

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

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JULY 4, 1996

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
1995

that the commission shall ~~prescribe~~ prescribes, within ~~45~~ 30 days after notification is mailed to the employer's last known address as it appears in the records of the bureau or, in the absence of such mailing, within ~~45~~ 30 days after the notification is delivered. If the employer fails to perfect ~~such~~ this appeal, the assessment or determination ~~shall be~~ is final as to law and fact.

Sec. 7. 36 MRSA §187-B, sub-§1, ¶A, as enacted by PL 1991, c. 873, §5 and affected by §§8 and 9, is amended to read:

A. If the return is filed before or within 30 days after the taxpayer receives from the State Tax Assessor a formal demand that the return be filed, the penalty is ~~\$40~~ \$25 or 10% of the tax due, whichever is greater.

Sec. 8. 36 MRSA §191, sub-§2, ¶T is enacted to read:

T. The disclosure by employees of the Bureau of Taxation, to designated representatives of the Department of Labor, of all information contained on a joint return or report submitted to the tax assessor and required by the tax assessor and the Commissioner of Labor for the administration of the taxes imposed by Part 8 and by Title 26, chapter 13.

Sec. 9. 36 MRSA §5253, sub-§1, as amended by PL 1993, c. 395, §22, is further amended to read:

1. General. Every person required to deduct and withhold tax under this Part shall, for each calendar quarter, on or before the ~~21st~~ last day of the month following the close of the calendar quarter or such other reporting period as the State Tax Assessor may require, file a withholding return and remit payment as prescribed by the ~~State Tax Assessor~~ tax assessor. The ~~State Tax Assessor~~ tax assessor shall prescribe the voucher required to be filed with payments.

Sec. 10. Effective date. This Act takes effect for any tax reporting period beginning on or after January 1, 1997.

See title page for effective date, unless otherwise indicated.

CHAPTER 658

S.P. 734 - L.D. 1843

An Act to Encourage Enterprises Engaged in Agriculture and Aquaculture in Maine and to Amend

the Maine Seed Capital Tax Credit Program

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the State's economy will benefit from immediate changes in the Maine Seed Capital Tax Credit Program; 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. 7 MRSA c. 101, sub-c. I-D is enacted to read:

SUBCHAPTER I-D

AGRICULTURAL MARKETING LOANS

§434. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Agricultural enterprise. "Agricultural enterprise" means a person or business engaged in the commercial growing or harvesting of plants; raising animals; growing or obtaining plant or animal by-products; aquaculture, as defined in Title 12, section 6001, subsection 1; or producing, processing, storing, packaging or marketing a product derived from an agricultural enterprise, with the intent that the product be sold or otherwise disposed of to generate income.

§435. Agricultural marketing loans

1. Administration. The commissioner shall administer the Agricultural Marketing Loan Fund established under Title 10, section 1023-J.

2. Conditions. Agricultural marketing loans are subject to the following conditions.

A. An agricultural marketing loan for any project under this subchapter, the total cost of which exceeds \$50,000, may not exceed 45% of the project cost. A loan from the fund may not be provided for such a project unless the applicant demonstrates a commitment of private funds of at least 10% of the total cost of the project; except that, in order to encourage the undertaking of cooperative projects by 2 or more

agricultural enterprises, an agricultural marketing loan may not be provided unless the cooperating agricultural enterprises as a group demonstrate a commitment of private funds of at least 5% of the total cost of the project.

B. An agricultural marketing loan for any project under this subchapter, the total cost of which is \$50,000 or less, may not exceed 55% of the total cost of the project.

C. An agricultural marketing loan must be at the interest rate established pursuant to subsection 3.

D. A purchaser of a modern storage facility that was previously financed with a state loan from the Potato Marketing Improvement Fund may receive a loan from the Agricultural Marketing Loan Fund, but not for the same project financed by the Potato Marketing Improvement Fund. Mortgages obtained from the Agricultural Marketing Loan Fund may be assumed by subsequent purchasers of the property. The department shall adopt rules concerning the purchase of existing buildings. These rules must include provisions that ensure that the purchases are consistent with the purposes of this subchapter.

E. An agricultural marketing loan is subject to other terms and conditions prescribed, by rule, by the commissioner, including, but not limited to, a mechanism for reserving funds for, or giving priority to, projects in agricultural enterprises or areas of the State determined by the commissioner to require special assistance. When considering loans for aquacultural enterprises, the commissioner shall consult with the Department of Marine Resources.

3. Interest rate. The commissioner, by rule, may establish an interest rate for a loan, except that this rate may not be less than 5% per year. If the commissioner does not establish an interest rate, the rate on a loan is a rate that is 2% less than the prime rate of interest as is determined by the commissioner.

4. Administrative costs. The commissioner may establish, by rule, a fee for administrative costs on loans in excess of \$50,000. This fee may not exceed 1% of the loan. The commissioner may contract with the Finance Authority of Maine to assist in the administration of this subchapter.

§436. Grants for technical assistance and research

The commissioner may use all or a portion of the accrued interest in the cash balance of the fund and interest portion of loan repayments, up to a maximum of \$150,000 per year, for grants for technical assistance and for the research programs identified in the

technology transfer program in chapter 10, and the Agricultural Market Research and Development Fund established in section 401-D, for the purposes of supporting adoption of new and innovative technology to support agricultural production and marketing.

§437. Routine technical rules

Rules adopted pursuant to this subchapter are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

Sec. 2. 10 MRSA §1023-J is enacted to read:

§1023-J. Agricultural Marketing Loan Fund

The Agricultural Marketing Loan Fund, referred to in this section as the "fund," is created. The fund must be deposited with and maintained by the Finance Authority of Maine. The fund must be administered by the Commissioner of Agriculture, Food and Rural Resources in accordance with Title 7, chapter 101, subchapter I-D. All money received by the Finance Authority of Maine from any source for the development and implementation of an improved agricultural marketing loan program must be credited to the fund. Any money credited to the fund from the issuance of bonds on behalf of the State for financing loans for agricultural enterprises may be used only for the following purposes: to provide assistance to agricultural enterprises in this State for the design, construction or improvement of commodity and storage buildings and packing and marketing facilities; or for the construction, renovation or acquisition of land, buildings, equipment, docks, wharves, piers or vessels used in connection with a commercial agricultural enterprise. Repayment of these loans and interest on these loans must be credited to the fund and must be available for making additional loans for the same purposes, except that interest may be used for the purposes stated in Title 7, section 436. Interest earned on money in the fund and interest earned on loans made from the fund may be used to pay the administrative costs of processing loan applications, to the extent that these costs exceed the fee for administrative costs established by Title 7, section 435, subsection 4.

A purchaser of a modern storage facility that was previously financed with a state loan from the Potato Marketing Improvement Fund may receive a loan from the Agricultural Marketing Loan Fund, but not for the same project financed by the Potato Marketing Improvement Fund. Mortgages obtained from the fund may be assumed by subsequent purchasers of the property.

Sec. 3. 10 MRSA §1100-T, sub-§2, ¶E, as amended by PL 1991, c. 854, Pt. A, §9, is further amended to read:

E. The business receiving the investment must have annual gross sales of \$2,000,000 or less and the operation of the business must be the full-time professional activity of the principal owner, as determined by the authority. The principal owner and the principal owner's spouse, ~~parents, brothers, sisters and children~~ are not eligible for a credit for investment in that business. A tax credit certificate may not be issued to a parent, brother, sister or child of a principal owner if the parent, brother, sister or child has any existing ownership interest in the business.

Sec. 4. 10 MRSA §1100-T, sub-§2-A, ¶E, as enacted by PL 1995, c. 424, §3, is amended to read:

E. Each business receiving an investment from a private venture capital fund must have annual gross sales of \$2,000,000 or less and the operation of the business must be the full-time professional activity of the principal owner, as determined by the authority. The principal owner and principal owner's spouse, ~~parents, brothers, sisters and children~~ are not eligible for a credit for investment in that business or the private venture capital fund. A tax credit certificate may not be issued to a parent, brother, sister or child of a principal owner if the parent, brother, sister or child has any existing ownership interest in the business.

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

Effective April 10, 1996.

CHAPTER 659

S.P. 748 - L.D. 1858

An Act Regarding Agricultural Irrigation Ponds

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, current law requires an individual permit pursuant to the laws governing the protection of natural resources for the alteration of a stream for the purpose of constructing an irrigation pond; and

Whereas, it is necessary to allow a simplified, general permit procedure for alteration of certain streams in order to meet the needs of farmers for pond construction prior to this year's growing season; 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. 38 MRSA §480-Y is enacted to read:

§480-Y. Creation of agricultural irrigation ponds

1. General permit. A general permit is required for the alteration of a freshwater, nontidal stream to construct an agricultural irrigation pond. If the provisions of this section are met, an individual permit is not required.

2. Eligibility criteria. The following eligibility criteria must be met.

A. The farm must have an irrigation management plan, referred to in this section as the "irrigation plan." The irrigation plan must identify the total number of irrigated acres on the farm or on a specified management unit, the amount of water needed, the potential sources of water for irrigating the field and the water management practices that will be used to ensure that the amount of water used for crop irrigation will be kept to a minimum. For the purposes of this subsection, "farm" has the same meaning as in Title 17, section 2805.

B. The department must have assessed the affected area as having no significant habitat for fish and wildlife. For the purposes of this section, "significant habitat" means the same as "significant wildlife habitat" in section 480-B, subsection 10; a fish spawning or nursery habitat; a habitat required for migration of fish species to or from a spawning or nursery habitat; or a habitat otherwise supporting a moderate to high population of salmonid species as determined by the Department of Inland Fisheries and Wildlife.

C. The pond may not be located in a wetland containing endangered or threatened plant species as determined pursuant to Title 5, section 13078, subsection 3 or containing a natural community that is imperiled (S2) or critically imperiled (S1) as defined by the Natural Areas Program pursuant to Title 5, section 13076.

D. A site assessment must be conducted by the department prior to the submission of an application. The department may defer a site assessment for a reasonable period when winter conditions prevent the department from properly evaluating the affected area.