

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

THIRD SPECIAL SESSION

October 1, 1992 to October 6, 1992

FOURTH SPECIAL SESSION

October 16, 1992

ONE HUNDRED AND SIXTEENTH LEGISLATURE

FIRST REGULAR SESSION

December 2, 1992 to July 14, 1993

THE GENERAL EFFECTIVE DATE FOR

FIRST REGULAR SESSION

NON-EMERGENCY LAWS IS

OCTOBER 13, 1993

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

J.S. McCarthy Company
Augusta, Maine
1993

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND SIXTEENTH LEGISLATURE

1993

Whereas, bank customers do not wish to have an interruption in their current level of service and wish to receive trust services under the current provisions of their trust contracts; and

Whereas, this practice is not in violation of state laws and in fact has support of the Maine Bureau of Banking, and similar legislation has passed in more than 30 states; and

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

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

Sec. 1. 18-A MRSA §7-408 is enacted to read:

§7-408. Trustees authorized to invest trust funds in affiliated investments; limitations

1. Authorization. Any association, corporation or financial institution authorized to exercise trust powers in this State while acting as a fiduciary is authorized to purchase for the fiduciary estate, directly from underwriters or distributors or in the secondary market, bonds or other securities underwritten or distributed by that association, corporation or financial institution or an affiliate or by any syndicate that includes that association, corporation or financial institution and securities of any investment company registered under the federal Investment Company Act of 1940 for which that association, corporation or financial institution or any affiliate acts as advisor, distributor, transfer agent, registrar, sponsor, manager, shareholder servicing agent or custodian. Any person acting as a cofiduciary with any association, corporation or financial institution or an affiliate is authorized to consent to the investment in such interests.

2. Limitations. The authority granted pursuant to subsection 1 may not be exercised:

A. If the investment is prohibited by the instrument, judgment, decree or order creating the fiduciary relationship;

B. Unless, in the case of cofiduciaries, the association, corporation or financial institution or an affiliate procures the consent of its cofiduciaries to the investment; or

C. Unless the association, corporation or financial institution purchasing bonds or securities pursuant to this section discloses in writing the fact that it or an affiliate may have an interest in the underwriting or distribution of those bonds or securities and

any capacities in which it or an affiliate thereof acts for the issuer of those securities.

3. Limitations on fees. Investment management fees paid in connection with investments made pursuant to subsection 1 are limited to either of the following:

A. Investment advisory fees, commissions or similar fees that the fiduciary is entitled to receive as fiduciary reduced by the amount of any investment advisory fees, commissions or similar fees paid to the fiduciary by the investment company or investment trust; or

B. Investment advisory fees, commissions or similar fees paid to the fiduciary by the investment company or investment trust in lieu of any investment advisory fees, commissions or similar fees that the fiduciary would otherwise be entitled to receive for the investment management of the trust or fiduciary account.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective June 2, 1993.

CHAPTER 214

S.P. 246 - L.D. 765

An Act to Provide Local Control for the Job-start Program

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

Sec. 1. 10 MRSA §1100-M, as enacted by PL 1983, c. 856, §4, is amended to read:

§1100-M. Authorization

The Finance Authority of Maine may administer a statewide program to make low interest loans to stimulate the development and expansion of small business in this State pursuant to contracts between the authority and local community action agencies designated under Title 5 22, chapter 330 1477. This program ~~shall be~~ is known as the Maine Job-start Program or the Maine Job-start Micro Enterprise Loan Program.

Sec. 2. 10 MRSA §1100-N, as corrected by PL 1991, c. 2, §31, is amended by repealing and replacing the headnote to read:

§1100-N. Administration and procedures

Sec. 3. 10 MRSA §1100-N, sub-§1, as amended by PL 1989, c. 857, §49, is further amended to read:

1. Contracts. The authority may contract with any community action agency that seeks to organize a job-start program. The authority shall first contract with community action agencies that have current contracts with the authority to administer the Maine Job-start Program. The authority may then contract with any community action agency that seeks to organize a job-start program. A participating agency shall accept applications from eligible participants, regardless of whether an applicant resides in the region normally served by that agency, unless the applicant resides in a region served by another participating agency. The contract ~~shall~~ must provide as a minimum the following.

A. Each community action agency shall designate a coordinator who shall be responsible for the job-start program in that region.

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. The advisory board must consist of 5 members who represent low-income people and representatives knowledgeable of business and financial matters. Members of the job-start advisory board serve for a 2-year term and may be reappointed to successive terms.

C. The community action agency is responsible for up to 30% of the administrative costs of implementing the job-start program, which costs may be derived from direct financial support or in-kind services, or both.

D. The community action agency shall involve existing small business technical assistance and counseling programs in their implementation of the job-start program and shall, to the maximum extent feasible, contract or arrange for the in-kind donation of technical and counseling services to assist job-start loan applicants.

E. A majority vote of the local job-start advisory board is necessary to recommend approval of a loan. Upon approval, the loan is then transmitted to the authority for final disposition in accordance with the policies adopted by the authority.

F. Loan applications must be reviewed by both the local job-start advisory board and the authority to determine the feasibility and reasonableness of the business proposal, whether the applicant has sufficient capital, whether an adequate market analysis or other counseling requirement has been

completed, whether the applicant is creditworthy within the scope of this program and whether adequate collateral is offered to secure the loan.

G. Loan applications must be on forms and accompanied by additional information required by the authority. Loan applicants may be required to submit personal or business-related financial information considered necessary to determine eligibility for the job-start program.

Sec. 4. 10 MRSA §1100-N, sub-§1-A is enacted to read:

1-A. Contracts for local agency control of funds.

The authority may contract with a community action agency to administer the Maine Job-start Program and may provide for agency control of a portion of the Job-start Revolving Loan Fund for a specified period of time. A contract entered into with an agency pursuant to this section may provide that the agency is responsible for the administration of all existing loans made by the authority upon the recommendation of the agency's advisory committee. A contract may be renewed upon a showing of continued compliance with all requirements. The authority may enter into a contract with a community action agency upon a showing by the local agency that it complies with each of the following requirements.

A. The agency must have a job-start loan board to review and make recommendations concerning loan applications. The loan board must consist of 5 members and include representatives of persons of low income and members experienced in business, lending and financial matters.

B. The agency must prove its capacity to originate prudent loans and to service those loans through:

(1) The ability to solicit and screen potential applicants and provide necessary technical assistance to help applicants prepare a business plan and determine the viability of the business, repayment ability and the amount of loan funds needed;

(2) The ability to properly document each loan transaction, including the perfection of the interest of the agency in all collateral;

(3) The ability to access appropriate legal guidance to ensure adherence to all applicable laws concerning lending, loan administration and collection;

(4) The ability to accurately account for all loan repayments;

(5) The ability to pursue collection actions;

(6) The ability to invest and administer the Job-start Revolving Loan Fund; and

(7) Such other criteria as the authority determines necessary to ensure the efficient administration of the program.

C. The community action agency must agree to follow each of the following mechanisms for loan review and approval.

(1) Loan applications must be reviewed by the job-start loan board to determine the feasibility and general reasonableness of the business proposal, whether the applicant has sufficient capital for the intended purpose, whether an adequate market analysis or other counseling requirement has been completed, whether the applicant is creditworthy within the scope of this program and whether adequate collateral is offered to secure the loan.

(2) A majority vote of the full job-start loan board is necessary to approve a loan in accordance with the policies adopted by the agency and approved by the authority. The decision of the loan board is final.

(3) Loan applications must be on forms and accompanied by additional information required by the agency. Loan applicants may be required to submit personal or business-related financial information considered necessary to determine eligibility for the job-start program.

D. The community action agency must provide the authority with an annual report detailing the loan fund activity in the form and containing the information required by the contract between the agency and the authority.

E. The community action agency must allow the authority or an agent of the authority to perform an audit of the loan fund and the administration of the program at the times and in the manner provided in the contract between the agency and the authority.

Sec. 5. 10 MRSA §1100-N, sub-§2, ¶¶D and E, as enacted by PL 1983, c. 856, §4, are repealed.

Sec. 6. 10 MRSA §1100-N, sub-§2, ¶¶F and G, as enacted by PL 1983, c. 856, §4, are amended to read:

F. Loans ~~shall~~ may not be insured or guaranteed by the State, but the authority shall require collateral in the form of security for the loan, if avail-

able, and may, in appropriate cases, take a mortgage on real estate; and

G. Loan funds ~~shall~~ must be made available by the authority for loan recommendations by community action agencies on the basis of a formula that takes into consideration both the population served by the agency and the economic conditions of the region, as evidenced by unemployment statistics and per capita income; ~~and.~~

Sec. 7. 10 MRSA §1100-N, sub-§2, ¶H, as enacted by PL 1983, c. 856, §4, is repealed.

Sec. 8. 10 MRSA §1100-O, sub-§§1 and 2, as amended by PL 1989, c. 857, §50, are further amended to read:

1. Creation of fund. A Job-start Revolving Loan Fund is established by the authority for the job-start program. The fund contains appropriations provided for that purpose and all repayments of principal and interest of loans under this subchapter and interest earned by the fund prior to its allocation for individual loans. The fund may be divided into separate revolving loan funds to be administered by community action agencies upon approval by the authority. Each separate fund must contain all repayments of principal and interest for loans made from that fund and interest earned by the fund. Interest and principal payments required by loan defaults are charged to ~~this~~ the fund to which repayments are applied. The authority ~~shall have~~ has sole responsibility for the allocation and distribution of the original fund and for appropriations and repayments applied to the original fund. Each community action agency has responsibility for the allocation and distribution of the portion of the fund allocated to its separate revolving loan fund. Any funds appropriated for this purpose may not lapse, but must remain available for the purposes set forth in this subchapter.

2. Administrative expenses. ~~During the first fiscal year after July 25, 1984, the authority may allocate a maximum of 10% of the Job-start Revolving Loan Fund for administrative expenses and counseling services incurred by the authority and the community action agencies with whom the authority has contracted under section 1100-N. Subsequently, all~~ All interest earned by the fund, either by means of investment or loan payments, is available to the authority, ~~which or the community action agency administering that separate revolving loan fund to which the interest is attributable. The authority or the community action agency shall allocate these funds primarily to community action agencies for administrative and counseling services. Beginning in fiscal year 1990-91, the authority may allocate up to \$10,000 of administrative program funds for each agency with which it contracts under section 1100-N for expenses incurred by the authority under this program.~~

Sec. 9. 10 MRSA §1100-P, sub-§2, as enacted by PL 1983, c. 856, §4, is amended to read:

2. Authority. The authority shall file a report showing the balance of the ~~the~~ each Job-start Revolving Loan Fund, the status of all outstanding loans and a report on all other program activities as part of the annual report required by section 974.

Sec. 10. Transition provisions. The Finance Authority of Maine, in consultation with the community action agencies, shall develop rules for the establishment of and transfer of funds to separate revolving loan funds for community action agencies. These rules must be adopted in accordance with the Maine Administrative Procedure Act and must allow the community action agencies making the showings required by this Act to commence administration of the program locally by no later than July 1, 1994.

See title page for effective date.

CHAPTER 215

H.P. 710 - L.D. 961

An Act to Exempt Lawful Marine Harvesting Activities in Coastal Wetlands from the Natural Resource Protection Laws

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

Sec. 1. 38 MRSA §480-Q, sub-§11, as amended by PL 1991, c. 240, §2, is further amended to read:

11. Soil evaluation. Borings taken to evaluate soil conditions in or adjacent to a great pond, river, stream or brook, coastal wetland, freshwater wetland or sand dune are exempt from the provisions of this article provided that no area of wetland vegetation is destroyed or permanently removed; ~~and~~

Sec. 2. 38 MRSA §480-Q, sub-§12, as enacted by PL 1991, c. 240, §3, is amended to read:

12. Existing access ways. Normal maintenance and repair or reconstruction of existing access ways in freshwater or coastal wetlands to residential dwellings as long as:

A. The applicant shows evidence that the access way in disrepair is the existing route of access to the residential dwelling;

B. Erosion control measures are used;

C. Intrusion of the access way into the freshwater or coastal wetland is minimized and allows for proper drainage where necessary;

D. The access way, if in a coastal wetland, is traditionally dry at mean high tide; and

E. A notice of intent to maintain, repair or reconstruct the access way and the description of the work to be completed are submitted to the commissioner and to the municipal reviewing authority at least 20 days before the work is performed; and

Sec. 3. 38 MRSA §480-Q, sub-§13 is enacted to read:

13. Lawful harvesting of marine organisms or vegetation in coastal wetlands. A person lawfully engaged in the harvesting of marine organisms or vegetation under the provisions of Title 12, chapter 605 is not required to obtain a permit to engage in those activities in a coastal wetland. Within a coastal wetland, the removal of vegetation or displacement of soil associated with or authorized by those lawful activities is not a violation of this article.

See title page for effective date.

CHAPTER 216

S.P. 210 - L.D. 681

An Act to Prohibit Commercial Hunting on Unlicensed Land

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

Sec. 1. 12 MRSA §7104-A is enacted to read:

§7104-A. Prohibition on game fees

A person may not charge any fee for access to land if the fee is contingent upon the taking of game on that land or directly related to the taking of game on the land unless the land is an authorized commercial shooting area licensed under section 7104. This section does not apply to the following fees:

1. Gate fees. Gate fees or other access fees that are unrelated to the taking of game;

2. Guiding fees. Fees charged by licensed guides or other fees that are unrelated to access to land; or

3. Fees for placing bear bait. Fees that are directly related to the placing of bear bait on land.