

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**  
**ONE HUNDRED AND SEVENTEENTH LEGISLATURE**

**SECOND SPECIAL SESSION**  
**September 5, 1996 to September 7, 1996**

**ONE HUNDRED AND EIGHTEENTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 4, 1996 to March 27, 1997**

**FIRST SPECIAL SESSION**  
**March 27, 1997 to June 20, 1997**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JUNE 26, 1997**

**FIRST SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 19, 1997**

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

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**1997**

1998-99

**DEFENSE AND VETERANS' SERVICES, DEPARTMENT OF**

**Dam Safety Program**

Positions - Legislative Count (1.000)  
 Personal Services \$36,048

Provides for the appropriation of funds for one Dam Inspector position to carry out dam inspections and provide technical assistance in order to carry out the purposes of this Act.

**Sec. 3. Nonlapsing funds.** Notwithstanding any other provision of law, any balance remaining on June 30, 1997 in the General Fund Maine Emergency Management Agency account in the Department of Defense and Veterans' Services may not lapse but must be carried forward to June 30, 1998 to be used to carry out inspections for the Dam Safety Program as approved by Public Law 1997, chapter 1.

**Sec. 4. Effective date.** The section of this bill that amends the Maine Revised Statutes, Title 37-B, section 1065, subsection 5 takes effect October 1, 1998.

See title page for effective date, unless otherwise indicated.

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**CHAPTER 518**

**H.P. 1216 - L.D. 1716**

**An Act to Establish Family Development Accounts**

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

**Whereas,** low-income Maine families lack the income and resources to save money and develop assets in a manner that will assist them to overcome poverty and respond to unanticipated crises; and

**Whereas,** family development accounts are a method to develop the means and incentive for low-income families to invest in their future; and

**Whereas,** private funding will be more quickly and readily attracted to the State of Maine to match

savings in family development accounts if the legal framework for them is immediately effective; 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. 5 MRSA §12004-I, sub-§25-B** is enacted to read:

|                |                     |                   |                |
|----------------|---------------------|-------------------|----------------|
| <u>25-B.</u>   | <u>Advisory</u>     | <u>Not</u>        | <u>10 MRSA</u> |
| <u>Finance</u> | <u>Committee on</u> | <u>Authorized</u> | <u>§1079</u>   |
|                | <u>Family</u>       |                   |                |
|                | <u>Development</u>  |                   |                |
|                | <u>Accounts</u>     |                   |                |

**Sec. 2. 10 MRSA c. 110, sub-c. IV-A** is enacted to read:

**SUBCHAPTER IV-A**

**FAMILY DEVELOPMENT ACCOUNT PROGRAM**

**§1075. Definitions**

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

**1. Account holder.** "Account holder" means a person, whose family income is below 200% of the nonfarm income official poverty line as defined by the federal Office of Management and Budget and revised annually in accordance with the United States Omnibus Budget Reconciliation Act of 1981, Section 673, subsection 2, who owns a family development account.

**2. Community development organization.** "Community development organization" means a charitable organization, a community action agency or a nonprofit organization under the Internal Revenue Code, Section 501(c)(3) approved by the authority to administer a family development account program.

**3. Family development account; account.** "Family development account" or "account" means a financial instrument established pursuant to this subchapter.

**4. Family development account reserve fund.** "Family development account reserve fund" means the fund created by an approved community development organization for the purposes of funding the adminis-

trative costs of the program and providing matching funds for deposit in family development accounts.

**5. Financial institution.** "Financial institution" means a credit union or financial institution authorized to do business in this State under Title 9-B and that meets standards established by the authority.

**6. Program.** "Program" means the family development account program established in this subchapter.

#### **§1076. Family development account program**

There is established the family development account program to allow eligible persons to establish savings accounts to be used for education, job training, purchase or repair of a home, purchase or repair of a vehicle for access to work or education, capitalization of a small business, health care costs over \$500 not covered by private or public insurance or other basic necessity. The program is designed to encourage savings as a means of investing in the future and investing in Maine people, institutions and businesses.

**1. Soliciting proposals.** The authority shall solicit proposals from community development organizations seeking to administer family development accounts on a nonprofit basis. The authority may not limit the number of community development organizations participating based solely upon geographic region. The proposals must include:

A. A process for including account holders in decision making regarding the investment of funds in the accounts;

B. The specific populations the community development organization plans to identify for participation in the program; and

C. A requirement that deposits into accounts must be accepted from account holders with or without matching contributions and from community development organizations.

**2. Reviewing proposals.** In reviewing the proposal of a community development organization, the authority shall establish criteria to use that must include the following factors:

A. The nonprofit status of the community development organization;

B. The fiscal accountability of the community development organization;

C. The ability of the community development organization to provide or raise money for matching contributions and to establish and administer a reserve fund account; and

D. The significance and quality of proposed auxiliary services and their relationship to the goals of the family development account program.

**3. Administrative costs.** Administrative costs may not exceed 15% of the family development account reserve fund.

**4. Establishment of accounts.** A financial institution approved by the authority may establish family development accounts pursuant to this subchapter. The financial institution shall certify to the authority in the manner required by the authority that accounts have been established pursuant to the provisions of this subchapter and that deposits have been made on behalf of account holders. A financial institution establishing a family development account shall:

A. Keep the account in the name of the account holder;

B. Permit deposits to be made into the account by the account holder or a community development organization on behalf of the account holder, including money deposited to match the account holder's deposits. Matching contribution deposits may not exceed \$2000 per year. An account with a balance exceeding \$10,000 is ineligible for matching contribution deposits;

C. Credit interest to the account at a rate equal to or higher than the rate applicable to comparable accounts within the financial institution; and

D. Permit the account holder, after obtaining the cosignature of the administrator of the community development organization, to withdraw money from the account for any of the purposes listed in section 1077, subsection 1.

**5. Appeals.** Any dispute between the account holder and the community development organization may be appealed to the authority. Any adverse decision of the authority may be appealed to the Superior Court pursuant to Title 5, chapter 375, subchapter VII.

**6. Rules.** The authority shall adopt rules to implement and administer the provisions of this subchapter. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

#### **§1077. Withdrawal of funds**

**1. Use of funds.** An account holder may withdraw funds from the account with the approval of the community development organization administrator without penalty for the following expenditures:

A. Expenses for education or job training or to attend an accredited or approved postsecondary education or training institution;

B. The purchase or repair of a home that is or will be the person's principal residence;

C. The purchase or repair of a vehicle used for transportation to work or to attend an education or training program;

D. Expenses for an emergency that may cause the loss of shelter, employment or other basic necessities;

E. Capital to start a small business for any family member who is 18 years of age or older; or

F. Health care costs exceeding \$500 not covered by public or private insurance.

**2. Unauthorized withdrawal; penalty.** Money withdrawn from an account by an account holder that is not withdrawn pursuant to subsection 1 is subject to a penalty of 15%. When a penalty is assessed, the account holder must be paid the funds that the account holder deposited less any penalties, plus interest on that amount. All matching contribution deposits and the interest on them are forfeited. All penalties and forfeited funds must be paid into the family development account reserve fund of the community development organization.

**3. Death of account holder.** When opening an account an account holder may name a beneficiary and contingent beneficiaries. An account holder may change beneficiaries at any time. When an account holder dies the account must be transferred to the ownership of the designated beneficiary or, if there is none or if the transfer is not possible, the account must be transferred to the estate of the deceased.

**4. Exempt from taxation.** Account balances and withdrawals are exempt from taxation pursuant to Title 36, chapter 803.

### **§1078. No reduction in benefits**

Notwithstanding any other rule or provision of state law, the first \$10,000 of funds and any accrued interest in an account under this subchapter are excluded from consideration in determining eligibility or benefit levels for any assistance or benefit granted under state law.

### **§1079. Advisory committee**

The Advisory Committee on Family Development Accounts, established in Title 5, section 12004-1, subsection 25-B, is referred to in this section as the "committee."

**1. Committee membership.** The committee consists of 15 members as follows:

A. Five members appointed by the Governor, including one representative of the Maine State Housing Authority, one representative of the Department of Economic and Community Development, one representative of the Department of Human Services and 2 representatives of financial institutions participating in the program;

B. Five members appointed by the Speaker of the House of Representatives, including 2 persons who are account holders or are eligible to be account holders, 2 representatives of contributors of matching funds to the program and one representative of a community development organization; and

C. Five members appointed by the President of the Senate, including one representative of a contributor of matching funds to the program, one representative of a statewide community development foundation, one person who is an account holder or is eligible to be an account holder and 2 representatives of community development organizations.

**2. Chair.** The committee shall elect a chair from its members.

**3. Duties; report.** The committee shall meet at least 4 times per year to study and evaluate the effectiveness of family development accounts in this State and other states; make recommendations with respect to changes in law, rule or policy that will enhance the ability of account holders to improve their economic security; and advise the authority, relevant state agencies, community development organizations and the Legislature as to its findings. The committee shall provide a comprehensive report to the joint standing committee of the Legislature having jurisdiction over business and economic development matters and the joint standing committee of the Legislature having jurisdiction over health and human services matters by March 1st of each year, beginning in 1999.

**4. Freedom of access; confidential information.** Meetings of the committee are public meetings and records and papers of the committee are public records for the purposes of the freedom of access laws in Title 1, chapter 13, subchapter I, except that information obtained about account holders and their families that is confidential under state or federal law, rule or regulation is confidential and may not be disclosed.

**5. Staffing.** The authority shall provide staffing to the committee and may, within existing resources, obtain technical assistance from appropriate sources

with expertise in asset development for low-income households.

6. Voluntary service. Members of the committee serve without compensation or reimbursement for expenses.

**Sec. 3. Appointments.** All appointments to the Advisory Committee on Family Development Accounts, established in the Maine Revised Statutes, Title 5, section 12004-I, must be made by August 1, 1997 and the first meeting of the committee convened by the Chief Executive Officer of the Finance Authority of Maine or the designee of the chief executive officer by September 15, 1997.

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

Effective June 12, 1997.

**CHAPTER 519**

**H.P. 900 - L.D. 1217**

**An Act to Protect the State's Lakes, Rivers and Coastal Wetlands through a Comprehensive Watershed Protection Program**

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

**PART A**

**Sec. A-1.** 5 MRSA §3331, sub-§2, ¶¶E and F, as enacted by PL 1993, c. 721, Pt. C, §1 and affected by Pt. H, §1, are amended to read:

E. Study specific land and water resources management issues and problems of state-level significance in order to develop sound, coordinated policies; ~~and~~

F. Seek cooperation from federal agencies with responsibilities for land and water resources management to ensure that their programs and projects serve the best interests of the State; ~~and~~

**Sec. A-2.** 5 MRSA §3331, sub-§2, ¶G is enacted to read:

G. Administer the Lakes Heritage Trust Fund established in subsection 6.

**Sec. A-3.** 5 MRSA §3331, sub-§§6 and 7 are enacted to read:

6. Lakes Heritage Trust Fund. The Lakes Heritage Trust Fund is established in the Executive

Department for the purpose of protecting, preserving and enhancing the quality and value of the State's lakes and great ponds. By majority vote of all members, the council may accept monetary contributions to the fund from any public or private source and may spend or disburse those funds in a manner consistent with law for the purposes stated in this subsection. The council shall include an accounting of all donations to and expenditures from the Lakes Heritage Trust Fund in its annual report to the Legislature under subsection 4.

**7. Watershed protection.** The council may create, implement and administer a comprehensive watershed protection program in order to ensure the development and implementation of locally supported watershed management plans. In implementing the program, the council shall coordinate the activities of the agencies involved in watershed management to:

A. Develop and implement strategies designed to protect the State's surface waters from non-point source pollution;

B. Conduct scientific research and water quality surveys to establish baseline information about the condition of the State's surface waters and the relative risk to surface waters from nonpoint sources of pollution;

C. Implement regulatory and nonregulatory approaches to watershed protection, including public education and technical assistance;

D. Coordinate activities with local governments, other state agencies, federal agencies and other organizations that are involved in activities aimed at controlling nonpoint source pollution; and

E. Establish priorities for the purpose of directing resources to the management of water bodies based on an assessment of their value, the degree of threat or impairment to water quality and aquatic habitat due to nonpoint source pollution, the likelihood of meeting watershed management objectives and the degree of public support in the watershed for watershed management.

**Sec. A-4. Allocation.** The following funds are allocated from Other Special Revenue to carry out the purposes of this Part.

|                             | 1997-98 | 1998-99 |
|-----------------------------|---------|---------|
| <b>EXECUTIVE DEPARTMENT</b> |         |         |
| State Planning Office       |         |         |
| All Other                   | \$500   | \$500   |