

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

No. 1461

S.P. 469

In Senate, May 6, 1993

An Act to Establish a Capital Access Program.

Reference to the Committee on Banking and Insurance suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator PINGREE of Knox.
Cosponsored by Representative TREAT of Gardiner and
Senators: BUTLAND of Cumberland, CIANCHETTE of Somerset, GOULD of Waldo,
LUDWIG of Aroostook, McCORMICK of Kennebec, Representatives: BOWERS of
Washington, COLES of Harpswell, CONSTANTINE of Bar Harbor, FARNSWORTH of
Hallowell, HEESCHEN of Wilton, HOLT of Bath, KILKELLY of Wiscasset, MITCHELL of
Freeport, SIMONEAU of Thomaston, TOWNSEND of Portland.

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

2
4 Sec. 1. 10 MRSA §1026-K is enacted to read:

6 **§1026-K. Capital Access Program**

8 **1. Capital Access Program established.** The authority shall
10 establish a fund known as the Capital Access Program, referred to
12 as "CAP," for the benefit of participating state banks. The CAP
must be separate and apart from all other funds of the authority
and held exclusively to secure the principal of and the interest
on CAP loans made by a participating state bank.

14 **2. Contribution limit.** The amount of the authority's
16 contribution to the CAP may not exceed 10% of the principal
18 amount of CAP loans to be secured by the CAP. As a condition of
20 the authority making a contribution to the CAP, the authority may
22 require the borrower or the participating state bank to make a
24 contribution to the CAP and may impose other conditions the
authority determines necessary. All money contributed to the CAP
must be held in the name of the authority. Investment earnings
on the CAP must be credited to the CAP and periodically paid to
the authority, unless the CAP participation agreement provides
otherwise.

26 **3. Bank participation; rules.** Before establishing a CAP at
28 a participating state bank, the authority shall enter into a CAP
participation agreement with the participating state bank. The
CAP participation agreement must specify:

30 **A. The maximum amount of the authority's contributions to**
32 **the CAP;**

34 **B. Conditions under which the authority may make**
36 **contributions to the CAP;**

38 **C. Conditions under which the participating state bank may**
demand payment from a CAP to pay a defaulted CAP loan;

40 **D. Minimum due diligence procedures for servicing CAP loans;**

42 **E. Conditions under which the participating state bank or a**
44 **borrower may be required to contribute to the CAP;**

46 **F. Provision for the payment of authority fees, costs and**
expenses from earnings on the CAP or otherwise;

48 **G. Provisions for the termination of the CAP, in whole or**
in part, and disbursement of any excesses in the CAP;

- 2 H. Criteria and procedures that qualify a loan as a CAP
3 loan;
- 4
- 5 I. The requirement that the participating state bank report
6 to the authority at least annually regarding outstanding
7 balances on CAP loans, delinquent CAP loans and such other
8 information as the authority determines appropriate;
- 9
- 10 J. Permitted investments in the CAP; and
- 11
- 12 K. Other terms and conditions the authority determines
13 necessary.
- 14
- 15 4. Minimum requirements. At a minimum, CAP loans must
16 meet the following requirements.
- 17
- 18 A. The borrower is either a start-up business or did
19 not have annual sales in its most recently completed
20 fiscal year greater than \$5,000,000.
- 21
- 22 B. The total outstanding principal amount of CAP loans
23 to the borrower does not exceed \$500,000.
- 24
- 25 C. The proceeds of the CAP loan must be used for
26 business purposes.

27 By written notice to participating state banks, the authority may
28 impose requirements on CAP loans in addition to those contained
29 in this subsection or in a CAP participation agreement.
30 Additional requirements do not apply to CAP loans already made or
31 to CAP loans for which written commitments existed if CAP loans
32 from these written commitments are made within 3 months of the
33 date of the written notice.

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STATEMENT OF FACT

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37 The purpose of this bill is to establish a Capital Access
38 Program.

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