

MAINE STATE LEGISLATURE

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126th MAINE LEGISLATURE

FIRST REGULAR SESSION-2013

Legislative Document

No. 837

H.P. 588

House of Representatives, March 5, 2013

An Act To Clarify the Laws Establishing the Department of Agriculture, Conservation and Forestry

(EMERGENCY)

Submitted by the Department of Agriculture, Conservation and Forestry pursuant to Joint Rule 204.

Reference to the Committee on Agriculture, Conservation and Forestry suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative FREDETTE of Newport.
Cosponsored by Senator: THIBODEAU of Waldo.

1 **Emergency preamble. Whereas,** acts and resolves of the Legislature do not
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 **Whereas,** the public interest is best served by expedient legislative determination of
4 policy direction, clear guidelines regarding statutory configuration and renewed
5 commitment to conservation and rural economic needs; and

6 **Whereas,** the organization of state responsibility assigned to assist and regulate any
7 number of natural resources needs has multiple mandates better served with additional
8 legislative clarification of the laws for the Department of Agriculture, Conservation and
9 Forestry, including unified placement in the Maine Revised Statutes, Title 7; and

10 **Whereas,** it is necessary to immediately refine the laws governing agriculture,
11 conservation and forestry in order to provide legislative clarification regarding the
12 statutory configuration of those laws; and

13 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
14 the meaning of the Constitution of Maine and require the following legislation as
15 immediately necessary for the preservation of the public peace, health and safety; now,
16 therefore,

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

18 **Sec. 1. 5 MRSA §933, sub-§1, ¶N,** as amended by PL 2009, c. 552, §4, is further
19 amended to read:

20 N. Director, Division of Quality Assurance and Regulation; and

21 **Sec. 2. 5 MRSA §933, sub-§1, ¶O,** as amended by PL 2011, c. 1, Pt. F, §1, is
22 repealed.

23 **Sec. 3. 5 MRSA §12004-H, sub-§10-A** is enacted to read:

24 **10-A.**

25 Potato Marketing Improvement Expenses Only 7 MRSA §972-B
26 Fund Committee

27 **Sec. 4. 7 MRSA §971-A** is enacted to read:

28 **§971-A. Definitions**

29 As used in this article, unless the context otherwise indicates, the following terms
30 have the following meanings.

31 **1. Board.** "Board" means the Maine Potato Board as established in Title 36, section
32 4603.

33 **2. Committee.** "Committee" means the Potato Marketing Improvement Fund
34 Committee as established in Title 5, section 12004-H, subsection 10-A.

1 **3. Fund.** "Fund" means the Potato Marketing Improvement Fund as established in
2 Title 10, section 1023-N.

3 **Sec. 5. 7 MRSA §972-B** is enacted to read:

4 **§972-B. Potato Marketing Improvement Fund Committee**

5 **1. Members.** The Potato Marketing Improvement Fund Committee, as established
6 in Title 5, section 12004-H, subsection 10-A, consists of:

7 A. The commissioner or the commissioner's designee;

8 B. The immediate past president of the board; and

9 C. Five members who are appointed by the board and subject to approval by the
10 Governor, one of whom must be a banker familiar with potato loan activities; one of
11 whom must be a person in local government, State Government or Federal
12 Government connected to the potato industry with a professional background that
13 includes developing agricultural loans; one of whom must represent the processing
14 sector of the potato industry; one of whom must represent the seed sector of the
15 potato industry; and one of whom must represent the tablestock sector of the potato
16 industry.

17 **2. Duties.** The committee shall:

18 A. Advise the board on the development and implementation of programs and
19 activities that improve the economic viability of the potato industry;

20 B. Advise the board concerning the funding and expenditures of the fund; and

21 C. Make recommendations to the board on authorized uses of the fund and activities
22 relating to the fund other than activities relating to the processing of loan applications
23 or the servicing and administration of loans, subject to final approval of the
24 commissioner.

25 **Sec. 6. 7 MRSA §973-A**, as enacted by PL 2001, c. 125, §3, is amended to read:

26 **§973-A. Administration of Potato Marketing Improvement Fund**

27 ~~The commissioner board shall administer the Potato Marketing Improvement Fund~~
28 ~~established under Title 10, section 1023-N fund.~~

29 **Sec. 7. 7 MRSA §974-A, sub-§2**, as amended by PL 2001, c. 125, §4, is further
30 amended to read:

31 **2. State loan interest rate.** The interest rate for state loans is 5%. Loans current on
32 April 21, 1988 must be renegotiated to an interest rate of 5%.

33 A fee for administrative costs, which must be at a rate set by rule by the ~~commissioner~~
34 ~~upon consultation with the Potato Marketing Improvement Committee board~~ but that may
35 not exceed 1% of the loan, must be charged on all loans made for projects, the total cost
36 of which exceeds \$50,000. This fee must be deposited in the ~~Potato Marketing~~
37 ~~Improvement Fund fund.~~

1 **Sec. 8. 7 MRSA §974-A, sub-§3** is enacted to read:

2 **3. Approval of loans and grants.** The commissioner has authority to approve all
3 loans and grants from the fund.

4 **Sec. 9. 7 MRSA §976**, as amended by PL 2005, c. 335, §6, is further amended to
5 read:

6 **§976. Aroostook County office**

7 The ~~department board~~ shall maintain or arrange for the maintenance of an office in
8 Aroostook County located in a town most convenient to the largest number of potential
9 users of the Potato Marketing Improvement Fund ~~and sufficiently close to any local~~
10 ~~office of the board as to foster a close working relationship and provide a convenience to~~
11 ~~farmers who wish to visit both agencies.~~ This office must be staffed by one or more
12 business development specialists ~~whose responsibilities are~~ primarily responsible for
13 work associated with the fund as well as other activities as defined by the board, subject
14 to review by the department. The business development specialists ~~shall~~ must be
15 available in the Aroostook County office on a regular basis.

16 Should the performance of the functions of the business development specialists be
17 contracted for, this contract must be made by the ~~agency managing the fund board~~ and
18 must be awarded through competitive bidding.

19 **Sec. 10. 7-A MRSA §202**, as enacted by PL 2011, c. 657, Pt. V, §1 and affected
20 by §2, is amended to read:

21 **§202. Mission; guiding principles**

22 **1. Mission.** The mission of the department is to serve as ~~the~~ a steward of Maine's
23 ~~agricultural, forestry, water and land~~ natural resources ~~for the State~~ economy. The
24 ~~department shall implement public policy that:~~

25 A. Supports the work of citizens who derive their livelihood through agricultural,
26 conservation and forest-based interests and supports those who enjoy agricultural,
27 conservation and forest-based interests;

28 B. Through education, technical assistance and research, promotes and protects the
29 public health, the well-being of domestic animals, wise land usage and the
30 preservation of the State's key conservation assets; and

31 C. Assists in creating added value for land-derived and forest-derived products as
32 well as creating outdoor-based recreational experiences for local, national and
33 international markets.

34 **2. Guiding principles.** The following principles are adopted to guide the
35 department in the performance of its duties:

36 ~~A. Forestry, farming, conservation, public lands and other natural resource based~~
37 ~~economic activity are important to the State's economy and quality of life; and~~

1 A-1. The State's rural jobs and multifaceted natural resources are at the same time a
2 rich heritage to be carefully passed to successive generations and an evolving
3 economic engine driving the recreation, food and fiber components of the State's
4 workplaces;

5 B. Strengthening farming, forestry, conservation, recreation, state parks, public lands
6 and public access to the State's natural resources is vital to enhancing the State's
7 natural resources economy; and

8 C. The State's land and water are the common denominators for fresh, locally grown
9 food, for sustainable forest production and for the State's internationally recognized
10 outdoor recreation and conservation venues.

11 **Sec. 11. 7-A MRSA §203, sub-§1**, as enacted by PL 2011, c. 657, Pt. V, §1 and
12 affected by §2, is amended to read:

13 **1. Appointment.** The Governor shall appoint the commissioner, subject to review
14 by the joint standing committee of the Legislature having jurisdiction over agriculture,
15 conservation and forestry matters and confirmation by the Senate. The commissioner,
16 who must demonstrate expertise, experience or understanding of a range of issues relating
17 to agriculture, conservation and forestry, serves at the pleasure of the Governor.

18 **Sec. 12. 7-A MRSA §203, sub-§2**, as enacted by PL 2011, c. 657, Pt. V, §1 and
19 affected by §2, is amended to read:

20 **2. Deputies; staff.** The commissioner shall appoint 2 deputy commissioners, ~~one of~~
21 ~~whom assists the commissioner with operations and administration of the department and~~
22 ~~one of whom assists the commissioner with agriculture, forestry and natural resources-~~
23 ~~based economic development.~~ as follows:

24 A. The Deputy Commissioner of Agriculture, who must have expertise or relevant
25 practical work experience or training in the farming and food industry and whose
26 responsibilities include agricultural resource development; and

27 B. The Deputy Commissioner of Conservation and Forestry, who must have
28 expertise or experience in land management and conservation, including forest
29 management.

30 **Sec. 13. 7-A MRSA §205, sub-§1**, as enacted by PL 2011, c. 657, Pt. V, §1 and
31 affected by §2, is repealed.

32 **Sec. 14. 7-A MRSA §205, sub-§§6 and 7**, as enacted by PL 2011, c. 657, Pt. V,
33 §1 and affected by §2, are amended to read:

34 **6. Division of Geology, Natural Areas and Coastal Resources.** The Division of
35 Geology ~~and~~ Natural Areas and Coastal Resources, whose director must be qualified by
36 training, experience and skill in geology, natural areas ~~or~~ applied natural sciences or
37 coastal resource management; and

38 **7. Division of Land Use Planning, Permitting and Compliance.** The Division of
39 Land Use Planning, Permitting and Compliance, whose director must be qualified by

1 experience in planning and administration. The director provides the principal
2 administrative, operational and executive support to the Maine Land Use ~~Regulation~~
3 Planning Commission. The director is subject to appointment and removal by the
4 commissioner, with the consent of a majority of members of the Maine Land Use
5 ~~Regulation~~ Planning Commission.

6 **Sec. 15. 10 MRSA §1023-N, first ¶**, as amended by PL 2005, c. 335, §7 and PL
7 2011, c. 657, Pt. W, §6, is further amended to read:

8 There is created a fund known as the Potato Marketing Improvement Fund, referred
9 to in this section as "the "fund." The fund must be deposited with and maintained by the
10 authority to be used solely for investment in the Maine potato industry. The fund must be
11 administered by the Maine Potato Board, established in Title 36, section 4603 and
12 referred to in this section as "the board," and the Potato Marketing Improvement Fund
13 Committee, established in Title 7, section 972-B and referred to in this section as "the
14 committee," subject to final approval of the Commissioner of Agriculture, Conservation
15 and Forestry, referred to in this section as "the commissioner," in accordance with Title 7,
16 chapter 103, subchapter 10. All money received by the authority from any source for the
17 development and implementation of improved storage, packing and marketing and
18 programs and activities that improve the economic viability of the potato industry must
19 be credited to the fund. Any money credited to the fund from the issuance of bonds on
20 behalf of the State for agricultural development may be used only for the purposes of
21 state loans as prescribed by Title 7, section 974-A to provide assistance to potato farmers
22 for the design, construction, improvement, support and operation of storage, packing and
23 marketing facilities; for programs and activities that improve the economic viability of
24 the potato industry; and to pay the administrative costs of processing loan applications
25 and servicing and administering the fund and loans and grants made therein, to the extent
26 that the costs exceed the fee for administrative costs established by Title 7, section 974-A,
27 subsection 2. At the discretion of the commissioner, the authority shall make payments
28 directly to the board, which shall use those payments to implement the requirements of
29 this section. During any period that the commissioner has authorized direct payments
30 from the authority to the board, the authority shall make written annual reports to the
31 commissioner detailing the amounts of payments to the board and the dates payments
32 were made and the board shall make written annual reports to the commissioner and the
33 joint standing committee of the Legislature having jurisdiction over agriculture,
34 conservation and forestry matters detailing the expenditure of those payments and staff
35 activities. Repayment of ~~these~~ the loans and interest on the loans must be credited to the
36 fund to be available for making additional state loans for the same purposes, except that
37 any interest earned on the cash balance of the fund may be used for the grants authorized
38 by Title 7, section 975-A. In order to provide additional amounts for loans, the
39 ~~Commissioner of Agriculture, Conservation and Forestry~~ commissioner, at the
40 ~~commissioner's discretion~~ upon consultation with the board, may take such actions and
41 enter into such agreements as may be necessary to sell or assign up to \$2,000,000 in the
42 aggregate principal amount of loans and undivided interests in a pool of loans and assign
43 or pledge any mortgage or other security to the authority, under the terms and conditions
44 the commissioner considers advisable upon consultation with the board. The assignment
45 and related transactions may not result in indebtedness of the State. The proceeds of the

1 sale or assignment must be credited to the fund and used for the purposes authorized in
2 this section.

3 **Sec. 16. PL 2011, c. 657, Pt. V, §2** is amended to read:

4 **Sec. V-2. Legislative intent.** It is the intent of the Legislature ~~that a bill submitted~~
5 ~~pursuant to Part W, section 4 that consolidates the Maine Revised Statutes, Title 7 and~~
6 ~~portions of Title 12 into Title 7-A be enacted into law by the 126th Legislature to create a~~
7 unified statutory framework for the laws administered by the Department of Agriculture,
8 Conservation and Forestry that incorporates the Maine Revised Statutes, Title 7-A and
9 relevant portions of Title 12 into Title 7. If a bill submitted pursuant to Part W, section 4
10 has not been enacted into law by December 3, 2014, Title 7-A is repealed on that date. It
11 is not the intent of the Legislature to require a complete recodification of Title 7.

12 **Sec. 17. PL 2011, c. 657, Pt. V, §3** is repealed.

13 **Sec. 18. PL 2011, c. 657, Pt. W, §4** is repealed.

14 **Sec. 19. Transfer of functions and duties.** The former Division of Agricultural
15 Resource Development within the Department of Agriculture, Conservation and Forestry
16 is relocated within the office of the Deputy Commissioner of Agriculture. The Deputy
17 Commissioner of Agriculture shall assume responsibility for the functions and duties
18 performed by the former Division of Agricultural Resource Development.

19 **Emergency clause.** In view of the emergency cited in the preamble, this
20 legislation takes effect when approved.

21 SUMMARY

22 This bill:

23 1. Establishes the Potato Marketing Improvement Fund Committee to advise the
24 Maine Potato Board on the development of programs and activities that improve the
25 economic viability of the potato industry and, together with the board and subject to
26 approval of the commissioner, to administer the Potato Marketing Improvement Fund;

27 2. Transfers responsibility for maintaining the Aroostook County office from the
28 Department of Agriculture, Conservation and Forestry to the Maine Potato Board;

29 3. Expands the mission statement of the Department of Agriculture, Conservation and
30 Forestry to more accurately reflect the mission of the department;

31 4. Amends the principles that guide the department in the performance of its duties;

32 5. Refines the scope of the 2 deputy commissioners' oversight and specifies the
33 qualifications of the Commissioner of Agriculture, Conservation and Forestry;

34 6. Authorizes the Finance Authority of Maine to make payments from the Potato
35 Marketing Improvement Fund directly to the Maine Potato Board; and

1 7. Clarifies the intent of the Legislature regarding the incorporation of statutory
2 language and removes contingent repeal language.