

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

FIRST SPECIAL SESSION
November 13, 2002 to November 14, 2002

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

FIRST REGULAR SESSION
December 4, 2002 to June 14, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
FEBRUARY 13, 2003

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FIRST REGULAR SESSION
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IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

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bership, a subcommittee of the members of the advisory board must be convened to recommend to the commissioner appropriate changes. At any time, the advisory board may recommend to the commissioner ways to improve the advisory board's membership or function and the commissioner shall act upon those recommendations.

See title page for effective date.

CHAPTER 281

S.P. 464 - L.D. 1408

An Act To Refine the Maine Rural Development Statutes

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

Sec. 1. 5 MRSA §13120-A, first ¶, as enacted by PL 2001, c. 703, §6, is amended to read:

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 lender~~ or investor in the acquisition, development, redevelopment and sale of commercial facilities in areas where economic needs are not supported by private investment.

Sec. 2. 5 MRSA §13120-D, sub-§4, as enacted by PL 2001, c. 703, §6, is amended to read:

4. Administration. ~~The board of trustees shall elect one of its members~~ Commissioner of Economic and Community Development shall serve as chair, of the board of trustees. The board of trustees shall elect 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.

Sec. 3. 5 MRSA §13120-D, sub-§7, as enacted by PL 2001, c. 703, §6, is amended to read:

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, the state employee health plan under section 285, 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.

Sec. 4. 5 MRSA §13120-I, sub-§1, as enacted by PL 2001, c. 703, §6, is amended to read:

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 or any successor to the fund,~~ 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.

Sec. 5. 5 MRSA §13120-N, sub-§1, ¶¶C and D, as enacted by PL 2001, c. 703, §6, are amended to read:

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 routine technical~~ rules pursuant to chapter 375, subchapter ~~H-A~~ and are subject to review by the ~~joint standing committee of the Legislature having jurisdiction over economic development matters 2-A.~~

Sec. 6. 5 MRSA §13120-N, sub-§3, ¶C, as enacted by PL 2001, c. 703, §6, is amended to read:

C. A community industrial building financed by an authority loan may not be sold or leased without the express approval of the purchaser or lessee 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 or any successor to the fund.~~ 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.

Sec. 7. 5 MRSA §13120-O, as enacted by PL 2001, c. 703, §6, is repealed.

Sec. 8. 5 MRSA §13120-P, as enacted by PL 2001, c. 703, §6, is amended to read:

§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, lender 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, lender 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 as an owner or lender for subsequent use and sale under the following conditions:

A. The property has been previously and materially used as a commercial facility or the property is suitable for adaptive use as a commercial or industrial 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 as an owner or lender 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.

Sec. 9. Successor to fund. The Maine Rural Development Authority, referred to in this section as "the authority," is the successor to the Department of Economic and Community Development, referred to in this section as "the department," for the purposes of the Maine Revised Statutes, Title 5, section 13120-N and former section 13120-O. 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 former Community Industrial Buildings Fund, established under Title 5, former section 13120-O, including funds previously appropriated by the State for the Community Industrial Buildings Fund under Title 5, 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 Title 5, 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.

See title page for effective date.

CHAPTER 282

H.P. 1027 - L.D. 1400

An Act To Amend the Maine Pesticide Control Act of 1975 To Increase the Pesticide Product Registration Fee

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

Sec. 1. 7 MRSA §607, sub-§6, as amended by PL 2001, c. 498, §1, is further amended to read:

6. Registration fee; validity. The applicant desiring to register a pesticide shall pay an annual registration fee of \$105 beginning in calendar year 1994, ~~and~~ \$115 beginning in calendar year 2003 ~~and~~ \$125 beginning in calendar year 2004 and thereafter for each pesticide registered for that applicant. Annual

registration periods expire on December 31st of any one year or in a manner consistent with ~~the Maine Administrative Procedure Act~~, Title 5, section 10002, as to license expiration, whichever is later.

See title page for effective date.

CHAPTER 283

S.P. 517 - L.D. 1543

An Act To Modify the Exemption for Compost under the Nutrient Management Law and the Nutrient Management Review Board's Authority To Hear Appeals

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

Sec. 1. 7 MRSA §4201, sub-§6, as amended by PL 1999, c. 530, §1, is further amended to read:

6. Regulated residual. "Regulated residual" means a residual regulated by the Department of Environmental Protection pursuant to Title 38, chapter 13 that is used primarily for its nitrogen and phosphorous value as determined by the Department of Agriculture, Food and Rural Resources. "Regulated residual" does not include ~~wood ash or~~ compost in quantities less than 100 tons per year or wood ash.

Sec. 2. 7 MRSA §4203, sub-§1, as amended by PL 1999, c. 530, §3, is further amended to read:

1. Duties. The board's duties are as follows:

A. The board shall review and approve all proposed amendments to the original rules adopted in accordance with this chapter; ~~and~~

B. When an aggrieved party within 30 days of the commissioner's decision appeals a decision of the commissioner regarding a livestock operations permit under section 4205, a request for a variance under section 4204, subsection 8 or a certification under section 4210, the board shall hold a hearing in accordance with Title 5, chapter 375, subchapter ~~IV~~ 4. The board may affirm, amend or reverse a permit or certification decision made by the commissioner. The board's decision is a final agency action; ~~and~~

C. When an aggrieved party within 30 days of the commissioner's decision appeals a decision of the commissioner regarding site-specific best management practices prescribed for a farm or other issue governed under Title 17, section 2701-B or 2805, the board shall hold a hearing in accordance with Title 5, chapter 375, subchapter