

MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 2105

6
7 H.P. 1489 House of Representatives, February 28, 1986

8 Submitted by the Finance Authority of Maine pursuant to Joint Rule 24.
9 Reference to the Committee on State Government suggested and ordered
10 printed.

EDWIN H. PERT, Clerk

Presented by Speaker Martin of Eagle Lake.

Cosponsored by Senator McBreairty of Aroostook, President Pray of
11 Penobscot and Senator Andrews of Cumberland.

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-SIX
16

17 AN ACT Providing for the 1986 Amendments to
18 the Finance Authority of Maine Act.
19

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

22 Sec. 1. 10 MRSA §956, as amended by PL 1985, c.
23 344, §2, is further amended to read:

24 §956. Formation; name; purpose

25 There is authorized the formation by the Finance
26 Authority of Maine under Title 13-A or other Maine
27 law of a private investment corporation or other
28 business association to be named the "Maine Natural
29 Resource Capital Company" for the purpose of provid-
30 ing financing, including investment capital, to new
31 ~~state natural resource enterprises~~ or to existing
32 natural resource enterprises ~~for purposes of~~
33 ~~expansion~~. The Finance Authority of Maine may change
34 "company" to "corporation," "fund" or such other des-
35 ignation as it may determine.

1 Sec. 2. 10 MRSA §957, as amended by PL 1985, c.
2 344, §2, is further amended to read:

3 §957. Limitations on purposes and powers

4 The Maine Natural Resource Capital Company shall
5 have all of the general powers of business corpora-
6 tions enumerated in Title 13-A, section 202 and the
7 general powers of any other business association, ex-
8 cept that:

9 1. Financings and related business dealings.
10 Its financings and related business dealings shall be
11 restricted to ~~persons eligible for financial assist-~~
12 ~~ance under "natural resource enterprises," as defined~~
13 ~~in chapter 110, subchapter I-A that do business in~~
14 ~~this State. Any funds so invested in natural resource~~
15 ~~enterprises by purchase of stock or otherwise shall~~
16 ~~be used solely for the purpose of enhancing their~~
17 ~~productive capacities or ability to do business with-~~
18 ~~in the State, or to facilitate their ability to gener-~~
19 ~~erate value added within the State to goods or ser-~~
20 ~~vices for export to out-of-state markets. Financings~~
21 may include, in any combination and without limita-
22 tion, equity investments, loans, guarantees and com-
23 mitments for these financings;

24 2. Financing limited. Its investment in any one
25 natural resource enterprise under this chapter shall
26 be limited to a maximum of \$200,000. The Maine Natu-
27 ral Resource Capital Company shall not invest in pro-
28 vide financing to any firm in which a person, or his
29 spouse or dependent children, owning common stock of
30 or other interest in the Maine Natural Resource Capi-
31 tal Company holds over a 25% interest in the
32 aggregate;

33 4-A. Governance. The company's affairs shall be
34 governed by 7 persons selected pursuant to this sub-
35 section to serve as directors or in a similar manage-
36 ment capacity. The Maine Natural Resource Financing
37 and Marketing Board of the Finance Authority of Maine
38 shall select 2 of its public members and 2 of the
39 commissioners serving on the board to govern the com-
40 pany's affairs. The terms of office of the persons
41 selected by the Natural Resource Financing and Mar-
42 keting Board shall be coterminous with their terms on

1 the board. The holders of stock of or interests in
2 the company shall, pursuant to documents governing
3 the company, designate 3 persons to govern the compa-
4 ny's affairs and to serve for terms determined by the
5 company; and

6 5-A. Amount of interest held: No person, firm or
7 corporation may subscribe for, own or hold directly
8 or indirectly more than 20% of the stock or interests
9 of the company at any time. For the purposes of de-
10 termining ownership under this chapter, the attribu-
11 tion rules of the United States Internal Revenue
12 Code, Section 318, as amended from time to time,
13 shall apply;

14 5-B. Distributions: The company shall not de-
15 clare or pay any dividends or make any distributions
16 to holders of its stock or interests during its first
17 5 years of operation and thereafter any dividends or
18 distributions shall be paid or made only with respect
19 to stock or interests whose holders are not using the
20 credit for investment in the Maine Natural Resource
21 Capital Company allowed under Title 36, section 5216.
22 Dividends paid or distributions made shall be limited
23 to a maximum of 50% of retained earnings, with the
24 balance being reinvested in accordance with this
25 chapter; and

26 6. Financial statement. The Finance Authority
27 of Maine shall include in its report under section
28 974 an audited a financial statement report detailing
29 the investment and financial activities of the Maine
30 Natural Resource Capital Company for the company's
31 most recent fiscal year. The financial report shall
32 be prepared by the company and shall include
33 unaudited reports on the natural resource enterprises
34 for which the company is providing financing.

35 Sec. 3. 10 MRSA §959, as repealed and replaced
36 by PL 1985, c. 344, §4, is amended to read:

37 §959. Subscription and sales of stock; first stock-
38 holders meeting

39 The Finance Authority of Maine, as and when it
40 deems practicable, may ~~select and receive~~ arrange
41 for the solicitation of subscriptions for the issu-

1 ance and purchase of the stock or other interests of
2 the Maine Natural Resource Capital Company, provided
3 that subscriptions for amounts exceeding 1% of the
4 stock or interests offered shall be reduced pro rata
5 among subscribers subscribing for more than 1% of the
6 stock or interests offered in the event the issue is
7 over-subscribed by the termination date as may be set
8 by the Finance Authority of Maine.

9 Sec. 4. 10 MRSA §962, 2nd ¶, as amended by PL
10 1985, c. 344, §5, is further amended to read:

11 The Finance Authority of Maine, as established by
12 this chapter and authorized by Title 5, section
13 12004, subsection 7, to fulfill these purposes is, in
14 addition to its other powers, authorized to:

15 Sec. 5. 10 MRSA §963-A, sub-§22, as enacted by
16 PL 1985, c. 344, §7, is repealed.

17 Sec. 6. 10 MRSA §971, as amended by PL 1985, c.
18 344, §20, is further amended to read:

19 §971. Actions of the members

20 Seven members of the authority shall constitute a
21 quorum of the members. The affirmative vote of 7 the
22 greater of 5 members, present and voting, or a major-
23 ity of those members present and voting shall be nec-
24 essary for any action taken by the members. No vacan-
25 cy in the membership of the authority may impair the
26 right of the quorum to exercise all powers and per-
27 form all duties of the members.

28 Sec. 7. 10 MRSA §974, sub-§1, ¶F, as amended by
29 PL 1985, c. 344, §23, is further amended to read:

30 F. A statement of the defaults, if any, of per-
31 sons, firms, corporations and other organizations
32 receiving assistance under this chapter. This
33 information shall also be cumulative and shall
34 include an annual default rate as a percentage of
35 the total amount of moneys provided in this
36 chapter total amount of mortgage insurance pay-
37 ments made during the fiscal year and a statement
38 of the percentage derived by dividing the amount
39 of mortgage insurance payments during the fiscal

1 year into the outstanding principal balance as of
2 the fiscal year end of the authority's unpaid ob-
3 ligations pursuant to mortgage insurance
4 contracts;

5 Sec. 8. 10 MRSA §986, sub-§7, as enacted by PL
6 1983, c. 519, §7, is repealed.

7 Sec. 9. 10 MRSA §1023-B, sub-§3, ¶B, as enacted
8 by PL 1985, c. 344, §45, is amended to read:

9 B. All income of the authority, including mort-
10 gage insurance premiums, fees, reimbursements and
11 proceeds of sale, lease or other disposition of
12 its property, except that proceeds received by
13 the authority from the sale, lease or other dis-
14 position of property it may have acquired in ac-
15 cordance with section 1025, subsection 1, shall
16 be credited either to the Mortgage Insurance
17 Fund, or the Guarantee Loan Insurance Reserve
18 Fund or the Debt Service Fund as directed by the
19 State Controller authority.

20 Sec. 10. 10 MRSA §1023-C is enacted to read:

21 §1023-C. Loan Insurance Reserve Fund

22 1. Creation. There is created and established
23 under the jurisdiction and control of the authority
24 the Loan Insurance Reserve Fund.

25 2. Sources of fund. There shall be paid into the
26 Loan Insurance Reserve Fund:

27 A. All money appropriated for inclusion in the
28 fund;

29 B. Subject to any pledge, contract or other ob-
30 ligation, any money which the authority receives
31 in repayment of advances from the fund;

32 C. Subject to any pledge, contract or other ob-
33 ligation, all interest, dividends or other pecu-
34 niary gains from investment of money of the fund;

35 D. The sum of \$3,686,000 transferred to the fund
36 by the State Controller as follows:

1 (1) \$1,000,000 on or before October 1,
2 1986;

3 (2) \$1,000,000 on or before July 1, 1987;
4 and

5 (3) \$1,686,000 on or before July 1, 1988.

6 These sums shall be transferred from the Guarantee Reserve Fund, the State Contingent Account or the General Fund and shall be reduced by the amount of any transfers of money to the authority pursuant to section 1024 on or before July 1, 1988; and

7 E. Any other money available to the authority and directed by the authority to be paid into the fund.

8 3. Application of fund. Money in the Loan Insurance Reserve Fund may be applied to carry out any power of the authority, including, without limitation, to pledge or transfer and deposit money in the fund as security for and to apply money in the fund in payment of principal of, interest on or redemption premiums on revenue obligation securities of the authority. Money in the fund not needed currently to meet the obligations of the authority as provided for in this chapter may be invested in such manner as may be permitted by law.

9 4. Accounts within fund. The authority may divide the Loan Insurance Reserve Fund into such separate accounts as it determines are necessary or convenient for carrying out the purposes of this chapter.

10 5. Revolving fund. The Loan Insurance Reserve Fund shall be a nonlapsing, revolving fund. All money in the fund shall be continuously applied by the authority to carry out this chapter.

11 Sec. 11. 10 MRSA §1024, as amended by PL 1985, c. 198, §1, and repealed and replaced by PL 1985, c. 344, §46, is repealed and the following enacted in its place:

1 §1024. Additions to funds

2 1. Request for funds. If at any time the money
3 in the Mortgage Insurance Fund and the money in the
4 Loan Insurance Reserve Fund, exclusive of the money
5 pledged or assigned as security for specific obliga-
6 tions of the authority, is insufficient to meet ex-
7 penditures and obligations of the authority, as these ex-
8 penditures and obligations are projected by the authority
9 to become due and payable, the authority shall in
10 writing request the Governor to provide the necessary
11 money. The Governor shall transfer sufficient money
12 to the Mortgage Insurance Fund or Loan Insurance Re-
13 serve Fund, as directed by the authority, from the
14 State Contingent Account, the Guarantee Reserve Fund
15 or the proceeds of bonds of the State issued pursuant
16 to subsection 2.

17 2. Issuance of bonds. If a request for funds is
18 made under subsection 1 and if there are insufficient
19 funds in the State Contingent Account or the Guarante-
20 tee Reserve Fund, bonds of the State shall be issued
21 in the following manner:

22 A. By the Treasurer of State on orders from the
23 Governor;

24 B. In the amount required, but not exceeding in
25 the aggregate at any one time outstanding the
26 amount set forth in:

27 (1) The Constitution of Maine, Article IX,
28 Section 14-A, 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 \$77,500,000; and

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

39 C. To mature serially or to run for such periods
40 as the Governor may determine, not to exceed 10

1 years, to be subject to prior redemption or re-
2 purchase at the option of the State or the hold-
3 er, as the Governor may determine, with or with-
4 out premium;

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

10 E. As a pledge of the full faith and credit of
11 the State.

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

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

29 Sec. 12. 10 MRSA §1025, first ¶, as amended by
30 PL 1985, c. 344, §47, is further amended to read:

31 When, in the opinion of the authority, the action
32 is necessary to safeguard the Mortgage Insurance Fund
33 or Loan Insurance Reserve Fund and to maintain income
34 from eligible projects, the authority may, in addi-
35 tion to its other powers:

36 Sec. 13. 10 MRSA §1025, sub-§3, as amended by PL
37 1985, c. 344, §47, is further amended to read:

38 3. Extend time. Extend the time of payment of
39 the loan beyond original maturity, extend the insur-

1 ance accordingly ~~and~~, waive mortgage insurance premi-
2 ums and extend or waive other terms and conditions of
3 the loan.

4 Sec. 14. 10 MRSA §1026-A, sub-§1, ¶A, as enacted
5 by PL 1985, c. 344, §49, is amended to read:

6 A. No mortgage payment may be applied in a man-
7 ner which would, for any one project, increase
8 the percentage of mortgage payments insured by
9 the authority, except that this paragraph shall
10 not apply where insurance payments for any one
11 project may not in the aggregate exceed the less-
12 er of 25% of the original principal amount of the
13 mortgage loan or:

14 (1) In the case of insurance provided pur-
15 suant to section 1026-B, ~~\$20,000~~ \$125,000;

16 (2) In the case of insurance provided pur-
17 suant to section 1026-C, ~~\$20,000~~ \$62,500; or

18 (3) In the case of insurance provided pur-
19 suant to section 1026-D, \$1,000,000;

20 Sec. 15. 10 MRSA §1026-A, sub-§2, ¶A, as enacted
21 by PL 1985, c. 344, §49, is amended to read:

22 A. The mortgage shall be a ~~first~~ lien on or a
23 first security interest in eligible collateral,
24 subject to such encumbrances, including, without
25 limitation, coordinate first liens, as are ac-
26 ceptable to the authority, except that, where the
27 original principal amount of the mortgage insur-
28 ance exceeds \$1,000,000, the lien or security in-
29 terest shall be a first lien or first security
30 interest;

31 Sec. 16. 10 MRSA §1026-A, sub-§§3 and 4 are en-
32 acted to read:

33 3. Retail stores. Where the original principal
34 amount of mortgage insurance exceeds \$200,000, the
35 authority may not insure any mortgage loan for a
36 project the principal element of which, as determined
37 by the authority, is one or more stores primarily
38 used in making retail sales of consumer goods for

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

3 4. Office space. Where the original principal
4 amount of mortgage insurance exceeds \$200,000, the
5 authority may not insure any mortgage loan for a
6 project 35% or more of which, as determined by the
7 authority, is office space, as defined by the author-
8 ity.

9 **Sec. 17.** 10 MRSA §1026-B, sub-§1, as enacted by
10 PL 1985, c. 344, §49, is amended to read:

11 1. Scope of section. This section applies, in
12 addition to other applicable provisions of this sub-
13 chapter, when the original principal amount of the
14 mortgage insurance is ~~\$100,000~~ \$500,000 or less.

15 **Sec. 18.** 10 MRSA §1026-B, sub-§2, ¶A, as enacted
16 by PL 1985, c. 344, §49, is amended to read:

17 A. The original principal amount of mortgage in-
18 surance shall not exceed ~~\$100,000~~ \$500,000; and

19 **Sec. 19.** 10 MRSA §1026-C, sub-§2, as enacted by
20 PL 1985, c. 344, §49, is amended to read:

21 2. Insurance. The authority may provide mort-
22 gage insurance in an original principal amount of
23 ~~\$100,000~~ \$250,000 or less in addition or as an alter-
24 native to any amount provided pursuant to section
25 1026-B.

26 **Sec. 20.** 10 MRSA §1026-D, sub-§3, ¶¶A and B, as
27 enacted by PL 1985, c. 344, §49, are amended to read:

28 A. The authority shall have received the follow-
29 ing:

30 (1) Evidence that the project will serve
31 the purposes of this chapter in increasing
32 or retaining income and employment in the
33 State;

34 (2) Evidence, through submission of a com-
35 prehensive plan, of the project's capability
36 of achieving its revenue and employment
37 goals;

- 1 (3) Evidence of the economic feasibility of
2 the project;
- 3 (4) Evidence of financial capability, in-
4 cluding effective commitments for equity,
5 interim financing and final mortgage financ-
6 ing for the project;
- 7 (5) An employment plan describing potential
8 opportunity for Aid to Families with Depen-
9 dent Children recipients, including types of
10 jobs, skills required, training necessary
11 for placement and the percentage of perma-
12 nent jobs which will be targeted to these
13 recipients;
- 14 (6) Evidence of management and planning ca-
15 pability; and
- 16 (7) A written statement of ~~the governing~~
17 representatives an authorized representative
18 of the municipality in which the project is
19 or will be located supporting the project.

20 The authority may modify or waive any of the re-
21 quirements of this paragraph with respect to any
22 mortgage insurance program established for pur-
23 poses of section 997;

24 B. The original principal amount of the mortgage
25 loan, including any mortgage loan secured by a
26 coordinate ~~first~~ or priority lien or security in-
27 terest in the same eligible collateral which is
28 proposed to secure repayment of the insured mort-
29 gage loan, shall not exceed the sum of the fol-
30 lowing percentages of the cost or value, as de-
31 termined by the authority at the time of applica-
32 tion for mortgage insurance, of eligible collat-
33 eral held, owned, controlled or used by any eli-
34 gible enterprise:

- 35 (1) One hundred percent of the cost or val-
36 ue of real estate designed as an industrial
37 park;
- 38 (2) Ninety percent of the cost or value of
39 real estate;

1 (3) Eighty percent of the cost or value of
2 eligible collateral consisting primarily of
3 one or more fishing or other vessels;

4 (4) Seventy-five percent of the cost or
5 value of eligible collateral consisting pri-
6 marily of machinery and equipment;

7 (5) Notwithstanding subparagraph (2), 75%
8 of the cost or value of eligible collateral
9 held, owned, controlled or used by a recrea-
10 tional enterprise; or

11 (6) Sixty percent of the cost or value of
12 other eligible collateral.

13 Sec. 21. 10 MRSA §1026-D, sub-§§4 and 5, as en-
14 acted by PL 1985, c. 344, §49, are repealed.

15 Sec. 22. 10 MRSA §1026-E, as enacted by PL 1985,
16 c. 344, §49, is amended to read:

17 §1026-E. Pool insurance

18 ~~Subject~~ In addition to its other powers under
19 this chapter, subject to the limitations of this sub-
20 chapter, except section 1026-A, subsection 1, para-
21 graph A, and sections 1026-B, 1026-C and 1026-D, the
22 authority may insure mortgage payments with respect
23 to mortgage loans designated as one or more pools or
24 other segregated portfolios. Any such insurance shall
25 not exceed 50% of the aggregate principal balances of
26 the mortgage loans as of the date on which the mort-
27 gage loans are designated for inclusion in a pool.
28 The authority shall, by rulemaking pursuant to Title
29 5, chapter 375, subchapter II, establish requirements
30 for demonstrating project feasibility and for collat-
31 eral.

32 Sec. 23. 10 MRSA §1028, as amended by PL 1985,
33 c. 344, §51, is further amended to read:

34 §1028. Mortgage insurance premiums

35 The authority may fix mortgage insurance premiums
36 for the insurance of mortgage payments under this
37 subchapter. The effective rate of the insurance pre-

1 premiums shall not be less than 1/2 of 1% per year nor
2 more than 2% per year of the actual or scheduled out-
3 standing principal obligation at the beginning of
4 each year. The authority shall determine and pre-
5 scribe the manner in which the premiums shall be pay-
6 able, the effective rate of the insurance premium,
7 the actual or scheduled outstanding principal obliga-
8 tion and other matters necessary and proper for the
9 assessment and collection of the premiums.

10 Sec. 24. 10 MRSA §1029, as amended by PL 1985,
11 c. 344, §52, is further amended to read:

12 §1029. Insurance of subchapter III loans

13 1. Eligible for insurance. All payments re-
14 quired under a mortgage, a loan agreement or related
15 documents for a project financed by revenue obliga-
16 tion securities issued pursuant to subchapter III
17 shall be eligible for insurance to the extent permit-
18 ted under this subchapter.

19 ~~The authority may insure any eligible mortgage or~~
20 ~~other agreement by designating the mortgage in the~~
21 ~~trust agreement or another instrument or by endorsing~~
22 ~~an appropriate certificate on the mortgage or other~~
23 ~~agreement.~~

24 2. Insurance payment. ~~In the any case of default~~
25 ~~in payment where the authority becomes obligated by~~
26 ~~contract or other agreement to make an insurance~~
27 ~~payment with respect to any insured mortgage or other~~
28 ~~agreement issued with respect to insured subchapter~~
29 ~~III loans, the authority shall:~~

30 A. ~~Immediately, and at all times during the con-~~
31 ~~tinuance of the default~~ Make the payment at the
32 time and in the manner provided by the applicable
33 contract or agreement, charge charging the pay-
34 ment to the Mortgage Insurance Fund or Loan In-
35 surance Reserve Fund; and

36 B. ~~Apply the charged amount to taxes or insur-~~
37 ~~ance on the eligible project or to the payment of~~
38 ~~the mortgage loan secured by the mortgage or oth-~~
39 ~~er agreement;~~

1 C- Make the payments from any current revenues
2 or surplus or pledge moneys in the Mortgage In-
3 surance Fund to the payments;

4 D. Take all reasonable steps to enforce the
5 payments payment of amounts in default, and due
6 from the mortgagor.

7 E- Exercise all available remedies necessary to
8 enforce the mortgage or other agreement and pro-
9 tect the security of the authority's obligations.

10 The trustee for any bond or note issued in anticipa-
11 tion of the bond, or if there is no trustee, the
12 holder of any bond or note shall have the right to
13 bring suit against the authority for payment in ac-
14 cordance with the contract or other agreement exe-
15 cuted by the authority.

16 Sec. 25. 10 MRSA §1041-A, sub-§5, as enacted by
17 PL 1985, c. 344, §62, is amended to read:

18 5. Housing. The authority will not provide fi-
19 nancing from proceeds of revenue obligation securi-
20 ties issued by the authority for any housing which is
21 eligible for financing by the Maine State Housing Au-
22 thority except with respect to property which the au-
23 thority has acquired or may acquire on account or in
24 anticipation of imminent or actual default under the
25 mortgage insurance premiums programs.

26 Sec. 26. 10 MRSA §1043, sub-§2, ¶B, as amended
27 by PL 1985, c. 344, §63, is further amended to read:

28 B. The project will not result in a substantial
29 detriment to existing industry business in the
30 State. For purposes of In order to make this de-
31 termination, the authority shall consider, pursu-
32 ant to rules adopted in accordance with the Maine
33 Administrative Procedure Act, Title 5, chapter
34 375, subchapter II, such factors as it deems nec-
35 essary to measure and evaluate the effect of the
36 project on existing business, provided including
37 considering:

38 (1) That no Whether a project will should
39 be approved if, as a result of the project,

1 there will not be sufficient demand within
2 the market area of the State to be served by
3 the project to employ the efficient capacity
4 of existing industry business; and

5 (2) That Whether any adverse economic ef-
6 fect of the project on existing enterprises
7 business is outweighed by the contribution
8 which the project will make to the economic
9 growth of, the control of pollution in or
10 the betterment of the health, welfare or
11 safety of the inhabitants of the State.

12 The applicant shall have the burden of demon-
13 strating that the project will not result in a
14 substantial detriment to existing industry
15 business in accordance with the requirements of
16 the subsection this paragraph, including rules
17 adopted in accordance therewith, except in cases
18 where no interested parties object to the
19 project, in which event the requirements of this
20 paragraph shall be deemed satisfied. Interested
21 parties shall be given an opportunity, with or
22 without a hearing at the discretion of the au-
23 thority, to present their objections to the
24 project on grounds that the project will result
25 in a substantial detriment to existing industry
26 business. If any such party presents such objec-
27 tions with reasonable specificity and
28 persuasiveness, the authority may divulge whatev-
29 er information concerning the project which it
30 deems necessary for a fair presentation by the
31 objecting party and evaluation of such objec-
32 tions. ~~The applicant shall then have the burden~~
33 ~~of demonstrating by a preponderance of the evi-~~
34 ~~dence that the project will not result in sub-~~
35 ~~stantial detriment to existing industry.~~ If the
36 authority finds that the applicant has failed to
37 meet its burden as specified in this subsection
38 paragraph, the application shall be denied.

39 Sec. 27. 10 MRSA §1044, sub-§9, as amended by PL
40 1985, c. 344, §69, is further amended to read:

41 9. Credit not pledged. Except as provided in
42 this subsection, securities issued under this sub-
43 chapter shall not constitute any debt or liability of

1 the State or of any municipality therein or any po-
2 litical subdivision thereof, or of the authority or
3 a pledge of the faith and credit of the State or of
4 any such municipality or political subdivision, but
5 shall be payable solely from the revenues of the
6 project or projects for which they are issued or from
7 ~~the~~ other eligible collateral or the revenues or pro-
8 ceeds of other eligible collateral pledged to the
9 payment of the revenue obligation securities and all
10 such securities shall contain on their face a state-
11 ment to that effect. The issuance of securities under
12 this subchapter shall not directly or indirectly or
13 contingently obligate the State or any municipality
14 or political subdivision to levy or to pledge any
15 form of taxation whatever ~~therefore~~ therefor or to
16 make any appropriation for their payment. Under sub-
17 chapter II, the authority may insure mortgage loans
18 made with the proceeds of revenue obligation securi-
19 ties. To these ends, the faith and credit of the
20 State may be pledged, under and consistent with the
21 terms and limitations of the Constitution of Maine,
22 Article IX, Section 14-A or 14-D, and such further
23 limitations, if any, as may be provided by statute.

24 **Sec. 28.** 10 MRSA §1044, sub-§12, as enacted by
25 PL 1985, c. 344, §71, is amended to read:

26 12. Energy facilities. In the case of an energy
27 generating system, an energy distribution system ~~of~~
28 or an industrial-commercial project, any of which in-
29 cludes hydroelectric facilities:

30 A. Revenue obligation securities of the authori-
31 ty shall not be issued until the Public Utilities
32 Commission has certified that all licenses re-
33 quired by that commission with respect to the
34 project have been issued or that none are re-
35 quired; and

36 B. Revenue obligation securities of the authori-
37 ty shall not be issued until the Director of En-
38 ergy Resources has reviewed and commented upon
39 the project proposal. The director shall make his
40 comments within 30 days after receipt of a noti-
41 fication and copy of the project proposal from
42 the authority. The authority shall take the com-
43 ments into consideration in its processing of the
44 project.

1 Sec. 29. 10 MRSA §1053, sub-§6, as enacted by PL
2 1985, c. 344, §78, is amended to read:

3 6. Securities outstanding. The authority shall
4 not have at any one time outstanding revenue obliga-
5 tion securities to which subsection 5 is stated in
6 the trust agreement or other document to apply in
7 principal amount exceeding \$50,000,000. The amount of
8 revenue obligation securities issued to refund secu-
9 rities previously issued shall not be taken into ac-
10 count in determining the principal amount of securi-
11 ties outstanding, provided that proceeds of the re-
12 funding securities are applied as promptly as possi-
13 ble to the refunding of the previously issued securi-
14 ties. In computing the total amount of revenue obli-
15 gation securities of the authority which may at any
16 time be outstanding for any purpose, the amount of
17 the outstanding revenue obligation securities that
18 have been issued as capital appreciation bonds or as
19 similar instruments shall be valued as of any date of
20 calculation at their then current accreted value
21 rather than their face value.

22 Sec. 30. 10 MRSA §1063, sub-§2, ¶B, as amended
23 by PL 1985, c. 344, §83, is further amended to read:

24 B. The project will not result in a substantial
25 detriment to existing industry business in the
26 State. ~~For purposes of~~ In order to make this de-
27 termination, the authority shall consider, pursu-
28 ant to rules adopted in accordance with the Maine
29 Administrative Procedure Act, Title 5, chapter
30 375, subchapter II, such factors as it deems nec-
31 essary to measure and evaluate the effect of the
32 project on existing business, ~~provided~~ including
33 considering:

34 (1) ~~That no~~ Whether a project ~~will~~ should
35 be approved if, as a result of the project,
36 there will not be sufficient demand within
37 the market area of the State to be served by
38 the project to employ the efficient capacity
39 of existing industry business; and

40 (2) ~~That~~ Whether any adverse economic ef-
41 fect of the project on existing ~~enterprises~~
42 business is outweighed by the contribution

1 which the project will make to the economic
2 growth of, the control of pollution in or
3 the betterment of the health, welfare or
4 safety of the inhabitants of the State.

5 The applicant shall have the burden of demon-
6 strating that the project will not result in a
7 substantial detriment to existing ~~industry~~
8 business in accordance with the requirements of
9 ~~the subsection~~ this paragraph, including rules
10 adopted in accordance therewith, except in cases
11 where no interested parties object to the
12 project, in which event the requirements of this
13 paragraph shall be deemed satisfied. Interested
14 parties shall be given an opportunity, with or
15 without a hearing at the discretion of the au-
16 thority, to present their objections to the
17 project on grounds that the project will result
18 in a substantial detriment to existing ~~industry~~
19 business. If any such party presents such objec-
20 tions with reasonable specificity and
21 persuasiveness, the authority may divulge whatev-
22 er information concerning the project which it
23 deems necessary for a fair presentation by the
24 objecting party and evaluation of such objec-
25 tions. ~~The applicant shall then have the burden~~
26 ~~of demonstrating by a preponderance of the evi-~~
27 ~~dence that the project will not result in sub-~~
28 ~~stantial detriment to existing industry.~~ If the
29 authority finds that the applicant has failed to
30 meet its burden as specified in this ~~subsection~~
31 paragraph, the application shall be denied;

32 Sec. 31. 10 MRSA §1063, sub-§2, ¶¶J and K, as
33 enacted by PL 1981, c. 476, §2, are amended to read:

34 J. In the case of an energy generating system,
35 an energy distribution system or an
36 industrial-commercial project, any of which in-
37 cludes hydroelectric facilities deemed necessary
38 for the production of electricity:

39 (1) The Public Utilities Commission has
40 certified that all required licenses have
41 been issued or that none are required; and

1 (2) The Director of Energy Resources has
2 reviewed and commented upon the project pro-
3 posal. The Director of Energy Resources
4 shall make his comments within 30 days after
5 receipt of a notification and copy of the
6 project proposal from the authority. The au-
7 thority shall take the comments into consid-
8 eration in its consideration of the project;
9 and

10 Any municipality, firm or corporation producing
11 electricity by means of projects in paragraph G
12 or by means of a pollution-control project, rec-
13 reational project, multi-level parking facility
14 or combined project may, without the approval of
15 and regulation by the Public Utilities Commis-
16 sion, generate and distribute electricity solely
17 for its own use or the use of its tenant, but may
18 not sell electricity to other than an electric
19 public utility corporation or cooperative autho-
20 rized to make, generate, sell and distribute
21 electricity, and

22 K. If the authority is satisfied that the deter-
23 minations of this section can be made and that a
24 certificate of approval can be issued, upon re-
25 ceipt of the certificate or certificates required
26 by paragraphs E, G, H, I and J, the authority may
27 advise the departments concerned which may treat
28 such advice as the completion of arrangements for
29 financing for the purposes of Title 38, section
30 451, subsection 1, paragraph B.

31 Sec. 32. 10 MRSA §1100-N, sub-§1, ¶B, as enacted
32 by PL 1983, c. 856, §4, is amended to read:

33 B. The board of directors of a community action
34 agency shall appoint a job-start advisory board
35 which may consist of a subcommittee of the board
36 of directors to review and make recommendations
37 concerning loan applications and offer other ad-
38 vice to small businesses, which board shall con-
39 sist of 5 members who represent low income people
40 and representatives knowledgeable of business and
41 financial matters. Members of the job-start ad-
42 visory board shall serve for a maximum of 2 years
43 term established by the board of directors;

1 Sec. 33. 13-B MRSA §201, sub-§3, ¶F, as enacted
2 by PL 1979, c. 541, Pt. B, §19, is amended to read:

3 F. Local development corporations, as that term
4 is used in Title 10, section 671, et seq.

5 Sec. 34. 36 MRSA §5216, sub-§1, as amended by PL
6 1985, c. 344, §98, is further amended to read:

7 1. Credit. A resident individual, resident es-
8 tate or trust, or taxable corporation is entitled to
9 a credit against the tax otherwise due under this
10 Part equal to 50% of the amount of his or its invest-
11 ment in common stock of The Maine Capital Corporation
12 ~~or in the stock or interests of the Maine Natural Re-~~
13 ~~source Capital Company.~~ Twenty percent of the credit
14 shall be taken in the taxable year of the investment
15 and 20% in each of the next 4 taxable years. The
16 credit allowed under this section shall be available
17 only to the subscribers of the initial \$1,000,000 of
18 capital in the common stock of The Maine Capital Cor-
19 poration ~~and only to the subscribers of the initial~~
20 ~~\$1,000,000 of capital in the stock or interests of~~
21 ~~the Maine Natural Resource Capital Company.~~

22 Sec. 35. 36 MRSA §5216, sub-§4, as amended by PL
23 1985, c. 344, §98, is further amended to read:

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

36 Sec. 36. 36 MRSA §5216, sub-§5, as amended by PL
37 1985, c. 344, §98, is further amended to read:

38 5. Repeal. On December 31, 1988, this section is
39 repealed ~~with respect to The Maine Capital~~
40 ~~Corporation.~~

1 Sec. 37. 36 MRSA §5216-A is enacted to read:

2 §5216-A. Credit for investment in the Maine Natural
3 Resource Capital Company

4 1. Definitions. As used in this section, unless
5 the context indicates otherwise, the following terms
6 have the following meanings.

7 A. "Company" means the Maine Natural Resource
8 Capital Company established under Title 10, chap-
9 ter 109.

10 B. "Disposition" means any transfer, forfeiture
11 or termination of stock or interests of the com-
12 pany, whether due to conveyance, default under
13 the terms of a subscription agreement or other-
14 wise.

15 C. "Recaptured credit" means that amount re-
16 quired to be added to the tax imposed on a sub-
17 scriber pursuant to subsection 6.

18 D. "Subscriber" means a person or entity with
19 stock or interests in the company pursuant to
20 subscription.

21 E. "Subscription" means the purchase of stock or
22 interests in the company and includes any sub-
23 scription agreement, installment purchase agree-
24 ment or any similar agreement or obligation which
25 has been accepted by the company and which re-
26 quires payment in full within 5 years of the date
27 of acceptance of the subscription.

28 F. "Unused credit" means that portion of the
29 credit allowed under subsection 2 with respect to
30 a subscription which has not been taken pursuant
31 to subsection 2 and includes any credit to which
32 a subscriber disposing of stock or interests
33 would have been entitled to for the taxable year
34 in which the disposition occurs but for the dis-
35 position.

36 2. Credit. A subscriber for the capital in the
37 stock or interests of the company shall be entitled
38 to a credit against the tax otherwise due under this

1 Part equal to 50% of the amount of its subscription
2 in the company. In the case of partnerships and non-
3 taxable trusts, the individual partners or beneficia-
4 raries shall be treated as the subscribers under this
5 section and shall be allowed a credit against the tax
6 otherwise due from them under this Part in proportion
7 to their respective interests in those partnerships
8 or trusts. Except as limited or authorized by subsec-
9 tion 3 or 4, 20% of the credit shall be taken in the
10 taxable year the subscription is made and 20% in each
11 of the next 4 taxable years. The credit allowed under
12 this section shall be available only with respect to
13 subscriptions for the initial \$1,000,000 of capital
14 in the stock or interests of the company.

15 3. Limitation. The amount of the credit allowed
16 under this section for any one taxable year shall not
17 exceed 100% of the tax imposed by this Part on the
18 taxpayer for the taxable year before application of
19 the credit.

20 4. Carry forward. Credits not taken because of
21 the limitation in subsection 3 shall be taken in the
22 next taxable year in which the credit may be taken,
23 provided that the limitation of subsection 3 shall
24 also apply to the carry-forward years.

25 5. Disposition. In the event of disposition of
26 stock or interests by any subscriber, the amount of
27 any unused credit and any recaptured credit with re-
28 spect to that stock or interests shall be allowed to
29 the disposing subscriber's successor in interest.
30 Subject to subsections 3 and 4, recaptured credit
31 shall be taken by the subscriber's successor in in-
32 terest in the year of disposition and unused credit
33 shall be taken by the subscriber's successor in in-
34 terest ratably over the remaining time period that
35 would have been applicable under subsection 2 to the
36 first subscriber with respect to the stock or inter-
37 ests had there been no disposition, provided that, in
38 determining the applicable remaining time period, it
39 shall be presumed that subsections 3 and 4 did not
40 apply to the first subscriber.

41 6. Recapture. In the event of disposition by any
42 subscriber of its stock or interests in the company,
43 there shall be added to the tax imposed on the sub-

1 subscriber under this Part for the taxable year in which
2 the disposition occurs an amount equal to the excess
3 of the total amount of the credit taken under subsec-
4 tion 2 by the subscriber and any predecessors in in-
5 terest, over an amount equal to 50% of the amount ac-
6 tually paid to the company by that subscriber and any
7 predecessors in interest.

8 STATEMENT OF FACT

9 The bill makes changes to the enabling legisla-
10 tion for the Maine Natural Resources Capital Company
11 which will improve the ability of the company to
12 raise capital and make appropriate investments. The
13 bill adds a new section to the Maine Revised Stat-
14 utes, Title 36, chapter 822, providing for transfer
15 of the tax credit available for investments in the
16 company. That section will improve marketability of
17 the stock of the company without increasing the
18 amount of tax credits that may be taken by investors.

19 The bill makes a number of changes to the Finance
20 Authority of Maine Act to clarify and improve the
21 Act. It provides for the creation of a Loan Insurance
22 Reserve Fund to be used primarily as a reserve for
23 any losses the authority may suffer on insured loans
24 and authorizes transfer of funds from the Guarantee
25 Reserve Fund.

26 The bill increases the flexibility of the author-
27 ity's Mortgage Insurance Program where mortgage in-
28 surance is \$1,000,000 or less, including authoriza-
29 tion to insure junior liens and security interests.

30 The bill increases flexibility in establishing
31 mortgage insurance premiums and allows members of
32 job-start advisory boards to serve terms which may
33 exceed 2 years.

34 The bill corrects errors and inconsistencies in
35 the law and confirms legislative intent with respect
36 to the law.

37 Pursuant to Title 10, section 1023-C, subsection
38 2, paragraph D, the sum of \$3,686,000 is required to

1 be transferred to the authority's Loan Insurance Re-
2 serve Fund by the State Controller. This amount is
3 approximately the balance in the Guarantee Reserve
4 Fund as of January 1, 1986, and will be transferred
5 in 3 installments: \$1,000,000 on October 1, 1986;
6 \$1,000,000 on July 1, 1987; and \$1,686,000 on July 1,
7 1988. If money is not available in the Guarantee Re-
8 serve Fund, the transfer may be made from money in
9 the State Contingent Account or General Fund. Amounts
10 to be paid in accordance with the installment sched-
11 ule shall be reduced to the extent of payments re-
12 quired to be made to the authority pursuant to the
13 Maine Revised Statutes, Title 10, section 1024, on or
14 before the date the final installment is due, the in-
15 tent being that the sum of \$3,686,000 is transferred
16 to the authority by July 1, 1988.

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