

MAINE STATE LEGISLATURE

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(EMERGENCY)
(New Draft of H.P. 997, L.D. 1343)
FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 1631

H.P. 1197 House of Representatives, May 19, 1987
Reported by Representative CARTER from the Committee on
Appropriations and Financial Affairs and printed under Joint
Rule 2.

EDWIN H. PERT, Clerk
Original bill sponsored by Representative GOULD of
Greenville. Cosponsored by President PRAY of Penobscot,
Representatives THISTLE of Dover-Foxcroft and HUSSEY of Milo.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-SEVEN

AN ACT to Provide Assistance to Victims of
Natural Disasters.

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

Whereas, the damages and losses resulting from
the great flood of April 1987 are substantial and re-
quire the immediate use of state resources; and

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

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

3 Sec. 1. 10 MRSA c. 110, sub-c. 1-C is enacted to
4 read:

5 SUBCHAPTER 1-C

6 NATURAL DISASTER BUSINESS ASSISTANCE

7 §1011. Natural Disaster Business Assistance Fund

8 1. Fund established. The Natural Disaster Busi-
9 ness Assistance Fund is established under the juris-
10 isdiction of the Finance Authority of Maine.

11 2. Sources of fund. The following shall be paid
12 into the fund:

13 A. All money appropriated for inclusion in the
14 fund;

15 B. Subject to any pledge, contract or other ob-
16 ligation, any money which the authority receives
17 in repayment of loans or advances from the fund;

18 C. Subject to any pledge, contract or other ob-
19 ligation, all interest, dividends or other income
20 from investment of the fund; and

21 D. Any other money, including federal money, de-
22 posited in the fund to implement the provisions
23 of this subchapter.

24 3. Application of fund. The authority may apply
25 money in the fund to carry out any power of the au-
26 thority under this subchapter, including, without
27 limitation, to make loans or to pledge or transfer
28 and deposit money in the fund as security for, and to
29 apply money in the fund in payment of principal of,
30 interest and other amounts due on loans made or se-
31 cured by the authority pursuant to this subchapter.
32 Money in the fund not needed currently to meet the
33 obligations of the authority as provided for in this
34 subchapter may be invested in such manner as may be
35 permitted by law.

1 4. Accounts within fund. The authority may di-
2 vide the funds into such separate accounts as it de-
3 termines necessary or convenient for carrying out
4 this subchapter.

5 5. Revolving fund. The fund shall be a nonlaps-
6 ing revolving fund. All money in the fund shall be
7 continuously applied by the authority to carry out
8 this subchapter.

9 6. Commitment and administrative fees. The au-
10 thority may fix commitment fees in an amount not to
11 exceed 1% of the initial principal amount of a loan
12 made or insured under this subchapter. These fees
13 shall be deposited into the fund created under this
14 section.

15 §1012. Maine Natural Disaster Business Assistance
16 Program

17 1. Purpose. The authority shall administer the
18 Maine Natural Disaster Business Assistance Program
19 for the purpose of providing assistance to businesses
20 that are victims of natural disasters which have
21 caused the State or portions of the State to be de-
22 clared disaster areas by the President of the United
23 States or his authorized representative.

24 2. Eligibility. Any eligible enterprise, as de-
25 defined in section 963-A, subsection 9, shall be eligi-
26 ble for financial assistance under the program pro-
27 vided that:

28 A. The applicant has suffered serious financial
29 hardship as a direct result of a natural disas-
30 ter;

31 B. The applicant has insufficient access to fed-
32 eral or other disaster funds or other financial
33 assistance on a timely basis other than pursuant
34 to this program; and

35 C. The applicant is a business enterprise oper-
36 ated for profit.

37 3. Operation. Financial assistance under the
38 program shall be used for the purpose of assisting

1 eligible enterprises in recovering from the effects
2 of natural disasters. The program may be adminis-
3 tered in conjunction with other programs of the au-
4 thority. Money in the fund may be used:

5 A. To provide direct loans to eligible enter-
6 prises;

7 B. As security for loans from financial institu-
8 tions to eligible enterprises; and

9 C. To provide direct interim financing to eligi-
10 ble applicants pending receipt of federal disas-
11 ter funds or financial assistance from other
12 sources, which funds or financial assistance will
13 be used to repay the interim loan from the au-
14 thority.

15 4. Criteria. No financial assistance may be ap-
16 proved unless the authority determines that there is
17 a reasonable likelihood that the applicant will be
18 able to repay any loan made or secured under the pro-
19 gram, that the applicant has demonstrated that it has
20 insufficient access to other sources of funds and
21 that the financial assistance is needed to assure the
22 recovery of the applicant from the effects of the
23 natural disaster. All applications must be received
24 not later than June 30, 1987. The authority, by
25 rules adopted in accordance with the Maine Adminis-
26 trative Procedure Act, Title 5, chapter 375, may es-
27 tablish temporary reservations for geographic areas
28 of the State and may establish such other criteria as
29 may be consistent with the purposes of the program.

30 5. Limitations on financial assistance. Finan-
31 cial assistance under this subchapter shall be sub-
32 ject to the following limitations.

33 A. The initial term of financial assistance to
34 applicants who are eligible to apply for federal
35 funds as a result of a natural disaster shall not
36 exceed 6 months. If federal funds are not avail-
37 able within the initial 6-month term to repay
38 loans made or secured under this subchapter, the
39 authority may extend the financial assistance or
40 convert a loan from a financial institution se-
41 cured under this subchapter to a direct loan for

1 such term and on such conditions as may be appro-
2 priate and consistent with the purposes of this
3 subchapter.

4 B. Loans pursuant to this subchapter shall ordi-
5 narly be made at interest rates not exceeding
6 the prime rate of interest as reported in nation-
7 al financial publications and for terms not ex-
8 ceeding 20 years, provided that the authority may
9 in its discretion vary those limitations if nec-
10 essary to ensure the viability of the enterprise
11 and repayment of the loan, and provided further
12 that the authority may charge a higher rate of
13 interest after default.

14 C. Loans made or secured under this subchapter
15 shall be secured by such collateral, including
16 personal guarantees, as may be reasonably avail-
17 able. The authority may provide financial assist-
18 ance with less than adequate collateral when the
19 applicant is credit worthy and demonstrates the
20 ability to repay the loan.

21 D. The amount of financial assistance to an ap-
22 plicant from the fund shall not exceed \$50,000,
23 provided that the initial amount of each loan
24 shall not exceed the minimum amount necessary for
25 operation of the applicant's business during the
26 initial 6-month term, as determined by the au-
27 thority.

28 E. The authority may agree to deposit money from
29 the fund with a financial institution to secure a
30 loan to an eligible applicant and may waive the
31 payment to the authority of some or all of the
32 interest accruing on such deposit, provided that
33 the applicant receives a reduced interest rate as
34 a result of the deposit.

35 F. The authority may impose and collect a penal-
36 ty of an amount not to exceed 50% of the amount
37 of principal, interest and other charges due from
38 a recipient of financial assistance under this
39 subchapter in any case when the authority deter-
40 mines that the recipient has willfully applied
41 the financial assistance to purposes or uses oth-
42 er than those purposes or uses approved by the

1 authority or when the recipient has willfully
2 failed to promptly repay the financial assistance
3 with federal or other disaster funds available
4 for that purpose as required by the authority.

5 G. Money from the fund shall not be released to
6 or for the benefit of recipients until all appli-
7 cable local, state and federal permits have been
8 issued, and, for recipients located in flood
9 plains, evidence of flood insurance has been pro-
10 vided.

11 Sec. 2. 30 MRSA c. 239, sub-c. II, article 6-A
12 is enacted to read:

13 ARTICLE 6-A

14 NATURAL DISASTER HOME ASSISTANCE PROGRAM

15 §4770-A. Natural Disaster Home Assistance Fund

16 1. Creation. The Natural Disaster Home Assist-
17 ance Fund is established under the jurisdiction of
18 the Maine State Housing Authority. For the purposes
19 of this article, "authority" means the Maine State
20 Housing Authority.

21 2. Sources of fund. The following shall be paid
22 into the fund:

23 A. All money appropriated for inclusion in the
24 fund;

25 B. Subject to any pledge, contract or other ob-
26 ligation, any money which the authority receives
27 in repayment of loans or advances from the fund;

28 C. Subject to any pledge, contract or other ob-
29 ligation, all interest, dividends or other income
30 from investment of the fund; and

31 D. Any other money, including federal money, de-
32 posited in the fund to implement the provisions
33 of this article.

34 3. Application of fund. The authority may apply
35 money in the fund for purposes authorized by this ar-

1 ticle. Money in the fund not needed currently for
2 purposes of this article may be deposited with the
3 authority to the credit of the fund or may be in-
4 vested in such a manner as is provided by law.

5 4. Accounts within fund. The authority may di-
6 vide the funds into such separate accounts as it de-
7 termines necessary or convenient for carrying out
8 this article.

9 5. Revolving fund. The fund shall be a nonlaps-
10 ing revolving fund. All money in the fund shall be
11 continuously applied by the authority to carry out
12 this article.

13 §4770-B. Maine Natural Disaster Home Assistance Pro-
14 gram

15 The Maine Natural Disaster Home Assistance Pro-
16 gram shall provide assistance to homeowners who are
17 victims of natural disasters which have caused the
18 State or portions of the State to be declared disas-
19 ter areas by the President of the United States or
20 his authorized representative.

21 1. Operation. The authority shall administer
22 the Maine Natural Disaster Home Assistance Program
23 which may be operated in conjunction with other pro-
24 grams of the authority. Other programs of the au-
25 thority may be used to supplement or be used in
26 conjunction with the Maine Natural Disaster Home As-
27 sistance Program to achieve the purpose of this arti-
28 cle.

29 A. Money in the fund may be used as security for
30 or be applied in payment of principal, interest,
31 fees and other charges due on loans made or in-
32 sured under this program.

33 B. Money in the fund may be used as grants to
34 assist homeowners who qualify for grant assist-
35 ance under this program.

36 C. Money in the fund may be matched with federal
37 money and money of political subdivisions of the
38 State to obtain federal natural disaster relief
39 and assistance.

1 2. Provisions governing use of money. The fund
2 shall be administered subject to the provisions in
3 this section. Priority shall be given to homeowners
4 who are not adequately assisted by federal or other
5 disaster funds and who do not have access to adequate
6 capital or credit to recover from the effects of the
7 disaster. For purposes of this article, homeowner
8 includes the owner of a mobile home or manufactured
9 housing unit and the owner of rental housing.

10 A. The authority, by rules adopted in accordance
11 with the Maine Administrative Procedure Act, Ti-
12 tle 5, chapter 375, shall establish priorities of
13 assistance to homeowners. These priorities shall
14 be based on the assets of the homeowner; availa-
15 bility of credit or assistance or income from
16 other sources, including financial institutions,
17 federal relief programs, investments, trust funds
18 and other similar sources; the degree of damage
19 incurred; the immediacy of the need for assist-
20 ance; and any other variables deemed important by
21 the authority.

22 B. Grants may be provided to a homeowner if:

23 (1) The grant is essential to providing
24 housing to the homeowner;

25 (2) The income of the homeowner is insuffi-
26 cient to repay any loan or portion of a
27 loan; and

28 (3) Grants shall not exceed \$20,000 per
29 homeowner household.

30 C. Loans from the fund shall not exceed \$45,000
31 per homeowner household at rates of interest not
32 to exceed 8% per year.

33 D. Loans from the fund may be made for periods
34 of up to 30 years. In the event that a homeowner
35 cannot repay a loan in full within the 30-year
36 period, the authority may extend the repayment
37 period if the authority determines that the loan
38 can be repaid during the extension period. The
39 authority may waive the payment of interest on
40 any loan or portion of a loan for which the in-

1 terest payment will be an undue hardship on a
2 household.

3 E. Money in the fund may be used to reduce in-
4 terest rates on loans provided by financial in-
5 stitutions located in this State to homeowners
6 who are victims of natural disasters.

7 F. The program shall be directed primarily at
8 households without access to adequate capital or
9 credit and which have experienced significant
10 damage to or loss of their housing.

11 G. Homeowners living in a designated flood plain
12 shall not be eligible for assistance under the
13 program unless they obtain flood insurance.

14 H. Applications for assistance under the program
15 by victims of the April 1987 flood must be re-
16 ceived by the authority on or before September
17 30, 1987, in order for such individuals to be el-
18 igible for assistance.

19 3. Loan insurance. The authority may insure
20 payments due under a loan or lease and may pledge
21 money in the fund as security for such loan or lease,
22 which may be in addition to or in lieu of insurance
23 provided under other provisions of this chapter.
24 Loans or leases shall not constitute any debt or lia-
25 bility on the part of the authority or the State, ex-
26 cept to the extent specifically provided by contract
27 executed by the authority.

28 4. Use of loans and grants. Loans and grants
29 provided in this article may be used for refinancing
30 mortgages, payment of interest or portion of interest
31 on loans, home construction and home improvements.

32 5. Procedures. The authority may adopt rules in
33 accordance with the Maine Administrative Procedure
34 Act, Title 5, chapter 375, by which the program shall
35 be implemented.

36 Sec. 3. Appropriation. Notwithstanding the lim-
37 itations of the Maine Revised Statutes, Title 5, sec-
38 tion 1513, subsection 2, the following funds are ap-
39 propriated from the Rainy Day Fund in the General
40 Fund to carry out the purposes of this Act.

1		<u>1986-87</u>
2	<u>FINANCE,</u>	
3	<u>DEPARTMENT OF</u>	
4	Unallocated	(\$3,000,000)
5	<u>FINANCE AUTHORITY</u>	
6	<u>OF MAINE</u>	
7	Natural Disaster Business	
8	Assistance Fund	
9	All Other	\$2,000,000
10	Transfers \$2,000,000	
11	from the Rainy Day	
12	Fund to the Finance	
13	Authority of Maine	
14	for the Natural Di-	
15	saster Business As-	
16	sistance Fund. All	
17	amounts in the fund	
18	on December 31,	
19	1987, and all	
20	amounts received in	
21	repayment of loans	
22	from the fund there-	
23	after shall be re-	
24	paid to the Depart-	
25	ment of Finance and	
26	deposited in the	
27	Rainy Day Fund.	
28	<u>MAINE STATE</u>	
29	<u>HOUSING AUTHORITY</u>	
30	Natural Disaster Home	
31	Assistance Fund	
32	All Other	\$500,000

1 Transfers \$500,000
2 from the Rainy Day
3 Fund to the Natural
4 Disaster Home As-
5 sistance Fund of the
6 Maine State Housing
7 Authority to be used
8 in conjunction with
9 \$1,000,000 from the
10 Housing Opportuni-
11 ties for Maine Fund
12 of the Maine State
13 Housing Authority to
14 provide grants and
15 to reduce principal
16 and rates of inter-
17 est on loans pro-
18 vided by financial
19 institutions to
20 homeowners for
21 losses and damages
22 incurred as a result
23 of the April 1987
24 flood as provided in
25 the Maine Revised
26 Statutes, Title 30,
27 chapter 239, sub-
28 chapter II, article
29 6-A. Any portion of
30 the \$500,000 trans-
31 ferred from the
32 Rainy Day Fund to
33 the Natural Disaster
34 Home Assistance Fund
35 which has not been
36 expended by December
37 31, 1987, shall be
38 transferred back to
39 the Rainy Day Fund.

40 DEFENSE AND VETERANS'
41 SERVICES, DEPARTMENT OF

42 Administration Civil
43 Emergency Preparedness

44 All Other

\$500,000

1 Provides funds for
2 personal needs as-
3 sistance for re-
4 placement of person-
5 al items and house-
6 hold furnishings
7 lost as a result of
8 the April 1987
9 flood. Funds which
10 have not been ex-
11 pended by December
12 31, 1987, shall be
13 transferred back to
14 the Rainy Day Fund.

15 **Emergency clause.** In view of the emergency cited
16 in the preamble, this Act shall take effect when ap-
17 proved.

1

STATEMENT OF FACT

2 This new draft will revise the Natural Disaster
3 Business Assistance Program to authorize the Finance
4 Authority of Maine to use money in the Natural Disaster
5 Business Assistance Fund to make direct loans,
6 secure loans from financial institutions and provide
7 gap financing for victims of natural disasters who
8 are waiting for federal relief funds, but need immediate
9 financial assistance pending receipt of the
10 federal funds. Financial assistance will be available
11 to businesses which do not have sufficient access
12 to other financial assistance and need help in recovering
13 from the effects of natural disasters. No assistance
14 will be given unless the authority determines that there
15 is a reasonable likelihood that the loan will be repaid.
16 The authority is authorized to establish temporary reservations
17 for geographic areas of the State to ensure that funds are
18 disbursed fairly.
19

20 The new draft establishes an initial term of 6
21 months for financial assistance, which should be sufficient
22 for recipients to receive federal funds. After the initial
23 6-month period, the authority can determine to extend
24 financial assistance to those recipients who either have
25 not received federal funds or for whom the federal funds
26 are insufficient. The authority would charge an interest
27 rate not exceeding the national prime rate and the term
28 of loans would not exceed 20 years. Finally, the new draft
29 provides that amounts in the fund shall be restored to the
30 Rainy Day Fund after December 31, 1987.
31

32 Commitment fees are deleted by this new draft
33 since the cost to the borrower outweighs the relatively
34 small contribution the fees will make to the fund.
35

36 The term homeowner is expanded to include owners
37 of rental housing who meet the program requirements.
38 Dealing with owners rather than tenants may be the only
39 way to make necessary improvements to rental units.
40

41 The maximum loan term is extended from 20 to 30

1 years. This is in keeping with industry standards
2 and will help reduce the borrower housing costs.

3 Interest rates on loans will be reduced based on
4 the borrower's ability to pay rather than to set a
5 percentage.

6 The grant and interest reduction set-asides have
7 been eliminated in order to be able to best respond
8 to the needs of the flood victims.

9 A September 30, 1987, application deadline has
10 been imposed for victims of the April 1987 flood.

11 Flood insurance has been added as a prerequisite
12 for assistance for applicants living in a designated
13 flood plain.

14 The appropriation from the Rainy Day Fund has
15 been reduced to \$500,000 which will be used in con-
16 junction with \$1,000,000 from the Housing Opportuni-
17 ties for Maine Fund. The money from the Rainy Day
18 Fund will revert to the Rainy Day Fund if not ex-
19 pended by December 31, 1987.

20 This new draft also provides funding for personal
21 needs assistance for replacement of personal items
22 and household furnishings lost as a result of the
23 April 1987 flood.

24

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