

MAINE STATE LEGISLATURE

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L.D. 1118

(Filing No. H-231)

STATE OF MAINE
HOUSE OF REPRESENTATIVES
112TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 785, L.D. 1118, Bill, "AN ACT Providing for the 1985 Amendments to the Finance Authority of Maine Act."

Amend the bill by inserting after the enacting clause the following:

'Sec. 1. 10 MRSA c. 109, first 2 lines are repealed and the following enacted in its place:

CHAPTER 109

MAINE NATURAL RESOURCE CAPITAL COMPANY

Sec. 2. 10 MRSA §§956 and 957, as enacted by PL 1983, c. 519, §4, are amended to read:

§956. Formation; name; purpose

There is authorized the formation by the Division of Natural Resources Financing and Marketing Finance Authority of Maine under Title 13-A or other Maine law of a private investment corporation or other business association to be named the "Maine Natural Resource Capital Corporation Company" for the purpose of providing investment capital to new state natural resource enterprises or to existing state natural resource enterprises for purposes of expansion. The Finance Authority of Maine may change "company" to "corporation," "fund" or such other designation as it may determine.

§957. Limitations on purposes and powers

The Maine Natural Resource Capital Corporation Company shall have all of the general powers of business corporations enumerated in Title 13-A, section

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1 202 and the general powers of any other business
2 association, except that:

3 1. Investments and related business dealings.
4 Its financings and related business dealings shall be
5 restricted to persons eligible for financial assist-
6 ance under chapter 110, subchapter I-A. Any funds so
7 invested in state natural resource enterprises by
8 purchase of stock or otherwise shall be used solely
9 for the purpose of enhancing their productive capaci-
10 ties or ability to do business within the State, or
11 to facilitate their ability to generate value added
12 within the State to goods or services for export to
13 out-of-state markets. Financings may include, in any
14 combination and without limitation, equity invest-
15 ments, loans, guarantees and commitments for these
16 financings;

17 2. Investment limited. Its investment in any one
18 state natural resource enterprise under this chapter
19 shall be limited to a maximum of \$200,000. The Maine
20 Natural Resource Capital ~~Corperation~~ Company shall
21 not invest in any firm in which a person, or his
22 spouse or dependent children, owning common stock of
23 or other interest in the Maine Natural Resource Capi-
24 tal Corperation Company holds over a 25% interest;

25 3- Maximum capitalization- Its maximum capitali-
26 zation shall not exceed \$1,000,000 and shall consist
27 of 10,000 shares of common stock having a par value
28 of \$100 per share. All shares offered for sale by the
29 corporation shall be for cash at their par value;

30 4- Commencement of business- Before it commences
31 doing business, the corporation shall have and there-
32 after maintain a board of 11 directors, 7 of whom
33 shall be the members of the Maine Natural Resource
34 Financing and Marketing Board and 4 of whom shall be
35 elected by the shareholders;

36 4-A. Governance. The company's affairs shall be
37 governed by 7 persons selected pursuant to this sub-

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1 section. The Maine Natural Resource Financing and
2 Marketing Board of the Finance Authority of Maine
3 shall select 2 of its public members and 2 of the
4 commissioners serving on the board to govern the com-
5 pany's affairs. The terms of office of the persons
6 selected by the Natural Resource Financing and Mar-
7 keting Board shall be coterminous with their terms on
8 the board. The holders of stock of or interests in
9 the company shall, pursuant to documents governing
10 the company, designate 3 persons to govern the compa-
11 ny's affairs and to serve for terms determined by the
12 company;

13 5- Amount of stock and dividends- The amount of
14 stock held, its tax status and dividends payable by
15 the Maine Natural Resource Capital Corporation shall
16 be governed by the same provisions as applicable to
17 the Maine Capital Corporation pursuant to section
18 952, subsections 5 and 6, and

19 5-A. Amount of interest held. No person, firm
20 or corporation may subscribe for, own or hold direct-
21 ly or indirectly more than 20% of the stock or inter-
22 ests of the company at any time. For the purposes of
23 determining ownership under this chapter, the attri-
24 bution rules of the United States Internal Revenue
25 Code, Section 318, as amended from time to time,
26 shall apply;

27 5-B. Distributions. The company shall not de-
28 clare or pay any dividends or make any distributions
29 to holders of its stock or interests during its first
30 5 years of operation and thereafter any dividends or
31 distributions shall be paid or made only with respect
32 to stock or interests whose holders are not using the
33 credit for investment in the Maine Natural Resource
34 Capital Company allowed under Title 36, section 5216.
35 Dividends paid or distributions made shall be limited
36 to a maximum of 50% of retained earnings, with the
37 balance being reinvested in accordance with this
38 chapter; and

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1 6. Financial statement. The Division of Natural
2 Resources Financing and Marketing Finance Authority
3 of Maine shall include in its report to the authority
4 under section 992 974 an audited financial statement
5 detailing the investment and financial activities of
6 the Maine Natural Resource Capital Corporation Compa-
7 ny for the company's most recent fiscal year.

8 Sec. 3. 10 MRSA §958, as amended by PL 1983, c.
9 553, §46, is repealed and the following enacted in
10 its place:

11 §958. Initial organization

12 The Finance Authority of Maine shall take the
13 necessary steps to incorporate, organize or establish
14 the Maine Natural Resource Capital Company. The au-
15 thority shall file with such governmental offices
16 such documents as shall be required by law.

17 Sec. 4. 10 MRSA §959, as enacted by PL 1983, c.
18 519, §4, is repealed and the following enacted in its
19 place:

20 §959. Subscription and sales of stock; first stock-
21 holders meeting

22 The Finance Authority of Maine, as and when it
23 deems practicable, may solicit and receive subscrip-
24 tions for the issuance and purchase of the stock or
25 other interests of the Maine Natural Resource Capital
26 Company, provided that subscriptions for amounts ex-
27 ceeding 1% of the stock or interests offered shall be
28 reduced pro rata among subscribers subscribing for
29 more than 1% of the stock or interests offered in the
30 event the issue is over-subscribed by the termination
31 date as may be set by the Finance Authority of
32 Maine.

33 Further amend the bill in that part designated
34 "\$962." in the first paragraph in the 16th line (page
35 2, line 5 in L.D.) by striking out the underlined

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1 words and punctuation "acquisition, construction and
2 improvement" and inserting in their place the follow-
3 ing: "planning, development, acquisition, construc-
4 tion, improvement, expansion and placing in
5 operation'

6 Further amend the bill in that part designated
7 "§962." in the first paragraph in the 20th line (page
8 2, line 9 in L.D.) by striking out the underlined
9 words "local governments" and inserting in their
10 place the following: 'its political subdivisions'

11 Further amend the bill in that part designated
12 "§962." by striking out all of subsection 1 and in-
13 sserting in its place the following:

14 '1. Mortgage loans. Encourage the making of
15 mortgage loans to finance the planning, development,
16 acquisition, construction, improvement, expansion and
17 placing in operation of industrial, manufacturing,
18 recreational, fishing, agricultural and other busi-
19 ness and natural resource enterprises;'

20 Further amend the bill in section 3 in that part
21 designated "§963-A." by striking out all of subsec-
22 tions 12 and 13 and inserting in their place the fol-
23 lowing:

24 '12. Energy distribution system project. "Energy
25 distribution system project" means an energy distri-
26 bution system owned, in whole or in part, by an indi-
27 vidual, municipality, corporation or other governmen-
28 tal entity or business association and which uses
29 biomass, peat, solar, waste, water and related dams,
30 wind, wood, coal or natural gas.

31 '13. Energy generating system project. "Energy
32 generating system project" means:

33 A. For a system which does not generate elec-
34 tricity, an energy generating system owned, in
35 whole or in part, by an individual, municipality,

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1 corporation or other governmental entity or busi-
2 ness association and which system uses biomass,
3 peat, solar, waste, water and related dams, wind,
4 wood or coal, or which is an energy conservation
5 project, including a transportation project con-
6 sistent with the United States Internal Revenue
7 Service guidelines; or

8 B. For a system which does generate electricity,
9 an energy generating system which uses biomass,
10 peat, solar, waste, water and related dams, wind,
11 wood or coal, and which is owned, in whole or in
12 part, by an individual, municipality, corporation
13 or other governmental entity or business associa-
14 tion which qualifies as a cogenerator or small
15 power producer under Title 35, chapter 172.'

16 Further amend the bill in section 3, in that part
17 designated "§963-A." in subsection 16, in the 8th
18 and 9th lines (page 6, lines 27 and 28 in L.D.) by
19 striking out the underlined words "according to the
20 rules of common law"

21 Further amend the bill in section 13 in that part
22 designated "§969-A." by striking out all of subsec-
23 tion 12 and inserting in its place the following:

24 '12. Office. Maintain an office at a place des-
25 ignated by it within the State;'

26 Further amend the bill in section 19 in that part
27 designated "§974." in subsection 1, paragraph I, in
28 the last line (page 20, line 22 in L.D.) by striking
29 out the underlined word and punctuation "assistance."
30 and inserting in its place the following:
31 'assistance;'

32 Further amend the bill in section 19 in that part
33 designated "§974." in subsection 1, by inserting at
34 the end the following:

35 'J. An audited financial statement of the Maine

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1 Natural Resource Capital Company prepared in ac-
2 cordance with section 957, subsection 6; and

3 K. A description of the operations of the au-
4 thority pursuant to section 980-A for the most
5 recent calendar year and of its plans, if any,
6 for revising any allocation system established
7 pursuant to section 980-A.'

8 Further amend the bill in section 21 by striking
9 out all of that part designated "§975-A." and insert-
10 ing in its place the following:

11 '§975-A. Disclosure and confidentiality of records

12 1. Disclosure required. Notwithstanding subsec-
13 tions 2 and 3 and except as provided in paragraph F,
14 the following shall be made available to any person
15 upon request reasonably describing the records to
16 which access is sought or, if no request is made, in
17 any manner and at any time which the authority may
18 determine:

19 A. After filing of a written application or pro-
20 posal for financial assistance or property trans-
21 fer, in form specified by or acceptable to the
22 authority:

23 (1) Names of recipients of or applicants
24 for financial assistance, including princi-
25 pals, where applicable;

26 (2) Amounts, types and general terms of fi-
27 ancial assistance provided to those recipi-
28 ents or requested by those applicants;

29 (3) Descriptions of projects and businesses
30 benefiting or to benefit from the financial
31 assistance;

32 (4) Names of transferors or transferees,
33 including principals, of property to or from

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1 the authority, the general terms of transfer
2 and the purposes for which transferred prop-
3 erty will be used;

4 (5) Number of jobs and the amount of tax
5 revenues projected or resulting in connec-
6 tion with a project;

7 (6) Upon the authority's satisfaction of
8 its mortgage insurance liability, the amount
9 of any mortgage insurance payments with re-
10 spect to a mortgage insurance contract; and

11 (7) Names of financial institutions partic-
12 ipating in providing financial assistance
13 and the general terms of that financial as-
14 sistance;

15 B. Any information pursuant to waiver deemed
16 satisfactory by the authority;

17 C. Information which, as determined by the au-
18 thority, has already been made available to the
19 public;

20 D. Any information necessary to carry out sec-
21 tion 1043 or 1063;

22 E. Information necessary to comply with Title 1,
23 section 407, subsection 1;

24 F. Information or records specified in a written
25 request signed by the chairmen of a legislative
26 committee shall be provided to the legislative
27 committee. The information or records may be
28 used only for the lawful purposes of the commit-
29 tee and in any action arising out of any investi-
30 gation conducted by it; and

31 G. The annual report of the authority required
32 pursuant to section 974.

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1 2. Confidential information. The following
2 records are designated as confidential for purposes
3 of Title 1, section 402, subsection 3, paragraph A:

4 A. Any record obtained or developed by the au-
5 thority prior to receipt of a written application
6 or proposal, in form specified by or acceptable
7 to the authority, for financial assistance to be
8 provided by or with the assistance of the author-
9 ity or in connection with a transfer of property
10 to or from the authority. After receipt by the
11 authority of the application or proposal, a
12 record pertaining to the application or proposal
13 shall not be considered confidential unless it
14 meets the requirements of other paragraphs of
15 this subsection;

16 B. Any record obtained or developed by the au-
17 thority which fulfills the following require-
18 ments:

19 (1) A person, including the authority, to
20 whom the record belongs or pertains has re-
21 quested that the record be designated confi-
22 dential; and

23 (2) The authority has determined that in-
24 formation in the record gives the owner or a
25 user an opportunity to obtain business or
26 competitive advantage over another person
27 who does not have access to the information,
28 except through authority records, or that
29 access to the information by others would
30 result in a business or competitive disad-
31 vantage, loss of business or other signifi-
32 cant detriment, other than loss or denial of
33 financial assistance from the authority, in
34 the case of a person other than the authori-
35 ty, to any person to whom the record belongs
36 or pertains;

37 C. Any financial statement or tax return of an

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1 individual or any other record obtained or devel-
2 oped by the authority the disclosure of which
3 would constitute an invasion of personal privacy,
4 as determined by the authority;

5 D. Any record including any financial statement
6 or tax return obtained or developed by the au-
7 thority in connection with any monitoring or ser-
8 vicing activity by the authority pertaining to
9 any financial assistance provided or to be pro-
10 vided by or with the assistance of the authority;

11 E. Any record obtained or developed by the au-
12 thority which contains an assessment by a person
13 who is not employed by the authority of the cred-
14 it worthiness or financial condition of any per-
15 son or project; and

16 F. Any financial statement or business and mar-
17 keting plan in connection with any project re-
18 ceiving or to receive financial assistance from
19 the authority pursuant only to subchapters III or
20 IV, except section 1053, subsection 5, if a per-
21 son to whom the statement or plan belongs or per-
22 tains has requested that the record be designated
23 confidential.

24 3. Wrongful disclosure prohibited. No member,
25 officer, employee, agent, other representative of the
26 authority or other person may knowingly divulge or
27 disclose records declared confidential by this sec-
28 tion, except that the authority may, in its discre-
29 tion, make or authorize any disclosure of informa-
30 tion of the following types or under the following circum-
31 stances:

32 A. Impersonal, statistical or general informa-
33 tion;

34 B. If necessary in connection with processing
35 any application for, obtaining or maintaining fi-
36 ancial assistance for any person or in connec-

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1 tion with acquiring, maintaining or disposing of
2 property;

3 C. To a financing institution or credit report-
4 ing service;

5 D. Information necessary to comply with any fed-
6 eral or state law or rule or with any agreement
7 pertaining to financial assistance;

8 E. Information to the extent the authority deems
9 the disclosure necessary to the sale or transfer
10 of revenue obligation securities or to the sale
11 or transfer of bonds of the State;

12 F. If necessary to assure collection of any ob-
13 ligation in which it has or may have an interest;

14 G. In any litigation or proceeding in which the
15 authority has appeared, introduction for the
16 record of any information obtained from records
17 declared confidential by this section; and

18 H. Pursuant to a subpoena, request for produc-
19 tion of documents, warrant or other order by com-
20 petent authority, provided that any such order
21 appears to have first been served on the person
22 to whom the confidential information sought per-
23 tains or belongs and provided that any such order
24 appears on its face or otherwise to have been is-
25 sued or made upon lawful authority.

26 4. Records on effective date. Whether any
27 record in the possession of the authority on the ef-
28 fective date of this section is confidential shall be
29 determined pursuant to this section and not pursuant
30 to the law in effect when the authority or any of its
31 predecessors obtained any such record and any such
32 record shall or may be disclosed or divulged to the
33 extent required or permitted by this section.'

34 Further amend the bill in section 22 in that part

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1 designated "§980-A." by adding at the end the follow-
2 ing:

3 'The authority shall include in its report pursuant
4 to section 974 a description of its operations pursu-
5 ant to this section for the most recent calendar year
6 and of its plans, if any, to revise any allocation
7 system established pursuant to this section.'

8 Further amend the bill in section 22 by adding at
9 the end the following new section:

10 '§980-C. Location or use of collateral

11 The authority shall, by rulemaking pursuant to
12 Title 5, chapter 375, subchapter II, establish for
13 each program governed by or operated pursuant to this
14 chapter requirements and limitations for assuring
15 that any eligible project or collateral maintains
16 minimum contact with the State. In the case of real
17 estate, the authority shall require that the real es-
18 tate be located within the State. The authority
19 shall establish requirements and limitations pertain-
20 ing to fishing or other vessels.'

21 Further amend the bill in section 26 in that part
22 designated "§985." by striking out all of subsection
23 5 and inserting in its place the following:

24 '5. Policies. The Natural Resource Financing
25 and Marketing Board shall, from time to time, recom-
26 mend to the members of the authority the adoption,
27 amendment or repeal of rules for carrying out this
28 subchapter.'

29 Further amend the bill in section 42 by striking
30 out everything after the amending clause and insert-
31 ing in its place the following:

32 '§1024. Additions to fund

33 1. Request for funds. If at any time money in

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1 addition to that on hand in the fund is required to
2 meet expenses of the authority pursuant to section
3 1023-B, subsection 3, as these expenses are projected
4 by the authority to become due and payable, the au-
5 thority shall in writing request the Governor to pro-
6 vide the necessary money. The Governor shall trans-
7 fer sufficient money to the fund from the State Con-
8 tingent Account, the Guarantee Reserve Fund or the
9 proceeds of bonds of the State issued pursuant to
10 subsection 2.

11 2. Issuance of bonds. If a request for funds is
12 made under subsection 1 and if there are insufficient
13 funds in the State Contingent Account or the Guarante-
14 tee Reserve Fund, bonds of the State shall be issued
15 in the following manner:

16 A. By the Treasurer of State on orders from the
17 Governor;

18 B. In the amount required, but not exceeding in
19 the aggregate at any one time outstanding the
20 amount set forth in:

21 (1) The Constitution of Maine, Article IX,
22 Section 14-A, as it may be from time to time
23 amended, except that bonds issued under that
24 section and this subsection shall not exceed
25 in the aggregate at any one time outstanding
26 the principal amount of \$77,500,000; and

27 (2) The Constitution of Maine, Article IX,
28 Section 14-D, as it may be from time to time
29 amended, except that bonds issued under that
30 section and this subsection shall not exceed
31 in the aggregate at any one time outstanding
32 the principal amount of \$4,000,000;

33 C. To mature serially or to run for periods as
34 the Governor may determine, not to exceed 10
35 years, to be subject to prior redemption or re-
36 purchase at the option of the State or the hold-

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1 er, as the Governor may determine, with or with-
2 out premium;

3 D. At variable or fixed rates of interest, in
4 such denominations, at such price, at public or
5 private sale, in such manner and on such other
6 terms and conditions as approved by the Governor;
7 and

8 E. As a pledge of the full faith and credit of
9 the State.

10 3. Insurance authorization. The authority shall
11 not at any time have, in the aggregate principal
12 amount outstanding, mortgage insurance obligations
13 pursuant to this subchapter in excess of the amounts
14 of authorized and unissued bonds pursuant to subsec-
15 tion 2, paragraph B.

16 4. Refunding bonds. The State, acting through
17 the Treasurer of State on orders from the Governor,
18 may issue refunding bonds of the State to refund any
19 outstanding bonds issued pursuant to subsection 2.
20 The refunding bonds shall meet the conditions of sub-
21 section 2, paragraphs C, D and E. In computing the
22 total amount of bonds of the State which may at any
23 time be outstanding pursuant to subsection 2, the
24 amount of the outstanding bonds refunded or to be re-
25 funded from the proceeds of the sale of new bonds or
26 by exchange of new bonds shall be excluded.'

27 Further amend the bill in section 45 in that part
28 designated "§1026-A." in subsection 2, by striking
29 out all of paragraph A and inserting in its place the
30 following:

31 'A. The mortgage shall be a first lien on or a
32 first security interest in eligible collateral,
33 subject to such encumbrances, including, without
34 limitation, coordinate first liens, as are ac-
35 ceptable to the authority;'

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1 Further amend the bill in section 45 in that part
2 designated "§1026-A." in subsection 2, by striking
3 out all of paragraph C and inserting in its place the
4 following:

5 'C. The mortgage and related documents shall
6 contain provisions satisfactory to the authority
7 pertaining to the payment of principal and inter-
8 est and shall contain covenants and other provi-
9 sions satisfactory to the authority pertaining to
10 real estate taxes, assessments, repairs, mainte-
11 nance, hazard insurance, mortgage insurance, de-
12 fault, remedies, transfer or alteration of eligi-
13 ble collateral, change in management or control
14 of the mortgagor and such other matters as the
15 authority may determine; and'

16 Further amend the bill in section 45 in that part
17 designated "§1026-D." in subsection 3, by striking
18 out all of paragraph B (page 45, lines 28 to 32 in
19 L.D.) and inserting in its place the following:

20 'B. The original principal amount of the mort-
21 gage loan, including any mortgage loan secured by
22 a coordinate first lien or security interest in
23 the same eligible collateral which is proposed
24 to secure repayment of the insured mortgage loan,
25 shall not exceed the sum of the following per-
26 centages of the cost or value, as determined by
27 the authority at the time of application for
28 mortgage insurance, of eligible collateral held,
29 owned, controlled or used by any eligible enter-
30 prise.'

31 Further amend the bill in section 45 in that part
32 designated "§1026-D." by adding at the end the fol-
33 lowing:

34 '4. Retail stores. The authority may not insure
35 any mortgage loan for a project the principal element
36 of which, as determined by the authority, is one or
37 more stores primarily used in making retail sales of

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1 consumer goods for household use to customers who
2 personally visit the stores to obtain the goods.

3 5. Office space. The authority may not insure
4 any mortgage loan for a project 35% or more of which,
5 as determined by the authority, is office space, as
6 defined by the authority.'

7 Further amend the bill, in section 45 in that
8 part designated "§1026-E." in the 2nd sentence (page
9 47, lines 1 to 3 in L.D.) by striking out the follow-
10 ing: "Any such insurance shall not exceed 50% of the
11 aggregate principal balances of the mortgage loans
12 from time to time outstanding." and inserting in its
13 place the following: 'Any such insurance shall not
14 exceed 50% of the aggregate principal balances of the
15 mortgage loans as of the date on which the mortgage
16 loans are designated for inclusion in a pool.'

17 Further amend the bill in section 48 by striking
18 out all of subsection 1 and inserting in its place
19 the following:

20 '1. Eligible for insurance. All payments re-
21 quired under a mortgage or other agreement for exten-
22 sion of credit or making of a loan by the authority,
23 a loan agreement or related documents for a project
24 financed by revenue obligation securities or of notes
25 issued in anticipation of those securities as pre-
26 vided in pursuant to subchapter III shall be eligible
27 for insurance to the extent permitted under this sub-
28 chapter provided it meets the definition of eligible
29 projects set forth in section 1003, subsection 6.

30 The authority may insure any eligible mortgage or
31 other agreement by designating the mortgage in the
32 resolution authorizing the notes or bonds issued to
33 provide funds to finance the eligible project trust
34 agreement or another instrument or by endorsing an
35 appropriate certificate on the mortgage or other
36 agreement.'

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1 Further amend the bill by inserting after section
2 48 the following:

3 'Sec. 49. 10 MRSA §1030, as enacted by PL 1981,
4 c. 476, §2, is amended to read:

5 §1030. Incontestability

6 Any mortgage insurance commitment or contract of
7 ~~insurance~~ executed and delivered by the authority under
8 this ~~chapter~~ subchapter shall be conclusive evi-
9 dence of the eligibility of the mortgage for insur-
10 ance subject to satisfaction of any conditions set
11 forth in the mortgage insurance contract or commit-
12 ment and that the requirements of sections 1026-A,
13 1026-B, 1026-C, 1026-D and 1026-E have, to the extent
14 determined applicable by the authority, been satis-
15 fied or made conditions of the mortgage insurance
16 commitment or contract, and the validity of any mort-
17 gage insurance commitment or contract of ~~insurance~~ so
18 executed and delivered shall be incontestable in the
19 hands of an approved mortgagee insured except for
20 fraud or misrepresentation on the part of the ap-
21 proved mortgagee insured.'

22 Further amend the bill in section 57 in that part
23 designated "§1041-A." by striking out all of subsec-
24 tion 1 and inserting in its place the following:

25 '1. Scope. This subsection and subsections 2 to
26 4 apply only in connection with the authority's reve-
27 nuce obligation securities, interest on which is ex-
28 empt from federal income taxation pursuant to the
29 United State Code, Title 26, section 103.'

30 Further amend the bill in section 57 in that part
31 designated "§1041-A." in subsection 3, 2nd line (page
32 50, line 38 in L.D.) by striking out the following:
33 "75%" and inserting in its place the following: '35%'

34 Further amend the bill in section 57 in that part
35 designated "§1041-A." by adding at the end the fol-

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1 lowing:

2 '5. Housing. The authority will not provide fi-
3 ncancing from proceeds of revenue obligation securi-
4 ties issued by the authority for any housing which is
5 eligible for financing by the Maine State Housing Au-
6 thority except with respect to property which the au-
7 thority has acquired or may acquire on account or in
8 anticipation of imminent or actual default under the
9 mortgage insurance premiums.'

10 Further amend the bill in section 59 in subsec-
11 tion 1, by striking out the last paragraph (page 57,
12 lines 23 to 41 and page 58, lines 1 to 6 in L.D.) and
13 inserting in its place the following:

14 'Any action or proceeding in any court to contest the
15 issuance of the securities, to set aside a ~~resolution~~
16 ~~or~~ certificate of approval or to obtain relief upon
17 the grounds that the ~~resolution or~~ certificate of ap-
18 proval was improperly ~~adopted~~ issued, was ~~adopted~~
19 issued for unauthorized purposes, or is otherwise
20 invalid for any reason, must be started within 30
21 days after the date of the publication required by
22 paragraph C and otherwise shall be governed by Title
23 5, chapter 375, subchapter VII. For the purposes of
24 this subchapter and the Maine Administrative Proce-
25 dure Act, Title 5, chapter 375, the later date of
26 newspaper publication required by paragraph C shall
27 constitute the final agency action with respect to
28 the certificate of approval and the issuance of the
29 securities. After the expiration of the 30-day period
30 of limitation, no right of action or defense founded
31 upon the invalidity of the ~~resolution or~~ approval or
32 contesting any provision ~~shall~~ or the issuance of the
33 certificate of approval or the issuance of the secu-
34 rities may be started or asserted nor ~~shall~~ may the
35 validity of the ~~resolution or~~ certificate of approval
36 or ~~provision~~ the issuance of the securities be open
37 to question in any court upon any grounds.'

38 Further amend the bill in section 66 in subsec-

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1 tion 12, in the 4th and 5th lines (page 61, lines 24
2 and 25 in L.D.) by striking out the underlined words
3 "deemed necessary for the production of electricity"

4 Further amend the bill in section 75 in that part
5 designated "§1061-A." in subsection 2, in the 2nd
6 line (page 71, line 6 in L.D.) by striking out the
7 underlined figure "75%" and inserting in its place
8 the following: "35%"

9 Further amend the bill by inserting before the
10 statement of fact the following:

11 'Sec. 93. 36 MRS §5216, as amended by PL 1983,
12 c. 519, §§26 and 27, is further amended to read:

13 §5216. Credit for investment in The Maine Capital
14 Corporation or the Maine Natural Resource
15 Capital Company

16 1. Credit. A resident individual, resident es-
17 tate or trust, or taxable corporation is entitled to
18 a credit against the tax otherwise due under this
19 Part equal to 50% of the amount of his or its invest-
20 ment in common stock of The Maine Capital Corporation
21 or in the stock or interests of the Maine Natural Re-
22 source Capital Corporation Company. Twenty percent
23 of the credit shall be taken in the taxable year of
24 the investment and 20% in each of the next 4 taxable
25 years. The credit allowed under this section shall be
26 available only to the subscribers of the initial
27 \$1,000,000 of capital in the common stock of the
28 Maine Capital Corporation and only to the subscribers
29 of the initial \$1,000,000 of capital in the stock or
30 interests of the Maine Natural Resource Capital
31 Company.

32 2. Limitation. The amount of the credit allowed
33 under this section for any one taxable year shall not
34 exceed 50% of the tax imposed on the taxpayer for
35 that taxable year before application of the credit.

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1 3. Carry-forward. Credits not taken in accord-
2 ance with the timetable in subsection 1 because of
3 the limitation in subsection 2 may be claimed in any
4 of the 4 taxable years following the year of limita-
5 tion, provided that the limitation of subsection 2
6 shall also apply to the carry-forward years.

7 4. Recapture. If the taxpayer disposes of the
8 stock in The Maine Capital Corporation or of stock or
9 interests in the Maine Natural Resource Capital
10 Corporation Company within 6 years after the date on
11 which the taxpayer acquired that stock in a transac-
12 tion which gives rise to gain or loss for federal in-
13 come tax purposes, the tax imposed under this Part
14 for the taxable year in which the disposition occurs
15 shall be increased by an amount equal to the amount
16 allowed as a credit in the year of disposition and
17 all prior years. Any unused credit attributable to
18 the disposed of stock or interest is disallowed.

19 5. Repeal. On December 31, 1988, this section is
20 repealed with respect to The Maine Capital
21 Corporation.

22 Sec. 94. Validation of existing mortgage insur-
23 ance commitments and contracts. Mortgage insurance
24 commitments or contracts issued by the Finance Au-
25 thority of Maine or any predecessor authority under
26 prior law are ratified and validated and shall con-
27 tinue to enjoy the benefits of Title 10, section
28 1030.'

29 Further amend the bill by renumbering the sec-
30 tions to read consecutively.

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STATEMENT OF FACT

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This amendment addresses a number of technical issues and establishes some substantive changes. The substantive changes include:

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1. A change in the structure of the Maine Natural Resource Capital Corporation from a corporation to a company to better enable the company to attract investors as a result of tax law provisions;

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2. A reduction in the number of board of trustees from 11 to 7 who serve as the governing board of the Maine Natural Resource Capital Company, to expedite management and governance of the company;

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3. More disclosure of and greater accessibility to information and records of the Finance Authority of Maine. The bill, in its original form, allowed extremely limited access to and disclosure of information relating to Finance Authority of Maine financing and the clients of the authority. Unlike the original bill which established all information of the authority as confidential with a few exceptions, this amendment allows disclosure of the information of the authority with specific exceptions that would jeopardize a client's ability to operate or compete;

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4. A requirement that any project for which financing is obtained through the Finance Authority of Maine must have a beneficial effect to the State and that real estate financed through the authority programs must be located within the State;

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5. A prohibition against the authority guaranteed loans for retail stores and shopping centers, under the mortgages insurance program for larger businesses;

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6. A limitation of the use of industrial development bonds for financing office building construction. Under the original bill, 75% of the proceeds

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1 of an industrial development bond issue could be used
2 for office building construction, provided that the
3 office building project would generate a 35% increase
4 in jobs and that 50% or more of the products or ser-
5 vices provided by the office building clients will be
6 marketed outside the State. This amendment retains
7 the same job and marketing requirements of the bill,
8 but limits to 35% the amount of proceeds of any in-
9 dustrial development bond issue that may be used for
10 office building construction. Since there is a
11 \$200,000,000 ceiling on the amount of industrial de-
12 velopment bond issues, office building construction
13 is given a much lower priority in this amendment com-
14 pared to the original bill. Therefore, more indus-
15 trial development bond proceeds will be available for
16 other types of projects, such as manufacturing, in-
17 dustrial and natural resource projects;

18 7. A restriction against using authority financ-
19 ing for housing projects that qualify for financing
20 under the Maine State Housing Authority;

21 8. A limitation of the tax credit for investment
22 in the Maine Natural Resource Capital Company to the
23 initial investors or subscribers of the \$1,000,000
24 capitalization of the company and the \$1,000,000
25 ceiling on the capitalization has been removed; and

26 9. Allows the authority to maintain one office
27 within the State compared to the original bill which
28 allows the authority to maintain several offices.
29 The technical changes proposed in this amendment in-
30 clude:

31 A. Minor changes in definitions with respect to
32 energy distribution and energy generating system
33 projects proposed by businesses. Currently,
34 business entities may propose energy projects for
35 industrial development bond financing. The new
36 definition authorizes "business associations" to
37 propose these projects;

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1 B. Reporting requirements of the authority to
2 include a description of its operations and fu-
3 ture financing plans;

4 C. Authorization of the Natural Resources Fi-
5 nancing and Marketing Board to make recommenda-
6 tions to the authority with respect to rules
7 adopted by the authority; and

8 D. Changes with respect to refunding bonds, bond
9 reserve accounts and issuance of bonds.

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