

MAINE STATE LEGISLATURE

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



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

1 (EMERGENCY)
2 (After Deadline)
3 SECOND REGULAR SESSION
4

5 ONE HUNDRED AND TWELFTH LEGISLATURE
6

7 Legislative Document

No. 2331

8
9 H.P. 1653 House of Representatives, April 3, 1986
10 Approved for introduction by a majority of the Legislative Council
pursuant to Joint Rule 27.
11 Referred to the Committee on State Government. Sent up for
concurrence and ordered printed.

12 EDWIN H. PERT, Clerk

Presented by Representative Ayer of Caribou.

Cosponsored by Senator Violette of Aroostook, Representative Lord of
Waterboro and Representative Gwadosky of Fairfield.

13
14 STATE OF MAINE
15

16 IN THE YEAR OF OUR LORD
17 NINETEEN HUNDRED AND EIGHTY-SIX
18

19 AN ACT to Create the Agricultural Suppliers
20 Insurance Program.
21

22 Emergency preamble. Whereas, Acts of the Legis-
23 lature do not become effective until 90 days after
24 adjournment unless enacted as emergencies; and

25 Whereas, immediate action is necessary in order
26 to address a potential lack of credit available to
27 farmers from suppliers for supplies necessary for the
28 1986 farming season; and

29 Whereas, in the judgment of the Legislature,
30 these facts create an emergency within the meaning of
31 the Constitution of Maine and require the following
32 legislation as immediately necessary for the preser-
33 vation of the public peace, health and safety; now,
34 therefore,

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

1 Sec. 1. 10 MRSA c. 110, sub-c. II-B is enacted
2 to read:

3 SUBCHAPTER II-B

4 AGRICULTURAL SUPPLIERS INSURANCE PROGRAM

5 §1040. Agricultural Suppliers Insurance Fund

6 1. Creation. The Agricultural Suppliers Insur-
7 ance Fund is created and established under the jurisdic-
8 tion and control of the Finance Authority of
9 Maine.

10 2. Application of fund. Money in the fund shall
11 be used as security for and for payment of all obli-
12 gations of the authority under this subchapter, in-
13 cluding payment of insurance claims and expenses of
14 the authority incurred in the administration of the
15 fund. The fund shall be the sole and exclusive
16 source of payments of such obligations. No other
17 fund authorized under this chapter may be used for
18 such obligations. Money in the fund not currently
19 required for program purposes may be invested in such
20 manner as may be permitted by law.

21 3. Sources of fund. There shall be paid into
22 the fund such money as may be appropriated for inclu-
23 sion in the fund, interest or other income from in-
24 vestment of the money in the fund, insurance premiums
25 authorized under section 1040-A and money transferred
26 to the fund in accordance with subsection 6.

27 4. Accounts within fund. The authority may di-
28 vide the fund into such separate accounts as it de-
29 termines are necessary or convenient for carrying out
30 the purposes of this subchapter.

31 5. Revolving fund. The fund shall be a nonlaps-
32 ing, revolving fund. Money in the fund shall be ap-
33 plied by the authority to carry out the purposes of
34 this subchapter.

35 6. Claims in excess of the fund balance. If at
36 any time money, in addition to that on hand in the
37 fund, is required to make payments on obligations of
38 the authority pursuant to this subchapter as these

1 obligations are projected to become due and payable,
2 the authority shall request the Governor in writing
3 to provide the necessary money. The Governor shall
4 within 30 days of this request, transfer sufficient
5 money to the fund from the State Contingent Account
6 or the proceeds of bonds of the State as follows:

7 A. By the Treasurer of State on order from the
8 Governor;

9 B. In the amount required, but not exceeding in
10 the aggregate at any one time the amount set
11 forth in the Constitution of Maine, Article IX,
12 Section 14-A, as it may be from time to time
13 amended, except that bonds issued under this sub-
14 section shall not exceed in the aggregate at any
15 one time outstanding the principal amount of
16 \$5,000,000, which amount shall be in addition to
17 the \$77,500,000 aggregate amount of bonds which
18 may be outstanding under section 1024, subsection
19 2, paragraph B;

20 C. To mature serially or to run for such periods
21 as the Governor may determine, not to exceed 10
22 years, to be subject to prior redemption or re-
23 purchase at the option of the State or the hold-
24 er, as the Governor may determine, with or with-
25 out premium;

26 D. At variable or fixed rates of interest, in
27 such denominations, at such price, at public or
28 private sale, in such manner and on such other
29 terms and conditions as approved by the Governor;
30 and

31 E. As a pledge of the full faith and credit of
32 the State.

33 7. Repayment to General Fund. If, at the end of
34 each fiscal year, the money remaining in the fund ex-
35 ceeds \$5,000,000, the authority shall pay to the Gen-
36 eral Fund the amount in excess of \$5,000,000, up to
37 the amount of the appropriation for that fiscal year.

38 §1040-A. Insurance of agricultural credit

1 1. Credit of State pledged. The authority, act-
2 ing through its chief executive officer, may insure
3 extensions of credit from eligible suppliers of agri-
4 cultural products and working capital to borrowers
5 for agricultural purposes, and to this end the faith
6 and credit of the State is pledged, consistent with
7 the terms and limitations of the Constitution of
8 Maine, Article IX, Sections 14-A and 14-D and such
9 further limitations as are provided by this subchap-
10 ter.

11 2. Eligibility of suppliers. Eligible suppliers
12 are those individuals and firms primarily engaged in
13 the business of providing supplies to farm operators
14 for annual production. Supplies may include, without
15 limitation, seed, fertilizer, herbicides, pesticides,
16 fuel for the operation of farm equipment and working
17 capital. Eligible suppliers must comply with the
18 following requirements.

19 A. Suppliers shall provide evidence of ability
20 to originate and service credit accounts of the
21 type to be insured, including:

22 (1) History of effective credit collection
23 for the previous 5 years, including audited
24 financial statements and standards for ex-
25 tension of credit;

26 (2) Adequate financial resources to cover
27 the insurance fees for the program;

28 (3) Adequate management capabilities, in-
29 cluding staff, to originate and service
30 credit accounts and this program; and

31 (4) Such other information as the authority
32 may require.

33 B. Suppliers shall pay to the authority a month-
34 ly insurance premium of 1% of the insured portion
35 of the credit outstanding at the end of each
36 month, beginning 30 days after the date credit
37 insured under this program is extended and ending
38 8 months after the credit is extended.

1 C. Suppliers shall execute an insurance agree-
2 ment with the authority specifying the terms and
3 conditions of the insurance and the conditions
4 under which unused portions of insurance shall be
5 recovered by the authority for reissuance to oth-
6 er suppliers.

7 D. The suppliers shall notify the authority of
8 the name, address, acreage involved and amount
9 and use of credit requested by each borrower pri-
10 or to the extension of credit in order for the
11 authority to maintain a record of the total
12 amount insured for each borrower and in the ag-
13 gregate under the program.

14 E. Suppliers shall keep and maintain adequate
15 records and shall report monthly on the outstand-
16 ing balances of insured credit, repayments and
17 such other information as the authority may re-
18 quire.

19 F. The insurance shall apply only to goods and
20 services provided at prevailing prices for goods
21 and services of a like nature provided to all
22 customers of the supplier.

23 3. Credit eligible for insurance. In order to
24 be eligible for insurance under this subchapter,
25 credit must meet the following conditions.

26 A. Credit insured under this section must be for
27 the purchase or rental of those ordinary and nec-
28 essary goods and services required for the plant-
29 ing, growing and harvesting of agricultural
30 crops. Loans for working capital must also be
31 eligible, to the extent such loans are necessary
32 for the planting, growing and harvesting of agri-
33 cultural crops. Purchases of equipment with a
34 cost greater than \$100 and a useful life greater
35 than one year shall not be eligible for insurance
36 under this program. Credit to any borrower may
37 not exceed \$500 an acre under cultivation in the
38 case of potato growers or such other reasonable
39 limit for each borrower as the authority may de-
40 termine for other borrowers.

1 B. The supplier must determine that the borrower
2 is reasonably likely to be able to repay the ob-
3 ligation to the supplier in full and to repay all
4 other current debt obligations. In addition, the
5 supplier must obtain at least one of the follow-
6 ing:

7 (1) A showing that the average of the pre-
8 vious 5 years' cash flow from agricultural
9 operations, profits, depreciation and inter-
10 est payments, would be sufficient to repay
11 all scheduled debt payments for the coming
12 crop year, supported by a breakdown of his-
13 torical yields per acre, unit pricing and
14 total unit costs. Any variance in projected
15 yields and pricing from the previous average
16 must be explained along with any variance
17 from the current total unit costs;

18 (2) Contracts for the sale of crops or
19 products at a price sufficient to reasonably
20 assure repayment of the credit. The suppli-
21 er shall obtain a first assignment of the
22 borrower's rights to payment under the con-
23 tracts to ensure repayment of the credit;
24 and

25 (3) A first security interest in fixed as-
26 sets of the borrower with a reasonable liq-
27 uidation value not less than the amount of
28 the credit insured under this program.

29 C. Suppliers must ensure that borrowers maintain
30 insurance against catastrophic losses on crops
31 and hazard insurance on fixed assets securing the
32 credit, designating the supplier as loss payee.

33 D. The supplier may obtain and perfect a first
34 security interest in the crop to be grown.

35 E. The borrower must seek subordination of mort-
36 gages and security interests held by the Farmers
37 Home Administration or other creditors to the
38 credit extended by the supplier. The borrower
39 must provide written evidence to the supplier of
40 the decision of creditors as to whether subordi-
41 nation is authorized.

1 F. If the supplier has other credit outstanding
2 to a borrower, the supplier shall apply all pay-
3 ments received from the borrower first to the
4 credit insured under this program.

5 4. Default. A default on credit extended shall
6 be declared within 60 days after the date payment is
7 due and liquidation of collateral or other efforts to
8 obtain prompt repayment or recovery of amounts due
9 shall be commenced by the suppliers. Suppliers shall
10 promptly notify the authority of any credit that is
11 30 days past due and any default declared.

12 5. Payment by the authority. Suppliers may re-
13 quest payment of the insured amount after the liqui-
14 dation of any collateral. Insurance payments by the
15 authority shall not exceed 60% of the credit extended
16 plus reasonable credit charges not to exceed 1 1/2% a
17 month of the credit for a period not to exceed 8
18 months. Payment to suppliers shall be made upon re-
19 ceipt of certification by the supplier of the amount
20 of the credit and credit charges outstanding and evi-
21 dence that liquidation of collateral has been com-
22 pleted and such other evidence as the authority may
23 require to determine compliance by the supplier with
24 this subchapter and the insurance agreement. The au-
25 thority shall have the right to review and copy or
26 require copies of any and all records of the supplier
27 at any time to determine that credit was extended ac-
28 ording to the requirements of this subchapter, and
29 may decline to make payment in the event the supplier
30 has violated this subchapter or the insurance agree-
31 ment executed with the authority.

32 Sec. 2. Appropriation. The following funds
33 are appropriated from the General Fund to carry out
34 the purposes of this Act.

35 1985-86

36 FINANCE AUTHORITY OF MAINE

37 Agricultural Suppliers

38 Insurance Fund

\$1,000,000

39 Emergency clause. In view of the emergency cited
40 in the preamble, this Act shall take effect when ap-
41 proved.

1 FISCAL NOTE

2 This bill establishes a program through which the
3 full faith and credit of the State is pledged to se-
4 cure credit insurance of up to \$5,000,000 on credit
5 given to agricultural enterprises by suppliers. One
6 million dollars is appropriated to the Agricultural
7 Suppliers Insurance Fund to pay any insurance losses.
8 To the extent the obligations of the authority under
9 the program and administrative expenses exceed the
10 balance on hand in the fund, the Finance Authority of
11 Maine is authorized to request and the Governor shall
12 within 30 days provide sufficient money to the fund,
13 which money may be paid to the fund from either the
14 State Contingent Account or the proceeds of bonds of
15 the State issued by the Treasurer of State.

16 STATEMENT OF FACT

17 This bill establishes a program for providing
18 credit insurance up to an aggregate of \$5,000,000 to
19 agricultural suppliers who extend credit to farmers
20 who have demonstrated an ability to repay the credit.
21 The Finance Authority of Maine will administer the
22 program and will qualify suppliers for participation.

23 The bill establishes an Agricultural Suppliers
24 Insurance Fund under the control of the Finance Au-
25 thority of Maine and provides for an appropriation of
26 \$1,000,000 to the fund to secure payment of the au-
27 thority's obligations under the program. In addi-
28 tion, it raises the maximum amount of bonds of the
29 State that may be outstanding pertaining to insurance
30 of eligible enterprises from \$77,500,000 to
31 \$82,500,000.

32 6860032786