MAINE STATE LEGISLATURE

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	L.D. 430
2	DATE: 4-24-01 (Filing No. H-156)
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6	TAXATION
8	
10	Reproduced and distributed under the direction of the Clerk of the House.
12	STATE OF MAINE
14	HOUSE OF REPRESENTATIVES 120TH LEGISLATURE
16	FIRST REGULAR SESSION
18	COMMITTEE AMENDMENT " \mathcal{H} " to H.P. 340, L.D. 430, Bill, "An
20	Act to Encourage Equity Equivalent Loans or Investments in Nonprofit Community Economic Development Organizations"
22	
24	Amend the bill by striking out the title and substituting the following:
26	'An Act to Encourage Equity Equivalent Loans or Investments in Nonprofit Community Economic Development and Affordable Housing
28	Organizations'
30	Further amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place
32	the following:
34	'Sec. 1. 5 MRSA §13070-L, sub-§6 is enacted to read:
36	6. Equity equivalent loan credit. The department shall report annually to the commission the aggregated information
38	received by the department regarding the equity equivalent loan
40	credit described in Title 10, section 1100-Y. The commission shall review the information provided and may make
42	recommendations to the Governor and the Legislature regarding the program.
44	Sec. 2. 10 MRSA c. 110, sub-c. XI is enacted to read:
46	SUBCHAPTER XI
48	EOUITY EOUIVALENT LOAN CREDIT

Page 1-LR0653(2)

EQUITY EQUIVALENT LOAN CREDIT

§1100-Y. Equity equivalent loan credit

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Jo and the cases	
38 B. "Certificate" means a tax credit certificate issue	d by
the authority under this subchapter.	<u></u>
40	
C. "Equity equivalent loan" means a loan made b	, an
42 investor to a borrower on terms that are substant	
equivalent to an equity investment as set forth in	
44 established by the authority, or with the foll	
characteristics:	
46	
(1) The loan is carried as an investment on	4.1.
48 <u>investor's balance sheet in accordance with gene</u>	<u> </u>
accepted accounting principles as defined in Titl	
50 section 1660-D, subsection 13;	rally

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2	(2) It is a general obligation of the borrower that is
	not secured by any borrower assets;
4	
_	(3) It is fully subordinated to the right of repayment
6	of all other creditors of the borrower;
8	(4) It does not give the investor the right to
	accelerate payment unless the borrower ceases its
10	normal operations;
12	(5) It carries an interest rate that is not tied to any
	income received by the borrower and is at least 400
14	basis points below the prime rate of interest as
	reported by The Wall Street Journal at the time the
16	loan is made with interest-only payments during the
	term of the loan; and
18	
	(6) It has an original term of at least 10 years or has
20	a rolling term and an indeterminate maturity and
	provides that no demand for payment may be made without
22	180 days' notice.
	<u> </u>
24	D. "Investment" means an equity equivalent loan made to a
	borrower.
26	
	E. "Investor" means a financial institution as defined in
28	Title 36, section 5206-D, subsection 8 or an insurer as
	defined in Title 24-A, section 4.
30	GCIIICG III IIGGC LI A GCCCIOII II
	2. Administration. The authority shall administer
32	eligibility for credits under this section and shall adopt rules
-	for the allocation, administration and revocation of
34	certificates. Rules adopted under this section are routine
	technical rules as defined in Title 5, chapter 375, subchapter
36	II-A. The authority shall certify all eligible investments and
30	allocate certificates to eligible investors.
38	dilocate certificates to eligible investors.
30	3. Application; certificate. An investor must file an
40	application with the authority for a certificate before the end
10	of the calendar year and prior to making an investment. The
42	authority may charge an application fee of up to \$250. The
īL	certificate must authorize a total amount of tax credit over the
44	duration of the certificate equal to 60% of the face amount of
11	the investment. The certificate must authorize the credit to be
46	claimed in 10 equal installments over a period of 10 taxable
4 0	years. An investor must demonstrate that the investment would
48	_
4 0	not have been made in the absence of a credit and must sign an
50	agreement with the authority that the investor will not require
50	the investment to be repaid for 10 years, unless the borrower

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48

COMMITTEE AMENDMENT "H" to H.P. 340, L.D. 430	COMMITTEE	AMENDMENT		to	н.р.	340,	L.D.	430
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	ceases normal operations. A certificate expires 10 years after
2	issuance.
4	4. Limitation. The following limitations apply to
	certificates issued under this section.
6	
	A. The authority may issue new certificates each fiscal
8	year from fiscal year 2001-02 to fiscal year 2005-06
·	allocating up to \$100,000 annually in new credits. A
10	certificate may not be allocated and in effect if it would
10	
12	result in new credits eligible to be claimed by investors
12	under this section in the aggregate in excess of \$100,000 in
	any one fiscal year.
14	
	B. The amount of a certificate allocated under this section
16	for any one investor in any one fiscal year may not exceed
	25% of the total tax credits available for that fiscal year.
18	
	C. Investments in any one borrower may not be eligible for
20	more than 25% of the total tax credits available in a fiscal
	year.
22	
	D. Certificates must be issued on a first-come first-served
24	basis, except that rules established by the authority may
2 1	establish reserved credits to ensure certificates are
26	
20	distributed on a statewide basis.
20	E Gartificates and the installation first 2005 06
28	E. Certificates may not be issued after fiscal year 2005-06.
30	F. A certificate may not be issued for an investment in a
	borrower that has failed to provide the information required
32	in subsection 6, paragraphs A and B.
34	5. Revocation. The authority shall revoke a certificate
	and notify the State Tax Assessor if it finds that:
36	
	A. The investment no longer meets the requirements of this
38	section; or
40	B. The investor has failed to report to the authority as
10	required by subsection 6.
42	required by subsection o.
74	6. Reports. The following reports are required under this
4.4	
44	section.
46	A. Each investor and borrower shall report annually to the
	authority any information requested by the authority to

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verify continuing eligibility for a certificate.

50

	B. Each borrower shall report annually to the Department of
2	Economic and Community Development any information requested
	by that department to verify that the proceeds of the
4	investments made under this section are directed toward
	public benefits, including, but not limited to, job creation
б	and retention, quality of the jobs created and retained,
	community development and improvement and development and
8	expansion of small business entrepreneurship. Information
	relating to jobs created and retained must include the
10	number of jobs categorized by the major groupings of the
	occupational employment statistics program of the United
.2	States Department of Labor, the average wages of jobs
	created and retained and the benefits associated with those
14	jobs. The Department of Economic and Community Development
	shall notify the authority if a borrower fails to report as
L6	required by this paragraph.
L8	C. Each borrower that creates affordable housing shall
	report annually to the Maine State Housing Authority any
20	information requested by the Maine State Housing Authority
	to verify that the proceeds of the investments made under
22	this section are directed toward public benefits, including
	the housing created, the housing needs addressed, the number
24	of affordable housing units created and the duration of
	their affordability. The Maine State Housing Authority
26	shall notify the authority if a borrower fails to report as
	required by this paragraph.
28	
	D. The Department of Economic and Community Development
30	shall report to the joint standing committee of the
	Legislature having jurisdiction over taxation matters by
32	January 15, 2005 regarding the operation of this section.
	The report must include data concerning the numbers of
34	investors and borrowers participating in the credit program,
	the value of certificates issued and the public benefit of
36	the credit program including the information reported to the
	<u>department under paragraph B.</u>
38	C 2 2/3/DC4 92/27 .
4.0	Sec. 3. 36 MRSA §2527 is enacted to read:
10 5 25	27
_	27. Equity equivalent loan credit
12	1 Definitions in the later worth in the
4 con	1. Definitions. As used in this section, unless the
	text otherwise indicates, the following terms have the
<u>101</u> 16	lowing meanings.
= 0	A. "Authority" means the Finance Authority of Maine.
18	A. Adenoratey means the rinance Adenoratey of Maine.
± 0	R "Cortificato" moone a tom small montificate 'small'
	B. "Certificate" means a tax credit certificate issued by

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the authority under Title 10, chapter 110, subchapter XI.

2	2. Credit. A taxpayer is allowed a credit against the tax
	imposed by this chapter otherwise due in an amount equal to the
4	annual credit amount authorized by a certificate issued to the
	taxpayer.
6	
_	3. Credit nonrefundable. The credit may not reduce the tax
8	otherwise due under this chapter below zero for any taxable year.
•	
.0	4. Carry-over. Credits not claimed because of the
2	limitations in Title 10, section 1100-Y, subsection 4 may be
.2	claimed in the following taxable year in which the credit may be
L 4	claimed; however, the limitation of subsection 3 also applies to
.4	carry-over years.
L6	5. Carry-back. Credits may not be carried back to prior
	years.
L8	<u>years.</u>
	6. Recapture. If the authority revokes a certificate, an
20	additional tax is added to the tax imposed on the taxpayer under
	this chapter for the taxable year in which the revocation
22	occurs. The additional tax is equal to the excess of the amount
	of the certificate revoked over the amount of certificate not yet
24	claimed.
26	Sec. 4. 36 MRSA §5216-D is enacted to read:
	Project with the state of the s
28	§5216-D. Equity equivalent loan credit
30	1. Definitions. As used in this section, unless the
30	context otherwise indicates, the following terms have the
32	following meanings.
. .	Torrowrnd medurado.
34	A. "Authority" means the Finance Authority of Maine.
-	
36	B. "Certificate" means a tax credit certificate issued by
36	B. "Certificate" means a tax credit certificate issued by the authority under Title 10, chapter 110, subchapter XI.
36 38	B. "Certificate" means a tax credit certificate issued by the authority under Title 10, chapter 110, subchapter XI.
38	the authority under Title 10, chapter 110, subchapter XI. 2. Credit. A taxpayer is allowed a credit against the tax imposed by this Part otherwise due in an amount equal to the
38	the authority under Title 10, chapter 110, subchapter XI. 2. Credit. A taxpayer is allowed a credit against the tax
	the authority under Title 10, chapter 110, subchapter XI. 2. Credit. A taxpayer is allowed a credit against the tax imposed by this Part otherwise due in an amount equal to the
38 40 42	the authority under Title 10, chapter 110, subchapter XI. 2. Credit. A taxpayer is allowed a credit against the tax imposed by this Part otherwise due in an amount equal to the annual credit amount authorized by a certificate issued to the taxpayer.
38 40	the authority under Title 10, chapter 110, subchapter XI. 2. Credit. A taxpayer is allowed a credit against the tax imposed by this Part otherwise due in an amount equal to the annual credit amount authorized by a certificate issued to the taxpayer. 3. Credit nonrefundable. The credit may not reduce the tax
38 40 42 44	the authority under Title 10, chapter 110, subchapter XI. 2. Credit. A taxpayer is allowed a credit against the tax imposed by this Part otherwise due in an amount equal to the annual credit amount authorized by a certificate issued to the taxpayer.
38 40 42	the authority under Title 10, chapter 110, subchapter XI. 2. Credit. A taxpayer is allowed a credit against the tax imposed by this Part otherwise due in an amount equal to the annual credit amount authorized by a certificate issued to the taxpayer. 3. Credit nonrefundable. The credit may not reduce the tax otherwise due under this Part below zero for any taxable year.
38 40 42 44	the authority under Title 10, chapter 110, subchapter XI. 2. Credit. A taxpayer is allowed a credit against the tax imposed by this Part otherwise due in an amount equal to the annual credit amount authorized by a certificate issued to the taxpayer. 3. Credit nonrefundable. The credit may not reduce the tax

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claimed in the following taxable year in which the credit may be

	COMMITTEE AMENDMENT " to H.P. 340,	L.D. 430	
	claimed; however, the limitation of	subsection 3 also	applies to
2	carry-over years.		
4	5. Carry-back. Credits may no years.	ot be carried bac	k to prior
6			
8	6. Recapture. If the authorit additional tax is added to the tax i this Part for the taxable year in	mposed on the tax	payer under
10	The additional tax is equal to the	excess of the amo	unt of the
12	certificate revoked over the amou claimed.	nt of certificat	<u>e not yet</u>
14	Sec. 5. Application. This Act appoint or after January 1, 2001.	plies to tax years	beginning
16			
18	Sec. 6. Appropriation. The following from the General Fund to carry out the		
20			2001-02
22	FINANCE AUTHORITY OF MAINE		
24	TPC - A Alba Ma		
26	Finance Authority of Maine		
28	All Other		\$15,000
30	Provides funds for the costs ass drafting and adopting rules, e		
32	the administrative process and applicant eligibility for the	determining	
34	equivalent loan program.'	- <u>4</u>	
36	Further amend the bill by inse summary the following:	rting at the end	before the
38			
40	FISCAL NO	OTE	
42		2001-02	2002-03
44	APPROPRIATIONS/ALLOCATIONS		
46	General Fund	\$15,000	

R. of 3.

48

REVENUES

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38

40

a fiscal note to the bill.

COMMITTEE AMENDMENT " to H.P. 340, L.D. 430

2	General Fund Other Funds	(\$14,235) (\$94,900) (765) (5,100)	
4	The equity equivalent loan cred		
6	income tax collections by \$15,000 in \$100,000 in fiscal year 2002-03. The collections will decrease the amounts	he reduction of these tax	Z.
8	Government Fund for state-municipal years by \$765 and \$5,100, respecti	revenue sharing in those	9
10	reductions of General Fund revenue wil 2001-02 and \$94,900 in fiscal year 200	l be \$14,235 in fiscal year	c
12	reductions in corporate income tax c 2003-04 and 2004-05 will be approxima	ollections in fiscal years	S
14	respectively.	-	
16	The Finance Authority of Maine water appropriation of \$15,000 in fiscal		
18	rules, undertaking the Maine Admi process, setting up the administra	inistrative Procedure Act	t
20	eligibility of applicants and other act		-
22	The Finance Authority of Main additional costs to administer the		
24	basis. These costs can be absorapplication fee.	rbed within the proposed	đ
26	The Department of Economic and	Community Development wil	1
28	incur some minor additional costs r		g
30	Department of Economic and Communi budgeted resources.'	ty Development's existin	g
32	•		
34	SUMMARY		
36	This amendment adds affordable		
2.0	purpose for equity equivalent loans or		

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tax credit. The amendment makes technical corrections to clarify the intent of the bill and also adds an appropriation section and