutions. Information concerning applicants for  
22 financing assistance may be given for the confiden-  
23 tial use of the federal farm credit system or other  
24 financing institution in contemplation of the exten-  
25 sion of credit or the collection of loans.

26 3. Credit information; consent. Credit informa-  
27 tion may be given to any person when the person about  
28 whom the information is requested consents to it in  
29 writing.

30 4. Litigation; evidence. In litigation between  
31 a recipient or applicant for financing assistance, or  
32 the successor in interest of that person, and the  
33 authority, any competent evidence may be introduced  
34 with respect to relevant statements made orally or in  
35 writing by or to the authority.

36 5. Information necessary for sale of bonds or  
37 obligations. Information, the disclosure of which is  
38 deemed necessary by the authority for the offering or  
39 sale of its bonds or obligations, may be released.

1           6. Information to legislative commit-  
2 tees. Information from records or files of the  
3 authority may be disclosed or the records or files of  
4 the authority may be provided to a legislative com-  
5 mittee, upon written request from the chairman of the  
6 committee. The information, records or files, may be  
7 used only for the lawful purposes of the committee  
8 and in any actions arising out of investigations con-  
9 ducted by it.

10           7. Statistics; general information. The author-  
11 ity may publish statistics or other information of a  
12 general nature drawn from information declared confi-  
13 dential by this section, so long as the publication  
14 is accomplished in a manner which preserves that con-  
15 fidentiality.

16           8. Information required by Federal Government as  
17 condition for funding. Information required as a  
18 condition or receipt of funds or other property may  
19 be disclosed to the Federal Government.

20       §976. Liberal construction

21           This chapter, being necessary for the welfare of  
22 the State and its inhabitants, shall be liberally  
23 construed. In the event of any conflict between this  
24 chapter and any other law, this chapter shall pre-  
25 vail, but the power and authority granted is deemed  
26 to be in addition to and not in derogation of power  
27 and authority granted by any other law.

28       §977. The Finance Authority of Maine; successor

29           The authority shall be the successor to the Maine  
30 Guarantee Authority, the Maine Veterans Small Busi-  
31 ness Loan Authority and the Maine Small Business Loan  
32 Authority. All properties, rights in land, buildings  
33 and equipment and any funds, moneys, revenues and  
34 receipts or assets of each of the authorities,  
35 including funds previously appropriated by the State  
36 for the Maine Guarantee Authority, the Maine Veterans  
37 Small Business Loan Authority and the Maine Small  
38 Business Loan Authority shall belong to the Finance  
39 Authority of Maine as successor. All liabilities of  
40 the Maine Guarantee Authority, the Maine Veterans  
41 Small Business Loan Authority and the Maine Small

1 Business Loan Authority shall become liabilities of  
2 the Finance Authority of Maine. Any resolution with  
3 respect to the issuance of bonds or insurance by the  
4 Maine Guarantee Authority, the Maine Veterans Small  
5 Business Loan Authority, the Maine Small Business  
6 Loan Authority and any other action taken by them  
7 with respect to assisting in the financing of any  
8 project shall be a resolution of the Finance Author-  
9 ity of Maine or an action taken by the Finance  
10 Authority of Maine.

11 §978. Governmental function

12 The Finance Authority of Maine shall administer  
13 and exercise the authority granted to it by this  
14 chapter. The carrying out of its powers and duties is  
15 deemed the performance of an essential governmental  
16 function.

17 Sec. 7. 10 MRSA c. 110, sub-cc. I-A and I-B are  
18 enacted to read:

19 SUBCHAPTER I-A

20 NATURAL RESOURCES FINANCING AND MARKETING PROGRAMS

21 §981. Legislative findings

22 The Legislature has consistently found that agri-  
23 culture, forestry and fisheries are major industries  
24 in the State, contributing substantially to the  
25 state's overall economy, essential to the maintenance  
26 and strengthening of rural life and values and neces-  
27 sary to the preservation of the health, safety and  
28 welfare of all of the people of the State. The Legis-  
29 lature also recognizes that food and fiber production  
30 is an appropriate use of the natural resources of the  
31 State. The Legislature finds that the survival of the  
32 family farm and of fishing and forestry enterprises  
33 is of special concern to the people of the State and  
34 that the ability of these enterprises to prosper,  
35 while producing an abundance of high quality food and  
36 fiber, deserves a place of high priority in the  
37 determination of public policy. In addition, the  
38 Legislature specifically finds:

1           1. Existing conditions. Compared with the  
2 national average, Maine is a capital-short State,  
3 with particular lack of long-term debt and equity  
4 capital. The existing interest rates and the existing  
5 pattern of lending to the agricultural, forestry and  
6 fishing industries are constraining the optimal eco-  
7 nomic use of farm, fisheries and forest resources.  
8 The State, in the past, has been overly reliant on  
9 the financing programs of the Federal Government,  
10 particularly the Farmers Home Administration. The  
11 ordinary operations of private enterprise in the  
12 State have not corrected this condition, leaving  
13 Maine vulnerable to changes in federal policy. Farm  
14 debt has risen much faster than gross income, with  
15 the cost of borrowing money rising more rapidly than  
16 any other production cost. Similar financing diffi-  
17 culties confront other natural resource enterprises,  
18 particularly wood-processing and other value-added  
19 enterprises;

20           2. New natural resource enterprises. New natu-  
21 ral resource enterprises face particular problems in  
22 obtaining adequate financing. There are more full-  
23 time farmers going out of business than entering  
24 farming, a problem which is caused, in part, because  
25 loans for new farmers for agricultural land, improve-  
26 ments and operations are either unavailable or  
27 unaffordable through the conventional credit markets.  
28 There are increasing numbers of new, small and part-  
29 time farmers whose needs are not adequately served by  
30 any existing financing or technical assistance pro-  
31 grams;

32           3. Marketing and technical assistance. Enter-  
33 prises adding the greatest value by conversion of  
34 native raw products and by promotion of raw and pro-  
35 cessed Maine products are of particular benefit to  
36 the State. Producers and processors of natural  
37 resource products are not receiving sufficient assis-  
38 tance in marketing and management. There is an over-  
39 all lack of a statewide marketing strategy for natu-  
40 ral resource products and producers of these products  
41 do not receive the market information, technical  
42 assistance or market service necessary to optimize  
43 their marketing and profits. There is a need for  
44 technical assistance and training in business manage-  
45 ment, particularly among new, small and part-time  
46 participants in natural resource enterprises;

1           4. Resulting problems. The lack of affordable  
2 financing options and marketing and other technical  
3 assistance jeopardizes the maintenance of agricul-  
4 tural, forestry and fishery operations at present  
5 levels and makes expansion and diversification of  
6 these enterprises more difficult. The lack of appro-  
7 prate financing and technical assistance is contrib-  
8 uting to the abandonment of agricultural lands in the  
9 State. The inability to continue agricultural, for-  
10 estry and fishery operations at current or expanded  
11 levels jeopardizes the continued existence of  
12 family-owned natural resource enterprises and lessens  
13 the supply of locally produced food and fiber avail-  
14 able to fulfill the needs of the citizens of this  
15 State. The constraints on the operation and expansion  
16 of natural resource enterprises decrease the avail-  
17 able employment, particularly in rural areas and  
18 result in the problems attendant on unemployment.  
19 The threat to the viability of the family farm and  
20 other natural resource enterprises directly threatens  
21 the essence of the rural values and way of life, to  
22 the detriment of the welfare of all the people of the  
23 State;

24           5. Public necessity. The existing situation  
25 will not be relieved or improved through the opera-  
26 tion of private enterprise alone. It is necessary,  
27 desirable and in the best interest of the welfare of  
28 all of the citizens of the State that provisions be  
29 made for the establishment of an independent state  
30 organization to work with existing public and private  
31 institutions to promote the development of natural  
32 resources by making available to persons engaged in  
33 natural resource enterprises or wishing to enter  
34 these enterprises, adequate marketing and technical  
35 assistance, as well as adequate financing opportuni-  
36 ties, at interest rates lower than would be otherwise  
37 obtainable; and

38           6. Public purpose and benefit. The division is  
39 established to stimulate the economy, to reduce unem-  
40 ployment, to support community development and to  
41 assure an adequate supply of food and fiber, in all  
42 respects for the benefit of the people of the State  
43 and for the improvement of their health, safety and  
44 welfare. The division will be serving a public pur-  
45 pose and performing an essential governmental func-

1 tion in the exercise of the powers and duties con-  
2 ferred upon it by this subchapter. Any benefits ac-  
3 cruing to private individuals or associations, as a  
4 result of the activities of the division, are deemed  
5 by the Legislature to be incidental to the public  
6 purposes to be achieved by the implementation of this  
7 subchapter.

8 §982. Purpose

9 The purposes of this subchapter include:

10 1. General. To relieve those conditions which  
11 now exist which represent difficulties in natural  
12 resource enterprise financing and development and to  
13 assist in planning, coordinating and implementing  
14 programs that will encourage further public and pri-  
15 ivate participation and investment to achieve this  
16 end;

17 2. Current and increased production. To main-  
18 tain the land and water base necessary to the produc-  
19 tion of food and fiber and to encourage the continua-  
20 tion and expansion of successful production of the  
21 natural resource products of the State in order to  
22 secure adequate food and fiber to the people of the  
23 State, to secure markets and to assure the stability  
24 of the local economy;

25 3. Value added. To encourage the creation and  
26 expansion of processing or manufacturing enterprises  
27 adding value to agricultural, forestry and fisheries  
28 products, grown or harvested in the State;

29 4. Market improvements. To coordinate, improve  
30 and expand the marketing of raw, processed and manu-  
31 factured products of the fisheries, farms and forests  
32 of the State;

33 5. Employment opportunities. To expand oppor-  
34 tunities for full and part-time gainful employment  
35 and facilitate entry into farming, fishing and for-  
36 estry in order to maintain adequate food and fiber  
37 production capabilities in the State and to improve  
38 the unemployment situation in the State and the  
39 demands on state services which arise because of  
40 unemployment and related problems;

1           6. Expanded participation of lending insti-  
2 tutions and improved credit opportunities. To pro-  
3 vide for additional capital resources for natural  
4 resource enterprises from the sale of bonds and to  
5 otherwise make adequate credit available at interest  
6 rates that enable persons to enter, maintain and  
7 expand natural resource enterprises; to encourage the  
8 investment of private capital and the diversification  
9 and competition among financing institutions in the  
10 natural resource sector; and

11           7. Improved technical assistance. To provide a  
12 central source for credit information and other  
13 financial management training and services to far-  
14 mers, fishermen and foresters to better enable them  
15 to obtain adequate financial assistance from existing  
16 sources and to provide similar technical assistance,  
17 research and service in marketing products of natural  
18 resource enterprises.

19           §983. Definitions

20           As used in this subchapter, unless the context  
21 otherwise indicates, the following terms have the  
22 following meanings.

23           1. Agricultural land. "Agricultural land" means  
24 land capable of supporting commercial farming or for-  
25 estry production.

26           2. Authority. "Authority" means the Finance  
27 Authority of Maine.

28           3. Authority lease. "Authority lease" means a  
29 lease by the authority containing an option to pur-  
30 chase a natural resource enterprise for a nominal sum  
31 upon payment in full, or other provision therefor, of  
32 all bonds issued in connection with the natural  
33 resource enterprise and all other expenses in connec-  
34 tion with the natural resource enterprise; or a lease  
35 containing an option to purchase a natural resource  
36 enterprise at any time, as provided in the lease,  
37 upon payment of the purchase price which shall be  
38 sufficient to pay all bonds issued in connection with  
39 the natural resource enterprise and all interest in  
40 the enterprise and all other expenses incurred by the  
41 authority in connection with the natural resource

1 enterprise, but which payment may be made in the form  
2 of one or more notes of the lessee providing for  
3 timely payments delivered to the authority.

4 4. Board of directors. "Board of directors"  
5 means the Board of Directors of the Division of Natu-  
6 ral Resources Financing and Marketing.

7 5. Bond. "Bond" means any interest bearing evi-  
8 dence of indebtedness issued by the authority pur-  
9 suant to this chapter.

10 6. Division. "Division" means the Division of  
11 Natural Resources Financing and Marketing within the  
12 Finance Authority of Maine.

13 7. Entrant to natural resource enter-  
14 prises. "Entrant to natural resource enterprises"  
15 means an individual who engages in natural resource  
16 enterprises or wishes to engage in natural resource  
17 enterprises and who, together with his spouse and  
18 dependent children, has an aggregate net worth of  
19 less than \$100,000.

20 8. Facility. "Facility" means any building or  
21 other improvement or any equipment or other personal  
22 property necessary or suitable for use in natural  
23 resource enterprises.

24 9. Family farm corporation. "Family farm corpo-  
25 ration" means a corporation formed for the purpose of  
26 farming and ownership of agricultural land in which  
27 at least 2/3 of the stock is held by members of a  
28 family related to each other within the 3rd degree of  
29 consanguinity or affinity including the spouses,  
30 sons-in-law and daughters-in-law of any such family  
31 member according to the rules of common law.

32 10. Federal Government. "Federal Government"  
33 shall include the United States or any authority or  
34 instrumentality, corporate or otherwise, of the  
35 United States, including, but not limited to, the  
36 Federal Land Bank, the Federal Intermediate Credit  
37 Bank and the Bank for Cooperatives.

38 11. Financing assistance. "Financing assis-  
39 tance" shall include guarantees, insurance, financing



1 credits, loans or the purchase or discounts thereof,  
2 letters of credit, financing assistance payments or  
3 other similar financial arrangements where the assets  
4 of the authority are utilized, pledged or otherwise  
5 committed.

6 12. Financing institution. "Financing institu-  
7 tion" means any bank, trust company, national banking  
8 association, savings bank, savings and loan associa-  
9 tion, federal savings and loan association, indus-  
10 trial bank, mortgage company, insurance company,  
11 credit union, local development corporation or any  
12 other institution or entity authorized to do business  
13 in this State, or any state or federal government  
14 agency which customarily provides financing assist-  
15 ance or otherwise aids in the financing of natural  
16 resource enterprises.

17 13. Loan. "Loan" means any authority or divi-  
18 sion lease or other agreement under this chapter by  
19 which the authority or division agrees to provide  
20 funds to a borrower.

21 14. Natural resource enterprise. "Natural  
22 resource enterprise" means a business endeavor  
23 engaged in production, harvesting, manufacturing,  
24 processing, storing, packaging or marketing of agri-  
25 cultural, forestry, fisheries or related products,  
26 including aquaculture, but shall not include whole-  
27 sale or retail food enterprises, except when an  
28 enterprise is owned by a producer and serves as an  
29 outlet for that producer's food product.

30 15. Note. "Note" means any instrument which is  
31 the recognized legal evidence of a debt, including  
32 but not limited to, debentures, mortgage certificates  
33 or revenue anticipation notes.

34 16. Seller-sponsored loan. "Seller-sponsored  
35 loan" means a loan to an entrant to natural resource  
36 enterprises in which all or part of the purchase  
37 price of agricultural land and associated facilities  
38 is financed by a loan from the seller of the property  
39 who is a natural person or a family farm corporation  
40 and for which the interest rate is at least 3% less  
41 than the rate charged by the Federal Land Bank at the  
42 time the loan is made.

1     §984. Division of Natural Resources Financing and  
2             Marketing

3             1. Implementation of programs. The Division of  
4     Natural Resources Financing and Marketing shall be  
5     responsible for the implementation of the Natural  
6     Resources Financing and Marketing Programs.

7             2. Powers and duties. The division shall have  
8     all the powers and duties necessary to carry out the  
9     purposes and provisions of this subchapter, except  
10    those reserved to the authority, including, but not  
11    limited to, the power to:

12            A. In cooperation with the University of Maine  
13            and other state, local and federal agencies or  
14            instrumentalities, conduct studies, including  
15            studies concerning land use and availability,  
16            financial management and marketing, to analyze  
17            the situation and needs of those persons in the  
18            State engaged in or wishing to enter natural  
19            resource enterprises. The division may develop  
20            plans and recommendations as to its role and the  
21            role of the State generally in facilitating the  
22            development of natural resource enterprises;

23            B. Make and execute agreements, contracts and  
24            other instruments, with any public or private  
25            entity, including, but not limited to, contracts  
26            with architectural, engineering, accounting, con-  
27            struction, marketing and financial experts or  
28            management agreements for the management of any  
29            properties or functions of the division or other  
30            partnership or joint venture arrangements;

31            C. Receive and accept appropriations, gifts,  
32            grants, loans, contributions of property or any  
33            interest therein, labor or other items of value  
34            from public or private entities including, with-  
35            out limitation, any grants, funds or property  
36            from any agency or instrumentality of the United  
37            States accepted pursuant to paragraph N;

38            D. Provide to public and private entities tech-  
39            nical assistance and advice related to purposes  
40            of this subchapter, including:

1           (1) Establishment of an expert advisory  
2           group which shall be available, upon  
3           request, to consult with financing insti-  
4           tutions as to the merits of loan applica-  
5           tions for natural resource enterprises;

6           (2) Provision of advice to persons engaged  
7           or seeking to be engaged in natural resource  
8           enterprises as to the nature and source of  
9           relevant governmental assistance programs;  
10          and

11          (3) Provision of advice and educational  
12          programs as to production, processing,  
13          marketing and managing natural resource  
14          enterprises;

15          E. Contract with financing institutions to make  
16          natural resource enterprise loans on behalf of  
17          the division. In establishing a financing pro-  
18          gram pursuant to this paragraph, the division  
19          shall establish guidelines for the operation of  
20          and participation in loan programs and shall  
21          assure compliance with those guidelines. Loans  
22          made under this paragraph shall not exceed  
23          \$250,000. The division shall promulgate regula-  
24          tions governing eligibility which take into con-  
25          sideration the established guidelines and the  
26          ability of applicants to compete successfully in  
27          the private lending market and to pay amounts at  
28          which private enterprise is providing natural  
29          resource financing; in promulgating such regula-  
30          tions, the division may establish income or asset  
31          limitations for eligibility.

32          The division may, without contracting with a  
33          financing institution, make natural resource  
34          enterprise loans only in one or more areas of the  
35          State, to the extent that no financing insti-  
36          tutions, after both initial and such successive  
37          reasonable opportunities as the division shall  
38          provide, has contracted with the division to par-  
39          ticipate in a natural resource enterprise loan  
40          program;

41          F. Subject to approval by the authority, develop  
42          mechanisms for guaranteeing repayment of loans or

- 1           other obligations of indebtedness incurred in  
2           connection with natural resource enterprises;
- 3           G. Subject to approval by the authority, adopt,  
4           amend and repeal rules to carry out the purposes  
5           of this subchapter, consistent with Title 5,  
6           chapter 375, subchapter II;
- 7           H. Conduct examinations and investigations and  
8           hear testimony and take evidence under oath on  
9           any matter material to its functions and plans,  
10           issue subpoenas requiring the attendance of wit-  
11           nesses or the production of documents or other  
12           evidence;
- 13           I. Develop, through the board of directors, pro-  
14           grams and policies and related rules to carry out  
15           the purposes of this subchapter, subject to the  
16           approval of the authority;
- 17           J. Take, in addition to the other powers enumer-  
18           ated in this section, such actions as may be  
19           necessary to qualify as an "other financing  
20           institution" as that term is defined by the Fed-  
21           eral Intermediate Credit Bank, to participate in  
22           an agricultural credit corporation or to act in  
23           any similar way to achieve the purposes of this  
24           subchapter;
- 25           K. Serve as a clearinghouse for information  
26           relating to financing, management, marketing con-  
27           cerns of natural resource enterprises and may  
28           gather and disseminate information regarding  
29           these activities. The division shall encourage  
30           and coordinate effective use of existing and new  
31           services to assist natural resource enterprise  
32           development;
- 33           L. Receive advice and assistance from, and coord-  
34           inate its programs with, the State Development  
35           Office, the Maine State Housing Authority, the  
36           Maine Development Foundation, the Maine Capital  
37           Corporation, the Maine Natural Resource Capital  
38           Corporation and other state agencies with rele-  
39           vant expertise. In addition, programs authorized  
40           in this subchapter may be coordinated or combined  
41           with other public and private national, state,

1 regional or local programs that the agency deter-  
2 mines will facilitate the purposes of this sub-  
3 chapter;

4 M. Enter into agreements for joint participation  
5 in projects. The state public body may dedicate,  
6 sell, convey or lease any of its interest in any  
7 property or grant easements, licenses or any  
8 other rights or privileges to the authority and  
9 may cause roads, water or similar community  
10 facilities or educational programs, or any other  
11 works or services which it is otherwise empowered  
12 to undertake, to be furnished or located so as to  
13 be most beneficial to any project of the division  
14 or the authority. The state public body may also  
15 plan or replan, zone or rezone any area or make  
16 exceptions from building regulations, permits or  
17 ordinances as it is otherwise empowered to do in  
18 connection with any project of the authority and  
19 undertake other similar activities to aid and  
20 cooperate in the planning or operation of pro-  
21 grams of the division or the authority; and

22 N. Be designated by the Governor as the public  
23 agency of the State to receive federal funds  
24 available to the State in relation to financing  
25 natural resource enterprises and once designated  
26 is authorized to receive and expend these funds.

27 §985. The Natural Resource Financing and Marketing  
28 Board

29 1. Membership of the board. The board of direc-  
30 tors of the division shall consist of 7 voting mem-  
31 bers, including the Commissioner of Conservation, the  
32 Commissioner of Marine Resources and the Commissioner  
33 of Agriculture, Food and Rural Resources, or their  
34 designees, and 4 public members appointed by the Gov-  
35 ernor, subject to the approval of the joint standing  
36 committee of the Legislature having jurisdiction over  
37 State Government and to confirmation by the Senate.  
38 The 4 public members shall be knowledgeable in the  
39 field of natural resource enterprises or financing.  
40 Designees of the commissioners shall be limited to  
41 those persons holding major policy-influencing posi-  
42 tions, as defined by Title 5, section 711, subsection  
43 2. Two of the public members shall be designated by

1 the Governor as members of the authority. The Treas-  
2 urer of State shall be an ex officio, nonvoting  
3 member of the board.

4 2. Organization. The board of directors shall  
5 elect a chairman and may elect other officers from  
6 among its members. The board of directors shall meet  
7 at the call of the chairman or at the request of any  
8 3 members. The chairman and the other officers shall  
9 serve in those capacities for a period of one year  
10 following their election. Five members shall consti-  
11 tute a quorum and an affirmative vote of a majority  
12 of those voting shall be necessary for any official  
13 action.

14 3. Terms of appointment and compensation. The  
15 public members shall be appointed for terms of 4  
16 years, except that, of the initial appointees, one  
17 shall be appointed for one year, one for 2 years, one  
18 for 3 years and one for 4 years. Any vacancy shall be  
19 filled by an appointment for the remainder of the  
20 unexpired term. Each public member shall receive the  
21 same per diem salary as paid to Legislators for serv-  
22 ices at hearings of the board of directors and shall  
23 be entitled to payment of necessary expenses, con-  
24 sistent with Title 5, section 13 for attending any  
25 such meetings or hearings or for any other expenses  
26 incurred in connection with the official business of  
27 the board of directors, under the authorization of  
28 the board. Payment of expenses shall be approved by  
29 the director and the chairman.

30 4. Staff. The director of the division shall be  
31 employed pursuant to section 972, subsection 1. Other  
32 staff shall be provided by the authority pursuant to  
33 section 969, subsection 5 and section 972, subsec-  
34 tions 2 and 3. The division may establish standards  
35 pursuant to which it may delegate its powers and  
36 duties to the staff, but shall not delegate loan  
37 approval pursuant to section 984, subsection 2, para-  
38 graphs E and G, where the loan is not secured by a  
39 mortgage.

40 §986. General standards and duties

41 In the implementation of this subchapter and in  
42 the specific selection of persons, programs and

1 projects to receive its assistance, the following  
2 powers, duties and standards shall apply.

3 1. Ownership. The authority shall not become an  
4 owner of land or facilities, except on a temporary  
5 basis where necessary to protect its investments, to  
6 maintain land in natural resource production, to  
7 facilitate transfer of lands or facilities for the  
8 use of entrants to natural resource enterprises or to  
9 otherwise implement its programs, provided that this  
10 limitation shall not apply to any development rights  
11 related to agricultural land which may be acquired by  
12 the authority, which rights may be retained by the  
13 authority, nor shall this section apply to any prop-  
14 erty acquired pursuant to section 984, subsection 2,  
15 paragraph C. During the period of time that the  
16 authority may hold any such property, it is declared  
17 to be public property used for essential public and  
18 governmental purposes.

19 2. Accepted business standards. The authority  
20 shall exercise diligence and care in selection of  
21 persons and projects to receive its assistance and  
22 shall apply reasonable business and lending standards  
23 in selection and subsequent implementation of the  
24 programs and individual agreements authorized by this  
25 subchapter.

26 3. Delegation. In addition to section 984, the  
27 authority may delegate primary responsibility for  
28 determination and implementation of a project to any  
29 federal agency which assumes an obligation to repay  
30 any loan, either directly or by insurance or guar-  
31 antee, for that project.

32 4. Procure insurance. The authority may procure  
33 insurance from public or private entities against any  
34 loss in connection with its operations and property  
35 interests, including insurance for any loss in con-  
36 nection with any bonds or obligations held by it and  
37 any of its property or assets and for payment of any  
38 bonds or obligations issued by it. To the maximum  
39 extent possible, the authority shall use the mortgage  
40 insurance program established pursuant to subchapter  
41 II.

1           5. Exercise of departmental authority. Upon the  
2 concurrence of the applicable commissioner, the  
3 authority may exercise such powers of the Department  
4 of Conservation, the Department of Marine Resources  
5 or the Department of Agriculture, Food and Rural  
6 Resources as may be necessary to the purposes of this  
7 subchapter.

8           6. Nondiscrimination. The opportunity to  
9 receive assistance from the division or the author-  
10 ity, directly or indirectly, shall be open to all  
11 persons regardless of race, creed, color, sex,  
12 national origin, age, physical or mental impairment  
13 or religion. The division and the authority shall  
14 assure the availability of its programs on an equi-  
15 table basis in all geographic areas of the State,  
16 provided that this section does not preclude the  
17 division or the authority from identifying areas of  
18 the State which may be better suited to certain natu-  
19 ral resource enterprises than others and does not  
20 preclude the division or the authority from recog-  
21 nizing the value of a critical mass of natural  
22 resource economic activity in given areas.

23           7. Maximum amounts. The authority may, by rule,  
24 determine the portion of a project or class of  
25 projects to be financed by it, but in no case may the  
26 authority finance or guarantee more than 90% of the  
27 total value of a project.

28           §987. Standards for financing assistance

29           In addition to the applicable provisions of  
30 section 986, financing assistance shall not be pro-  
31 vided for except upon a finding that the following  
32 criteria have been satisfied.

33           1. Residence. If the person is seeking assis-  
34 tance for the purchase of agricultural land, the  
35 person is a resident of the State, or in the case of  
36 corporations, partnerships, joint ventures or other  
37 associations, the majority interest of the associa-  
38 tion shall be beneficially owned by residents of the  
39 State. If the person, corporation, partnership,  
40 joint ventures or other association is seeking assis-  
41 tance for some other purpose, a preference shall be  
42 given to residents.



1           2. Location. The land, facilities and related  
2 property involved in the natural resource enterprise  
3 are or will be located within the State.

4           3. Experience. The person has sufficient educa-  
5 tion, training, ability and expertise in the type of  
6 natural resource enterprise for which financing  
7 assistance is requested.

8           4. Access to resources. The person has or will  
9 have access to adequate resources in addition to the  
10 financing assistance provided under this subchapter  
11 to commence or continue the enterprise.

12           5. Capital markets. The project may not be  
13 financed through national markets for buying and  
14 selling long-term loanable funds in the form of  
15 bonds, mortgages and the like.

16           6. Agricultural land. If the loan is for the  
17 acquisition of agricultural land, the person agrees  
18 in writing for the duration of the loan to follow  
19 such soil conservation and related standards as the  
20 division shall, by rule, adopt; not to convey the  
21 land without written permission of the division and,  
22 in the case of farmland within the definition of  
23 Title 36, section 1102, to apply and continue to  
24 elect to apply during the period of receipt of  
25 financing assistance for farm and open space classi-  
26 fications under Title 36, chapter 105, subchapter X.  
27 This agreement shall be recorded in the registry of  
28 deeds for the county or counties where the land is  
29 located.

30           7. State policy. The natural resource enter-  
31 prise will comply with enunciated state policy  
32 regarding soil conservation, environmental protec-  
33 tion, agricultural development and similar state  
34 initiatives. In particular, all projects receiving  
35 financing assistance through the authority shall be  
36 in accordance with any plan adopted pursuant to  
37 section 984, subsection 2, paragraph A and with the  
38 applicable planning, zoning, sanitary and building  
39 laws, ordinances and regulations of the State and of  
40 the locality in which the project is situated.

1           8. Public benefit. The natural resource enter-  
2 prise will provide for the betterment of the health  
3 and welfare of the inhabitants of the State and make  
4 a significant contribution to either the economic  
5 growth of the community or to the retention of agri-  
6 cultural land in production. For purposes of this  
7 section, the division shall, by rule, adopt criteria  
8 defining the acceptable impact on employment, natural  
9 resource production, harvesting, marketing, land use  
10 and other factors. In reaching its determination in  
11 this regard, the division shall be guided by the  
12 provisions of sections 981 and 982.

13           §988. Financing assistance to natural resource  
14 enterprises

15           The authority may provide financing assistance or  
16 participate in providing financing assistance to eli-  
17 gible persons under this section and section 997 in  
18 the following manner.

19           1. General conditions. Before providing any  
20 financing assistance pursuant to this subchapter, the  
21 authority shall make a finding that the receipts of  
22 the authority will at all times be sufficient to pay  
23 the principal of, and the interest on, the obli-  
24 gations of the authority as they become due and pay-  
25 able and shall create and maintain reserves for that  
26 purpose. Financing assistance provided pursuant to  
27 this subchapter may be on such terms and conditions  
28 as may be agreed upon by the division and the author-  
29 ity from time to time. These terms may include, but  
30 are not limited to, requirements as to prepayment,  
31 period of repayment, interest rate, rentals, project  
32 design and planning, security requirements and evi-  
33 dences of indebtedness. The division or the authority  
34 may require a borrower to execute a note, loan agree-  
35 ment or other evidence of indebtedness and furnish  
36 additional assurances and guarantees, including  
37 insurance, reasonably related to protecting the  
38 security of the loan.

39           2. Assured compliance. The authority may, by  
40 rule, provide for permitted assumptions of loans or  
41 for other transfers of interest in property financed  
42 by the authority to persons who are otherwise quali-  
43 fied to receive assistance under this chapter. In all

1 other cases, the person receiving the financing  
2 assistance shall agree, in writing, to use the land  
3 or property so acquired only for the purposes speci-  
4 fied in the application to or subsequent written  
5 agreement with the authority and to provide the  
6 authority with reasonable access to his books,  
7 records and property to determine compliance with  
8 this subchapter and the rules of the authority. These  
9 agreements shall be recorded in the registry of deeds  
10 for the county or counties in which the property is  
11 located.

12 The authority, at its option, may declare immediately  
13 payable all amounts due the authority if all or a  
14 part of the land, facilities or other property  
15 involved is leased, sold or otherwise transferred to  
16 another person.

17 §989. Financing assistance to and purchases of loans  
18 from financing institutions

19 Financing arrangements established pursuant to  
20 this section shall be designed to expand the supply  
21 of funds available in the State for natural resource  
22 enterprise loans and to otherwise provide funds to  
23 achieve the legislative purposes consistent with the  
24 following.

25 1. Financing assistance authorized. The author-  
26 ity may make and contract to provide financing assis-  
27 tance to financing institutions on terms and condi-  
28 tions it determines are reasonably related to pro-  
29 tecting the security of the investment of the author-  
30 ity and to implementing the purposes of this subchap-  
31 ter. Financing institutions are authorized to borrow  
32 from the authority for providing financing assistance  
33 under this subchapter.

34 2. Purchase authorized. The authority may pur-  
35 chase and make advance commitments to purchase mort-  
36 gages, secured loans or similar obligations or part  
37 thereof made to natural resource enterprises from  
38 financing institutions at such prices and upon such  
39 terms and conditions as it determines appropriate.  
40 The total purchase price for all these obligations  
41 shall not exceed the total of the unpaid principal  
42 balances of the loans purchased, nor shall anything

1 in this section empower the authority to purchase  
2 from financing institutions those mortgages or other  
3 instruments or participations therein which represent  
4 obligations incurred by the obligor more than 6  
5 months prior to the date of purchase by the author-  
6 ity. Financing institutions are authorized to sell  
7 mortgages, secured loans or similar obligations to  
8 the authority in accordance with this section and the  
9 rules of the authority.

10 3. Sale. The authority may sell any of the  
11 obligations described in subsection 2 to financing  
12 institutions or to fiduciaries or retirement funds  
13 lawfully doing business in the State.

14 4. Other arrangements. The division or the  
15 authority may enter other financial arrangements or  
16 joint ventures with financing institutions and these  
17 institutions are authorized to participate with the  
18 division or the authority to provide financing assis-  
19 tance to natural resource enterprises.

20 5. Rules. Prior to entering arrangements to  
21 provide financing assistance under this section, the  
22 authority shall adopt rules including, but not  
23 limited to, those addressing the following:

24 A. Interest rates and other terms, provided that  
25 the interest rates and other terms of loans to  
26 financing institutions made from the proceeds of  
27 bonds or notes of the authority shall be at least  
28 sufficient to assure the payment of the bonds or  
29 notes and the interest on them as they become  
30 due;

31 B. The time within which participating financing  
32 institutions must make commitments and disburse-  
33 ments for natural resource enterprise loans;

34 C. The required evidence of indebtedness and the  
35 type, amount, identification, deposit or other  
36 method of holding of qualified collateral or  
37 other security to be pledged by participating  
38 financing institutions to assure repayment of  
39 loans from the authority;

1 D. Standards and limitations recommended by the  
2 division as to the type of projects to be  
3 financed;

4 E. Procedures for the submission of requests or  
5 the invitation of proposals from financing insti-  
6 tutions;

7 F. Schedules of fees and other charges to be  
8 made by the authority or the participating  
9 financing institution, or both, in accepting,  
10 acting upon or renewing applications for financ-  
11 ing assistance under this section;

12 G. Limitations on the rate of return on natural  
13 resource enterprise loans made by financing  
14 institutions pursuant to this section;

15 H. Methods of certification to the authority of  
16 the time, amount and nature of commitments made  
17 and of compliance with the standards of this  
18 chapter and rules of the authority; and

19 I. Warranties to assure the security of the  
20 loans and compliance with this chapter.

21 6. Records. The authority shall require the  
22 appropriate recording of an assignment of a mortgage  
23 loan purchased by it from a financing institution and  
24 may provide for other recording or notification. The  
25 authority is not required to inspect or take posses-  
26 sion of the mortgage documents, if the financing  
27 institution from which the loan is purchased enters a  
28 contract to service the loan and account to the  
29 authority for it.

30 7. Enforcement of compliance. The authority  
31 may, through its members or authorized agents,  
32 inspect the books and records of a financing institu-  
33 tion to assure compliance with this section. The  
34 authority may require agreement by the financing  
35 institution to the payment of penalties to the  
36 authority for violation of agreements with the  
37 authority. Compliance by a financing institution with  
38 the terms of its agreement with the authority under  
39 this section may be enforced by decree of the Supe-  
40 rior Court of any county of this State. The authority

1 may require as a condition of an agreement that  
2 national or out-of-state financing institutions con-  
3 sent to the jurisdiction of courts of this State.

4 8. Inconsistency with other statutes. If a  
5 provision of this section is inconsistent with  
6 another provision of the law of this State governing  
7 financing institutions, the provision of this section  
8 shall control for the purposes of this subchapter.

9 §990. Bonds of the authority

10 1. General authority. The authority may issue  
11 its bonds in principal amounts which are necessary to  
12 provide sufficient funds for achievement of the pur-  
13 poses of this subchapter, including, but not limited  
14 to, the making of loans, the payment of interest on  
15 its bonds, the establishment of reserve or sinking  
16 funds to secure its bonds and all other expenditures  
17 of the authority incident or necessary to achievement  
18 of its purposes.

19 2. Types of bonds. The authority may issue such  
20 types of bonds as it may determine most suitable to  
21 achieve the purposes of this subchapter. Bonds may  
22 be issued in one or more series and shall bear such  
23 date or dates, mature at such time or times, bear  
24 interest at such rate or rates, be in such denomina-  
25 tion or denominations, be in such form either coupon  
26 or registered, carry such conversion or registration  
27 privileges, have such rank or priority, be executed  
28 in such manner, be payable in such medium of payment,  
29 at such place or places and be subject to such terms  
30 of redemption with or without premium as are found to  
31 be necessary by the authority for the most advanta-  
32 geous sale and as its bond resolution, trust inden-  
33 ture or mortgage may provide. Bonds may be issued for  
34 the purposes of this subchapter on which the prin-  
35 cipal and interest are payable exclusively from the  
36 income and revenues of the project financed with the  
37 proceeds of these bonds; exclusively from the income  
38 and revenue of certain designated projects whether or  
39 not they are financed in whole or in part with the  
40 proceeds of the bonds; from the proceeds of mort-  
41 gages, bonds, notes or other securities held by the  
42 authority for the purposes of this subchapter; from  
43 money appropriated by the State or from the general

1 revenues of the authority. Any bonds issued by the  
2 authority may be additionally secured by a pledge of  
3 any grant or contributions from the Federal Govern-  
4 ment or other source or a pledge of any income or  
5 revenues of the division or the authority, including  
6 one or more reserve funds as established pursuant to  
7 section 993.

8 3. Limit on bonding. The authority may not have  
9 a total principal amount of bonds and notes outstand-  
10 ing at any time in excess of \$50,000,000.

11 4. Negotiable instruments. Notwithstanding any  
12 other provision of law, the bonds of the authority  
13 issued pursuant to this subchapter shall be and are  
14 negotiable instruments within the meaning of and for  
15 all the purposes of the Uniform Commercial Code.

16 5. Not an obligation of the State. Bonds or  
17 notes of the authority issued under this subchapter  
18 are not an obligation of the State or any political  
19 subdivision of the State other than the authority  
20 within the meaning of any constitutional or statutory  
21 debt limitations or any other provision of law. The  
22 authority, acting pursuant to this subchapter, shall  
23 not pledge the credit or taxing power of the State or  
24 any other political subdivision of the State. Bonds  
25 and notes issued by the authority under this subchap-  
26 ter shall state that they are not an obligation of  
27 the State.

28 6. Authorizing resolution. Bonds of the author-  
29 ity shall be authorized by its resolution.

30 7. Bond requirements specified. Bonds issued by  
31 the authority under this subchapter shall:

32 A. Be signed on behalf of the authority with the  
33 manual or facsimile signature of the chairman,  
34 attested by the manual or facsimile signature of  
35 another officer of the authority and have  
36 impressed or imprinted thereon the seal of the  
37 authority or a facsimile of it and any coupons  
38 attached shall be signed with the facsimile sig-  
39 nature of the chairman. In case any of the mem-  
40 bers of the authority whose signatures appear on  
41 any bonds or coupons shall cease to be a member

1           or officer before the delivery of these bonds,  
2           the signatures shall, nevertheless, be valid and  
3           sufficient for all purposes, the same as if the  
4           members or officers had remained in office until  
5           the delivery; and

6           B. Be sold at prices, at public and private sale  
7           and in any manner as the authority may prescribe.

8           §991. Refunding bonds

9           The authority may issue its bonds for the purpose  
10          of refunding any bonds or notes of the authority then  
11          outstanding under this subchapter, including the pay-  
12          ment of any redemption premiums and any interest ac-  
13          crued or to accrue to the date of redemption of the  
14          outstanding bonds. Until the proceeds of bonds issued  
15          for the purpose of refunding outstanding bonds are  
16          applied to the purchase or retirement of outstanding  
17          bonds or notes or the redemption of outstanding bonds  
18          or notes, the proceeds may be placed in escrow and be  
19          invested and reinvested. The interest, income and  
20          profits earned or realized on such an investment may  
21          also be applied to the payment of the outstanding  
22          bonds or notes to be refunded by purchase, retirement  
23          or redemption. After the terms of the escrow have  
24          been fully satisfied and carried out, any balance of  
25          proceeds and interest earned or realized on the  
26          investments may be returned to the authority for use  
27          by it to further the purposes of this subchapter.  
28          All refunding bonds shall be issued and secured and  
29          subject to the provisions of this subchapter in the  
30          same manner and to the same extent as other bonds.

31          §992. Notice requirements

32          1. Notice and approval. The decision to issue  
33          bonds or notes under this subchapter shall not be  
34          considered rulemaking. The authority shall, in a man-  
35          ner consistent with Title 5, section 8053, provide  
36          notice of its intention to issue bonds or notes. The  
37          notice shall include a statement of the maximum  
38          amount of bonds or notes proposed to be issued and,  
39          in general, what the proceeds of the bond issue will  
40          be used for and which revenues will be pledged to pay  
41          the bonds, notes and interest. Where the amount of  
42          bonds to be issued exceeds \$250,000, the authority



1 shall hold a public hearing and shall provide a sum-  
2 mary of the public testimony to the Governor. The  
3 Governor shall approve or disapprove the issuance of  
4 the bonds or notes of the authority. In reaching his  
5 decision, the Governor shall consider any public  
6 testimony which may be available and shall approve  
7 the bonds if the proposed issue is consistent with  
8 the Legislature's intent and will effectuate the  
9 public purpose described in section 982. The Governor  
10 shall be considered the applicable elected repre-  
11 sentative for purposes of the United States Internal  
12 Revenue Code.

13 2. Statute of limitations. After approval of  
14 the Governor pursuant to subsection 1, and notwith-  
15 standing any other provision of law, an action shall  
16 not be brought questioning the legality of the bonds  
17 or notes or the power of the authority to issue the  
18 bonds or notes or the legality of any proceedings in  
19 connection with the authorization or issuance of the  
20 bonds or notes after 30 days from the date of publi-  
21 cation of the notice or 15 days after the decision of  
22 the Governor, whichever is later.

23 §993. Reserve funds and appropriations

24 1. Creation of reserves. The authority shall  
25 create and establish one or more special sinking or  
26 bond reserve funds and shall pay into each reserve  
27 fund any moneys appropriated and made available by  
28 the State for the purpose of the fund, any proceeds  
29 of sale of notes or bonds to the extent provided in  
30 the resolutions authorizing their issuance and any  
31 other available moneys which the authority determines  
32 to use for the purpose of the funds.

33 2. Use of reserve funds. Moneys held in a bond  
34 reserve fund, except as otherwise provided in this  
35 subchapter, shall be used, as required, solely for:

36 A. The payment of the principal of bonds secured  
37 in whole or in part by the reserve fund or of the  
38 sinking fund payments with respect to the bonds;

39 B. The purchase or redemption of the bonds; or

1           C. The payment of interest on the bonds or the  
2           payments of any redemption premium required to be  
3           paid when the bonds are redeemed prior to matu-  
4           urity.

5           3. Withdrawal from reserve funds. Moneys in a  
6           bond reserve fund shall not be withdrawn from it in  
7           an amount that will reduce the amount of the fund to  
8           less than the bond reserve fund requirement estab-  
9           lished for the fund, as provided in this section,  
10          except for the purpose of making payment when due of  
11          principal, interest, redemption premiums and the  
12          sinking fund payments with respect to the bonds for  
13          the payment of which other moneys of the authority  
14          are not available.

15          4. Income from reserve fund. Any income or  
16          interest earned by, or incremental to, a bond reserve  
17          fund may be transferred by the authority to other  
18          funds or accounts of the authority to the extent the  
19          transfer does not reduce the amount of that bond  
20          reserve fund below the applicable bond reserve fund  
21          requirement.

22          5. Bonds limited. The authority shall not at  
23          any time issue additional bonds, secured in whole or  
24          in part by a bond reserve fund if, upon the issuance  
25          of the bonds, the amount in the bond reserve fund  
26          will be less than the applicable bond reserve fund  
27          requirement, unless the authority at the time of  
28          issuance of the bonds deposits in the fund, from the  
29          proceeds of the bonds issued or from other sources,  
30          an amount which, together with the amount then in the  
31          fund, will not be less than the bond reserve fund re-  
32          quirement.

33          6. Bond reserve fund requirement. For the pur-  
34          poses of this section, the term "bond reserve fund  
35          requirement" shall be the amount the authority deter-  
36          mines to be necessary to achieve the credit ratings  
37          appropriate to maximize its ability to achieve the  
38          purposes of this chapter.

39          7. Notice to the Governor and report to the  
40          Legislature. In the event that it is necessary that  
41          the bond reserve funds are withdrawn for payment of  
42          principal or interest thereby reducing the amount of

1 that fund to less than the bond reserve fund require-  
2 ment, the authority shall immediately notify the Gov-  
3 ernor and Legislature of this event and shall itself  
4 take whatever steps available to restore the fund to  
5 its bond reserve fund requirement from any funds  
6 available which are not pledged to the payment of  
7 other bonds or notes or legally limited to some other  
8 purpose. In order to further assure maintenance of  
9 the bond reserve funds, the chairman of the authority  
10 shall, on or before December 1st of each calendar  
11 year, make and deliver to the Governor a certificate  
12 stating the sum, if any, required to restore each  
13 bond reserve fund to its bond reserve fund require-  
14 ment. The Governor may submit a request to the next  
15 session of the Legislature for any sum required to  
16 restore each bond reserve fund to its bond reserve  
17 fund requirement. Sums appropriated by the Legis-  
18 lature and paid to the authority pursuant to this  
19 section shall be deposited by the authority in the  
20 applicable bond reserve fund.

21 8. Repayment to the State. Amounts paid over to  
22 the authority by the State pursuant to this section  
23 shall constitute and be accounted for as advances by  
24 the State to the authority and, subject to the rights  
25 of the holders of any bonds or notes of the author-  
26 ity, shall be repaid to the State, without interest,  
27 from all available operating revenues of the author-  
28 ity in excess of amounts required for the payment of  
29 bonds, notes or obligations of the authority, for  
30 maintenance of the bond reserve funds and for neces-  
31 sary operating expenses.

32 §994. Remedies of bondholders and noteholders

33 A holder of bonds or notes issued by the author-  
34 ity under this subchapter shall have the right, in  
35 addition to all other rights which may be conferred  
36 on that person and subject to applicable contractual  
37 restrictions to:

38 1. Civil action. By civil action or proceeding,  
39 compel the authority to carry out the terms of the  
40 agreement of the authority and to fulfill the duties  
41 imposed upon the authority by this subchapter, or to  
42 enjoin any act or thing which violates the rights of  
43 the bondholder or noteholder;

1           2. Additional remedies conferrable by author-  
2 ity. The authority shall have power by its resolu-  
3 tion, trust indenture, mortgage, lease or other con-  
4 tract to confer upon any bondholder or noteholder  
5 holding or representing a specified amount, addition-  
6 al rights, upon default, as defined in the applicable  
7 instrument, obtain the appointment of a trustee of  
8 any project of the authority or any part thereof and  
9 of the rents, profits or other available income  
10 therefrom and require the authority to provide an ac-  
11 counting to the court of its actions relative to the  
12 bondholders or noteholders;

13           3. Jurisdiction. The Superior Court shall have  
14 jurisdiction of any action brought pursuant to this  
15 section. The venue of the action shall be in Kennebec  
16 County.

17           §995. Agreement of the State

18           The State pledges and agrees with the holders of  
19 any bonds or notes issued under this subchapter that  
20 the State will not limit or alter the rights vested  
21 in the authority to fulfill the terms of agreements  
22 made with the holders or in any way to impair the  
23 rights and remedies of the holders until the bonds or  
24 notes, together with the interest on them and all  
25 costs and expenses in connection with an action by or  
26 on behalf of the holders, are fully met and dis-  
27 charged. The authority may include this pledge and  
28 agreement of the State in any agreement with the  
29 holders of bonds or notes.

30           §996. Bonds and notes as legal investments

31           Bonds and notes of the authority and any loan or  
32 extension of credit made or insured or guaranteed  
33 under this subchapter shall be a legal investment in  
34 which public officers and public bodies of the State,  
35 municipalities and political subdivisions, financing  
36 institutions, investment companies, fiduciaries,  
37 public and private pension funds and other similar  
38 persons authorized to invest in bonds or other obli-  
39 gations of the State, may properly and legally  
40 invest. The bonds, notes and loans or extensions of  
41 credit made or insured under this subchapter are also  
42 securities which may be deposited with and may be

1 received by public officers, agencies and bodies of  
2 the State or of its municipalities or political  
3 subdivisions for any purpose for which the deposit of  
4 bonds or other obligations of this State is legally  
5 authorized. Nothing in this section may be construed  
6 as relieving any person of a duty of exercising  
7 reasonable care in selecting or reviewing securities.

8 §997. Program for entrants to natural resource  
9 enterprises

10 In addition to other programs and financing  
11 assistance established under this subchapter which  
12 may be available to natural resource enterprises, the  
13 division shall establish a supplemental financing and  
14 technical assistance program designed specifically to  
15 meet the needs of entrants to natural resource enter-  
16 prises.

17 1. Criteria for participation. In addition to  
18 the applicable provisions of sections 987 and 988  
19 persons seeking financing assistance under the  
20 entrants to natural resource enterprises programs  
21 shall be subject to the following.

22 A. Participants shall be limited to individual  
23 residents of the State or cooperatives organized  
24 in the State in which at least 51% of the owner-  
25 ship is held by residents and in which all of the  
26 members individually meet the definition of  
27 section 983, subsection 7.

28 B. The authority shall finance such amount of  
29 the enterprise as the division determines is  
30 appropriate to reflect the cost of a  
31 reasonably-sized beginning enterprise.

32 C. The entrant has not previously received  
33 financing under the program for the acquisition  
34 of property similar in nature to the property for  
35 which the loan is sought, except that this re-  
36 striction shall not apply if the amount previ-  
37 ously received for an enterprise, plus the amount  
38 of the additional assistance sought for that  
39 enterprise, does not exceed the total determined  
40 by the division pursuant to paragraph B.

1           D. The entrant agrees to participate in such  
2           marketing and training programs as the division  
3           may require.

4           E. The entrant agrees to participate in such  
5           other related criteria as the division may  
6           impose.

7           2. Financing assistance terms. In addition to  
8           the applicable provisions of sections 987 and 988,  
9           assistance provided pursuant to this section may  
10           involve special financing terms, including, but not  
11           limited to:

12           A. For the acquisition of land and facilities,  
13           arrangements where the authority agrees to make  
14           payments and binding commitments and to continue  
15           these payments, if necessary, over the life of  
16           the mortgage on behalf of entrants to natural  
17           resource enterprises in order to reduce interest  
18           costs on market rate credit to the level the  
19           division by rule determines conducive to achiev-  
20           ing the purpose of this section, provided that  
21           the rate shall not be lower than 5%. Persons ben-  
22           efiting from these assistance payments shall be  
23           required to pay a larger interest payment as  
24           their ability to pay increases. No commitment  
25           made by the division or the authority under this  
26           subsection may be construed to commit the faith  
27           and credit of the State;

28           B. Deferred payment schedules;

29           C. Full guarantees for seller-sponsored loans;  
30           and

31           D. Other similar agreements to facilitate parti-  
32           cipation in the natural resource sector.

33           §998. Limitation of liability

34           Members of the division or the authority or per-  
35           sons acting in behalf of either, while acting within  
36           the scope of their employment or division, are not  
37           subject to personal liability resulting from carrying  
38           out the powers and duties of this subchapter. As to  
39           bonds and notes, neither the members of the authority

1 nor any person executing the bonds or notes under  
2 this subchapter shall be liable personally on the  
3 bonds by reason of the issuance thereof.

4 In any civil action or proceedings involving the  
5 validity or enforceability of any bond or note of the  
6 authority issued under this subchapter or the secur-  
7 ity thereof, any such bond or note reciting in sub-  
8 stance that it has been issued by the authority to  
9 aid in financing the activities of the authority  
10 under this subchapter shall be presumed to have been  
11 issued for that purpose and those activities shall be  
12 deemed to have been planned, selected, located and  
13 carried out in accordance with the purposes and  
14 provisions of this subchapter.

15 §999. Taxation and fees

16 1. Transactions and property; treatment. Not-  
17 withstanding any other provisions of law, for the  
18 purposes of this subchapter, transactions and prop-  
19 erty of the authority shall be treated as follows.

20 A. Bonds and notes of the authority are declared  
21 to be issued for an essential public and govern-  
22 mental purpose and to be public instruments and,  
23 together with interest and income, including the  
24 profit made from their transfer or sale, shall be  
25 exempt from taxation within the State.

26 B. Conveyances by or to the authority and  
27 leases, mortgages and deeds of trust or trust  
28 indentures by or to the authority shall be exempt  
29 from all taxation by the State or any of its  
30 political subdivisions, including, but without  
31 limitation to, any applicable license and excise  
32 taxes imposed in respect of the privilege of  
33 engaging in any of the activities in which the  
34 authority may engage.

35 C. Property held by the authority pursuant to  
36 section 986, subsection 1 shall be exempt from  
37 all taxes and from betterments and special  
38 assessments of the city, town, county, State or  
39 any political subdivision thereof. The authority  
40 may agree to make payments in lieu of taxes to  
41 the applicable political subdivisions.

1 D. Nothing in this section may be construed to  
2 exempt any private person from payment of any  
3 taxes, recording fees or related fees, notwith-  
4 standing the fact that the authority has acquired  
5 an interest in the property or instrument subject  
6 to those taxes or fees.

7 §1000. Annual report

8 The division shall submit to the authority, not  
9 later than January 15th each year, a complete report  
10 on the activities of the division. The report shall  
11 include all of the following:

12 1. Description. A description of its opera-  
13 tions, including a description of the progress toward  
14 the accomplishment of the purposes of section 982;

15 2. Analysis. An analysis of the needs of the  
16 natural resource-based sector in the State and a  
17 statement of its proposed and projected activities  
18 for the ensuing year to meet these needs; and

19 3. Recommendations. Recommendations as to fur-  
20 ther actions which may be suitable for achieving the  
21 purposes of this subchapter.

22 §1000-A. Liberal construction

23 This subchapter, being necessary for the welfare  
24 of this State and its inhabitants, shall be liberally  
25 construed to effect its purposes.

26 SUBCHAPTER I-B

27 DIVISION OF MAINE BUSINESS DEVELOPMENT AND FINANCE

28 §1001. Definitions

29 As used in this chapter and subchapters II to VI,  
30 unless the context indicates otherwise, the following  
31 terms have the following meanings.

32 1. Application and service fees. "Application  
33 and service fees" means the amount of money author-  
34 ized to be charged for the cost of application,  
35 servicing and technical assistance of eligible  
36 projects under subchapters II to IV.



1           2. Authority. "Authority" means the Finance  
2 Authority of Maine.

3           3. Commitment to issue mortgage insurance.  
4 "Commitment to issue mortgage insurance" means a com-  
5 mitment to provide insurance for mortgage payments,  
6 provided that a project is completed in a manner  
7 approved by the authority.

8           4. Cost of project. "Cost of project" means the  
9 cost or fair market value of land, buildings, real  
10 estate improvements, labor materials, machinery and  
11 equipment, including installation, property rights,  
12 easements, franchises, financing charges, interest,  
13 engineering and legal services, plans, specifica-  
14 tions, surveys, cost estimates, studies and other  
15 expenses as may be necessary or incidental to the  
16 development, construction, acquisition, financing and  
17 placing in operation of an eligible project. In ad-  
18 dition to the foregoing costs, under subchapters III  
19 and IV reserves for payment of future debt on bonds  
20 of not more than the maximum amount of interest plus  
21 annual serial principal or sinking fund payments due  
22 in any 12-month period may be included as part of the  
23 cost of the project.

24 Any obligation or expenses incurred by the State, a  
25 municipality or any private person in connection with  
26 any of the foregoing items of cost related to revenue  
27 obligation securities issued under subchapter III or  
28 IV may be regarded as part of the cost and reimbursed  
29 to the State, municipality or person out of the pro-  
30 ceeds of the securities issued.

31 In the case of a reconstruction of an existing build-  
32 ing project, cost of construction includes the cost  
33 of reconstruction or remodeling and all other costs  
34 as defined by this subsection.

35           5. Division. "Division" means the Division of  
36 Maine Business Development and Finance within the  
37 Finance Authority of Maine.

38           6. Eligible project. "Eligible project," as  
39 used in subchapter II, means:

1           A. Any lands, buildings, real estate improve-  
2           ments or machinery and equipment, with auxiliary  
3           real and personal property, used by an industrial  
4           enterprise, including, but not limited to, an  
5           industrial enterprise constructing sea-going  
6           ships and vessels, or used by a manufacturing,  
7           fishing or agricultural enterprise for research  
8           and development or for manufacturing, processing,  
9           assembling or preparing for market of raw mate-  
10           rials or other products;

11           B. Any ocean pier or terminal used by an indus-  
12           trial, manufacturing, fishing or agricultural  
13           enterprise for manufacturing, processing, assem-  
14           bling, storing, shipping, vessel repairing or  
15           preparing for market raw materials or other prod-  
16           ucts;

17           C. Any building, real estate improvement, land  
18           or any interest in land, machinery or equipment  
19           used or usable in connection with public recrea-  
20           tional facilities, consisting of a combination of  
21           such improvements as approach roads, parking  
22           facilities, marinas, swimming pools, golf  
23           courses, campgrounds, picnic areas, hotels,  
24           motels, lodges, ski resorts, arenas or similar  
25           recreational development for which a comprehen-  
26           sive plan has been prepared;

27           D. Any fishing vessel documented or to be  
28           documented as a fishing vessel under laws of the  
29           United States, any fishing vessel registered or  
30           to be registered under a state's law which is  
31           designed to be used for catching, processing or  
32           transporting fish and any vessel outfitted for  
33           that activity; and

34           E. Any land designed as an industrial park, pro-  
35           vided that the municipality in which the park is  
36           to be located has agreed to provide utilities,  
37           access, site preparation, market efforts and  
38           financial support deemed appropriate by the  
39           authority, and further provided that reasonable  
40           assurance is given to the authority that the  
41           project can gain approval for environmental per-  
42           mits and licenses and that the land shall be  
43           deeded to a local development corporation.

1           7. Eligible project, subchapters III and IV.  
2 "Eligible project," as used in subchapters III and  
3 IV, means any project authorized under the United  
4 States Internal Revenue Code, Section 103(b), except:

5           A. Retail stores;

6           B. Office space of less than 30,000 square feet;  
7 and

8           C. Office space in excess of 30,000 square feet  
9 in which less than 1/2 of the employees occupying  
10 the square footage do not represent new jobs.

11           8. Eligible project, subchapters V and VI.  
12 "Eligible project," as used in subchapters V and VI,  
13 means any business or recreational facilities or any  
14 lands, buildings, real estate improvements or machin-  
15 ery and equipment, merchandise and stock, with auxil-  
16 iary real and personal property, located within the  
17 State, used by a commercial, industrial, manufac-  
18 turing, mining, fishing or agricultural enterprise,  
19 sales and service, or both, the manufacturing, pro-  
20 cessing, assembling or preparing for market of raw  
21 materials or other products, or for the purposes of  
22 providing working capital or research and development  
23 for those enterprises.

24           9. Energy conservation project. "Energy conser-  
25 vation project" means the purchasing and installation  
26 of energy conservation equipment or facilities,  
27 including building modifications, with a calculated  
28 payback period of more than one year, but less than  
29 7 years. This term does not include simple  
30 weatherization measures.

31           10. Energy distribution system project. "Energy  
32 distribution system project" means an energy distri-  
33 bution system owned, in whole or in part, by a munic-  
34 ipality, corporation or firm and which uses biomass,  
35 peat, solar, waste, water and related dams, wind,  
36 wood, coal or natural gas.

37           11. Energy generating system project. "Energy  
38 generating system project" means:

1           A. For a system which does not generate elec-  
2           tricity, an energy generating system owned, in  
3           whole or in part, by a municipality, corporation  
4           or firm, and which system uses biomass, peat,  
5           solar, waste, water and related dams, wind, wood  
6           or coal, or which is an energy conservation  
7           project, including a transportation project con-  
8           sistent with the United States Internal Revenue  
9           Service guidelines; or

10           B. For a system which does generate electricity,  
11           an energy generating system which uses biomass,  
12           peat, solar, waste, water and related dams, wind,  
13           wood or coal, and which is owned, in whole or in  
14           part, by a public utility or a municipality, cor-  
15           poration or firm which qualifies as a cogenerator  
16           or small power producer under Title 35, chapter  
17           172.

18           12. Federal agency. "Federal agency" includes  
19           the United States, the President of the United States  
20           and any current or future corporation, department,  
21           agency or instrumentality created, designated or  
22           established by the United States.

23           13. Financial document. "Financial document"  
24           means a lease, installment sale agreement, condi-  
25           tional sale agreement, mortgage or loan agreement  
26           between a lessor, mortgagee or lender and a user as  
27           lessee, purchaser, mortgagor or borrower.

28           14. Industrial park. "Industrial park" means an  
29           area of land that is planned and designed for one or  
30           more industrial buildings.

31           15. Insured. "Insured" means any individual,  
32           partnership, corporation, association or other entity  
33           with a project that has been insured by the author-  
34           ity.

35           16. Lease. "Lease" means a contract providing  
36           for the use of a project or portions of a project for  
37           a term of years for a designated or determinable  
38           rent. A lease may include an installment sales con-  
39           tract.

1       17. Lessee. "Lessee" means a tenant under lease  
2       and may include an installment purchaser.

3       18. Local development corporation. "Local  
4       development corporation" means a nonprofit organiza-  
5       tion incorporated under Title 13, chapter 81, Title  
6       13-B or otherwise chartered by the State; and  
7       designed to foster, encourage and assist the settle-  
8       ment or resettlement of industrial, manufacturing,  
9       fishing, agricultural, recreational and other busi-  
10       ness enterprises within the State.

11       19. Maturity date. "Maturity date" means the  
12       date on which the mortgage indebtedness would be  
13       ended if periodic payments were made as provided in  
14       a mortgage note or revenue obligation security.

15       20. Mortgage. "Mortgage" means a first lien on  
16       an eligible project consisting of real estate, per-  
17       sonal property or improvements and the underlying  
18       obligation secured by the first lien.

19       21. Mortgagee. "Mortgagee" means the original  
20       lender under a mortgage and his successors and  
21       assigns approved by the authority and may include all  
22       insurance companies, trust companies, banks, invest-  
23       ment companies, savings banks, savings and loan asso-  
24       ciations, executors, trustees and other fiduciaries,  
25       including public and private pension and retirement  
26       funds, and the Finance Authority of Maine in relation  
27       to loans made under this chapter.

28       22. Mortgage payments. "Mortgage payments"  
29       means periodic payments called for by the mortgage,  
30       including, but not limited to, payments covering  
31       interest, installments of principal, taxes and  
32       assessments, loan insurance premiums and hazard  
33       insurance premiums.

34       23. Mortgagor. "Mortgagor" means the borrower  
35       for an eligible project under a mortgage and his suc-  
36       cessors and assigns.

37       24. Pollution-control project. "Pollution-control  
38       project" means any buildings, structure, machin-  
39       ery, equipment or facilities, including transporta-  
40       tion equipment or facilities, which may be deemed

1 necessary for preventing, avoiding, reducing, con-  
2 trolling, abating or eliminating contamination, solid  
3 waste, thermal pollution or pollution by any other  
4 means of the air, the water or the earth, together  
5 with all land, property, rights, rights-of-way fran-  
6 chises, easements and interests in lands which may be  
7 acquired by the authority or a user under this sub-  
8 chapter, or the municipality under subchapter IV, for  
9 the construction or operation of the project.

10 25. Project. "Project" means any eligible  
11 project permitted under subchapters II to IV.

12 26. Reconstruction of existing building project.  
13 "Reconstruction of existing building project" means  
14 any building which is at least 50 years old which is  
15 remodeled, reconstructed or rehabilitated for commer-  
16 cial use, together with all lands, property, rights,  
17 rights-of-way, franchises, easements and interests in  
18 lands which may be acquired by the municipality or a  
19 user for completion of the project.

20 27. Rent or rental. "Rent or rental" means pay-  
21 ments under a lease.

22 28. Resident, subchapter VI. "Resident," as  
23 used in subchapter VI, means anyone who entered the  
24 United States Armed Forces from Maine or who has  
25 established a legal resident in this State of at  
26 least 16 months duration immediately prior to making  
27 application for a loan under this subchapter and who  
28 has received certification as an eligible Maine resi-  
29 dent veteran from the Bureau of Veterans' Services.

30 29. Revenue obligation security. "Revenue obli-  
31 gation security" means a note, bond or other evidence  
32 of indebtedness to the payment of which is pledged  
33 the revenues provided in section 1045, or the reve-  
34 nuues as provided in section 1065.

35 30. Small business, subchapters V and VI.  
36 "Small business," as used in subchapters V and VI,  
37 means any business or employee cooperative corpora-  
38 tion subject to Title 13, chapter 85, subchapter III,  
39 employing 20 persons or less or with sales of  
40 \$2,500,000 or less.

1           31. User. "User" means one or more persons act-  
2 ing as lessee, purchaser, mortgagor or borrower under  
3 a financial document.

4           32. Veteran, subchapter VI. "Veteran," as used  
5 in subchapter VI, shall be construed to mean any  
6 person who served in the United States Armed Forces  
7 on active duty during World War I, World War II, the  
8 Korean War or Vietnam War, not dishonorably dis-  
9 charged. A veteran of the Vietnam War shall have  
10 served on active duty for a period of more than 180  
11 days, any part of which occurred after August 4,  
12 1964, and before May 7, 1975, except if he was dis-  
13 charged for a service-connected disability after that  
14 date.

15           33. Water supply system project. "Water supply  
16 system project" means any building structure, facili-  
17 ties, machinery, pipes, aqueducts, conduits, drains  
18 or the equipment which may be deemed necessary to  
19 supply water for municipal, domestic and combined  
20 use, together with all lands, property, rights-  
21 of-way, franchises, easements and interests in lands  
22 which may be acquired by the municipality for con-  
23 struction or operation of the project.

24       §1002. General powers

25           The Division of Maine Business Development and  
26 Finance, within the Finance Authority of Maine, as  
27 established, has the following responsibilities.

28           1. Implementation of programs. The Division of  
29 Maine Business Development and Finance shall be  
30 responsible for the implementation of the:

31           A. Mortgage Insurance Program;

32           B. Revenue Obligation Securities Program;

33           C. Municipal Securities Approval Program;

34           D. Maine Small Business Loan Program; and

35           E. Maine Veterans' Small Business Loan Program.

1           2. Powers and duties. The Division of Maine  
2 Business Development and Finance, under the director  
3 of the division, shall perform the duties prescribed  
4 by the authority and the chief executive officer  
5 which shall consist, in part, of the following:

6           A. Establishing business practices to be fol-  
7 lowed by an insured to avoid default;

8           B. Examining the books and records of any mort-  
9 gagor and its lessee, tenant or assignee during  
10 the duration of a mortgage;

11           C. Establishing rules to collect evidence from  
12 applicants for funding under subchapters II to  
13 VI:

14                   (1) That projects will serve the purpose of  
15 those subchapters;

16                   (2) Of a project's capability to achieve  
17 its revenue and employment goals;

18                   (3) Of the economic feasibility of  
19 projects;

20                   (4) Of financial capability, including  
21 effective commitments for equity, interim  
22 financing and final mortgage financing for a  
23 project; and

24                   (5) Of management and planning capabilities  
25 of an applicant.

26           D. Establishing criteria for projects;

27           E. Receiving supporting information and documen-  
28 tation on the expediency and advisability of  
29 projects from municipal officers, planning  
30 boards, regional planning commissions, utilities,  
31 local development corporations, state departments  
32 and agencies and other parties which the division  
33 in its discretion determines to have information  
34 pertinent to a project's advisability;

35           F. Arranging the financing and negotiating the  
36 sale of securities;



1 G. Making recommendations to the authority on  
2 the expediency and advisability of subchapters II  
3 to VI projects and provide periodic reports  
4 necessary to the proper management by the author-  
5 ity of agreements, contracts and other instrum-  
6 ents entered into by the authority with any  
7 party under the provisions of these subchapters;

8 H. Issuing certificates of approval for any  
9 projects approved by the authority;

10 I. Assisting applicants, who may be persons,  
11 firms and corporations, private or public, except  
12 as provided in this chapter, in drafting financ-  
13 ing documents, trust agreements and other con-  
14 tracts;

15 J. Receiving reports and recommendations from  
16 the Board of Directors of the Maine Veterans'  
17 Small Business Loan Program;

18 K. Making and executing agreements, contracts  
19 and other instruments with any public or private  
20 entity, necessary and incidental to the proper  
21 functioning of the authority and the division  
22 with respect to the implementation of programs  
23 established in subchapters II to VI;

24 L. Developing and conducting plans, studies and  
25 analyses;

26 M. Assessing and collecting application and ser-  
27 vice fees;

28 N. Sharing staff and coordinating administration  
29 of common projects and programs with the Division  
30 of Natural Resources Financing and Marketing; and

31 O. Performing other duties as may be from time  
32 to time required of it by the authority.

33 Sec. 8. 10 MRSA §1021, as enacted by PL 1981, c.  
34 476, §2, is amended to read:

35 §1021. Credit of State pledged

1           The Maine Guarantee Authority authority may  
2 insure the payment of mortgage loans, secured by eli-  
3 gible projects, and to this end the faith and credit  
4 of the State is pledged, consistent with the terms  
5 and limitations of the Constitution of Maine, Article  
6 IX, Section 14-A and such further limitations as may  
7 be provided by statute.

8           Sec. 9. 10 MRSA §1023, sub-§1-A is enacted to  
9 read:

10           1-A. Mortgage Insurance Fund; successor. The  
11 Mortgage Insurance Fund is the successor to the fund  
12 formerly administered by the Maine Guarantee Author-  
13 ity and all assets, liabilities and actions of the  
14 Maine Guarantee Authority with respect to the Mort-  
15 gage Insurance Fund shall be assets, liabilities and  
16 actions of the Finance Authority of Maine.

17           Sec. 10. 10 MRSA §1025, sub-§1, as enacted by PL  
18 1981, c. 476, §2, is amended to read:

19           1. Acquisition and disposal of property. Take  
20 assignments of insured mortgages and other forms of  
21 security and take title by foreclosure or conveyance  
22 to any eligible project when an insured mortgage loan  
23 thereon is in default. The authority may sell, or on  
24 a temporary basis lease or rent, the eligible project  
25 for a use other than that specified in section 1003,  
26 subsection 6, paragraphs A to E. The Maine Guarantee  
27 Authority authority shall be liable to a municipality  
28 for property taxes on any unimproved real property  
29 owned by it in the municipality due on or after April  
30 1st at least one year after acquisition of the prop-  
31 erty by the authority;

32           Sec. 11. 10 MRSA §1027, first ¶, as enacted by  
33 PL 1981, c. 476, §2, is amended to read:

34           The authority may insure up to 95% 90% of the  
35 mortgage payments required by a first mortgage on an  
36 eligible project provided that the uninsured portion  
37 is material in relation to the uninsured loans of the  
38 lender with respect to the project and provided fur-  
39 ther that the aggregate of the insured portions of  
40 all outstanding mortgages insured by the authority  
41 shall not exceed the amount of authorized and un-

1 issued bonds for this purpose pursuant to section  
2 1024 and the Constitution of Maine, Article IX,  
3 Section 14-A. The same proportion of insurance by the  
4 authority and participation by the mortgagee shall be  
5 maintained until the mortgage is fully paid. In the  
6 event of a default of a mortgage loan whose mortgage  
7 payments are insured under this subchapter, the  
8 authority shall not pay interest during the period of  
9 default at a rate in excess of the Federal Housing  
10 Authority's insured rate plus 1/2 of 1% or the mort-  
11 gage note rate in effect at the time of default,  
12 whichever is less. With respect to mortgage insurance  
13 agreements issued for land designed as an industrial  
14 park, the guarantees shall not exceed 95% ~~90%~~ of the  
15 first mortgage loan nor 100% of the market value of  
16 the undeveloped land.

17 Sec. 12. 10 MRSA §1031, as enacted by PL 1981,  
18 c. 476, §2, is amended to read:

19 §1031. Mortgages eligible for investment

20 Mortgages insured under this subchapter are made  
21 legal investments for all insurance companies, trust  
22 companies, banks, investment companies, savings  
23 banks, savings and loan associations, executors,  
24 trustees and other fiduciaries, and public and pri-  
25 ate pension or retirement funds.

26 Sec. 13. 10 MRSA §1041, first ¶, as enacted by  
27 PL 1981, c. 476, §2, is repealed and the following  
28 enacted in its place:

29 The authority may:

30 Sec. 14. 10 MRSA §1041, sub-§1, as enacted by PL  
31 1981, c. 476, §2, is repealed and the following  
32 enacted in its place:

33 1. Kinds of projects. Acquire, construct,  
34 reconstruct, maintain, renew and replace projects  
35 authorized under the United States Internal Revenue  
36 Code, Section 103(b) within the State, whether or not  
37 now in existence, or assist a user to acquire, con-  
38 struct, reconstruct, renew and replace these  
39 projects; except retail stores, office space of less  
40 than 30,000 square feet and office space of more than

1 30,000 square feet in which less than 1/2 of the  
2 employees occupying the square footage do not repre-  
3 sent new jobs;

4       Sec. 15. 10 MRSA §1044, sub-§9, as enacted by PL  
5 1981, c. 476, §2, is amended to read:

6       9. Credit not pledged. Except as provided in  
7 this subsection, securities issued under this sub-  
8 chapter shall not constitute any debt or liability of  
9 the State or of any municipality therein or any  
10 political subdivision thereof, or of the authority of  
11 a pledge of the faith and credit of the State or of  
12 any such municipality or political subdivision, but  
13 shall be payable solely from the revenues of the  
14 project or projects for which they are issued and all  
15 such securities shall contain on their face a state-  
16 ment to that effect. The issuance of securities under  
17 this subchapter shall not directly or indirectly or  
18 contingently obligate the State or any municipality  
19 or political subdivision to levy or to pledge any  
20 form of taxation whatever therefore or to make any  
21 appropriation for their payment. Under subchapter II,  
22 the Maine Guarantee Authority authority may insure  
23 mortgage loans made with the proceeds of revenue  
24 obligation securities and anticipatory notes issued  
25 under this chapter. To these ends, the faith and  
26 credit of the State may be pledged, under and con-  
27 sistent with the terms and limitations of the Consti-  
28 tution of Maine, Article IX, Section 14-A, and such  
29 further limitations, if any, as may be provided by  
30 statute.

31       Sec. 16. 10 MRSA §1052 is enacted to read:

32 §1052. Successor to Maine Guarantee Authority

33 The Finance Authority of Maine is the successor  
34 to the former Maine Guarantee Authority and all  
35 securities, mortgages, trust agreements, authoriza-  
36 tions, financial documents, resolutions and actions  
37 of the Maine Guarantee Authority shall be obli-  
38 gations, resolutions or actions of the Finance  
39 Authority of Maine.



1           The Finance Authority of Maine, as successor to  
2 the Maine Small Business Loan Authority, may insure  
3 the payment of up to 85% of mortgage loans to small  
4 businesses, secured by eligible projects, and to this  
5 end the faith and credit of the State is pledged,  
6 consistent with the terms and limitations of the Con-  
7 stitution of Maine, Article IX, Section 14-A.

8           §1092. Loan insurance fund

9           1. Fund established. There is established a  
10 Maine Small Business Loan Insurance Fund, hereinafter  
11 in this chapter referred to as the "fund," which is  
12 managed by the authority but held separate from other  
13 funds of the authority, which shall be used by the  
14 authority as a nonlapsing, revolving fund for carry-  
15 ing out this subchapter. This fund shall initially  
16 be the sum of \$100,000. To this sum shall be  
17 charged interest and principal payments required by  
18 loan defaults, and to the sum shall be credited all  
19 income from loan insurance premiums and sale, dis-  
20 posal, lease or rental proceeds.

21           2. Deposited with Treasurer of State or  
22 invested. Moneys in the fund, not needed currently  
23 to meet the obligations of the authority as provided  
24 for in this subchapter, shall be deposited with the  
25 Treasurer of State to the credit of the fund or may  
26 be invested in such manner as is provided for by  
27 statute.

28           3. Successor to fund. The Maine Small Business  
29 Loan Insurance Fund is the successor to the fund for-  
30 merly administered by the Maine Small Business Loan  
31 Authority, and all assets, liabilities and actions of  
32 the Maine Small Business Loan Authority shall be a  
33 resolution of the Finance Authority of Maine or an  
34 action taken by the Finance Authority of Maine.

35           §1093. Additions to

36           If, from time to time in the opinion of the  
37 authority, the addition of moneys to the fund may be  
38 required to meet obligations, the authority shall, in  
39 writing, request the Governor to provide moneys in  
40 such amounts as may be necessary for the purpose.  
41 The Governor shall transfer to this fund sufficient

1 moneys for the purpose from the State Contingent Ac-  
2 count or from the proceeds of bonds to be issued as  
3 provided in this section. If bonds are to be issued,  
4 the Governor shall order the Treasurer of State to  
5 issue bonds in the amount requested, but not exceed-  
6 ing in the aggregate at any one time outstanding, the  
7 amount set forth in the Constitution of Maine, Arti-  
8 cle IX, Section 14-A, as it may be from time to time  
9 amended, to mature serially or made to run for such  
10 periods as the Governor may determine, but none of  
11 them shall run for a longer period than 20 years and  
12 at such rates of interest and on such terms and con-  
13 ditions as the Governor shall determine. The bonds  
14 so issued shall be deemed a pledge of the faith and  
15 credit of the State.

16 §1094. Insurance of loans

17 The authority may, upon application of the pro-  
18 posed lender, insure loan payments to small busi-  
19 nesses required by the first mortgage on any eligible  
20 project, upon such terms and conditions as the loan  
21 authority board may prescribe, provided that the  
22 aggregate amount of principal obligations of all  
23 mortgages so insured outstanding at any one time  
24 shall not exceed \$2,500,000. To be eligible for  
25 insurance under this subchapter a loan shall:

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

29 2. Maturity limit. Have a maturity satisfactory  
30 to the authority;

31 3. Amortization. Contain complete amortization  
32 provisions satisfactory to the authority requiring  
33 periodic payments by the mortgagor, which shall  
34 include principal and interest payments, cost of  
35 local property taxes and assessments, land lease  
36 rents, if any, hazard insurance on the property and  
37 such loan insurance premiums as are required under  
38 section 1095;

39 4. Other terms. Contain such terms and provi-  
40 sions with respect to property insurance, repairs,  
41 alterations, payment of taxes and assessments, de-

1 fault reserves, delinquency charges, default remedies,  
2 anticipation of maturity, additional and secondary  
3 liens and other matters as the authority may pre-  
4 scribe;

5 5. Principal obligation; limit. Involve a prin-  
6 cipal obligation not to exceed \$100,000; and

7 6. Nonassignability of proceeds. No right, pay-  
8 ment or proceeds of any loan made under this subchap-  
9 ter or statutes supplementary thereof may be subject  
10 to garnishment, attachment or execution of the claim  
11 of any other creditor other than the lender; nor may  
12 any such right or payment be capable of assignment  
13 except under such rules as may be prescribed by the  
14 authority.

15 §1095. Loan insurance premiums

16 The authority may fix loan insurance premiums for  
17 the insurance of loan payments under this chapter,  
18 those premiums to be computed as a percentage of the  
19 principal obligation of the loan outstanding at the  
20 beginning of each year. Those insurance premiums  
21 shall not be less than 1/2 of 1% per year nor more  
22 than 2% per year of the outstanding principal obli-  
23 gation. Those premiums shall be payable by the  
24 lenders in such manner as shall be prescribed by the  
25 authority.

26 §1096. Acquisition and disposal of property

27 The authority may take assignments of insured  
28 loans and other forms of security and may take title  
29 by foreclosure or conveyance to any eligible project  
30 when an insured loan thereon is clearly in default  
31 and when in the opinion of the authority such acquis-  
32 ition is necessary to safeguard the loan insurance  
33 fund and may sell, or on a temporary basis lease or  
34 rent, such eligible project for a use other than that  
35 specified.

36 §1097. Loans eligible for investment

37 Loans insured by the authority are made legal  
38 investment for all insurance companies, trust compa-  
39 nies, banks, investment companies, savings banks,



1 savings and loan associations, executors, trustees  
2 and other fiduciaries, public and private pension or  
3 retirement funds.

4 §1098. Less than full collateral for loans

5 The authority may insure a loan to a borrower  
6 with less than full collateral providing that the  
7 borrower is of good character and has a good personal  
8 credit record.

9 §1099. Safeguarding the fund

10 When a loan insured under this chapter is clearly  
11 in default, the authority may assent to the extension  
12 of the time of payment of that insured loan, may  
13 extend the insurance thereon accordingly and may  
14 waive loan insurance premiums thereon when, in the  
15 opinion of the authority, any such action is neces-  
16 sary to safeguard the fund.

17 Sec. 21. 10 MRSA c. 110, sub-c. VI is enacted to  
18 read:

19 SUBCHAPTER VI

20 MAINE VETERANS' SMALL BUSINESS LOAN PROGRAM

21 §1100-A. Organization of loan board

22 The Maine Veterans' Small Business Loan Board is  
23 created and in this subchapter called the "loan  
24 board". The loan board shall consist of 9 members,  
25 including the Director of Veterans' Services, and 8  
26 members-at-large appointed by the Governor for a  
27 period of 4 years, provided that of the members first  
28 appointed, 2 shall be appointed for a term of one  
29 year, 2 for a term of 2 years, 2 for a term of 3  
30 years and 2 for a term of 4 years. Two public mem-  
31 bers of the loan board shall be appointed by the Gov-  
32 ernor to serve on the Finance Authority of Maine  
33 board. A vacancy in the office of an appointive  
34 member, other than by expiration, shall be filled in  
35 like manner as an original appointment, but only for  
36 the remainder of the term of the retiring member.  
37 Appointive members may be removed by the Governor for

1 cause. The loan board shall elect one of its members  
2 as chairman, one as vice-chairman, one as treasurer  
3 and one as secretary. Five members of the loan board  
4 shall constitute a quorum. The affirmative vote of 5  
5 members present and voting shall be necessary for any  
6 action taken by the loan board. No vacancy in the  
7 membership of the loan board may impair the right of  
8 the quorum to exercise all rights and perform all the  
9 duties of the loan board.

10 All the members of the loan board shall not be  
11 paid per diem but shall be reimbursed for their actu-  
12 al expenses necessarily incurred in the performance  
13 of their duties.

14 §1100-B. Powers

15 The loan board shall have the following powers  
16 and duties:

17 1. Clearinghouse. To serve as a clearinghouse  
18 for information relating to financing, management and  
19 marketing concerns of veteran small businessmen;

20 2. Annual plan. To submit an annual plan to the  
21 Finance Authority of Maine board recommending cri-  
22 teria to be used in evaluating projects for financing  
23 under the veterans' small business loan program;

24 3. Agreements. To make and execute agreements,  
25 contracts and other instruments, with any public or  
26 private entity;

27 4. Acceptance of funds. To receive and accept  
28 appropriations, gifts, grants, loans, contributions  
29 of property or any interest therein, labor or other  
30 items of value from public or private entities,  
31 including, without limitation, any grants, funds or  
32 property from any agency or instrumentality of the  
33 United States;

34 5. Advice. To provide advice to veteran small  
35 businessmen on the loan programs of the authority and  
36 to assist them in complying with guidelines for  
37 participation in those programs; and

1        6. Cooperation. To cooperate with the author-  
2 ity, the Division of Maine Business Development and  
3 Finance and the Division of Natural Resources Financi-  
4 ng and Marketing on projects common to the interests  
5 of the board, authority and agencies.

6        §1100-C. Credit of the State pledged

7        The Finance Authority of Maine, as successor to  
8 the Maine Veterans Small Business Loan Authority may  
9 insure the payment of up to 85% of mortgage loans to  
10 resident veteran small businessmen, secured by eligi-  
11 ble projects, and, to this end, the faith and credit  
12 of the State is pledged, consistent with the terms  
13 and limitations of the Constitution of Maine, Article  
14 IX, Section 14-E.

15       §1100-D. Loan insurance fund

16       1. Fund established; charges and credits to  
17 fund. There is established a Veterans' Small Busi-  
18 ness Loan Insurance Fund, in this subchapter referred  
19 to as the "fund," which is managed by the authority,  
20 but held separate from other funds of the authority,  
21 which shall be used by the authority as a nonlapsing,  
22 revolving fund for carrying out this subchapter.  
23 This fund shall initially be the sum of \$200,000. To  
24 this sum shall be charged interest and principal pay-  
25 ments required by loan defaults, and to the sum shall  
26 be credited all income from loan insurance premiums  
27 and sale, disposal, lease or rental proceeds.

28       2. Deposited with Treasurer of State or  
29 invested. Moneys in the fund, not needed currently  
30 to meet the obligations of the authority as provided  
31 for in this subchapter, shall be deposited with the  
32 Treasurer of State to the credit of the fund or may  
33 be invested in such manner as is provided for by  
34 statute.

35       3. Successor to fund. The Veterans' Small Busi-  
36 ness Loan Insurance Fund is the successor to the fund  
37 formerly administered by the Maine Veterans' Small  
38 Business Loan Authority, and all assets, liabilities  
39 and actions of the Maine Veterans' Small Business  
40 Loan Authority shall be a resolution of the Finance  
41 Authority of Maine or an action taken by the Finance  
42 Authority of Maine.

1     §1100-E. Additions to

2             If, from time to time in the opinion of the  
3 authority, the addition of moneys to the fund may be  
4 required to meet obligations, the authority shall, in  
5 writing, request the Governor to provide moneys in  
6 such amounts as may be necessary for the purpose.  
7 The Governor shall transfer to this fund sufficient  
8 moneys for the purpose from the State Contingent Ac-  
9 count or from the proceeds of bonds to be issued as  
10 provided in this section. If bonds are to be issued,  
11 the Governor shall order the Treasurer of State to  
12 issue bonds in the amount requested, but not exceed-  
13 ing in the aggregate at any one time outstanding the  
14 amount set forth in the Constitution of Maine, Arti-  
15 cle IX, Section 14-E, as it may be from time to time  
16 amended, to mature serially or made to run for such  
17 periods as the Governor may determine, but none of  
18 them shall run for a longer period than 20 years and  
19 at such rates of interest and on such terms and con-  
20 ditions as the Governor shall determine. The bonds  
21 so issued shall be deemed a pledge of the faith and  
22 credit of the State.

23     §1100-F. Insurance of loans

24             The authority may, upon application of the pro-  
25 posed lender, insure loan payments required by the  
26 first mortgage to resident veterans' small businesses  
27 on any eligible project, upon such terms and condi-  
28 tions as the authority may prescribe, provided that  
29 the aggregate amount of principal obligations of all  
30 mortgages so insured outstanding at any one time  
31 shall not exceed \$4,000,000. To be eligible for  
32 insurance under this subchapter a loan shall:

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

36             2. Maturity; limit. Have a maturity satisfac-  
37 tory to the authority;

38             3. Amortization. Contain complete amortization  
39 provisions satisfactory to the authority requiring  
40 periodic payments by the mortgagor which shall  
41 include principal and interest payments, cost of

1 local property taxes and assessments, land lease  
2 rents, if any, hazard insurance on the property and  
3 such loan insurance premiums as are required under  
4 section 1100-H;

5 4. Other terms. Contain such terms and provi-  
6 sions with respect to property insurance, repairs,  
7 alterations, payments of taxes and assessments, de-  
8 fault reserves, delinquency charges, default remedies,  
9 anticipation of maturity, additional and secondary  
10 liens and other matters as the authority may pre-  
11 scribe;

12 5. Principal obligation; limit. Involve a prin-  
13 cipal obligation not to exceed \$100,000; and

14 6. Nonassignability of proceeds. No right, pay-  
15 ment or proceeds of any loan made under this subchap-  
16 ter or statutes supplementary thereof may be subject  
17 to garnishment, attachment or execution of the claim  
18 of any other creditor other than the lender; nor may  
19 any such right or payment be capable of assignment  
20 except under such rules as may be prescribed by the  
21 authority.

22 §1100-G. Loan insurance premiums

23 The authority may fix loan insurance premiums for  
24 the insurance of loan payments under this subchapter,  
25 those premiums to be computed as a percentage of the  
26 principal obligation of the loan outstanding at the  
27 beginning of each year. Those insurance premiums  
28 shall not be less than 1/2 of 1% per year nor more  
29 than 2% per year of the outstanding principal obli-  
30 gation. The premiums shall be payable by the lenders  
31 in such manner as shall be prescribed by the author-  
32 ity.

33 §1100-H. Acquisition and disposal of property

34 The authority may take assignments of insured  
35 loans and other forms of security and may take title  
36 by foreclosures or conveyance to any eligible project  
37 when an insured loan thereon is clearly in default  
38 and when in the opinion of the authority that acquis-  
39 ition is necessary to safeguard the loan insurance  
40 fund and may sell, or on a temporary basis lease or

1 rent, that eligible project for use other than that  
2 specified.

3 §1100-I. Loans eligible for investment

4 Loans insured by the authority are made legal  
5 investments for all insurance companies, trust compa-  
6 nies, banks, investment companies, savings banks,  
7 savings and loan associations, executors, trustees  
8 and other fiduciaries, public and private pension or  
9 retirement funds.

10 §1100-J. Less than full collateral for loans

11 The authority may insure a loan to a borrower  
12 with less than full collateral, provided that the  
13 borrower is of good character and has a good personal  
14 credit record.

15 §1100-K. Safeguarding the fund

16 When a loan insured under this subchapter is  
17 clearly in default, the authority may assent to the  
18 extension of the time of payment of that insured  
19 loan, may extend the insurance thereon accordingly  
20 and may waive loan insurance premiums thereon, when  
21 in the opinion of the authority any such action is  
22 necessary to safeguard the fund.

23 §1100-L. Accounts

24 The loan board shall keep proper records and ac-  
25 counts.

26 Sec. 22. 13-A MRSA §401, sub-§4, as enacted by  
27 PL 1971, c. 565, §12-A, is amended to read:

28 4. Nothing in this section shall may be con-  
29 strued to prevent the organization of agricultural  
30 credit corporations under the Federal Farm Loan Act.  
31 Such agricultural credit corporations shall not be  
32 deemed banking corporations or institutions.

33 Sec. 23. 30 MRSA §5106, sub-§1, as amended by PL  
34 1973, c. 112, is further amended to read:

1           1. Board of trade. Supporting and guaranteeing  
2 obligations of a chamber of commerce or board of  
3 trade or a local development corporation, or a cham-  
4 ber of commerce and a local development corporation,  
5 or a board of trade and a local development corpora-  
6 tion-;

7           Sec. 24. 36 MRSA §1760, sub-§2, as amended by PL  
8 1967, c. 116, is further amended to read:

9           2. State and political subdivisions. Sales to  
10 the State or any political subdivision, or to the  
11 Federal Government, or to any unincorporated agency  
12 or instrumentality of either of them or to any  
13 incorporated agency or instrumentality of them wholly  
14 owned by them. This exemption shall not apply where  
15 title is held or taken as security for any financing  
16 arrangement.

17           Sec. 25. 36 MRSA §5122, sub-§2, ¶A, as enacted  
18 by PL 1977, c. 686, §9, is amended to read:

19           A. Interest or dividends on obligations of the  
20 United States and its territories and possessions  
21 or of any authority, commission or instrumentality  
22 of the United States or on a seller-sponsored  
23 loan, as defined by Title 10, section 974, sub-  
24 section 16 to the extent includible in gross  
25 income for federal income tax purposes but exempt  
26 from state income taxes under the laws of the  
27 United States, provided that the amount sub-  
28 tracted shall be decreased by any expenses incur-  
29 red in the production of the interest or dividend  
30 income to the extent that these expenses, includ-  
31 ing amortizable bond premiums, are deductible in  
32 determining federal adjusted gross income; and

33           Sec. 26. 36 MRSA §5127, sub-§4 is enacted to  
34 read:

35           4. Credit for capital gains on sales of agricul-  
36 tural land. A resident taxpayer who sells agricul-  
37 tural land to an entrant to natural resource enter-  
38 prises under a seller-sponsored loan shall be allowed  
39 a one-time credit against the tax otherwise due of  
40 100% of the tax on the first \$50,000 of capital  
41 gains, provided that the amount of the credit taken

1 in any one taxable year shall not exceed 50% of the  
2 total tax imposed on the taxpayer for that taxable  
3 year before application of the credit. The applica-  
4 bility of this section shall be contingent on a cer-  
5 tification by the Division of Natural Resources  
6 Financing and Marketing that the taxpayer, land and  
7 loan involved are within the requirements of Title  
8 10, chapter 110, subchapter I-A. This section does  
9 not apply to any person who acquired the farmland for  
10 the purpose of obtaining the income tax benefits  
11 under this section.

12       Sec. 27. 36 MRSA §5216, sub-§1, as enacted by PL  
13 1981, c. 364, §70, is amended to read:

14       1. Credit. A resident individual, resident  
15 estate or trust, or taxable corporation is entitled  
16 to a credit against the tax otherwise due under this  
17 Part equal to 50% of the amount of his or its invest-  
18 ment in common stock of The Maine Capital Corporation  
19 or the Maine Natural Resource Capital Corporation.  
20 20% Twenty percent of the credit shall be taken in  
21 the taxable year of the investment and 20% in each of  
22 the next 4 taxable years.

23       Sec. 28. 36 MRSA §5216, sub-§4, as enacted by PL  
24 1981, c. 364, §70, is amended to read:

25       4. Recapture. If the taxpayer disposes of the  
26 stock in The Maine Capital Corporation or the Maine  
27 Natural Resource Capital Corporation within 6 years  
28 after the date on which the taxpayer acquired that  
29 stock in a transaction which gives rise to gain or  
30 loss for federal income tax purposes, the tax imposed  
31 under this Part for the taxable year in which the  
32 disposition occurs shall be increased by an amount  
33 equal to the amount allowed as a credit in the year  
34 of disposition and all prior years. Any unused credit  
35 attributable to the disposed of stock is disallowed.

36       Sec. 29. 37-A MRSA c. 2, sub-c. II, as amended,  
37 is repealed.

38       Sec. 30. Transfer provisions. Funds transferred  
39 to the Department of Agriculture, Food and Rural  
40 Resources pursuant to the provisions of Private and  
41 Special Law 1951, chapter 142, shall be administered



1 by the Division of Natural Resources Financing and  
2 Marketing.

3 FISCAL NOTE

4 Funding for this new draft is provided for in the  
5 Part II budget with \$40,000 in fiscal year 1984 to  
6 cover transitional costs for the Finance Authority of  
7 Maine, and \$100,000 in fiscal year 1984 and \$400,000  
8 in fiscal year 1985 to support start-up costs of the  
9 Division of Natural Resources Financing and Market-  
10 ing, other costs of the Division of Maine Business  
11 Development and Finance and some Division of Natural  
12 Resource Financing and Marketing costs will be cov-  
13 ered from authority revenue. In addition, there will  
14 be a decrease in General Fund revenue in fiscal year  
15 1985 of \$125,000 because of tax credits on investment  
16 in the Maine Natural Resource Capital Corporation.

17 STATEMENT OF FACT

18 The purpose of this new draft is to provide for a  
19 more efficient operation of the Finance Authority of  
20 Maine and to make technical changes. The changes  
21 proposed by this new draft and the reasons for these  
22 changes are listed as follows.

23 1. The Business Development Finance Agency and  
24 the Natural Resources Finance and Marketing Agency  
25 have each been transformed into divisions within the  
26 Finance Authority of Maine with a director of each  
27 division appointed by the chief executive officer.

28 The purpose of this change is to lessen the  
29 degree of structure and duplication of effort by  
30 which the financing programs are implemented.

31 2. The Director of the Division of Natural  
32 Resources Financing and Marketing is appointed by the  
33 chief executive officer subject to approval by the  
34 Finance Authority and in consultation with the board  
35 of directors of the division. In the original bill,  
36 the director of the agency, now a division, was  
37 appointed and dismissed subject to approval of the  
38 board of the agency. As a result, the Finance  
39 Authority had less control over the director and

1 operation of the Natural Resources Financing and  
2 Marketing Agency than it held over the Business  
3 Development Finance Agency.

4 The purpose of this change is to enable the  
5 Finance Authority to enforce its policies and deci-  
6 sions and to maintain the integrity of the Finance  
7 Authority.

8 3. The initial terms of the Finance Authority  
9 board members who are designated or "at-large"  
10 appointees are staggered.

11 The purpose of this change is to provide continu-  
12 ity while, at the same time, permitting new people  
13 with different ideas and expertise to influence the  
14 policies of the authority.

15 4. The composition of the Finance Authority  
16 Board has been changed to allow for 3 "public" mem-  
17 bers, to reduce the number of designated members, and  
18 to reduce the number of commissioners of departments  
19 on the board.

20 The board as composed in the original bill, pro-  
21 vided no flexibility or opportunity to include per-  
22 sons with different expertise. This is necessary for  
23 an effective board.

24 5. The provisions of Legislative Document 1477  
25 have been incorporated in this new draft. Applicants  
26 to the Finance Authority for guarantees or bond  
27 financing for industrial projects are first required  
28 to apply for insured industrial bonds from a private  
29 bond firm. The Finance Authority, in this new draft,  
30 will not insure or bond finance the first \$2,500,000  
31 of a project. Presently, there are private indus-  
32 trial bond insurance firms which provide up to  
33 \$2,500,000 of insured bonds. The Finance Authority  
34 would guarantee or bond finance loans in excess of  
35 \$2,500,000 provided that the firm's assets would be  
36 sufficient to provide the Finance Authority with a  
37 first lien on the property.

38 The purpose of this provision is to provide more  
39 security for the State with respect to industrial  
40 development projects insured by or funded through the  
41 Finance Authority of Maine.

1           6. The direct lending provisions in this new  
2 draft have been substantially modified. The Division  
3 of Natural Resources Financing and Marketing may make  
4 direct loans not exceeding \$250,000 to applicants  
5 only upon 2 conditions. The first condition requires  
6 that direct loans be provided to applicants in geo-  
7 graphical areas in which financial institutions are  
8 unwilling to participate in the natural resource loan  
9 programs of the Finance Authority. The 2nd condition  
10 requires that direct loans be provided to applicants  
11 who are unable to secure conventional natural  
12 resource bank loans on similar terms and conditions  
13 as financing provided by the Finance Authority.

14           The purpose of this provision is to reduce the  
15 risk of the State and to provide more financing  
16 opportunities to natural resource projects for which  
17 conventional bank capital is not available.

18           7. The maximum guarantee limit for the Maine  
19 Small Business Loan Program and the Maine Veterans'  
20 Small Business Loan Program has been reduced from 90%  
21 to 85% of the first mortgage.

22           The purpose of this proposal is to require more  
23 "up-front" capital on the part of the applicant and  
24 to encourage the growth of the more financially  
25 stable types of enterprise. It should be noted that  
26 the existing ceiling on the guarantee of loans in  
27 both programs is 80%. The new draft, by providing an  
28 85% ceiling will encourage and facilitate the growth  
29 of stable small businesses in Maine.

30           8. The Finance Authority of Maine is required to  
31 assign one professional staff person who is a veteran  
32 to work with the Maine Veterans' Small Business Loan  
33 Program in addition to the other duties assigned to  
34 that staff person.

35           The purpose of this change is to accommodate  
36 applicants in the Maine Veterans' Small Business Loan  
37 Program who may feel more comfortable working with  
38 fellow veterans as they have previously been in this  
39 program.

40           9. The provisions have been removed in the Maine  
41 Small Business Loan Program and the Maine Veterans'

1 Small Business Loan Program that authorize loans to  
2 borrowers with no collateral.

3 The purpose of this change is to reduce the risk  
4 to the State that a "no-collateral" loan creates.  
5 Bonds issued under these programs pledge the faith  
6 and credit of the State.

7 10. The phrase "eligible project" has been  
8 redefined with respect to the Revenue Obligation  
9 Security Program and the Municipal Securities  
10 Approval Program to be consistent with the intent of  
11 existing law and to provide a specific citation to  
12 federal regulations governing revenue obligation  
13 securities. Retail stores, office space of less than  
14 30,000 square feet, and office space in excess of  
15 30,000 square feet in which less than 1/2 of the  
16 employees occupying the square footage do not repre-  
17 sent new jobs are excluded as eligible projects.

18 11. The 50% capital gains credit on the first  
19 \$50,000 of capital gains has been increased to 100%  
20 of the first \$50,000 of capital gains for any family  
21 farm corporation which finances the sale of the farm  
22 on attractive terms and conditions to a beginning  
23 farmer.

24 This provision is not expected to be widely used  
25 in the first 3 or 4 years. The 50% credit, according  
26 to testimony, would not be sufficiently attractive to  
27 encourage family farm owners to finance the sale of  
28 their farms on very attractive terms to beginning  
29 farmers.

30 12. The Finance Authority of Maine, in its  
31 annual report to the Legislature, is required to  
32 report any defaults in payments of loans that have  
33 occurred during the previous year and to report a  
34 cumulative default rate.

35 The purpose of this provision is to keep the  
36 Legislature informed of the operation of the Finance  
37 Authority and the quality of the loans provided under  
38 the various programs.

39 13. The residency requirements for assistance  
40 under the Natural Resources Financing and Marketing

1 Programs have been changed to require that majority  
2 ownership is a project to be held by Maine residents.  
3 Previously, the residency requirement allowed a  
4 majority of owners who are Maine residents to obtain  
5 assistance.

6 The previous residency requirement, Legislative  
7 Document 1565, would have allowed a consortium com-  
8 posed of a majority of Maine resident owners who held  
9 a minority interest to obtain financial assistance  
10 under the Natural Resources Financing and Marketing  
11 Programs. Thus 10% of the owners could have been  
12 nonresidents owning 90% of the enterprise and bene-  
13 fited under these programs.

14

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