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No. 1043

H.P. 734

House of Representatives, March 14, 2013

An Act To Authorize a General Fund Bond Issue and To Assist in the Creation of Jobs through Regional Economic Development

Reference to the Committee on Appropriations and Financial Affairs suggested and ordered printed.

Millicent M. Mac Jailand

MILLICENT M. MacFARLAND Clerk

Presented by Representative BERRY of Bowdoinham. Cosponsored by Senator CUSHING of Penobscot and Representatives: FREY of Bangor, NEWENDYKE of Litchfield, ROTUNDO of Lewiston, Senators: CAIN of Penobscot, GOODALL of Sagadahoc, HILL of York, LANGLEY of Hancock, WOODBURY of Cumberland. **Preamble.** Two thirds of both Houses of the Legislature deeming it necessary in accordance with the Constitution of Maine, Article IX, Section 14 to authorize the issuance of bonds on behalf of the State of Maine to provide funds as described in this Act,

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

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PART A

Sec. A-1. Authorization of bonds. The Treasurer of State is authorized, under
the direction of the Governor, to issue bonds in the name and on behalf of the State in an
amount not exceeding \$10,000,000 for the purposes described in section 5 of this Part.
The bonds are a pledge of the full faith and credit of the State. The bonds may not run for
a period longer than 10 years from the date of the original issue of the bonds.

12 Sec. A-2. Records of bonds issued; Treasurer of State. The Treasurer of 13 State shall ensure that an account of each bond is kept showing the number of the bond, 14 the name of the successful bidder to whom sold, the amount received for the bond, the 15 date of sale and the date when payable.

16 Sec. A-3. Sale; how negotiated; proceeds appropriated. The Treasurer of State may negotiate the sale of the bonds by direction of the Governor, but no bond may 17 be loaned, pledged or hypothecated on behalf of the State. The proceeds of the sale of the 18 19 bonds, which must be held by the Treasurer of State and paid by the Treasurer of State upon warrants drawn by the State Controller, are appropriated solely for the purposes set 20 21 forth in this Part. Any unencumbered balances remaining at the completion of the project in this Part lapse to the Office of the Treasurer of State to be used for the retirement of 22 23 general obligation bonds.

24 **Sec. A-4. Interest and debt retirement.** The Treasurer of State shall pay 25 interest due or accruing on any bonds issued under this Part and all sums coming due for 26 payment of bonds at maturity.

Sec. A-5. Disbursement of bond proceeds from General Fund bond issue. The proceeds of the sale of the bonds authorized under this Part must be expended as designated in the following schedule under the direction and supervision of the agencies and entities set forth in this section.

31 **FINANCE AUTHORITY OF MAINE**

- Provides funds for state, regional and local financial intermediaries to make flexible
 loans to and investments in small businesses and real estate projects to create jobs.
- 34 Total

\$10,000,000

Sec. A-6. Contingent upon ratification of bond issue. Sections 1 to 5 do not
 become effective unless the people of the State ratify the issuance of the bonds as set
 forth in this Part.

4 **Sec. A-7. Appropriation balances at year-end.** At the end of each fiscal year, 5 all unencumbered appropriation balances representing state money carry forward. Bond 6 proceeds that have not been expended within 10 years after the date of the sale of the 7 bonds lapse to the Office of the Treasurer of State to be used for the retirement of general 8 obligation bonds.

9 Sec. A-8. Bonds authorized but not issued. Any bonds authorized but not 10 issued within 5 years of ratification of this Part are deauthorized and may not be issued, 11 except that the Legislature may, within 2 years after the expiration of that 5-year period, 12 extend the period for issuing any remaining unissued bonds for an additional amount of 13 time not to exceed 5 years.

14 Sec. A-9. Referendum for ratification; submission at election; form of 15 question; effective date. This Part must be submitted to the legal voters of the State at 16 a statewide election held in the month of November following passage of this Act. The 17 municipal officers of this State shall notify the inhabitants of their respective cities, towns 18 and plantations to meet, in the manner prescribed by law for holding a statewide election, 19 to vote on the acceptance or rejection of this Part by voting on the following question:

"Do you favor a \$10,000,000 bond issue to provide funds for state,
regional and local financial intermediaries to make flexible loans to and
investments in small businesses and real estate projects to create jobs?"

23 The legal voters of each city, town and plantation shall vote by ballot on this question and designate their choice by a cross or check mark placed within a corresponding square 24 below the word "Yes" or "No." The ballots must be received, sorted, counted and 25 declared in open ward, town and plantation meetings and returns made to the Secretary of 26 27 State in the same manner as votes for members of the Legislature. The Governor shall 28 review the returns. If a majority of the legal votes are cast in favor of this Part, the Governor shall proclaim the result without delay and this Part becomes effective 30 days 29 after the date of the proclamation. 30

The Secretary of State shall prepare and furnish to each city, town and plantation all ballots, returns and copies of this Part necessary to carry out the purposes of this referendum.

- 34 **PART B**
- 35 **Sec. B-1. 10 MRSA §1026-M, sub-§2,** as amended by PL 1999, c. 401, Pt. 36 OOO, §1, is further amended to read:

2. Eligible corporations. The fund is open to local, regional and statewide nonprofit
 or governmental economic development corporations or entities, that are capable of
 providing financial assistance to businesses in order to create and protect jobs, as well as
 revitalize downtowns and build strong communities and a sustainable economy, referred

- to in this section as "corporations." In the case of loans to quality child care projects, the
 authority may also provide loans directly to eligible borrowers. To be eligible for
 assistance from the fund:
- A. A corporation must apply to the authority to participate in the fund. The application must describe the corporation and its funding sources, the region regions it serves, its methods and criteria for qualifying borrowers, including any targeted lending and economic development strategies, its expertise in management assistance and financing of small and emerging businesses, the method by which it will leverage funds from other sources in an amount at least equal to 2 times the amount requested from the fund and other information the authority determines necessary;
- B. A corporation must have a strategy for the creation and retention of jobs, an effective small business marketing and technical assistance plan and enough expert assistance available to it to underwrite, document and service loans and assist its clients or it must have a strategy for real estate development including commercial and mixed-use real estate and community facilities;
- 16 C. The corporation must be determined by the authority to be able to prudently and
 17 effectively administer a direct loan fund and to coordinate with other business
 18 assistance programs and employment training and social assistance programs;
- D. The corporation must propose performance measurements and goals and a process for monitoring compliance with proposed measurements and goals. The authority shall assist corporations in developing loan <u>or equity-like debt</u> underwriting and administrative capacity and in portfolio monitoring and servicing and may establish one or more advisory boards or committees to assist corporations; and
- E. A child care project must apply to the authority or to a corporation and meet the eligibility criteria for a borrower.
- Sec. B-2. 10 MRSA §1026-M, sub-§3, ¶¶A and C, as enacted by PL 1993, c.
 722, Pt. C, §1 and affected by §2, are amended to read:
- A. The size of the region regions served by the corporation and the expected demand
 for loan funds in that region those regions;
- 30 C. Whether an eligible corporation will serve <u>statewide or will serve</u> a geographic 31 area or segment of potential business borrowers not served by other applicants.
- 32 Sec. B-3. 10 MRSA §1026-M, sub-§5, as amended by PL 2001, c. 639, §2, is 33 further amended to read:
- 34 5. Administrative costs. A corporation may not use any money disbursed from the 35 fund by the authority for administrative expenses, but may charge a commitment fee of up to 2% and may use interest earnings not to exceed 7% of each loan annually on loans 36 to cover reasonable administrative, technical assistance and education costs operating 37 costs, including loan fund management, technical assistance and education. The authority 38 39 shall review and approve a corporation's administrative expenses on an annual basis. The authority may establish by rule reasonable administrative fees for its administration of the 40 41 fund.

1 2	Sec. B-4. 10 MRSA §1026-M, sub-§6, ¶A, as amended by PL 2009, c. 131, §4, is further amended to read:
3 4 5 6 7	A. Loans may not exceed \$250,000 \$350,000 to a borrower, including an affiliated entity, and approval of the authority is required for any loan in excess of \$150,000. Loans for quality child care projects may not exceed \$100,000 to a borrower. Loans or portions of loans to a quality child care project to be used solely for lead abatement may not exceed \$15,000.
8 9	Sec. B-5. 10 MRSA §1026-M, sub-§6, ¶B, as amended by PL 2009, c. 131, §5, is further amended to read:
10 11 12 13 14 15	B. Loans over \$100,000 of \$50,000 or more for borrowers other than quality child care projects may not exceed $\frac{1}{3}$ $\frac{1}{2}$ of the net new funds being provided to a borrower. Loans of \$50,000 to \$100,000 for projects other than quality child care projects may not exceed $\frac{1}{2}$ of the net new funds being provided to a borrower. Loans of less than \$50,000 and loans for quality child care projects may be for the total amount of new funds being provided to the borrower.
16 17	Sec. B-6. 10 MRSA §1026-M, sub-§6, ¶C, as amended by PL 2007, c. 683, Pt. B, §1, is further amended to read:
18 19 20	C. The authority and each corporation shall establish interest rates, amortization schedules and repayment terms for each borrower, except that loans may not be for a term longer than 20 years and:
21 22	(1) Loans to a quality child care project must bear a rate of interest equal to 3%, not including any administrative costs or fees not greater than 5%; or
23 24	(2) Loans to any other eligible borrower may not bear a rate of interest greater than the prime rate of interest plus 7%.
25 26	Sec. B-7. 10 MRSA §1026-M, sub-§7, ¶ A , as amended by PL 2011, c. 11, §1, is further amended to read:
27 28 29	A. The business for which funds are requested has $\frac{50}{100}$ or fewer employees or annual sales of $\frac{5,000,000}{10,000,000}$ or less, and it consists of or involves at least one of the following:
30 31 32	(1) Manufacturing technologies, such as value-added wood products, specialty fabricated metal and electronic products, precision manufacturing and use of composites or advanced materials;
33 34	(2) Technologies, such as advanced information systems, advanced telecommunications, energy and environmental products and services;
35 36 37	(3) <u>Biological Value-added natural resource enterprises and biological</u> and natural resource technologies, such as aquaculture, marine technology, agriculture, forestry products and biotechnology;
38	(4) A business converting from defense dependency;

2	(5) A business significantly engaged in export of goods or services to locations outside the State;
3 4	(6) A business that dedicates significant resources to research and development activities;
5	(7) Other businesses with $\frac{10}{15}$ or fewer employees; and
6 7 8 9 10	(8) A child care project that includes any business that, for compensation, provides a regular service of care and protection for any part of a day less than 24 hours to a child or children under 16 years of age whose parents work outside the home, attend an educational program or are otherwise unable to care for their children.:
11 12	(9) A business significantly engaged in commercial and mixed-use real estate and community facilities; and
13 14	(10) A business significantly engaged in serving tourists, such as in the areas of outdoor recreation, culture and heritage and hospitality.
15 16 17	Notwithstanding the requirements of this paragraph, until June 30, 2012, a project or a borrower that is eligible for loan insurance under section 1026-A is eligible for financial assistance under the program.
18 19	Sec. B-8. 10 MRSA §1026-M, sub-§8, as enacted by PL 1993, c. 722, Pt. C, §1 and affected by §2, is amended to read:
20 21 22	8. Priorities. Among eligible applicants, a corporation shall give priority to businesses <u>and projects</u> with the potential of meeting one or more of the following objectives.
	A. The financing will help the business pursue a business that adds significant value
23 24	to raw materials or inventory.
24 25 26	to raw materials or inventory.B. The financing is likely to result in a long-term net increase in permanent, quality jobs that meet a local or regional need or the retention of jobs in jeopardy of being
24 25 26 27 28	 to raw materials or inventory. B. The financing is likely to result in a long-term net increase in permanent, quality jobs that meet a local or regional need or the retention of jobs in jeopardy of being lost. Sec. B-9. Contingent effective date. This Part takes effect only if the General
24 25 26 27 28 29	 to raw materials or inventory. B. The financing is likely to result in a long-term net increase in permanent, quality jobs that meet a local or regional need or the retention of jobs in jeopardy of being lost. Sec. B-9. Contingent effective date. This Part takes effect only if the General Fund bond issue proposed in Part A is approved by the voters of the State.

management, increases the dollar amount of the maximum loan available to a borrower
and adjusts other financing terms. It also adds businesses engaged in commercial and
mixed-use real estate and community facilities and businesses engaged in serving tourists
to the list of businesses that are eligible for financial assistance under the program. Part
B takes effect only if the General Fund bond issue proposed in Part A is approved by the
voters of the State.