MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 949

S.P. 315

In Senate, February 3, 1999

An Act to Encourage Economic Development in the State.

Reference to the Committee on Business and Economic Development suggested and ordered printed.

JOY J. O'BRIEN Secretary of the Senate

Presented by Senator KILKELLY of Lincoln.

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

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- Sec. 1. 7 MRSA §434, sub-§1, as enacted by PL 1995, c. 658, §1, is amended to read:
- Agricultural enterprise. "Agricultural enterprise" means a person or business engaged in the commercial growing or harvesting of plants; raising animals; growing or obtaining plant R or animal by-products; aquaculture, as defined in Title 12, section 6001, subsection 1; or producing, processing, storing, 10 packaging or marketing a product derived from an agricultural 12 enterprise, with the intent that the product be sold or otherwise disposed of to generate income. Notwithstanding any other provision of this subsection, "agricultural enterprise" does not 14 include a person or business engaged in the growing or harvesting 16 of trees or any person or business engaged in the processing of trees or other forms of wood into pulp or other raw materials 18 used in the paper manufacturing process.
- Sec. 2. 10 MRSA §382, sub-§4, as enacted by PL 1995, c. 699, §3, is amended to read:
- 4. Qualifying small business. "Qualifying small business"

 means a business employing 25 50 or fewer employees or having gross sales not exceeding \$2,000,000 within the most recent 12 months for which financial statements are available.
- Sec. 3. 10 MRSA §384, sub-§3, as enacted by PL 1995, c. 699, §3, is amended to read:
- 3. Terms. The members other than the Commissioner of Economic and Community Development or the commissioner's designee serve for ene-year 2-year terms and may be reappointed for up to 3 consecutive terms. A member may serve for more than 3 2-year terms if the terms are not consecutive.
- Sec. 4. 10 MRSA §385, sub-§3, as enacted by PL 1995, c. 699, 38 §3, is amended to read:
- 3. Ownership interests. The board may net hold an ownership interest in a private enterprise unless when it is determined by the board that such an interest is necessary to recever—amounts—due—to—the—fund—and—the—agreement—between—the beard—and—the—private—enterprise—contains—a specific—plan—for—the beard—to—divest—itself—of—the—ownership—at—some—future—time or desirable in order for the fund to obtain a reasonable return on its investment in the private enterprise.
- Sec. 5. 10 MRSA §386, sub-§3, ¶C, as enacted by PL 1995, c. 699, §3, is repealed.

| 2 | Sec. 6. 10 MRSA §388, sub-§1, as enacted by PL 1995, c. 699, §3, is amended to read: |
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| 6 | 1. Disbursements. Disbursements may not exceed \$150,000 \$500,000 to a qualifying small business, including an affiliated entity. |
| 8 | Sec. 7. 10 MRSA §388, sub-§3, as enacted by PL 1995, c. 699, |
| 10 | §3, is repealed and the following enacted in its place: |
| 12 | 3. Agreement. The board must enter into an agreement with the recipient of the disbursement setting forth the terms of |
| 14 | repayment of the fund's investment in the recipient. This agreement may include such terms and conditions as the board |
| 16 | determines will provide a reasonable return on its investment |
| 18 | taking into consideration the risk of the investment. These terms and conditions may include one or more of the following: |
| 20 | A. Repayment of the full amount disbursed: |
| 22 | B. Payment of interest based on the board's assessment of the risk of the investment; |
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| 26 | C. Payment of return based on the board's ownership interest in the recipient; |
| 28 | D. Flexible payments based on the financial success of the recipient: |
| 30 | E. Royalties or additional payments based on sales, net |
| 32 | cash flow or other financial measures: |
| 34 | F. Rights to equity in the enterprise in the form of warrants or similar rights; or |
| 36 | |
| 38 | G. Such other terms and conditions as the board determines are appropriate for the investment. |
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| 42 | SUMMARY |
| 44 | This bill amends the laws governing the Small Enterprise Growth Program to allow investments to be made in companies with |
| 46 | sales not exceeding \$5,000,000 or 50 or fewer employees. This change makes the eligibility consistent with the Finance |
| 48 | Authority of Maine's small business loan insurance program. |

The bill sets terms of members at 2 years, rather than one year, but provides for a maximum of 3 consecutive 2-year terms. It increases the amount the board can invest in any recipient from \$150,000 to \$500,000. It allows the Small Enterprise Growth Board to obtain an equity or ownership interest in a recipient when the board determines that such an equity position will provide the most appropriate return on the board's investment in the enterprise.

The bill repeals the requirement that the Small Enterprise Growth Board only invest in enterprises that are not able to access sufficient financial assistance from a financial institution.

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The bill amends the eligibility provision of the Agricultural Marketing Loan Fund to clarify that businesses engaged in the growing or harvesting of trees and the processing of wood into by-products or into raw materials for the papermaking process are ineligible for loans under the program.

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