

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 1694

H.P. 1259

House of Representatives, March 20, 2001

An Act to Amend the Finance Authority of Maine Act.

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

Millicent M. MacFarland

MILLICENT M. MacFARLAND, Clerk

Presented by Speaker SAXL of Portland.
Cosponsored by Senator KILKELLY of Lincoln and
Representatives: CLOUGH of Scarborough, CUMMINGS of Portland, DESMOND of
Mapleton, DORR of Camden, ESTES of Kittery, FULLER of Manchester, WATSON of
Farmingdale, Senator: LaFOUNTAIN of York.

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

2 **Sec. 1. 5 MRSA §12004-I, sub-§18-A**, as corrected by RR 1993,
4 c. 1, §13, is repealed.

6 **Sec. 2. 10 MRSA §963-A, sub-§31-A**, as amended by PL 1999, c.
8 504, §8, is further amended to read:

10 **31-A. Major business expansion project.** "Major business
12 expansion project" means any building, structure, system,
14 machinery, equipment or facility proposed to be constructed,
16 developed, rehabilitated, expanded, modernized or acquired in the
18 State by a business entity that has a projected cost of
20 \$1,000,000 or more, that is projected to result in a net gain of
22 at least 50 job opportunities within the State or the retention
of at least 50 jobs, directly or indirectly, and that benefits
from financing assistance from the authority including use of a
capital reserve fund pursuant to section 1053. A major business
expansion project does not include electric rate stabilization
projects or projects primarily involved in the provision of
housing or retail sales to consumers.

24 **Sec. 3. 10 MRSA §963-A, sub-§51-A**, as enacted by PL 1997, c.
489, §5, is amended to read:

26 **51-A. Wartime veteran.** "Wartime veteran" means any person
28 who served in the United States Armed Forces during any federally
30 recognized period of conflict ~~as defined in Title 37-B, section~~
32 ~~504, subsection 4, paragraph A 1, subparagraph (3) or was~~
34 ~~eligible for an Armed Forces Expeditionary Medal or campaign~~
36 ~~medal, who is certified to be a wartime veteran by the Bureau of~~
Maine Veterans' Services and was not dishonorably discharged. A
veteran of the Vietnam War must have served on active duty for a
period of more than 90 days unless that veteran was discharged
for a service connected disability, and any part of that active
duty service occurred after December 22, 1961 and before May 7,
1975.

38 **Sec. 4. 10 MRSA §964, sub-§2**, as amended by PL 1989, c. 698,
40 §4, is further amended to read:

42 **2. Divisions.** The Finance Authority of Maine ~~shall contain~~
44 contains such divisions as may be of assistance to implement the
programs and perform the duties as defined in this chapter and as
required by the authority. The divisions ~~shall~~ include:

46 ~~A. The Division of Maine Business Development;~~

48 ~~B. The Division of Natural Resources Financing and~~
50 ~~Marketing;~~

- 2 C. ~~The Division of Lending~~ Business Assistance;
- 4 D. ~~The Division of~~ Finance and Administration; and
- 6 E. ~~The Maine~~ Education Assistance Division; and
- 8 F. Legal.

10 **Sec. 5. 10 MRSA §965, sub-§1**, as repealed and replaced by PL
12 1993, c. 359, Pt. C, §2, is repealed.

14 **Sec. 6. 10 MRSA §965, sub-§3**, as amended by PL 1993, c. 359,
Pt. C, §3, is further amended to read:

16 **3. At-large members.** ~~Seven~~ Nine members appointed by the
18 Governor in accordance with the following and subject to review
by the joint standing committee of the Legislature having
20 jurisdiction over economic development matters and subject to
confirmation by the Legislature must be appointed from at large.
22 ~~Two of the at-large members must be veterans and 2 of the~~
~~at-large members must be knowledgeable in the field of natural~~
~~resource enterprises or financing.~~

24 A. Two of the at-large members must be veterans.

26 B. Two of the at-large members must be knowledgeable in the
28 field of natural resource enterprises or financing.

30 C. One of the at-large members must be knowledgeable in the
32 field of student financial assistance.

34 D. One of the at-large members must be knowledgeable in the
field of higher education.

36 **Sec. 7. 10 MRSA §966, first ¶**, as enacted by PL 1983, c. 519,
38 §6, is amended to read:

The terms of office for the designated and at-large members
40 defined in section 965, subsections 2 and 3, ~~shall be~~ are for 4
years, except for initial appointees. ~~The terms of office for~~
42 ~~the appointees who are selected board members, as defined in~~
~~section 965, subsection 1, shall be coterminous with their terms~~
44 ~~of office with the boards from which they are selected.~~

46 **Sec. 8. 10 MRSA §973**, as repealed and replaced by PL 1995, c.
48 462, Pt. A, §16, is amended to read:

50 **§973. Conflicts of interest**

2 Notwithstanding Title 5, section 18, subsection 1, paragraph
3 B, each member of the authority, ~~each member of the Maine~~
4 ~~Education Assistance Board~~ and each employee, contractor, agent
5 or other representative of the authority is deemed an "executive
6 employee" solely for purposes of Title 5, section 18, and for no
7 other purpose, except that the chief executive officer in
8 addition is deemed an "executive employee" for purposes of Title
9 5, section 19. Title 17, section 3104 does not apply to any of
10 those representatives.

11 **Sec. 9. 10 MRSA §984, sub-§2, ¶L**, as amended by PL 1987, c.
12 534, Pt. B, §§9 and 23, is further amended to read:

13 L. Receive advice and assistance from, and coordinate its
14 programs with, the Department of Economic and Community
15 Development, the Maine State Housing Authority, the Maine
16 Development Foundation, ~~the Maine Capital Corporation,~~
17 ~~the Maine Natural Resource Capital Corporation~~ and other state
18 agencies with relevant expertise. In addition, programs
19 authorized in this subchapter may be coordinated or combined
20 with other public and private national, state, regional or
21 local programs that the agency determines will facilitate
22 the purposes of this subchapter; and

23 **Sec. 10. 10 MRSA §985**, as amended by PL 1989, c. 4, §2, is
24 repealed.

25 **Sec. 11. 10 MRSA §1013, sub-§15**, as amended by PL 1997, c.
26 732, §2, is further amended to read:

27 **15. Scholarships for Maine Fund.** The Scholarships for
28 Maine Fund, as established in Title 20-A, chapter 419-C; and

29 **Sec. 12. 10 MRSA §1013, sub-§16**, as enacted by PL 1997, c.
30 732, §3, is amended to read:

31 **16. Maine College Savings Program.** The Maine College
32 Savings Program, as established in Title 20-A, chapter 417-E; and

33 **Sec. 13. 10 MRSA §1013, sub-§17** is enacted to read:

34 **17. Maine Dental Education Loan Program.** The Maine Dental
35 Education Loan Program as established in Title 20-A, chapter 426.

36 **Sec. 14. 10 MRSA §1016**, as amended by PL 1995, c. 519, §4, is
37 repealed.

38 **Sec. 15. 10 MRSA §1026-D, sub-§3, ¶B**, as amended by PL 1987,
39 c. 697, §8, is further amended to read:

2 B. The original principal amount of the mortgage loan,
3 including any mortgage loan secured by a coordinate or
4 priority lien or security interest in the same eligible
5 collateral which that is proposed to secure repayment of the
6 insured mortgage loan, shall may not exceed the sum of the
7 following percentages of the cost or value, as determined by
8 the authority at the time of application for mortgage
9 insurance, of eligible collateral held, owned, controlled or
10 used by any eligible enterprise:

12 (1) One hundred percent of the cost or value of real
13 estate designed as an industrial park or 100% of the
14 value of cash, deposits of money, certificates of
15 deposit or other cash equivalents, irrevocable letters
16 of credit issued by financial institutions acceptable
17 to the authority or loan guarantees from insurance
18 companies or other institutions satisfactory to the
19 authority;

20 (2) Ninety percent of the cost or value of real estate
21 or 90% of the amount of accounts receivable determined
22 by the authority to be eligible;

23 (3) Eighty percent of the cost or value of eligible
24 collateral consisting primarily of one or more fishing
25 or other vessels;

26 (4) Seventy-five percent of the cost or value of
27 eligible collateral consisting primarily of machinery
28 and equipment;

29 (5) Notwithstanding subparagraph (2), 75% of the cost
30 or value of eligible collateral held, owned, controlled
31 or used by a recreational enterprise; or

32 (6) ~~Sixty~~ Seventy percent of the cost or value of
33 other eligible collateral.

34 **Sec. 16. 10 MRSA §1076, sub-§4**, as enacted by PL 1997, c. 518,
35 §2, is amended to read:

36 **4. Establishment of accounts.** A financial institution
37 approved by the authority may establish family development
38 accounts pursuant to this subchapter. The financial institution
39 shall certify to the authority in the manner required by the
40 authority that accounts have been established pursuant to the
41 provisions of this subchapter and that deposits have been made on
42 behalf of account holders. A financial institution establishing
43 a family development account shall:

- 2 A. Keep the account in the name of the account holder;
- 4 B. Permit deposits to be made into the account by the
6 account holder or a community development organization on
8 behalf of the account holder, including money deposited to
10 match the account holder's deposits. Matching contribution
12 deposits may not exceed \$2000 per year and must be approved
14 in writing by the community development organization. An
16 account with a balance exceeding \$10,000 is ineligible for
18 matching contribution deposits;
- 20 C. Credit interest to the account at a rate equal to or
22 higher than the rate applicable to comparable accounts
24 within the financial institution; and
- 26 D. Permit the account holder, ~~---after---obtaining---the
28 eesignature---of---the---administrator---of---the---community
30 development-organization,~~ to withdraw money from the account
32 for any of the purposes listed in section 1077, subsection
34 1.; and
- 36 E. Require the account holder to allow the financial
38 institution to provide all account information to the
40 community development organization.

28 **Sec. 17. 10 MRSA §1079, sub-§1**, as amended by PL 1999, c. 628,
30 §1, is further amended to read:

32 **1. Committee membership.** The committee consists of ~~15~~ 12
34 members as follows:

- 36 A. ~~Five~~ Four members appointed by the Governor, including
38 one representative of the Maine State Housing Authority, ~~one
40 representative-of-the-Department-of-Economic-and-Community
42 Development,~~ one representative of the Department of Human
44 Services and 2 representatives of financial institutions
46 participating in the program;
- 48 B. ~~Five~~ Four members appointed by the Speaker of the House
50 of Representatives, including ~~2-persons~~ one person who are
is an account holders holder or are is eligible to be an
account holders holder, 2 representatives of contributors of
matching funds to the program and one representative of a
community development organization; and
- C. ~~Five~~ Four members appointed by the President of the
Senate, including one representative of a contributor of
matching funds to the program, one representative of a
statewide community development foundation, one person who

2 is an account holder or is eligible to be an account holder
and ~~2--representatives~~ one representative of a community
development ~~organisations~~ organization.

4
6 Members from state departments serve at the pleasure of their
appointing authorities. All other members serve 3-year terms and
8 may continue to serve beyond their terms until their successors
are appointed but may not be appointed to subsequent consecutive
10 terms. If a vacancy occurs before a term has expired, the
vacancy must be filled for the remainder of the unexpired term by
12 the authority who made the original appointment. If a member is
absent for 2 consecutive meetings and has not been excused by the
14 chair from either meeting, the committee may remove the member by
majority vote.

16 **Sec. 18. 10 MRSA §1100-T, sub-§2, ¶A**, as amended by PL 1999,
c. 752, §1, is further amended to read:

18
20 A. A tax credit certificate may be issued in an amount not
more than 30% of the amount of cash actually invested in a
22 Maine business in any calendar year. ~~For--certificates~~
~~issued--prior--to--July--1--2001--for--investments--made--after--July~~
~~1--2000--the--tax--credit--certificate--may--be--issued--in--an~~
24 ~~amount--not--more--than--40%--of--the--amount--of--cash--actually~~
~~invested--in--a--Maine--business--in--any--calendar--year.~~

26
28 **Sec. 19. 10 MRSA §1100-T, sub-§2-A**, as amended by PL 1997, c.
774, §1, is further amended to read:

30 A. A tax credit certificate may be issued to an individual
32 who invests in a private venture capital fund in an amount
that:

34 (1) Is not more than 30% of the amount of cash actually
invested in a private venture capital fund in any
36 calendar year by the individual or entity; and

38 (2) Does not exceed 30% of the amount of cash invested
by the fund in eligible businesses, except that the
40 authority may issue tax credit certificates in an
amount not to exceed 15% of the amount of cash actually
42 invested in or unconditionally committed to a private
venture capital fund in any calendar year if the
44 authority determines that the private venture capital
fund is located in this State, is owned and controlled
46 primarily by Maine residents and has designated
investing in eligible Maine businesses as a major
48 investment objective. The credit may be revoked to the
extent that the private venture capital fund does not
50 make investments eligible for the tax credit in an

2 amount sufficient to qualify for the credits within 3
3 years after the date of the tax credit certificates.
4 Notwithstanding any revocation pursuant to this
5 subparagraph, each investor remains eligible for tax
6 credit certificates for eligible investments as and
7 when made by the private venture capital fund.

8 The aggregate amount of credits issued to investors in a
9 fund may not exceed 30% of the amount of cash invested by
10 the fund in eligible businesses.

11 **Sec. 20. 10 MRSA §1100-T, sub-§2-A, ¶D**, as amended by PL 1997,
12 c. 774, §1, is repealed and the following enacted in its place:

13 D. The investment with respect to which any individual or
14 entity is applying for a tax credit certificate may not be
15 more than an aggregate of \$200,000 in any one eligible
16 business invested in by a private venture capital fund in
17 any 3 consecutive calendar years, except that this paragraph
18 does not limit other investment by any applicant for which
19 that applicant is not applying for a tax credit certificate
20 and except that, in the event the entity applying for a tax
21 credit certificate is a partnership, limited liability
22 company, corporation, nontaxable trust or any other entity
23 that is treated as a flow-through entity for tax purposes
24 under the federal Internal Revenue Code, the aggregate limit
25 of \$200,000 applies to each individual partner, member,
26 stockholder, beneficiary or equity owner of the entity and
27 not to the entity itself.

28 **Sec. 21. 10 MRSA §1100-T, sub-§2-A, ¶E**, as amended by PL 1997,
29 c. 774, §1, is further amended to read:

30 E. Each business receiving an investment from a private
31 venture capital fund, which investment is used as the basis
32 for the issuance of a tax credit certificate, must have
33 annual gross sales of ~~\$2,000,000~~ \$3,000,000 or less and the
34 operation of the business must be the full-time professional
35 activity of the principal owner, as determined by the
36 authority. The principal owner and principal owner's spouse
37 are not eligible for a credit for investment in that
38 business or the private venture capital fund. A tax credit
39 certificate may not be issued to a parent, brother, sister
40 or child of a principal owner if the parent, brother, sister
41 or child has any existing ownership interest in that
42 business or in for an investment by the private venture
43 capital fund in that business.

44

2 **Sec. 22. 10 MRSA §1100-T, sub-§2-A, ¶H**, as amended by PL 1997,
c. 774, §1, is repealed and the following enacted in its place:

4 H. The investors in a private venture capital fund are not
6 entitled to the credit for collective ownership in excess of
 50% of any business. An investor in a private venture
8 capital fund determined by the authority to be a principal
 owner of a business and the principle owner's spouse are not
10 entitled to a credit with respect to investment in that
 business, nor are the principal owner's parents, siblings or
12 children entitled to a credit if they have any existing
 ownership interest in the business.

14 **Sec. 23. 20-A MRSA §11484, sub-§1, ¶B**, as enacted by PL 1997,
c. 732, §4, is repealed.

16 **Sec. 24. 20-A MRSA §11484, sub-§1, ¶¶B-1 and B-2** are enacted to
18 read:

20 B-1. One member appointed by the Governor with knowledge of
 student financial assistance;

22 B-2. One member appointed by the Governor from at large;

24 **Sec. 25. 20-A MRSA §11484, sub-§2**, as enacted by PL 1997, c.
26 732, §4, is repealed and the following enacted in its place:

28 2. Terms. Members must be appointed for terms of 4 years.
 Members may be removed for cause. The member appointed by the
30 Governor under subsection 1, paragraph B-1 must be appointed for
 an initial term of 3 years. The member appointed by the Governor
32 under subsection 1, paragraph B-2 must be appointed for an
 initial term of 4 years.

34 **Sec. 26. 20-A MRSA §12106, sub-§2**, as enacted by PL 1991, c.
36 830, §4 and c. 832, §10, is amended by amending the first
paragraph to read:

38 **2. Members.** The Advisory Committee on Medical Education
40 consists of the following ~~21~~ 19 members:

42 **Sec. 27. 20-A MRSA §12106, sub-§2, ¶A**, as enacted by PL 1991,
c. 830, §4 and c. 832, §10, is amended to read:

44 A. Ten Nine members appointed by the chief executive
46 officer and subject to approval by the joint standing
committee of the Legislature having jurisdiction over
48 education matters. Of these members:

- 2 (1) One must be a representative of a major statewide agency representing allopathic physicians;
- 4 (2) One must be a representative of a major statewide agency representing osteopathic physicians;
- 6 (3) One must be a representative of a major statewide agency representing family physicians;
- 8 (4) One must be a member of the major statewide agency representing hospitals;
- 10 (5) One must be a representative of the major statewide agency representing community health centers;
- 12 (6) ~~One must be a representative of a nonprofit hospital-medical-services-organization;~~
- 14 (7) One must be a representative of an association of commercial health insurance companies doing business in the State;
- 16 (8) One must be a representative of a statewide area health education center program; and
- 18 (9) Two must be at-large members;

28 **Sec. 28. 20-A MRSA §12106, sub-§2, ¶C**, as enacted by PL 1991, c. 830, §4 and c. 832, §10, is repealed.

30 **Sec. 29. 20-A MRSA §12106, sub-§2, ¶E**, as enacted by PL 1991, c. 830, §4 and c. 832, §10, is repealed and the following enacted in its place:

34 E. Six members appointed by the chief executive officer and subject to approval by the joint standing committee of the Legislature having jurisdiction over education matters. These members must include:

- 40 (1) A chief executive of a family practice residency in the State;
- 42 (2) A representative of an institution of allopathic medical education at which the authority secures positions for students;
- 44 (3) A representative of an institution of osteopathic medical education at which the authority secures positions for students;

- 2 (4) A Maine student, resident or practicing physician
3 who has obtained a position secured by the authority at
4 an institution of allopathic medical education;
- 5 (5) A Maine student, resident or practicing physician
6 who has obtained a position secured by the authority at
7 an institution of osteopathic medical education; and
- 8 (6) A representative of a major teaching hospital in
9 the State.

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SUMMARY

15 This bill amends the Finance Authority of Maine Act in the
16 following ways.

17 1. It modifies the definition of a major business expansion
18 project to include the development of new systems.

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21 2. It deletes an erroneous cross-reference to the
22 definition of wartime veteran and substitutes the
23 cross-referenced definition with a requirement that the Bureau of
24 Maine Veterans' Services certify the wartime veteran status to
25 the authority to determine eligibility for loan insurance
26 programs targeted for veterans and wartime veterans.

27 3. It updates the names of the authority's divisions and
28 combines Finance Authority of Maine's 2 business assistance
29 divisions into one division for administrative purposes.

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32 4. It removes references to the Maine Education Assistance
33 Board, an advisory board to the authority repealed by this bill,
34 and replaces the positions on the Finance Authority of Maine
35 board held by members of the Maine Education Assistance Board
36 with an individual knowledgeable in the field of student
37 financial assistance and an individual generally knowledgeable in
38 the field of higher education.

39 5. It removes outdated references to the Maine Capital
40 Corporation and the Maine Natural Resources Capital Corporation,
41 which no longer exist.

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44 6. It repeals a reference to the Division of Natural
45 Resources Financing and Marketing, which was repealed in 1993.

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48 7. It updates the list of the higher education assistance
49 programs managed by the Finance Authority of Maine.

2 8. It amends the loan amount that may be advanced against
other eligible collateral when the authority insures a loan.

4 9. It clarifies the requirement that a community
development organization must authorize the deposit of matching
6 funds into a family development account, removes a requirement
that a financial institution must obtain a cosignature before
8 allowing a withdrawal of fund from a family development account
and creates a requirement that information on accounts must be
10 provided to the community development organization that is
sponsoring the account.

12 10. It reduces the membership of the Advisory Committee on
14 Family Development Accounts.

16 11. It amends the Maine Seed Capital Tax Credit Program so
that amendments made regarding the administration of the issuance
18 of tax credits for investments in private venture capital funds
are retained after the provisions sunset on June 30, 2001.

20 12. It repeals the provisions naming 2 individuals from the
22 Maine Education Assistance Board to the Advisory Committee on
College Savings, replaces one member formerly named from the
24 Maine Education Assistance Board with an individual with
knowledge of higher education financial assistance, replaces the
26 other individual with an at-large member and staggers the terms
of the new members.

28 13. It modifies the membership of the Advisory Committee on
30 Medical Education to remove representation by organizations that
no longer exist and to widen the pool of potential candidates for
32 participation in the program to allow former participants to
serve on the committee. The bill also changes the status of 6
34 members from nonvoting to voting.