

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

SECOND REGULAR SESSION
January 2, 2002 to April 25, 2002

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 25, 2002

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
2002

D. Any proceeding, reorganization or dissolution commenced under the statute before its repeal, and the proceeding, reorganization or dissolution may be completed in accordance with the statute as if it had not been repealed; and

E. Any provision in an existing professional corporation's articles of incorporation or bylaws that is legal and enforceable as of the date of the adoption of this Act.

2. Reduction in penalty or punishment. If a penalty or punishment imposed for violation of a statute repealed by this Act is reduced by this Act, the penalty or punishment if not already imposed must be imposed in accordance with this Act.

Sec. B-5. Revisor's review; cross-references. The Revisor of Statutes shall review the Maine Revised Statutes and include in the errors and inconsistencies bill submitted to the First Regular Session of the 121st Legislature pursuant to Title 1, section 94 any sections necessary to correct and update any cross-references in the statutes to provisions of law repealed in this Act.

Sec. B-6. Authorization to report out legislation. The joint standing committee of the Legislature having jurisdiction over judiciary matters may report out to the First Regular Session of the 121st Legislature legislation to make any conforming changes necessitated by this Act.

Sec. B-7. Effective date. This Act takes effect July 1, 2003.

Effective July 1, 2003.

CHAPTER 641

S.P. 729 - L.D. 1988

An Act to Increase the Opportunities of Retired State Employees to Enroll a Spouse or Dependents in the Maine State Health Insurance Plan

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

Sec. 1. 5 MRSA §285, sub-§3-B is enacted to read:

3-B. Enrollment of spouse and dependents of retirees. Effective January 1, 2003, a retiree eligible for participation in the group health insurance plan under this section may enroll a spouse and dependents in the group plan as follows:

A. Upon retirement, the retiree may enroll a spouse and dependent or dependents for coverage under the plan effective on the date of retirement; or

B. Subsequent to retirement, the retiree may enroll a spouse and dependent or dependents for coverage under the plan if:

(1) At the time of retirement, the retiree designated in writing the name of the spouse and dependent or dependents to be enrolled at a future date; and

(2) The spouse and dependent or dependents can demonstrate coverage for at least 18 months immediately prior to enrollment under another health insurance plan or can demonstrate that health insurance coverage for that person pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1985 under a prior plan has been exhausted.

See title page for effective date.

CHAPTER 642

H.P. 1509 - L.D. 2012

An Act to Expand the Maine Seed Capital Tax Credit Program

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

Sec. 1. 5 MRSA §13070-J, sub-§1, ¶D, as enacted by PL 1997, c. 761, §2, is amended to read:

D. "Economic development incentive" means:

- (1) Assistance from Maine Quality Centers under Title 20-A, chapter 431-A;
- (2) The Governor's Training Initiative Program under Title 26, chapter 25, subchapter IV;
- (3) Municipal tax increment financing under Title 30-A, chapter 207;
- (4) The jobs and investment tax credit under Title 36, section 5215;
- (5) The research expense tax credit under Title 36, section 5219-K;
- (6) Reimbursement for taxes paid on certain business property under Title 36, chapter 915; or

(7) Employment tax increment financing under Title 36, chapter 917; or

(8) The credit for seed capital investment under Title 36, section 5216-B.

Sec. 2. 5 MRSA §13070-J, sub-§3, as amended by PL 2001, c. 481, §2, is further amended to read:

3. Report. Annually, a business receiving an economic development incentive described in subsection 1, paragraph D, subparagraphs (1) to (7), the value of which exceeds \$10,000 in one year, shall submit a written report to the commissioner no later than August 1st of the following year containing but not limited to the following information:

A. The amount of assistance received by the business in the preceding year from each economic development incentive and the uses to which that assistance has been put;

B. The total amount of assistance received from all economic assistance programs;

C. The number, type and wage level of jobs created or retained as a result of an economic development incentive;

D. Current employment levels for the business for all operations within the State, the number of employees in each job classification and the average wages and benefits for each classification;

E. Any changes in employment levels that have occurred over the preceding year; and

F. An assessment of how the business has performed with respect to the public purpose identified in subsection 2, paragraph A, if applicable.

The department shall mail report forms by May 15th of each year to every business required to file a report under this subsection. Reports filed under this subsection are public records for purposes of Title 1, chapter 13.

Sec. 3. 5 MRSA §13070-J, sub-§4, ¶D, as amended by PL 2001, c. 481, §2, is further amended to read:

D. The department shall report by October 1st annually to the Legislature ~~on the amount of public funds spent for the direct benefit of businesses in the State under municipal tax increment financing, employment tax increment financing and the Governor's training initiative. The report must identify the amount of economic development incentives under the jurisdiction of the department received by each business and the~~

~~public benefit resulting from those economic development incentives. the following:~~

(1) The amount of public funds spent for the direct benefit of businesses in the State under municipal tax increment financing, employment tax increment financing and the Governor's training initiative. The report must identify the amount of economic development incentives under the jurisdiction of the department received by each employer and the public benefit resulting from those economic development incentives; and

(2) The activities in the State, in the aggregate, of businesses receiving funds through the Maine Seed Capital Tax Credit program, including the following:

(a) The total amount of tax credit certificates issued by the Finance Authority of Maine;

(b) The total amount of private investment;

(c) Total employment;

(d) The total number of jobs created;

(e) The total number of jobs retained;

(f) Total payroll; and

(g) Total annual sales.

The Finance Authority of Maine shall provide the department with the information collected in accordance with Title 10, section 1100-T, subsection 6 and assist in the preparation of this report.

Sec. 4. 10 MRSA §1100-T, sub-§2, ¶A, as amended by PL 2001, c. 446, §1 and affected by §6, is further amended to read:

A. A tax credit certificate may be issued in an amount not more than 40% of the amount of cash actually invested in a an eligible Maine business in any calendar year or in an amount not more than 60% of the amount of cash actually invested in any one calendar year in an eligible Maine business located in a high-unemployment area, as determined by rule by the authority. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

Sec. 5. 10 MRSA §1100-T, sub-§2, ¶C, as amended by PL 1997, c. 782, §1, is further amended to read:

C. Aggregate investment eligible for tax credits may not be more than ~~\$1,000,000~~ \$5,000,000 for any one business as of the date of issuance of a tax credit certificate.

Sec. 6. 10 MRSA §1100-T, sub-§2, ¶D, as amended by PL 1997, c. 782, §2, is further amended to read:

D. The investment with respect to which any individual is applying for a tax credit certificate may not be more than an aggregate of ~~\$200,000~~ \$500,000 in any one business in any 3 consecutive calendar years, except that this paragraph does not limit other investment by any applicant for which that applicant is not applying for a tax credit certificate.

Sec. 7. 10 MRSA §1100-T, sub-§2, ¶I is enacted to read:

I. The business receiving the investment may not be in violation of the requirements of subsection 6.

Sec. 8. 10 MRSA §1100-T, sub-§2-A, ¶¶A, C and D, as amended by PL 2001, c. 446, §2 and affected by §6, are further amended to read:

A. A tax credit certificate may be issued to an individual who invests in a private venture capital fund in an amount that:

(1) Is not more than 40% of the amount of cash actually invested in or unconditionally committed to a private venture capital fund in any calendar year by the individual or entity, except that with respect to fund investments that are made in eligible businesses that are located in a high unemployment area, as determined by rule of the authority under subsection 2, the tax credit certificate may not be more than 60% of the cash actually invested in or unconditionally committed to a private venture capital fund in any calendar year by the individual or entity; and

(2) Does not exceed 40% of the amount of cash invested by the fund in eligible businesses, except that with respect to fund investments that are made in eligible businesses that are located in a high unemployment area, as determined by rule of the authority under subsection 2, a tax credit certificate may not be more than 60% of the cash invested by the fund in any calendar year in such businesses; provided that the authority may issue tax credit certificates in an amount not to exceed 20% of the amount of cash actually invested in or uncondition-

ally committed to a private venture capital fund in any calendar year if the authority determines that the private venture capital fund is located in this State, is owned and controlled primarily by residents of this State and has designated investing in eligible businesses of this State as a major investment objective. The credit may be revoked to the extent that the private venture capital fund does not make investments eligible for the tax credit in an amount sufficient to qualify for the credits within 3 years after the date of the tax credit certificates. Notwithstanding any revocation pursuant to this subparagraph, each investor remains eligible for tax credit certificates for eligible investments as and when made by the private venture capital fund.

The aggregate amount of credits issued to investors in a fund may not exceed 40% of the amount of cash invested by the fund in eligible businesses, except that with respect to fund investments in eligible businesses that are located in a high unemployment area, the aggregate amount of tax credits issued to investors in a fund may not exceed 60% of the cash invested by the fund in eligible businesses.

C. Aggregate investment eligible for tax credits may not be more than ~~\$1,000,000~~ \$5,000,000 for any one business for any one private venture capital fund as of the date of issuance of a tax credit certificate.

D. The investment with respect to which any individual or entity is applying for a tax credit certificate may not be more than an aggregate of ~~\$200,000~~ \$500,000 in any one eligible business invested in by a private venture capital fund in any 3 consecutive calendar years, except that this paragraph does not limit other investment by any applicant for which that applicant is not applying for a tax credit certificate and except that, if the entity applying for a tax credit certificate is a partnership, limited liability company, S corporation, nontaxable trust or any other entity that is treated as a flow-through entity for tax purposes under the federal Internal Revenue Code, the aggregate limit of ~~\$200,000~~ \$500,000 applies to each individual partner, member, stockholder, beneficiary or equity owner of the entity and not to the entity itself.

Sec. 9. 10 MRSA §1100-T, sub-§4, as amended by PL 2001, c. 446, §3 and affected by §6, is further amended to read:

4. Total of credits authorized. The authority may issue tax credit certificates to investors eligible

pursuant to subsections 2 and 2-A in an aggregate amount not to exceed \$2,000,000 up to and including calendar year 1996, \$3,000,000 up to and including calendar year 1997, \$5,500,000 up to and including calendar year 1998, \$8,000,000 up to and including calendar year 2001, ~~\$10,000,000~~ \$11,000,000 up to and including calendar year 2002, ~~\$11,000,000~~ \$14,000,000 up to and including calendar year 2003 ~~and \$12,000,000~~ \$17,000,000 up to and including calendar year 2004, \$20,000,000 up to and including calendar year 2005, \$23,000,000 up to and including calendar year 2006, \$26,000,000 up to and including calendar year 2007 and \$30,000,000 thereafter. The authority may provide that investors eligible for a tax credit under this section in a year when there is insufficient credit available are entitled to take the credit when it becomes available.

Sec. 10. **10 MRSA §1100-T, sub-§6** is enacted to read:

6. Reports. Any business eligible to have investors receive a tax credit under this section must report to the authority, in a manner to be determined by the authority, the following information regarding its activities in the State over the calendar year in which the investment occurred:

A. The total amount of private investment received;

B. The total number of persons employed as of December 31st;

C. The total numbers of jobs created and retained;

D. Total annual payroll; and

E. Total sales revenue.

Sec. 11. **36 MRSA §5216-B, sub-§2**, as amended by PL 2001, c. 446, §4 and affected by §6, is further amended to read:

2. Credit. An investor is entitled to a credit against the tax otherwise due under this Part equal to the amount of the tax credit certificate issued by the Finance Authority of Maine in accordance with Title 10, section 1100-T and as limited by this section. In the case of partnerships, limited liability companies, S corporations, nontaxable trusts and any other entities that are treated as flow-through entities for tax purposes under the Code, the individual partners, members, stockholders, beneficiaries or equity owners of such entities must be treated as the investors under this section and are allowed a credit against the tax otherwise due from them under this Part in proportion to their respective interests in those partnerships, limited liability companies, S corporations, trusts or other flow-through entities. Except as limited or

authorized by subsection 3 or 4, ~~15%~~ 25% of the credit must be taken in the taxable year the investment is made and ~~15%~~ 25% per year must be taken in each of the next ~~5~~ 3 taxable years ~~and 10% taken in the next taxable year.~~

Sec. 12. Application. This Act applies to tax credit certificates issued on or after July 1, 2002 for investments made on or after July 1, 2002.

See title page for effective date.

CHAPTER 643

H.P. 1505 - L.D. 2008

An Act to Create the Office of Maine-Canada Trade Ombudsman

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

Sec. 1. **5 MRSA c. 12-A** is enacted to read:

CHAPTER 12-A

MAINE-CANADA TRADE OMBUDSMAN

§261. Office created

The Office of the Maine-Canada Trade Ombudsman is established within the Executive Department and is autonomous from any other state agency.

§262. Appointment; term; compensation

The Governor shall appoint an ombudsman to head the Office of the Maine-Canada Trade Ombudsman, who is referred to in this chapter as the "ombudsman," subject to review by the joint standing committee of the Legislature having jurisdiction over state and local government matters and confirmation by the Senate. The ombudsman must be chosen without reference to party affiliation and solely on the ground of professional competence to perform the duties of that office. The ombudsman appointed in 2003 holds office until January 1, 2005. Thereafter, the ombudsman holds office for a term of 4 years. An ombudsman may be reappointed. The compensation of the ombudsman is fixed by the Governor.

§263. Duties

The ombudsman has, upon consent of the Governor, the duties and powers established under the following provisions governing trade between businesses in this State and individuals, businesses and governmental entities in Canada.

1. Administration. The ombudsman shall administer the Office of the Maine-Canada Trade