

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED BY THE  
ONE HUNDRED AND TWELFTH LEGISLATURE

**SECOND REGULAR SESSION**  
January 8, 1986 to April 16, 1986

**SECOND SPECIAL SESSION**  
May 28, 1986 to May 30, 1986

AND AT THE

**THIRD SPECIAL SESSION**  
October 17, 1986

PUBLISHED BY THE DIRECTOR OF REVISOR OF STATUTES IN  
ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,  
TITLE 3, SECTION 163-A, SUBSECTION 4.

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J.S. McCarthy Co., Inc.  
Augusta, Maine

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**PUBLIC LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED AT THE  
SECOND REGULAR SESSION  
of the  
ONE HUNDRED AND TWELFTH LEGISLATURE  
1985

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The audited financial statement shall include information concerning the adequacy of the plan. This report shall result from a charge by the directors to the plan's actuary and auditor and shall address excess insurance, charges for coverage to members, service agents' costs and costs of administration of the program.

The actuarial opinion shall be given by a member of the American Academy of Actuaries qualified as a casualty loss reserve specialist as defined by the National Association of Insurance Commissioners. Two additional copies of the audited financial statements shall be filed with the Superintendent of Insurance.

2. Failure to provide for audited financial statements. If a public self-funded pool fails to provide for the audited financial statements required by subsection 1, the Superintendent of Insurance shall perform or cause to be performed the audit and the public self-funded pool shall reimburse the Superintendent of Insurance for the cost of the audit.

Effective July 16, 1986.

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## CHAPTER 714

H.P. 1489 - L.D. 2105

### AN ACT Providing for the 1986 Amendments to the Finance Authority of Maine Act.

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

Sec. 1. 5 MRSA §1511, as amended by PL 1985, c. 512, Pt. D, is repealed and the following enacted in its place:

#### §1511. Reserve for General Fund Operating Capital

The State Controller may, at the close of each fiscal year, transfer from the Unappropriated Surplus of the General Fund to the Reserve for General Fund Operating Capital such amounts as may be available from time to time up to an amount of \$1,000,000 a year until a maximum of \$25,000,000 is achieved.

Sec. 2. 10 MRSA §956, as amended by PL 1985, c. 344, §2, is further amended to read:

§956. Formation; name; purpose

There is authorized the formation by the Finance Authority of Maine under Title 13-A or other Maine law of a private investment corporation or other business association to be named the "Maine Natural Resource Capital Company" for the purpose of providing financing, including investment capital, to new state natural resource enterprises or to existing natural resource enterprises for purposes of expansion. The Finance Authority of Maine may change "company" to "corporation," "fund" or such other designation as it may determine.

Sec. 3. 10 MRSA §957, as amended by PL 1985, c. 344, §2, is further amended to read:

§957. Limitations on purposes and powers

The Maine Natural Resource Capital Company shall have all of the general powers of business corporations enumerated in Title 13-A, section 202 and the general powers of any other business association, except that:

1. Financings and related business dealings. Its financings and related business dealings shall be restricted to persons eligible for financial assistance under "natural resource enterprises," as defined in chapter 110, subchapter 1-A that do business in this State. Any funds so invested in natural resource enterprises by purchase of stock or otherwise shall be used solely for the purpose of enhancing their productive capacities or ability to do business within the State, or to facilitate their ability to generate value added within the State to goods or services for export to out-of-state markets. Financings may include, in any combination and without limitation, equity investments, loans, guarantees and commitments for these financings;

2. Financing limited. Its investment in any one natural resource enterprise under this chapter shall be limited to a maximum of \$200,000. The Maine Natural Resource Capital Company shall not invest in provide financing to any firm in which a person, or his spouse or dependent children, owning common stock of or other interest in the Maine Natural Resource Capital Company holds over a 25% interest in the aggregate;

4-A. Governance. The company's affairs shall be governed by 7 persons selected pursuant to this sub-

section to serve as directors or in a similar management capacity. The Maine Natural Resource Financing and Marketing Board of the Finance Authority of Maine shall select 2 of its public members and 2 of the commissioners serving on the board to govern the company's affairs. The terms of office of the persons selected by the Natural Resource Financing and Marketing Board shall be coterminous with their terms on the board. The holders of stock of or interests in the company shall, pursuant to documents governing the company, designate 3 persons to govern the company's affairs and to serve for terms determined by the company; and

5-A. Amount of interest held. No person, firm or corporation may subscribe for, own or hold directly or indirectly more than 20% of the stock or interests of the company at any time. For the purposes of determining ownership under this chapter, the attribution rules of the United States Internal Revenue Code, Section 318, as amended from time to time, shall apply.

5-B. Distributions. The company shall not declare or pay any dividends or make any distributions to holders of its stock or interests during its first 5 years of operation and thereafter any dividends or distributions shall be paid or made only with respect to stock or interests whose holders are not using the credit for investment in the Maine Natural Resource Capital Company allowed under Title 36, section 5216. Dividends paid or distributions made shall be limited to a maximum of 50% of retained earnings, with the balance being reinvested in accordance with this chapter; and

6. Financial statement. The Finance Authority of Maine shall include in its report under section 974 an audited a financial statement report detailing the investment and financial activities of the Maine Natural Resource Capital Company for the company's most recent fiscal year. The financial report shall be prepared by the company and shall include unaudited reports on the natural resource enterprises for which the company is providing financing.

Sec. 4. 10 MRSA §959, as repealed and replaced by PL 1985, c. 344, §4, is amended to read:

§959. Subscription and sales of stock; first stockholders meeting

The Finance Authority of Maine, as and when it deems practicable, may ~~select~~ and ~~receive~~ arrange

for the solicitation of subscriptions for the issuance and purchase of the stock or other interests of the Maine Natural Resource Capital Company; provided that subscriptions for amounts exceeding 1% of the stock or interests offered shall be reduced pro rata among subscribers subscribing for more than 1% of the stock or interests offered in the event the issue is over-subscribed by the termination date as may be set by the Finance Authority of Maine.

Sec. 5. 10 MRSA §962, 2nd ¶, as amended by PL 1985, c. 344, §5, is further amended to read:

The Finance Authority of Maine, as established by this chapter and authorized by Title 5, section 12004, subsection 7, to fulfill these purposes is, in addition to its other powers, authorized to:

Sec. 6. 10 MRSA §963-A, sub-§22, as enacted by PL 1985, c. 344, §7, is repealed.

Sec. 7. 10 MRSA §969-A, sub-§5, as enacted by PL 1985, c. 344, §17, is amended to read:

5. Mortgage transactions. Purchase, sell, service, pledge, invest in, hold, trade, accept as collateral or otherwise deal in, acquire or transfer, on such terms and conditions as the authority may specify, any mortgage loan, mortgage pass-through certificate, pledge including any pledge of mortgage revenue, mortgage participation certificate, revenue obligation security or other mortgage-backed or mortgage-related security. Any such transaction may be conducted by public or private offering, with or without public bidding. In connection with the purchase or sale of a mortgage loan or of a beneficial interest or participation in a mortgage loan, the authority may enter into one or more agreements providing for the custody, control and administration of the mortgage loan. Any such agreement may provide that the authority, a financial institution or other person shall act as trustor, trustee or custodian under the agreement. Any such agreement may provide that, with respect to mortgage loans governed by the agreement, title to a mortgage loan, or to a beneficial interest or participation in a mortgage loan, shall be deemed to have been transferred on terms and to the extent specified in that agreement and that the effect of a sale of a beneficial interest or participation in a mortgage loan is the same as a sale of a mortgage loan.

The authority may issue or cause to be issued certificates or other instruments evidencing the holder's fractional ~~undivided~~ interest in a pool of mortgage loans, which interest may be undivided or limited to one or more specific loans. Whether or not the certificates or instruments are of such form or character as to be negotiable instruments under Title 11, ~~Article~~ article 8, the certificates or instruments shall be and are made negotiable instruments within the meaning of and for all the purposes of Title 11, ~~Article~~ article 8, subject only to such registration requirements as the authority may establish;

Sec. 8. 10 MRSA §971, as amended by PL 1985, c. 344, §20, is further amended to read:

§971. Actions of the members

Seven members of the authority shall constitute a quorum of the members. The affirmative vote of 7 the greater of 5 members, present and voting, or a majority of those members present and voting shall be necessary for any action taken by the members. No vacancy in the membership of the authority may impair the right of the quorum to exercise all powers and perform all duties of the members.

Sec. 9. 10 MRSA §974, sub-§1, ¶F, as amended by PL 1985, c. 344, §23, is further amended to read:

F. A statement of the defaults, if any, of persons, firms, corporations and other organizations receiving assistance under this chapter: This information shall also be cumulative and shall include an annual default rate as a percentage of the total amount of moneys provided in this chapter in those cases where substantial liquidation of collateral has taken place, a statement of the total amount of mortgage insurance payments made during the fiscal year and a statement of the percentage derived by dividing the amount of the mortgage insurance payments during the fiscal year into the outstanding principal balance as of the fiscal year end of the authority's unpaid obligations pursuant to mortgage insurance contracts;

Sec. 10. 10 MRSA §974, sub-§1, ¶J, as enacted by PL 1985, c. 344, §23, is amended to read:

J. An audited A financial statement of the Maine Natural Resource Capital Company prepared in accordance with section 957, subsection 6; and



Sec. 11. 10 MRSA §1023-B, sub-§3, ¶B, as enacted by PL 1985, c. 344, §45, is amended to read:

B. All income of the authority, including mortgage insurance premiums, fees, reimbursements and proceeds of sale, lease or other disposition of its property, except that proceeds received by the authority from the sale, lease or other disposition of property it may have acquired in accordance with section 1025, subsection 1, shall be credited either to the Mortgage Insurance Fund, or the Guarantee Loan Insurance Reserve Fund or the Debt Service Fund as directed by the State Controller authority.

Sec. 12. 10 MRSA §1023-C is enacted to read:

§1023-C. Loan Insurance Reserve Fund

1. Creation. There is created and established under the jurisdiction and control of the authority the Loan Insurance Reserve Fund.

2. Sources of fund. There shall be paid into the Loan Insurance Reserve Fund:

A. All money appropriated for inclusion in the fund;

B. Subject to any pledge, contract or other obligation, any money which the authority receives in repayment of advances from the fund;

C. Subject to any pledge, contract or other obligation, all interest, dividends or other pecuniary gains from investment of money of the fund;

D. After the sum of \$300,000 is transferred into the General Fund by the State Controller, the balance available in the Guarantee Reserve Fund shall be transferred to the fund by the State Controller in accordance with the following:

(1) The transfer described in this paragraph shall take place 91 days after the adjournment of the Second Regular Session of the 112th Legislature; and

(2) The sum to be transferred from the Guarantee Reserve Fund to the Loan Insurance Reserve Fund shall be reduced by the amount of any transfers of money to the authority

pursuant to section 1024 on or before the transfer provided for by this paragraph.

E. Any other money available to the authority and directed by the authority to be paid into the fund.

3. Application of fund. Money in the Loan Insurance Reserve Fund may be applied to carry out any power of the authority, including, without limitation, to pledge or transfer and deposit money in the fund as security for and to apply money in the fund in payment of principal of, interest on or redemption premiums on revenue obligation securities of the authority. Money in the fund not needed currently to meet the obligations of the authority as provided for in this chapter may be invested in such manner as may be permitted by law.

4. Accounts within fund. The authority may divide the Loan Insurance Reserve Fund into such separate accounts as it determines are necessary or convenient for carrying out the purposes of this chapter.

5. Revolving fund. The Loan Insurance Reserve Fund shall be a nonlapsing, revolving fund. All money in the fund shall be continuously applied by the authority to carry out this chapter.

Sec. 13. 10 MRSA §1024, as amended by PL 1985, c. 198, §1, and repealed and replaced by PL 1985, c. 344, §46, is repealed and the following enacted in its place:

§1024. Additions to funds

1. Request for funds. If at any time the money in the Mortgage Insurance Fund and the money in the Loan Insurance Reserve Fund, exclusive of the money pledged or assigned as security for specific obligations of the authority, is insufficient to meet expenses and obligations of the authority, as these expenses and obligations are projected by the authority to become due and payable, the authority shall in writing request the Governor to provide the necessary money. The Governor shall transfer sufficient money to the Mortgage Insurance Fund or Loan Insurance Reserve Fund, as directed by the authority, from the State Contingent Account or the proceeds of bonds of the State issued pursuant to subsection 2.

2. Issuance of bonds. If a request for funds is made under subsection 1 and if there are insufficient

funds in the State Contingent Account, bonds of the State shall be issued in the following manner:

A. By the Treasurer of State on orders from the Governor;

B. In the amount required, but not exceeding in the aggregate at any one time outstanding the amount set forth in:

(1) The Constitution of Maine, Article IX, Section 14-A, as it may be from time to time amended, except that bonds issued under that section and this subsection shall not exceed in the aggregate at any one time outstanding the principal amount of \$77,500,000; and

(2) The Constitution of Maine, Article IX, Section 14-D, as it may be from time to time amended, except that bonds issued under that section and this subsection shall not exceed in the aggregate at any one time outstanding the principal amount of \$4,000,000;

C. To mature serially or to run for such periods as the Governor may determine, not to exceed 10 years, to be subject to prior redemption or repurchase at the option of the State or the holder, as the Governor may determine, with or without premium;

D. At variable or fixed rates of interest, in such denominations, at such price, at public or private sale, in such manner and on such other terms and conditions as approved by the Governor; and

E. As a pledge of the full faith and credit of the State.

3. Insurance authorization. The authority shall not at any time have, in the aggregate principal amount outstanding, mortgage insurance obligations pursuant to this subchapter in excess of the amounts of authorized and unissued bonds pursuant to subsection 2, paragraph B.

4. Refunding bonds. The State, acting through the Treasurer of State on orders from the Governor, may issue refunding bonds of the State to refund any outstanding bonds issued pursuant to subsection 2. The refunding bonds shall meet the conditions of subsection 2, paragraphs C, D and E. In computing the

total amount of bonds of the State which may at any time be outstanding pursuant to subsection 2, the amount of the outstanding bonds refunded or to be refunded from the proceeds of the sale of new bonds or by exchange of new bonds shall be excluded.

Sec. 14. 10 MRSA §1025, first ¶, as amended by PL 1985, c. 344, §47, is further amended to read:

When, in the opinion of the authority, the action is necessary to safeguard the Mortgage Insurance Fund or Loan Insurance Reserve Fund and to maintain income from eligible projects, the authority may, in addition to its other powers:

Sec. 15. 10 MRSA §1025, sub-§3, as amended by PL 1985, c. 344, §47, is further amended to read:

3. Extend time. Extend the time of payment of the loan beyond original maturity, extend the insurance accordingly and, waive mortgage insurance premiums and extend or waive other terms and conditions of the loan.

Sec. 16. 10 MRSA §1026-A, sub-§1, ¶A, as enacted by PL 1985, c. 344, §49, is amended to read:

A. No mortgage payment may be applied in a manner which would, for any one project, increase the percentage of mortgage payments insured by the authority, except that this paragraph shall not apply where insurance payments for any one project may not in the aggregate exceed the lesser of 25% of the original principal amount of the mortgage loan or:

(1) In the case of insurance provided pursuant to section 1026-B, ~~\$20,000~~ \$125,000;

(2) In the case of insurance provided pursuant to section 1026-C, ~~\$20,000~~ \$25,000; or

(3) In the case of insurance provided pursuant to section 1026-D, \$1,000,000;

Sec. 17. 10 MRSA §1026-A, sub-§2, ¶A, as enacted by PL 1985, c. 344, §49, is amended to read:

A. The mortgage shall be a ~~first~~ lien on or a ~~first~~ security interest in eligible collateral, subject to such encumbrances, including, without limitation, coordinate first liens, as are acceptable to the authority, except that, where the original principal amount of the mortgage insur-

ance exceeds \$1,000,000, the lien or security interest shall be a first lien or first security interest;

Sec. 18. 10 MRSA §1026-A, sub-§3 is enacted to read:

3. Mortgage insured loan limitation for small businesses. Whenever an applicant applies for mortgage insurance under sections 1026-B and 1026-C, the authority may insure mortgage loans for which the combined principal amounts of mortgage insurance of both sections does not exceed \$600,000.

Sec. 19. 10 MRSA §1026-B, sub-§1, as enacted by PL 1985, c. 344, §49, is amended to read:

1. Scope of section. This section applies, in addition to other applicable provisions of this subchapter, when the original principal amount of the mortgage insurance is ~~\$100,000~~ \$500,000 or less.

Sec. 20. 10 MRSA §1026-B, sub-§2, ¶A, as enacted by PL 1985, c. 344, §49, is amended to read:

A. The original principal amount of mortgage insurance shall not exceed ~~\$100,000~~ \$500,000; and

Sec. 21. 10 MRSA §1026-B, sub-§§4 and 5 are enacted to read:

4. Retail store projects. The authority may insure mortgage loans for a retail store project, provided that:

A. The principal amount of mortgage insurance for the project does not exceed \$200,000;

B. The project includes only one retail store that is not attached or does not adjoin another retail store which has received an insured mortgage loan under this chapter; and

C. The applicant has not received mortgage insurance under this subsection for any other retail store.

5. Office building projects. The authority may insure mortgage loans for an office building project, provided that:

A. The principal amount of mortgage insurance for the project does not exceed \$200,000;

B. Less than 35% of the project is intended or planned for office space;

C. In the event that the project proposes that more than 35% of the project will be office space, the project is not attached or adjoined to any other office building, which has received an insured mortgage loan under this chapter; and

D. The applicant has not received mortgage insurance under this subsection for any other office building project.

Sec. 22. 10 MRSA §1026-C, sub-§2, as enacted by PL 1985, c. 344, §49, is amended to read:

2. Insurance. The authority may provide mortgage insurance in an original principal amount of ~~\$100,000~~ \$250,000 or less in addition or as an alternative to any amount provided pursuant to section 1026-B.

Sec. 23. 10 MRSA §1026-C, sub-§§4 and 5 are enacted to read:

4. Retail store projects. The authority may insure mortgage loans for a retail store project, provided that:

A. The principal amount of mortgage insurance for the project does not exceed \$200,000;

B. The project includes only one retail store that is not attached or does not adjoin another retail store which has received an insured mortgage loan under this chapter; and

C. The applicant has not received mortgage insurance under this subsection for any other retail store.

5. Office building projects. The authority may insure mortgage loans for an office building project, provided that:

A. The principal amount of mortgage insurance for the project does not exceed \$200,000;

B. Less than 35% of the project is intended or planned for office space;

C. In the event that 35% or more of the project will be office space, the project is not attached

to or does not adjoin any other office building which has received an insured mortgage loan under this chapter; and

D. The applicant has not received mortgage insurance under this subsection for any other office building project.

Sec. 24. 10 MRSA §1026-D, sub-§3, ¶¶A and B, as enacted by PL 1985, c. 344, §49, are amended to read:

A. The authority shall have received the following:

(1) Evidence that the project will serve the purposes of this chapter in increasing or retaining income and employment in the State;

(2) Evidence, through submission of a comprehensive plan, of the project's capability of achieving its revenue and employment goals;

(3) Evidence of the economic feasibility of the project;

(4) Evidence of financial capability, including effective commitments for equity, interim financing and final mortgage financing for the project;

(5) An employment plan describing potential opportunity for Aid to Families with Dependent Children recipients, including types of jobs, skills required, training necessary for placement and the percentage of permanent jobs which will be targeted to these recipients;

(6) Evidence of management and planning capability; and

(7) A written statement of the governing representatives an authorized representative of the municipality in which the project is or will be located supporting the project.

The authority may modify or waive any of the requirements of this paragraph with respect to any mortgage insurance program established for purposes of section 997;

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

- (1) One hundred percent of the cost or value of real estate designed as an industrial park;
- (2) Ninety percent of the cost or value of real estate;
- (3) Eighty percent of the cost or value of eligible collateral consisting primarily of one or more fishing or other vessels;
- (4) Seventy-five percent of the cost or value of eligible collateral consisting primarily of machinery and equipment;
- (5) Notwithstanding subparagraph (2), 75% of the cost or value of eligible collateral held, owned, controlled or used by a recreational enterprise; or
- (6) Sixty percent of the cost or value of other eligible collateral.

Sec. 25. 10 MRSA §1026-E, as enacted by PL 1985, c. 344, §49, is amended to read:

§1026-E. Pool insurance

~~Subject~~ In addition to its other powers under this chapter, subject to the limitations of this subchapter, except section 1026-A, subsection 1, paragraph A, and sections 1026-B, 1026-C and 1026-D, the authority may insure mortgage payments with respect to mortgage loans designated as one or more pools or other segregated portfolios. Any such insurance shall not exceed 50% of the aggregate principal balances of the mortgage loans as of the date on which the mortgage loans are designated for inclusion in a pool. The authority shall, by rulemaking pursuant to Title 5, chapter 375, subchapter II, establish requirements for demonstrating project feasibility and for collateral.



Sec. 26. 10 MRSA §1028, as amended by PL 1985, c. 344, §51, is further amended to read:

§1028. Mortgage insurance premiums

The authority may fix mortgage insurance premiums for the insurance of mortgage payments under this subchapter. The effective rate of the insurance premiums shall not be less than ~~1/2 of 1%~~ 1% per year nor more than 2% per year of the actual or scheduled outstanding principal obligation at the beginning of each year. The authority shall determine and prescribe the manner in which the premiums shall be payable; the effective rate of the insurance premium, the actual or scheduled outstanding principal obligation and other matters necessary and proper for the assessment and collection of the premiums.

Sec. 27. 10 MRSA §1029, as amended by PL 1985, c. 344, §52, is further amended to read:

§1029. Insurance of subchapter III loans

1. Eligible for insurance. All payments required under a mortgage, a loan agreement or related documents for a project financed by revenue obligation securities issued pursuant to subchapter III, including revenue obligation securities which may provide full or partial financing for more than one project, shall be eligible for insurance to the extent permitted under this subchapter.

The authority may insure any eligible mortgage or other agreement by designating the mortgage in the trust agreement or another instrument or by endorsing an appropriate certificate on the mortgage or other agreement.

2. Insurance payment. In the any case of default in payment where the authority becomes obligated by contract or other agreement to make an insurance payment with respect to any insured mortgage or other agreement issued with respect to insured subchapter III loans, the authority shall:

A. Immediately, and at all times during the continuance of the default Make the payment at the time and in the manner provided by the applicable contract or agreement, charge charging the payment to the Mortgage Insurance Fund or Loan Insurance Reserve Fund; and

B. Apply the charged amount to taxes or insurance on the eligible project or to the payment of

the mortgage loan secured by the mortgage or other agreement;

C. Make the payments from any current revenues or surplus or pledge moneys in the Mortgage Insurance Fund to the payments;

D. Take all reasonable steps to enforce the payments payment of amounts in default; and due from the mortgagor.

E. Exercise all available remedies necessary to enforce the mortgage or other agreement and protect the security of the authority's obligations.

The trustee for any bond or note issued in anticipation of the bond, or if there is no trustee, the holder of any bond or note shall have the right to bring suit against the authority for payment in accordance with the contract or other agreement executed by the authority.

Sec. 28. 10 MRSA §1041-A, sub-§5, as enacted by PL 1985, c. 344, §62, is amended to read:

5. Housing. The authority will not provide financing from proceeds of revenue obligation securities issued by the authority for any housing which is eligible for financing by the Maine State Housing Authority except with respect to property which the authority has acquired or may acquire on account or in anticipation of imminent or actual default under the mortgage insurance premiums programs.

Sec. 29. 10 MRSA §1043, sub-§2, ¶B, as amended by PL 1985, c. 344, §63, is further amended to read:

B. The project will not result in a substantial detriment to existing industry business in the State. ~~For purposes of~~ In order to make this determination, the authority shall consider, pursuant to rules adopted in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, such factors as it deems necessary to measure and evaluate the effect of the project on existing business, provided including considering:

(1) ~~That no~~ Whether a project ~~will~~ should be approved if, as a result of the project, there will not be sufficient demand within the market area of the State to be served by the project to employ the efficient capacity of existing industry business; and

(2) ~~That~~ Whether any adverse economic effect of the project on existing ~~enterprises~~ business is outweighed by the contribution which the project will make to the economic growth of, the control of pollution in or the betterment of the health, welfare or safety of the inhabitants of the State.

The applicant shall have the burden of demonstrating that the project will not result in a substantial detriment to existing ~~industry~~ business in accordance with the requirements of ~~the subsection~~ this paragraph, including rules adopted in accordance therewith, except in cases where no interested parties object to the project, in which event the requirements of this paragraph shall be deemed satisfied. Interested parties shall be given an opportunity, with or without a hearing at the discretion of the authority, to present their objections to the project on grounds that the project will result in a substantial detriment to existing ~~industry~~ business. If any such party presents such objections with reasonable specificity and persuasiveness, the authority may divulge whatever information concerning the project which it deems necessary for a fair presentation by the objecting party and evaluation of such objections. ~~The applicant shall then have the burden of demonstrating by a preponderance of the evidence that the project will not result in substantial detriment to existing industry.~~ If the authority finds that the applicant has failed to meet its burden as specified in this ~~subsection~~ paragraph, the application shall be denied.

Sec. 30. 10 MRSA §1044, sub-§1, as amended by PL 1985, c. 344, §64, is further amended to read:

1. Notice of intent to issue bonds; actions to contest validity. The authority may provide, at one time or from time to time, for the issuance of revenue ~~obligations~~ obligation securities of the authority for the purposes authorized in this chapter. No revenue obligation securities of the authority may be issued until:

A. A certificate of approval, as provided in section 1043, has been issued; and

C. A notice of the intent of the authority to issue the securities is published at least once in the state newspaper and in a newspaper of gen-

eral circulation in the municipality in which the project is to be located:

- (1) No later than 14 full days after the date on which the certificate is issued;
- (2) Describing the general purpose or purposes for which the securities are to be issued;
- (3) Stating the maximum principal amount of the proposed securities;
- (4) Setting forth or summarizing the text of the certificate of approval; and
- (5) Including a statement as to the time within which any petition to contest the issuance of the securities or to set aside or otherwise obtain relief on the grounds of invalidity of the certificate of approval must be commenced.

Any action or proceeding in any court to contest the issuance of the securities, to set aside a certificate of approval or to obtain relief upon the grounds that the certificate of approval was improperly issued, was issued for unauthorized purposes, or is otherwise invalid for any reason, must be started within 30 days after the date of the publication required by paragraph C and otherwise shall be governed by Title 5, chapter 375, subchapter VII. For the purposes of this subchapter and the Maine Administrative Procedure Act, Title 5, chapter 375, the later date of newspaper publication required by paragraph C shall constitute the final agency action with respect to the certificate of approval and the issuance of the securities. After the expiration of the 30-day period of limitation, no right of action or defense founded upon the invalidity of the approval or contesting any provision or the issuance of the certificate of approval or the issuance of the securities may be started or asserted nor may the certificate of approval or the issuance of the securities be open to question in any court upon any grounds.

Sec. 31. 10 MRSA §1044, sub-§9, as amended by PL 1985, c. 344, §69, is further amended to read:

9. Credit not pledged. Except as provided in this subsection, securities issued under this subchapter shall not constitute any debt or liability of the State or of any municipality therein or any political subdivision thereof, or of the authority or

a pledge of the faith and credit of the State or of any such municipality or political subdivision, but shall be payable solely from the revenues of the project or projects for which they are issued or from ~~the~~ other eligible collateral or the revenues or proceeds of other eligible collateral pledged to the payment of the revenue obligation securities and all such securities shall contain on their face a statement to that effect. The issuance of securities under this subchapter shall not directly or indirectly or contingently obligate the State or any municipality or political subdivision to levy or to pledge any form of taxation whatever ~~therefore~~ therefor or to make any appropriation for their payment. Under subchapter II, the authority may insure mortgage loans made with the proceeds of revenue obligation securities. To these ends, the faith and credit of the State may be pledged, under and consistent with the terms and limitations of the Constitution of Maine, Article IX, Section 14-A or 14-D, and such further limitations, if any, as may be provided by statute.

Sec. 32. 10 MRSA §1044, sub-§12, as enacted by PL 1985, c. 344, §71, is amended to read:

12. Energy facilities. In the case of an energy generating system, an energy distribution system ~~or~~ or an industrial-commercial project, any of which includes hydroelectric facilities:

A. Revenue obligation securities of the authority shall not be issued until the Public Utilities Commission has certified that all licenses required by that commission with respect to the project have been issued or that none are required; and

B. Revenue obligation securities of the authority shall not be issued until the Director of Energy Resources has reviewed and commented upon the project proposal. The director shall make his comments within 30 days after receipt of a notification and copy of the project proposal from the authority. The authority shall take the comments into consideration in its processing of the project.

Sec. 33. 10 MRSA §1053, sub-§6, as enacted by PL 1985, c. 344, §78, is amended to read:

6. Securities outstanding. The authority shall not have at any one time outstanding revenue obligation securities to which subsection 5 is stated in

the trust agreement or other document to apply in principal amount exceeding \$50,000,000. The amount of revenue obligation securities issued to refund securities previously issued shall not be taken into account in determining the principal amount of securities outstanding, provided that proceeds of the refunding securities are applied as promptly as possible to the refunding of the previously issued securities. In computing the total amount of revenue obligation securities of the authority which may at any time be outstanding for any purpose, the amount of the outstanding revenue obligation securities that have been issued as capital appreciation bonds or as similar instruments shall be valued as of any date of calculation at their then current accreted value rather than their face value.

Sec. 34. 10 MRSA §1063, sub-§2, ¶B, as amended by PL 1985, c. 344, §83, is further amended to read:

B. The project will not result in a substantial detriment to existing industry business in the State. ~~For purposes of~~ In order to make this determination, the authority shall consider, pursuant to rules adopted in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, such factors as it deems necessary to measure and evaluate the effect of the project on existing business, ~~provided~~ including considering:

(1) ~~That no~~ Whether a project ~~will~~ should be approved if, as a result of the project, there will not be sufficient demand within the market area of the State to be served by the project to employ the efficient capacity of existing industry business; and

(2) ~~That~~ Whether any adverse economic effect of the project on existing enterprises business is outweighed by the contribution which the project will make to the economic growth of, the control of pollution in or the betterment of the health, welfare or safety of the inhabitants of the State.

The applicant shall have the burden of demonstrating that the project will not result in a substantial detriment to existing industry business in accordance with the requirements of ~~the subsection~~ this paragraph, including rules adopted in accordance therewith, except in cases where no interested parties object to the

project, in which event the requirements of this paragraph shall be deemed satisfied. Interested parties shall be given an opportunity, with or without a hearing at the discretion of the authority, to present their objections to the project on grounds that the project will result in a substantial detriment to existing industry business. If any such party presents such objections with reasonable specificity and persuasiveness, the authority may divulge whatever information concerning the project which it deems necessary for a fair presentation by the objecting party and evaluation of such objections. The applicant shall then have the burden of demonstrating by a preponderance of the evidence that the project will not result in substantial detriment to existing industry. If the authority finds that the applicant has failed to meet its burden as specified in this subsection paragraph, the application shall be denied;

Sec. 35. 10 MRSA §1063, sub-§2, ¶¶J and K, as enacted by PL 1981, c. 476, §2, are amended to read:

J. In the case of an energy generating system, an energy distribution system or an industrial-commercial project, any of which includes hydroelectric facilities deemed necessary for the production of electricity:

(1) The Public Utilities Commission has certified that all required licenses have been issued or that none are required; and

(2) The Director of Energy Resources has reviewed and commented upon the project proposal. The Director of Energy Resources shall make his comments within 30 days after receipt of a notification and copy of the project proposal from the authority. The authority shall take the comments into consideration in its consideration of the project; and

Any municipality, firm or corporation producing electricity by means of projects in paragraph G or by means of a pollution-control project, recreational project, multi-level parking facility or combined project may, without the approval of and regulation by the Public Utilities Commission, generate and distribute electricity solely for its own use or the use of its tenant, but may not sell electricity to other than an electric

public utility corporation or cooperative authorized to make, generate, sell and distribute electricity; and

K. If the authority is satisfied that the determinations of this section can be made and that a certificate of approval can be issued, upon receipt of the certificate or certificates required by paragraphs E, G, H, I and J, the authority may advise the departments concerned which may treat such advice as the completion of arrangements for financing for the purposes of Title 38, section 451, subsection 1, paragraph B.

Sec. 36. 10 MRSA §1064, sub-§2, as amended by PL 1985, c. 344, §85, is repealed and the following enacted in its place:

2. Maturity; interest. The securities of each issue of revenue obligation securities shall be dated, shall mature at a time or times not exceeding 25 years from their date or dates and shall bear interest at a rate or rates determined by the option of the municipal officers. The securities may be made redeemable before maturity at a price or prices and under terms and conditions fixed prior to their issue. In determining an interest rate, the municipal officers shall specify a rate which shall be the maximum rate for the particular revenue obligation security issue related to a single project, which rate may be a variable rate measured as a percentage of or otherwise in relation to a prime rate or other measuring standard.

Sec. 37. 10 MRSA §1066, sub-§1, as amended by PL 1985, c. 344, §90, is further amended to read:

1. Provisions. Before issuing revenue obligation securities for any project, the authority shall be assured by leases or contracts municipal officers shall determine that the municipality there will at all times have be revenues and funds sufficient:

A. To pay the principal of and the interest of the securities as they become due and payable and, in ~~its~~ their discretion, to create and maintain reserves for that purpose; and

B. To pay the cost of maintaining and repairing the project unless provision is made in ~~the~~ a lease or other contract for maintenance and repair.



Sec. 38. 10 MRSA §1073, as enacted by PL 1983, c. 519, §19, is amended to read:

§1073. Successor to program

The Municipal Obligations Securities Approval Program is the successor to the program of the same name formerly administered by the Maine Guarantee Authority under Title 30, chapter 242, and all resolutions and actions taken by the Maine Guarantee Authority, without exception, relative to the Municipal Obligations Approval Program such program shall be a resolution or action taken by the Finance Authority of Maine.

Sec. 39. 10 MRSA §1100-N, sub-§1, ¶B, as enacted by PL 1983, c. 856, §4, is amended to read:

B. The board of directors of a community action agency shall appoint a job-start advisory board which may consist of a subcommittee of the board of directors to review and make recommendations concerning loan applications and offer other advice to small businesses, which board shall consist of 5 members who represent low income people and representatives knowledgeable of business and financial matters. Members of the job-start advisory board shall serve for a maximum of 2 years 2-year term and may be reappointed to successive terms;

Sec. 40. 13-B MRSA §201, sub-§3, ¶F, as enacted by PL 1979, c. 541, Pt. B, §19, is amended to read:

F. Local development corporations, as that term is used in Title 10, section 671, et seq.

Sec. 41. 36 MRSA §5216, sub-§1, as amended by PL 1985, c. 344, §98, is further amended to read:

1. Credit. A resident individual, resident estate or trust, or taxable corporation is entitled to a credit against the tax otherwise due under this Part equal to 50% of the amount of his or its investment in common stock of The Maine Capital Corporation ~~or in the stock or interests of the Maine Natural Resource Capital Company~~. Twenty percent of the credit shall be taken in the taxable year of the investment and 20% in each of the next 4 taxable years. The credit allowed under this section shall be available only to the subscribers of the initial \$1,000,000 of capital in the common stock of The Maine Capital Corporation and only to the subscribers of the initial

\$1,000,000 of capital in the stock or interests of the Maine Natural Resource Capital Company.

Sec. 42. 36 MRSA §5216, sub-§4, as amended by PL 1985, c. 344, §98, is further amended to read:

4. Recapture. If the taxpayer disposes of the stock in The Maine Capital Corporation or of stock or interests in the Maine Natural Resource Capital Company within 6 years after the date on which the taxpayer acquired that stock in a transaction which gives rise to gain or loss for federal income tax purposes, the tax imposed under this Part for the taxable year in which the disposition occurs shall be increased by an amount equal to the amount allowed as a credit in the year of disposition and all prior years. Any unused credit attributable to the disposed of stock or interest is disallowed.

Sec. 43. 36 MRSA §5216, sub-§5, as amended by PL 1985, c. 344, §98, is further amended to read:

5. Repeal. On December 31, 1988, this section is repealed with respect to The Maine Capital Corporation.

Sec. 44. 36 MRSA §5216-A is enacted to read:

§5216-A. Credit for investment in the Maine Natural Resource Capital Company

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

A. "Company" means the Maine Natural Resource Capital Company established under Title 10, chapter 109.

B. "Disposition" means any transfer, forfeiture or termination of stock or interests of the company, whether due to conveyance, default under the terms of a subscription agreement or otherwise.

C. "Recaptured credit" means that amount required to be added to the tax imposed on a subscriber pursuant to subsection 6.

D. "Subscriber" means a person or entity with stock or interests in the company pursuant to subscription.

E. "Subscription" means the purchase of stock or interests in the company and includes any subscription agreement, installment purchase agreement or any similar agreement or obligation which has been accepted by the company and which requires payment in full within 5 years of the date of acceptance of the subscription.

F. "Unused credit" means that portion of the credit allowed under subsection 2 with respect to a subscription which has not been taken pursuant to subsection 2 and includes any credit to which a subscriber disposing of stock or interests would have been entitled to for the taxable year in which the disposition occurs but for the disposition.

2. Credit. A subscriber for the capital in the stock or interests of the company shall be entitled to a credit against the tax otherwise due under this Part equal to 50% of the amount of its subscription in the company. In the case of partnerships and non-taxable trusts, the individual partners or beneficiaries shall be treated as the subscribers under this section and shall be allowed a credit against the tax otherwise due from them under this Part in proportion to their respective interests in those partnerships or trusts. Except as limited or authorized by subsection 3 or 4, 20% of the credit shall be taken in the taxable year the subscription is made and 20% in each of the next 4 taxable years. The credit allowed under this section shall be available only with respect to subscriptions for the initial \$1,000,000 of capital in the stock or interests of the company.

3. Limitation. The amount of the credit allowed under this section for any one taxable year shall not exceed 100% of the tax imposed by this Part on the taxpayer for the taxable year before application of the credit.

4. Carry forward. Credits not taken because of the limitation in subsection 3 shall be taken in the next taxable year in which the credit may be taken, provided that the limitation of subsection 3 shall also apply to the carry-forward years.

5. Disposition. In the event of disposition of stock or interests by any subscriber, the amount of any unused credit and any recaptured credit with respect to that stock or interests shall be allowed to the disposing subscriber's successor in interest. Subject to subsections 3 and 4, recaptured credit

shall be taken by the subscriber's successor in interest in the year of disposition and unused credit shall be taken by the subscriber's successor in interest ratably over the remaining time period that would have been applicable under subsection 2 to the first subscriber with respect to the stock or interests had there been no disposition, provided that, in determining the applicable remaining time period, it shall be presumed that subsections 3 and 4 did not apply to the first subscriber.

6. Recapture. In the event of disposition by any subscriber of its stock or interests in the company, there shall be added to the tax imposed on the subscriber under this Part for the taxable year in which the disposition occurs an amount equal to the excess of the total amount of the credit taken under subsection 2 by the subscriber and any predecessors in interest, over an amount equal to 50% of the amount actually paid to the company by that subscriber and any predecessors in interest.

Effective July 16, 1986.

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## CHAPTER 715

S.P. 933 - L.D. 2334

AN ACT to Clarify the Separation of Juveniles  
from Adults when Juveniles are  
Detained in County Jails.

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

Sec. 1. 15 MRSA §3314, sub-§1, ¶H, as amended by PL 1983, c. 480, Pt. B, §19, is further amended to read:

H. The court may commit the juvenile to the Maine Youth Center and order that the sentence be suspended except for a period of detention which shall not exceed 30 days, which may be served intermittently as the court may order and which shall be ordered served in a county jail designated by the Department of Corrections as a place for the secure detention of juveniles, or in a nonsecure group care home or halfway house. When the detention is ordered served in a county jail, the juvenile may be detained only in that