

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

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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

CHAPTER 703

H.P. 1724 - L.D. 2212

An Act to Create the Maine Rural Development Authority

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

Sec. 1. 5 MRSA §12004-F, sub-§18 is enacted to read:

<u>18. Maine Rural Development Authority</u>	<u>Expenses Only</u>	<u>5 MRSA §13120-A</u>
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Sec. 2. 5 MRSA §13058, sub-§6, ¶¶E and F, as enacted by PL 1987, c. 534, Pt. A, §§17 and 19, are amended to read:

- E. A foreign trade zone program; and
- F. The Business Assistance Referral and Facilitation Program, pursuant to section 13063; and

Sec. 3. 5 MRSA §13058, sub-§6, ¶G, as enacted by PL 1987, c. 534, Pt. A, §§17 and 19, is repealed.

Sec. 4. 5 MRSA §13072, sub-§6, as enacted by PL 1987, c. 534, Pt. A, §§17 and 19, is repealed.

Sec. 5. 5 MRSA c. 383, sub-c. III, art. 2, as amended, is repealed.

Sec. 6. 5 MRSA c. 383, sub-c. IX is enacted to read:

SUBCHAPTER IX

MAINE RURAL DEVELOPMENT AUTHORITY

§13120-A. Authority established; purpose

The Maine Rural Development Authority, as established by section 12004-F, subsection 18 and referred to in this subchapter as the "authority," is a body both corporate and politic and a public instrumentality of the State established for the purpose of providing loans to communities for the development of commercial facilities on a speculative basis and for serving as lead investor in the acquisition, development, redevelopment and sale of commercial facilities in areas where economic needs are not supported by private investment.

The purposes of this subchapter are public and the authority is performing a governmental function in carrying out this subchapter.

§13120-B. Definitions

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

1. Carrying costs. "Carrying costs" means reasonable costs incurred for the maintenance, protection and security of a community industrial building prior to occupancy, including, but not limited to, insurance, taxes and interest.

2. Board of trustees. "Board of trustees" means the Maine Rural Development Authority Board of Trustees.

3. Commercial. "Commercial" means related to or connected with the furtherance of a profit-making enterprise.

4. Commercial facility. "Commercial facility" means real estate and improvements used principally for commercial purposes or suitable for commercial use. The term commercial facilities includes, but is not limited to:

- A. Offices and office buildings;
- B. Manufacturing, processing, assembly and other industrial buildings and related improvements;
- C. Property used in connection with commercial fishing and other marine-related industries;
- D. Property used in connection with agricultural production, storage, processing, packing and transportation;
- E. Warehouses, transportation and distribution facilities;
- F. Service and repair facilities;
- G. Retail establishments; and
- H. Lodging, restaurant and entertainment facilities.

5. Community industrial building. "Community industrial building" means a building of flexible design and suitable for commercial use, for which the construction or carrying costs or both are financed through this subchapter for the purpose of creating new jobs in a municipality resulting from the sale or lease of the building.

6. Department. "Department" means the Department of Economic and Community Development.

7. Lease. "Lease" means a contract providing for the use of a project or portions of a project for a term of years for a designated or determinable rent. A lease may include an installment sales contract.

8. Lessee. "Lessee" means a tenant under lease and may include an installment purchaser.

9. Local development corporation. "Local development corporation" means any nonprofit organization created by a municipality that is incorporated under Title 13, chapter 81 or that is incorporated under Title 13-B or otherwise chartered by the State, which is designed to foster, encourage and assist the settlement or resettlement of industrial, manufacturing, fishing, agricultural, recreational and other business enterprises within the State. A majority vote of the municipal officers is sufficient to form a local development corporation, notwithstanding Title 13, chapter 81. "Local development corporation" also means any nonprofit organization that is incorporated under Title 13, chapter 81 or that is incorporated under Title 13-B or otherwise chartered by the State, and is designed to foster, encourage and assist the settlement or resettlement of industrial, manufacturing, fishing, agricultural, recreational and other business enterprises within the State that applies for financial assistance for a project under this article, as long as that application is formally endorsed by a vote of the governing body of the municipality in which the project is to be located.

10. Municipality. "Municipality" means any county, city or town in the State.

§13120-C. Organization and responsibilities

1. Administrative responsibilities. The authority is responsible for the administration of the:

A. Community industrial building program, pursuant to section 13120-N;

B. Commercial Facilities Development Program, established under section 13120-P; and

C. Such other programs as the authority may by law be authorized to administer.

2. Programs and policies. In implementing its powers, duties, responsibilities and programs, the authority shall consider the state economic development strategy and the policies and activities of the department.

§13120-D. Board of trustees; appointment; chair; employees

1. Membership. The authority is governed by a board of trustees comprised of 7 voting members as follows:

A. Five members appointed by the Governor and subject to review by the joint standing committee of the Legislature having jurisdiction over eco-

nomics development matters and to confirmation by the Senate; and

B. Two ex officio members:

(1) The Commissioner of Economic and Community Development; and

(2) The Chief Executive Officer of the Finance Authority of Maine.

2. Terms of office. Members appointed by the Governor are appointed for 4-year terms except that, for initial appointments, one member is appointed to a 2-year term, 2 members to 3-year terms and 2 members to 4-year terms.

A member continues to hold office until a successor is appointed and qualified, but the term of the successor is not altered from the original expiration date of the holdover member's term.

3. Limitation on terms; removal. Except for the ex officio members, a member of the authority may serve no more than 2 full consecutive terms. Any member of the board may be removed by the Governor for cause.

4. Administration. The board of trustees shall elect one of its members as chair, one member as vice-chair, who shall serve as secretary, one member as treasurer and such other officers as the board of trustees may from time to time consider necessary.

5. Meetings; compensation. All the powers of the authority may be exercised by the board of trustees in lawful meeting and a majority of the members is necessary for a quorum. Regular meetings of the board of trustees may be established by bylaw and no notice need be given to the members of the regular meeting. Each member is compensated according to the provisions of chapter 379.

6. Limitation of liability. A member of the board of trustees of the authority or an employee of the authority may not be subject to any personal liability for having acted within the course and scope of that person's membership or employment to carry out any power or duty under this subchapter. The authority shall indemnify any member of the authority, any member of any board of the authority and any employee of the authority against expenses actually and necessarily incurred by that person in connection with the defense of any action or proceeding in which that person is made a party by reason of past or present association with the authority.

7. Employees. The authority may employ an executive director and such other technical experts, agents and employees, permanent and temporary, that it requires and may determine their qualifications,

duties and compensation. Permanent employees of the authority are eligible to elect to participate in the Maine State Retirement System, any state-deferred compensation plan or any other plan or program adopted by the members to the extent the members may determine. For required legal services, the authority may employ or retain its own counsel and legal staff.

8. Establishment and operating expenses. The department shall pay the expenses that are reasonable and necessary to the establishment of the authority. Following its establishment, the operations and related expenses of the authority are subject to the availability of funding as provided in section 13120-F.

§13120-E. Agreements; contracts

The authority, the department and the Finance Authority of Maine may enter into such agreements as the board of trustees determines to be in the best interests of the State for the authority to acquire, construct, maintain, operate and dispose of any or all facilities funded from bonds issued under section 13120-I. Any agreements must set forth the terms and conditions of the operation and be subject to all the terms and conditions of any trust indenture and covenants relating to revenue bonds.

The authority may contract with the Federal Government or its instrumentalities or agencies, this State or its agencies, instrumentalities or municipalities, public bodies, private corporations, community development corporations, partnerships, associations and individuals to carry out the purposes of this subchapter.

§13120-F. Receive, use and invest funds

The authority may receive and accept from any source allocations, appropriations, loans, grants and contributions of money or other things of value to be held, used or applied to carry out this subchapter, subject to the conditions upon which the loans, grants and contributions may be made, including, but not limited to, appropriations, allocations, loans, grants or gifts from any federal agency or governmental subdivision or the State and its agencies.

The authority may invest funds received from any source for carrying out this subchapter and expend interest and other earnings on those funds as appropriate to implement this subchapter, including use for program and administrative costs.

§13120-G. Acquisition, use and disposition of property

All real and personal property owned by and in the name of the authority is property of the State and entitled to the privileges and exemptions of property

of the State, except insofar as waived by the duly authorized contract or other written instrument of the authority or by this subchapter. The authority and the department shall agree upon and from time to time review the preferred status of property held or controlled by the authority and the department and necessary to either body's performing its statutory duty and shall arrange to sell, exchange, give or otherwise transfer title or possession of various properties between the authority and the department consistent with sound business management and as may serve the best interest of the State in the opinion of the authority and the department. The authority and the department may execute and record a deed or lease to effectuate the transfer.

The authority may acquire, use and dispose of real and personal property as follows.

1. Purchase, improve, lease and sell. Property may be purchased, improved, leased and sold, in whole or in part, to accomplish the development and redevelopment of commercial facilities as directed by the authority in accordance with the purposes of this subchapter. Revenues to the authority resulting from the lease, sale or other use of property in which the authority has an interest become operating revenues or assets of the authority. The authority may contract for services as necessary to accomplish this purpose.

2. Authority for transfers of interest in land to authority. Notwithstanding any other provision of law, upon the authority's request, on reasonable and fair terms and conditions and without the necessity for advertisement, order of court or action or formality other than the regular and formal action of the authorities concerned, counties, municipalities, public agencies or instrumentalities of the State, public service corporations and special districts may lease, lend, grant or convey to the authority real or personal property or rights in that property that may be necessary or convenient for the effectuation of the authorized purposes of the authority, including real and personal property or rights in that property already devoted to public use. As used in this subsection, the term "public service corporation" includes a public utility as defined in Title 35-A, section 102, subsection 13 and a corporation as defined in Title 13-A.

Facilities financed, acquired, constructed, operated or maintained under this subchapter, and land upon which the facilities are located are subject to the environmental laws of the State that are applicable to facilities owned or operated by the private sector.

§13120-H. Taxation and fees

Notwithstanding any other provision of law, for the purposes of this subchapter, transactions and property of the authority must be treated as follows.

1. Revenue obligation securities; exemption from taxation. Revenue obligation securities of the authority are issued for an essential public and governmental purpose, are public instruments and, together with interest and income, including the profit made from their transfer or sale, are exempt from taxation within the State.

2. Conveyances, leases, mortgages, deeds of trust; trust indentures; exemptions from taxation. Conveyances by or to the authority and leases, mortgages and deeds of trust or trust indentures by or to the authority are exempt from all taxation by the State or any of its political subdivisions, including, but not limited to, any applicable license, excise or other taxes imposed in respect of the privilege of engaging in any of the activities in which the authority may engage.

3. Property exemption from taxation and other assessments. Property acquired, held or transferred by the authority is exempt from all taxes and from betterments and special assessments of the city, town, county, State or any political subdivision of State Government or county or local governments. The authority may agree to make payments in lieu of taxes to the applicable political subdivisions.

§13120-I. Bonds

1. Authorization. The authority may provide by resolution for the issuance of bonds for the purpose of funding the Community Industrial Buildings Fund, as established in section 13120-O, for the construction of proposed commercial facilities and improvement of existing or acquired commercial facilities and for the fulfillment of other undertakings that it may assume. The bonds of the authority do not constitute a debt of the State or of any agency or political subdivision of the State but are payable solely from the revenue of the authority, and neither the faith nor credit nor taxing power of the State or any political subdivision of the State is pledged to payment of the bonds. Notwithstanding any other provision of law, any bonds issued pursuant to this subchapter are fully negotiable. If any member of the board of trustees whose signature appears on the bond or coupons ceases to be a member of the board of trustees before the delivery of those bonds, that signature is valid and sufficient for all purposes as if that member of the board of trustees had remained a member of the board of trustees until delivery.

2. Resolution; prospective issues. The authority may, by resolution authorizing prospective issues, provide:

- A. The manner of executing bonds and coupons;
- B. The form and denomination of bonds or coupons;

C. Maturity dates;

D. Interest rates on bonds or coupons;

E. For redemption prior to maturity and the premium payable;

F. The place or places for the payment of interest and principal;

G. For registration if the authority determines it to be desirable;

H. For the pledge of all or any of the revenue for securing payment;

I. For the replacement of lost, destroyed or mutilated bonds;

J. For the setting aside and the regulation and disposition of reserve and sinking funds;

K. For limitation on the issuance of additional bonds;

L. For the procedure, if any, by which the contract with a bondholder may be abrogated or amended;

M. For the manner of sale and purchase of bonds;

N. For covenants against pledging of any of the revenue of the authority;

O. For covenants fixing and establishing rates and charges for use of the authority's facilities and services made available so as to provide funds that will be sufficient to pay all costs of operation and maintenance, to meet and pay the principal and interest of all bonds as they severally become due and payable, for the creating of such revenues for the principal and interest of all bonds and for the meeting of contingencies and the operation and maintenance of its facilities as the board of trustees determines;

P. For such other covenants as to rates and charges as the board of trustees determines;

Q. For covenants as to the rights, liability, powers and duties arising upon the breach by the authority of any covenant, condition or obligation;

R. For covenants as to the bonds to be issued, as to the issuance of those bonds in escrow and otherwise and as to the use and disposition of the proceeds;

S. For covenants as to the use of its facilities and their maintenance and replacement, and the in-

urance to be carried on them, and the use and disposition of insurance money;

T. For the issuance of bonds in series;

U. For the performance of any and all acts as may be in the discretion of the board of trustees necessary, convenient or desirable to secure bonds or that tend to make bonds more marketable; and

V. For the issuance of bonds on terms and conditions to effectuate the purpose of this subchapter.

3. Money received. All money received from any bonds issued must be applied solely for loans to municipalities or local development corporations for community industrial buildings, for the construction of proposed commercial facilities and improvement of existing or acquired commercial facilities and for the fulfillment of other undertakings that are within the power of the authority. There is created a lien upon the money until so applied in favor of the bondholders or any member of the board of trustees as may be provided in respect of the bonds.

4. Trust indenture. In the discretion of the board of trustees, bonds may be secured by a trust indenture by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company, located either within or outside the State. Such a trust indenture may pledge or assign the revenues of the authority or any part of it. Any trust indenture may set forth the rights and remedies of the bondholders and the trustee, restrict the individual right of action of bondholders and contain such other provisions as the board of trustees may consider reasonable and proper for the security of bondholders. Expenses incurred in carrying out any trust indenture may be treated as a part of maintenance.

5. Rights of bondholders. Provisions may be made for protecting and enforcing the rights and remedies of bondholders, including covenants as to acquisition of property, construction, maintenance, operation and repair, insurance and the custody, security and application of all money.

6. Depositories. Any trust company or bank having the powers of a trust company and located either within or outside the State may act as a depository of the proceeds of bonds and revenue and may furnish such indemnity or pledge such securities as may be required by the authority.

7. Tax free. The purposes of this subchapter being public and for the benefit of the people of the State, bonds of the authority are free from taxation by the State.

8. Revenue refunding bonds. The authority may issue revenue refunding bonds for the purpose of refunding revenue bonds issued under this subchapter. The issuance of any refunding bonds is the same as provided for in this subchapter relating to revenue bonds.

9. Default. In the event of default on bonds and in the event the default continues for a period of 3 months, action may be brought to enforce the rights of the bondholders by insuring that the operation by the trustees be in conformity with the covenants of the bonds or trust indenture.

§13120-J. Interest of trustee or employee

1. Acquisition of interest. A member of the board of trustees or employee of the authority may not acquire or hold a direct or an indirect financial or personal interest in:

A. An authority activity;

B. Property or facilities included, planned to be included or expected to directly benefit from an authority activity; or

C. A contract or proposed contract in connection with an authority activity.

When an acquisition is involuntary, the interest acquired must be disclosed immediately in writing to the board of trustees and the disclosure must be entered in the board of trustees' minutes.

2. Present or past interest in property. If a member of the board of trustees or employee of the authority presently owns or controls, or owned or controlled within the preceding 2 years, a direct or an indirect interest in property known to be included or planned to be included in an authority activity, that member or employee shall disclose this fact immediately in writing to the board of trustees and the disclosure must be entered in the board of trustees' minutes.

3. Recusal. A member of the board of trustees or employee of the authority with an interest under subsection 2 may not participate in an action by the authority affecting that property.

4. Violation. A violation of this section is a Class E crime.

§13120-K. Annual report; audit

1. Report. The authority shall submit to the Governor, the President of the Senate, the Speaker of the House of Representatives and the joint standing committee of the Legislature having jurisdiction over economic development matters, not later than 120 days after the close of its fiscal year, a complete report

on the activities of the authority. The report may also be provided to any other member of the Legislature and to any other person. The report must include all of the following:

- A. A description of the authority's operations, including a description of projects assisted under this subchapter and the criteria used in selecting those projects;
- B. An accounting of the authority's receipts and expenditures, assets and liabilities at the end of its fiscal year;
- C. A schedule of the bonds and notes outstanding at the end of the authority's fiscal year and a statement of the amounts redeemed and issued during its fiscal year, including a report on its reserve funds;
- D. A statement of the authority's proposed and projected activities for the ensuing year, the relationship of these activities to the State's economic development policies and the selection criteria expected to be used;
- E. Recommendations as to further actions that may be suitable for achieving the purposes of this subchapter;
- F. A statement of the defaults, if any, of persons, firms, corporations and other organizations receiving assistance under this subchapter; and
- G. A summary of the actual and potential employment opportunities resulting from the authority's activities.

2. Treasurer of State; annual financial report.

The authority shall provide the Treasurer of State, within 120 days after the close of its fiscal year, its annual financial report certified by an independent certified public accountant, who may be the accountant or a member of the firm of accountants who regularly audits the books and accounts of the authority, selected by the authority. The authority is also subject to the provisions of chapter 11. The authority may combine for accounting purposes any or all funds established for its programs and activities.

§13120-L. Rules

Pursuant to chapter 375, the authority may adopt any rule, including its bylaws, necessary or useful for carrying out any of its powers or duties. Rules adopted pursuant to this section are routine technical rules as defined in chapter 375, subchapter II-A.

§13120-M. Disclosure and confidentiality of records

1. Disclosure required. Notwithstanding subsections 2 and 3, the following must be made available to any person upon request reasonably describing the records to which access is sought or, if no request is made, in any manner and at any time that the authority may determine:

A. After filing of a written application or proposal for financial assistance, investment or property transfer, in a form specified by or acceptable to the authority:

(1) Names of recipients of or applicants for financial assistance or investment, including principals, where applicable;

(2) Amounts, types and general terms of financial assistance or investment provided to those recipients or requested by those applicants;

(3) Descriptions of projects and businesses that are benefiting or that will benefit from the financial assistance or investment;

(4) Names of transferors or transferees, including principals, of property to or from the authority, the general terms of transfer and the purposes for which transferred property will be used;

(5) The number of jobs and the amount of tax revenues projected or resulting in connection with a project; and

(6) Names of financial institutions participating in providing financial assistance or investment and the general terms of that financial assistance or investment;

B. Any information pursuant to waiver considered satisfactory by the authority;

C. Information that, as determined by the authority, has already been made available to the public; and

D. Information necessary to comply with Title 1, section 407, subsection 1.

Information or records specified in a written request signed by the cochairs of a legislative committee must be provided to the legislative committee. The information or records may be used only for the lawful purposes of the committee and in any action arising out of any investigation conducted by it.

2. Confidential information. The following records are designated as confidential for purposes of Title 1, section 402, subsection 3, paragraph A:

A. A record obtained or developed by the authority in advance of the receipt of a formal written application or proposal, in a form specified by or acceptable to the authority, for financial assistance or investment to be provided by or with the assistance of the authority or in connection with a transfer of property to or from the authority. After receipt by the authority of the application or proposal, a record pertaining to the application or proposal is not confidential unless it meets the requirements of paragraphs B to G;

B. A record obtained or developed by the authority that fulfills the following requirements:

(1) A person, including the authority, to whom the record belongs or pertains has requested that the record be designated confidential; and

(2) The authority has determined that the record contains proprietary information or commercial or financial information, the release of which could be competitively harmful to the submitter of the information or that would result in loss of business or other significant detriment to any person, including the authority, to whom the record belongs or pertains;

C. A financial statement or tax return of an individual or any other record obtained or developed by the authority, the disclosure of which would constitute an invasion of personal privacy, as determined by the authority;

D. A record that includes a financial statement or tax return obtained or developed by the authority in connection with any monitoring or servicing activity by the authority, pertaining to any financial assistance or investment provided or to be provided by or with the assistance of the authority;

E. A record obtained or developed by the authority that contains an assessment by a person who is not employed by the authority of the credit worthiness or financial condition of any person or project;

F. A financial statement or business and marketing plan in connection with any project receiving or to receive financial assistance or investment from the authority, if a person to whom the statement or plan belongs or pertains has requested that the record be designated confidential; and

G. A record that includes any financial statement, business plan or tax return obtained or developed by the authority in connection with the marketing of its property and the identification and qualification of potential investors.

For purposes of this section, an application by a potential investor is not an application for financial assistance or solicitation of investment.

3. Wrongful disclosure prohibited. A member of the board of trustees, officer, employee, agent, other representative of the authority or other person may not knowingly divulge or disclose records declared confidential by this section, except that the authority may, in its discretion, make or authorize any disclosure of information of the following types:

A. Impersonal, statistical or general information;

B. Information necessary in connection with processing an application for obtaining or maintaining an investment or financial assistance for a person or in connection with acquiring, maintaining or disposing of property;

C. Information disclosed to a financial institution or credit reporting service;

D. Information necessary to comply with a federal or state law or rule or with an agreement pertaining to financial assistance or investment;

E. Information to the extent the authority determines the disclosure necessary to the sale or transfer of revenue obligation securities;

F. Information necessary to ensure collection of an obligation in which the authority has or may have an interest;

G. Information obtained from records declared confidential by this section for introduction for the record in litigation or a proceeding in which the board has appeared; or

H. Information pursuant to a subpoena, request for production of documents, warrant or other order by competent authority, as long as the order appears to have first been served on the person to whom the confidential information sought pertains or belongs and as long as the order appears on its face or otherwise to have been issued or made upon lawful authority.

4. Records on effective date. Whether a record in the possession of the authority on the effective date of this section is confidential must be determined pursuant to this section and not pursuant to the law in effect when the authority or any of its predecessors obtained the record and the record may be disclosed or

divulged to the extent required or permitted by this section.

§13120-N. Community industrial building program

The authority may assist a municipality or local development corporation to construct a community industrial building by loaning the municipality or local development corporation money for construction or carrying costs or both for the project, subject to the following.

1. Project. The following conditions apply to a project receiving money under this section.

A. The project must be within the scope of this subchapter, must be of public use and benefit and must reasonably be expected to accomplish one or more of the following:

- (1) Create new employment opportunities;
- (2) Retain or improve existing employment; or
- (3) Improve the competitiveness of the occupant business.

B. Not more than one unoccupied community industrial building project may be financed in a municipality.

C. The authority shall charge interest on loans or funds provided under this section and section 13120-O to the municipality or local development corporation for a community industrial building that remains unoccupied for 3 or more years following completion of the building.

D. The authority shall adopt rules under chapter 375 with respect to:

- (1) The methodology and criteria for allocating funds to community industrial building projects;
- (2) The process through which municipalities and local development corporations must apply for community industrial building funds;
- (3) Rates of interest, the duration of interest payments and any other terms to which municipalities and local development corporations must be subject under this paragraph; and
- (4) Other matters necessary to the proper administration of this section and section 13120-O.

Rules adopted under this paragraph are major substantive rules pursuant to chapter 375, subchapter II-A and are subject to review by the joint standing committee of the Legislature having jurisdiction over economic development matters.

2. Obligations. The municipality or local development corporation receiving money under this section must:

A. Own, or hold on long-term lease, the site for the project;

B. Be responsible for and present evidence to the authority of its ability to carry out the project as planned;

C. Site and maintain the community industrial building on property that is appropriate to the size and location of the community industrial building;

D. Provide and maintain, with funds other than those provided by the authority, an adequate access road from a public highway to the proposed site and provide and maintain water, sewer and power facilities. The municipality or local development corporation must be responsible for plowing out the plant site at all times and for landscaping the grounds surrounding the building until the building is occupied by a tenant;

E. Comply with applicable zoning, planning and sanitary regulations in the municipality where the community industrial building is to be located. A loan may not be approved and a certificate of approval for the project or for any subsequent enlargement or addition to the project may not be issued until the Department of Environmental Protection has certified to the authority that all licenses required by the authority have been issued or that none are required; and

F. Make adequate provisions for insurance and fire protection and for maintenance of the community industrial building while it is unoccupied.

3. Loan terms. Terms for a loan under this section are as follows.

A. The authority shall prescribe the terms and conditions of the loan.

B. Loans must be repaid in full, including interest and other charges, within 90 days after the community industrial building is occupied.

C. A community industrial building financed by an authority loan may not be sold or leased without the express approval of the purchaser or les-

see by the authority. If the municipality or local development corporation and the authority agree that a community industrial building is unlikely to be sold in the near future despite a marketing effort, the authority may permit an interim lease upon terms it considers appropriate for the protection of the Community Industrial Buildings Fund established in section 13120-O. Occupation of the premises under an interim lease does not require payment in full of the entire loan within 90 days, as provided in paragraph B.

4. Marketing and promotion. The municipality or local development corporation receiving money under this section shall make a reasonable and continual effort to market the community industrial building for sale into private commercial use. Upon the request of the authority, the municipality or local development corporation shall present evidence of its marketing efforts and expenditures related to the community industrial building.

5. Taxes. While a community industrial building under this section remains unoccupied and a first mortgage is held by the authority, it is property held for a legitimate public use and benefit and is exempt from all taxes and special assessments of the State or any of its political subdivisions.

6. Municipality. A municipality may raise or appropriate money supporting and guaranteeing the obligation of a chamber of commerce, board of trade or local development corporation for the purpose of constructing a community industrial building subject to the provisions of this subchapter.

§13120-O. Community Industrial Buildings Fund

1. Fund established. The Community Industrial Buildings Fund, referred to in this section as the "fund," is established as a revolving fund to be used by the authority only for the purposes of this section and section 13120-N.

2. Items charged or credited. Operating expenses of the authority incurred under this section and section 13120-N must be charged to the fund and all payments required by this section and section 13120-N must be credited to the fund. Expenses of the authority that arise out of assistance to municipalities and local development corporations under this section and section 13120-N may be charged against the proceeds of the sale or lease of community industrial buildings constructed under this section and section 13120-N.

3. Deposited funds. Money in the fund not currently needed to meet the obligations of the department under this section and section 13120-N must be deposited with the Treasurer of State to the credit of

the fund with all interest earned by the deposit credited to the fund.

4. Successor to fund. The authority is the successor to the department for the purposes of this section and section 13120-N. All properties, rights in land, buildings and equipment and any funds, money, revenues and receipts or assets of the department as they apply to the Community Industrial Buildings Fund, including funds previously appropriated by the State for the Community Industrial Buildings Fund under former section 13082, belong to the authority as successor to the department. All liabilities of the department with respect to the Community Industrial Buildings Fund under former section 13082 become liabilities of the authority. Any action taken by the department with respect to assisting a municipality or local development corporation to create community industrial buildings is an action taken by the authority.

§13120-P. Commercial Facilities Development Program

1. Establishment; purpose. The Commercial Facilities Development Program is established within the authority to serve the following purposes:

A. Restore employment opportunities by serving as principal, partner or investor in the acquisition and redevelopment of nonproductive commercial facilities for subsequent return to productive use through sale or lease; and

B. Create employment opportunities in areas of economic need that are underserved by private investors by serving as principal, partner or investor in the acquisition of property and development of commercial facilities for subsequent sale or lease into private productive use.

In carrying out its duties under this section, the authority shall make all reasonable and appropriate efforts to maximize the leverage of its funds through partnership and risk-sharing arrangements with public and private organizations.

2. Redevelopment of property. Except as provided in section 13120-Q, the authority may acquire interests in and undertake the redevelopment of property for subsequent use and sale under the following conditions:

A. The property has been previously and materially used as a commercial facility;

B. The property is currently not in productive commercial use or is expected to be taken out of productive commercial use within the immediate future;

C. The property has not been placed under a purchase option or contract;

D. The authority, using due diligence, has determined that:

(1) There is a reasonable expectation that the property will become financially viable following its redevelopment; and

(2) The economic benefits, including the restoration of employment opportunities, expected to result from the redevelopment justify the risks associated with the authority's equity interest in the property; and

E. At least 25% of the total cost to acquire, redevelop and return the property to productive commercial use will be borne by the municipality or local development corporation.

3. Development of property. Except as provided in section 13120-Q, the authority may acquire interests in and undertake the development of property for subsequent use and sale under the following conditions:

A. The property consists of real estate that is zoned, sited or otherwise suitable for development as a commercial facility;

B. The property is currently not in productive commercial use;

C. The property has not been placed under a purchase option or contract;

D. The authority, using due diligence, has determined that:

(1) There is a reasonable expectation that the property will become financially viable following its development;

(2) The development of the property will create employment opportunities and other economic benefits within the region; and

(3) The economic benefits expected to result from the development justify the risks associated with the authority's equity interest in the property; and

E. At least 25% of the total cost to acquire, develop and bring the property to productive commercial use will be borne by the municipality or local development corporation.

§13120-Q. Exceptions

The authority, with the advice of the department, the Department of Labor, the State Planning Office

and such other agencies it determines appropriate, may waive the requirements of section 13120-P, subsection 2, paragraph E and section 13120-P, subsection 3, paragraph E if the municipality has experienced a historical lack of private investment and it is reasonably expected that private investment will not be available to assist with project financing and one of the following conditions is met:

1. Sudden and severe economic dislocation.

The property is located in a municipality that has experienced a sudden and severe economic dislocation, which may include but is not limited to:

A. The loss of a significant percentage of jobs within the municipality due to the closure or downsizing of a business or other employer;

B. The loss of a significant percentage of the municipality's tax base due to the closure or downsizing of a business or other commercial taxpayer; or

C. The unanticipated loss of a significant percentage or component of a municipality's economic development infrastructure as a result of an accident, natural disaster or other catastrophe; or

2. Chronic and severe economic distress. The property is located in a municipality that has experienced long-term economic distress, as evidenced by factors that may include, but are not limited to:

A. An unemployment rate that is significantly greater than the average State unemployment rate;

B. The significant migration of workers or population out of the area; and

C. An average personal income that is significantly below the state average or considered to be at or below the poverty level as defined in Title 22, section 5321.

Sec. 7. 13-B MRSA §201, sub-§3, ¶F, as amended by PL 1993, c. 316, §30, is further amended to read:

F. Local development corporations, as that term is used in Title 5, section 13081, subsection 6; and

See title page for effective date.