

MAINE STATE LEGISLATURE

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125th MAINE LEGISLATURE

FIRST REGULAR SESSION-2011

Legislative Document

No. 991

S.P. 311

In Senate, March 10, 2011

An Act To Establish the Maine New Markets Capital Investment Program

Reference to the Committee on Labor, Commerce, Research and Economic Development suggested and ordered printed.

Joseph G. Carleton Jr.

JOSEPH G. CARLETON, JR.
Secretary of the Senate

Presented by President RAYE of Washington.
Cosponsored by Speaker NUTTING of Oakland and
Senators: KATZ of Kennebec, RECTOR of Knox, Representatives: CAIN of Orono,
FREDETTE of Newport, HARMON of Palermo, PILON of Saco, PRESCOTT of Topsham.

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

2 **Sec. 1. 10 MRSA c. 110, sub-c. 12** is enacted to read:

3 **SUBCHAPTER 12**

4 **MAINE NEW MARKETS CAPITAL INVESTMENT PROGRAM**

5 **§1100-Z. Maine New Markets Capital Investment Program**

6 **1. Program.** The Maine New Markets Capital Investment Program, referred to in
7 this section as "the program," is established to encourage new investment in economically
8 distressed areas of the State. For the purposes of this section, all terms have the same
9 meaning as under Title 36, section 5219-FF and Section 45D of the United States Internal
10 Revenue Code of 1986, as amended.

11 **2. Application for credits.** In order to participate in the program, a qualified
12 community development entity must apply for a tax credit pursuant to Title 36, section
13 5219-FF with the authority on forms prescribed by the authority. The qualified
14 community development entity must pay an application fee to the authority at the time the
15 application is submitted in an amount determined by the authority. The authority shall
16 determine by rule the process for the allocation of the tax credits.

17 **3. Limit on amount of credits authorized.** The maximum aggregate amount of
18 qualified equity investments that may be allocated by the authority under this section may
19 not exceed an amount that would result in taxpayers' claiming in any one state fiscal year
20 credits in excess of \$20,000,000.

21 **4. Rules.** The authority shall adopt rules necessary to implement this section. Rules
22 adopted pursuant to this subsection are routine technical rules under Title 5, chapter 375,
23 subchapter 2-A.

24 **Sec. 2. 36 MRSA §5219-FF** is enacted to read:

25 **§5219-FF. New markets capital investment credit**

26 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
27 following terms have the following meanings.

28 **A. "Adjusted purchase price"** means the investment in the qualified community
29 development entity for the qualified equity investment, substantially all of the
30 proceeds of which are used to make qualified low-income community investments in
31 the State.

32 **B. "Applicable percentage"** means 5% for the first to 3rd credit allowance dates and
33 6% for the 4th to 7th credit allowance dates.

34 **C. "Credit allowance date"** means, with respect to any qualified equity investment,
35 the date on which the investment is initially made and each of the 6 anniversary dates
36 of the date thereafter.

1 D. "Qualified community development entity" has the same meaning as in Section
2 45D of the Code if the entity has entered into an allocation agreement with the
3 Community Development Financial Institutions Fund of the United States
4 Department of the Treasury with respect to credits authorized by Section 45D of the
5 Code.

6 E. "Qualified equity investment" has the same meaning as in Section 45D of the
7 Code and the taxpayer must have received a Notice of Qualified Equity Investment
8 for New Markets Credit that was issued pursuant to Section 45D of the Code for the
9 qualified equity investment.

10 **2. Credit allowed.** A taxpayer that holds a qualified equity investment on the credit
11 allowance date of the qualified equity investment is allowed a credit against the tax due
12 under this Part during the taxable year that includes the credit allowance date. The
13 amount of the credit is equal to the applicable percentage of the adjusted purchase price
14 paid to the qualified community development entity for the qualified equity investment,
15 exclusive of credits that might be carried forward from previous taxable years.

16 **3. Carryover to succeeding year.** A taxpayer entitled to a credit under this section
17 for any taxable year may carry over the credit or any portion of the credit for the next
18 succeeding taxable year.

19 **4. Pass-through entity.** Tax credits authorized by this section that are earned by a
20 partnership, limited liability company, S corporation or other similar pass-through entity
21 must be allocated among all partners, members or shareholders, respectively, either in
22 proportion to their own ownership interest in such entity or as the partners, members or
23 shareholders mutually agree as provided in an executed document.

24 **5. Refundability.** The credit under this section is fully refundable.

25 **6. Recapture of credits.** The bureau may recapture all of the credit allowed under
26 this section if any amount of federal tax credits available with respect to a qualified
27 equity investment that is eligible for a tax credit under this section is recaptured under
28 Section 45D of the Code.

29 Any amount of credits that is subject to recapture under this subsection must be
30 recaptured from the taxpayer that actually claimed the credit.

31 SUMMARY

32 This bill enacts the Maine New Markets Capital Investment Program in order to
33 attract investment in economically distressed areas of Maine. The program is modeled
34 after the federal New Markets Tax Credit Program.