

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-SECOND LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 1, 2004 to March 30, 2005**

**FIRST SPECIAL SESSION**  
**April 4, 2005 to June 18, 2005**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JUNE 29, 2005**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 17, 2005**

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

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**Penmor Lithographers**  
**Lewiston, Maine**  
**2005**

**5. Revocation or suspension of permit.** Violation of any condition, restriction or limitation inserted in a permit by the municipal officers or county commissioners is cause for revocation or suspension of the permit by the same authority that issued the permit. A permit may not be revoked or suspended without a hearing and notice to the owner or the operator of the automobile graveyard, automobile recycling business or junkyard. Notice of hearing must be sent to the owner or operator by registered mail at least 7 but not more than 14 days before the hearing. The notice must state the time and the place of hearing and contain a statement describing the alleged violation of any conditions, restrictions or limitations inserted in the permit.

The municipal officers or county commissioners shall provide written or electronic notice of the hearing to the automobile dealer licensing section of the Department of the Secretary of State, Bureau of Motor Vehicles at least 7 days before the hearing.

See title page for effective date.

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## CHAPTER 425

H.P. 1055 - L.D. 1503

### An Act To Amend the Economic Development Statutes

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

**Sec. 1. 5 MRSA §934-A, sub-§1**, as amended by PL 2003, c. 673, Pt. M, §1, is repealed and the following enacted in its place:

**1. Major policy-influencing position.** The Deputy Commissioner is a major policy-influencing position within the Department of Economic and Community Development. The Deputy Commissioner is appointed by the Commissioner of Economic and Community Development and serves at the commissioner's pleasure. Notwithstanding any other provision of law, this position and its successor position is subject to this chapter.

**Sec. 2. 5 MRSA §3327, sub-§1, ¶G**, as amended by PL 2003, c. 9, §1, is further amended to read:

G. The Commissioner of Economic and Community Development or the commissioner's designee;

**Sec. 3. 5 MRSA §13033**, as amended by PL 2003, c. 681, §5, is further amended to read:

#### §13033. Membership

The commission consists of 10 members: the Chief Executive Officer of the Finance Authority of Maine or the chief executive officer's designee; the Commissioner of Economic and Community Development or the commissioner's designee; the House and Senate chairs of the joint standing committee of the Legislature having jurisdiction over business, research and economic development matters, who are ex officio, nonvoting members; the chair of the Small Business Development Centers Advisory Council; the District Director of the United States Small Business Administration's Maine District Office; and a designee from the administrative unit and 3 public members with expertise and knowledge in small business and entrepreneurship, appointed by the commissioner.

**Sec. 4. 5 MRSA §13058, sub-§1**, as enacted by PL 1987, c. 534, Pt. A, §§17 and 19, is amended to read:

**1. Employ and remove staff.** The commissioner shall employ and remove staff of the department. Persons employed in major policy-influencing positions, as defined in section 934-A, and professional staff whose positions were formerly located in the State Development Office shall serve at the pleasure of the commissioner. The office directors serve at the pleasure of the commissioner.

A. All professional positions ~~which~~ that are unclassified positions and members of bargaining units and are transferred to the department from units of State Government other than the State Development Office ~~shall~~ retain their current status, including their rights as members of bargaining units. ~~Classified~~ The position responsible for the administration of the tax incentive programs and classified, clerical and other non-professional staff shall must be hired pursuant to the Civil Service Law for classified state employees.

B. The commissioner may employ or engage such outside technical or professional consultants as may be necessary or appropriate to assist the office in carrying out its functions and may enter into contracts with other boards, commissions, departments and divisions of the State, with the University of Maine System or with private entities to assist ~~him~~ the commissioner in carrying out ~~his~~ the commissioner's duties under this chapter.

**Sec. 5. 5 MRSA c. 383, sub-c. 1-B**, as amended, is repealed.

**Sec. 6. 5 MRSA §13105, sub-§1**, as enacted by PL 2003, c. 673, Pt. M, §8, is amended to read:

**1. Office established.** The commissioner shall establish the Office of Innovation, referred to in this

subchapter as "the office." The office shall encourage and coordinate the State's research and development activities to foster collaboration among the State's higher education and nonprofit research institutions and the business community. The commissioner shall appoint the State Science Advisor, who shall serve as the Director of the Office of Innovation.

**Sec. 7. 5 MRSA §13109, sub-§4**, as enacted by PL 2003, c. 673, Pt. M, §8, is repealed and the following enacted in its place:

**4. Payments to fund.** Notwithstanding section 1585 or any other provision of law, agencies or private entities that receive General Fund or general obligation bonds for research and development shall contribute to the fund an amount not to exceed 0.8% of General Fund appropriations received by and general obligation bonds issued to an agency or entity for research and development efforts. Private entities that receive funds from general obligation bonds for research and development efforts shall pay to the Treasurer of State in the fiscal year in which the general obligation bond was issued an amount not to exceed 0.8% of the proceeds from the bond issue in any fiscal year, which payment must be made from available resources other than bond proceeds. Only those programs that receive \$500,000 or more in research and development appropriations in any fiscal year, or those entities that receive funds from a general obligation bond issue of \$500,000 or more for research and development efforts in any fiscal year, as identified and certified by the Office of Innovation and the Office of Fiscal and Program Review, may be assessed. The Office of Innovation shall provide to each agency or private entity an annual budget for the fund and a detailed account of each institution's required assessment. Total payments made pursuant to this section may not exceed \$120,000 in any fiscal year.

**Sec. 8. 5 MRSA §13109, sub-§5**, as enacted by PL 2003, c. 673, Pt. M, §8, is repealed.

**Sec. 9. 5 MRSA §13120-B, sub-§1**, as enacted by PL 2001, c. 703, §6, is amended to read:

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

**Sec. 10. 5 MRSA §13120-B, sub-§5**, as enacted by PL 2001, c. 703, §6, is repealed.

**Sec. 11. 5 MRSA §13120-B, sub-§11** is enacted to read:

**11. Speculative industrial building.** "Speculative 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.

**Sec. 12. 5 MRSA §13120-C, sub-§1, ¶A**, as enacted by PL 2001, c. 703, §6, is amended to read:

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

**Sec. 13. 5 MRSA §13120-D, sub-§1, ¶B**, as enacted by PL 2001, c. 703, §6, is amended to read:

B. Two ex officio members:

(1) The Commissioner of Economic and Community Development or the commissioner's designee; and

(2) The Chief Executive Officer of the Finance Authority of Maine or the chief executive officer's designee.

**Sec. 14. 5 MRSA §13120-I, sub-§1**, as amended by PL 2003, c. 281, §4, is further amended to read:

**1. Authorization.** The authority may provide by resolution for the issuance of bonds for the purpose of funding the ~~Community~~ Speculative Industrial Buildings Fund, 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. 15. 5 MRSA §13120-I, sub-§3**, as enacted by PL 2001, c. 703, §6, is amended to read:

**3. Money received.** All money received from any bonds issued must be applied solely for loans to municipalities or local development corporations for ~~community~~ speculative 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.

**Sec. 16. 5 MRSA §13120-J, sub-§1**, as enacted by PL 2001, c. 703, §6, is amended to read:

**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 personal 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.

**Sec. 17. 5 MRSA §13120-N**, as amended by PL 2003, c. 281, §§5 and 6, is further amended to read:

**§13120-N. Speculative industrial building program**

The authority may assist a municipality or local development corporation to construct a community speculative 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 speculative industrial building project may be financed in a municipality.

C. The authority shall charge interest on loans or funds provided under this section to the municipality or local development corporation for a community speculative 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 speculative industrial building projects;
- (2) The process through which municipalities and local development corporations must apply for community speculative 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.

Rules adopted under this paragraph are routine technical rules pursuant to chapter 375, subchapter 2-A.

**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 speculative industrial building on property that is appropriate to the size and location of the community speculative 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 speculative 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 speculative~~ 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 speculative~~ industrial building is occupied.

C. A ~~community speculative~~ 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 speculative~~ 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 Speculative Industrial Buildings Fund~~ 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.

**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 speculative~~ 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 speculative~~ industrial building.

**5. Taxes.** While a ~~community speculative~~ 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 speculative~~ industrial building subject to the provisions of this subchapter.

**Sec. 18. 5 MRSA §13120-P, sub-§§2 and 3,** as amended by PL 2003, c. 281, §8, are further amended to read:

**2. Redevelopment of property.** Except as provided in section 13120-Q, the authority may 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, security or other 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~~ The municipality or local development corporation or another entity will provide funding for the project equal to 25% of the funding that the authority provides to the project.

The authority may finance undeveloped land or personal property only if the undeveloped land or personal property is part of the overall redevelopment project.

**3. Development of property.** Except as provided in section 13120-Q, the authority may 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, loan or other 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~~ The municipality or, local development corporation or another entity will provide funding for the project equal to 25% of the funding that the authority provides to the project.

The authority may finance undeveloped land or personal property only if the undeveloped land or personal property is part of the overall development project.

**Sec. 19. 5 MRSA §15302, sub-§3, ¶¶A and C**, as enacted by PL 1999, c. 401, Pt. AAA, §3, are amended to read:

A. The Governor shall appoint 9 10 voting directors, 7 8 of whom must be representatives of targeted technologies. The other 2 directors must have demonstrated significant experience in finance, lending or venture capital. In making the appointments from targeted technologies, the Governor shall consider recommendations submitted by representatives of targeted technology sectors. Directors of the board appointed by the Governor are entitled to receive reimbursement at the legislative rate for necessary expenses for their attendance at authorized meetings of the board.

~~C. The President of the Maine Science and Technology Foundation or the president's designee and the Director of the State Planning Office or the director's designee are~~ is an ex officio nonvoting ~~directors~~ director.

**Sec. 20. 5 MRSA §15306**, as enacted by PL 1999, c. 401, Pt. AAA, §3, is amended to read:

**§15306. Liability of officers, directors and employees**

All officers, directors, employees and other agents of the institute entrusted with the custody of the securities of the institute or authorized to disburse the funds of the institute must be bonded either by a blanket bond or by individual bonds with a minimum limitation of \$100,000 coverage for each person covered by the bond or bonds, or equivalent fiduciary liability insurance, conditioned upon the faithful performance of their duties. The premiums for the bond or bonds must be paid out of the assets of the institute.

**Sec. 21. 5 MRSA §15308, sub-§2**, as enacted by PL 1999, c. 401, Pt. AAA, §3, is repealed.

**Sec. 22. 10 MRSA §363, sub-§1-A**, as amended by PL 2003, c. 385, §1, is further amended to read:

**1-A. Procedure.** For each calendar year, the Legislature may establish a procedure for allocation of the entire amount of the state ceiling by allocating an amount of the state ceiling to the specific issuers designated in this section for further allocation by each specific issuer to itself or to other issuers for specific bond issues requiring an allocation of the state ceiling or for carryforward. This procedure supersedes the federal formula to the full extent that the United States Code, Title 26, authorizes the Legislature to vary the federal formula. Allocations may be reviewed by the Legislature periodically and unused allocations may be reallocated to other issuers; however, notwithstanding the existence of legislation allocating or reallocating all or any portion of the state ceiling, at any time during the period from September 1st to and including December 31st of any calendar year, and at any other time that the Legislature is not in session, a group consisting of a representative of each of the issuers specifically identified in subsections 4, 5, 6, 7, 8 and 8-A; and a representative of the Governor designated each year by the Governor may, by written agreement executed by no fewer than 5 of the 6 voting representatives, allocate amounts not previously allocated and reallocate unused allocations from one of the specific issuers designated in this section to another specific issuer for further allocation or carryforward, with respect to the state ceiling for that calendar year only. In no event may any issuer have more than one vote. If an issuer is allocated a portion of the state ceiling in more than one category, the written agreement must be executed by no fewer than 4 of the 6 voting representatives. ~~A representative of the Department of Economic and Community Development designated each year by the Commissioner of Economic and Community Development shall participate as a nonvoting member of the group of representatives described in this subsection with~~

~~respect to agreements or recommendations for allocation or reallocation of the state ceiling.~~ Except for records containing specific and identifiable personal information acquired from applicants for or recipients of financial assistance, the records of the group of representatives described in this subsection are public records and the meetings of the group of representatives described in this subsection are public proceedings within the meaning of Title 1, chapter 13, subchapter 1.

**Sec. 23. 10 MRSA §384, sub-§1**, as enacted by PL 1995, c. 699, §3, is amended to read:

**1. Establishment; membership.** There is established as a body corporate and politic and a public instrumentality of the State the Small Enterprise Growth Board, which consists of 11 members appointed by the Governor as follows:

- A. An experienced commercial lender;
- B. An attorney with knowledge of securities law;
- C. Five members of the public who have knowledge and experience in managing or investing in high-growth small businesses;
- D. Three members of the public who have knowledge and experience in the development of technological innovation; and
- E. The Commissioner of Economic and Community Development or the commissioner's designee, who shall serve as a voting ex officio member of the board.

**Sec. 24. 10 MRSA §965, sub-§4, ¶A**, as amended by PL 1987, c. 534, Pt. B, §§7 and 23, is further amended to read:

- A. The Commissioner of Economic and Community Development or the commissioner's designee;

**Sec. 25. 20-A MRSA §12705, sub-§1**, as amended by PL 1995, c. 688, §11 and PL 2003, c. 20, Pt. OO, §2 and affected by §4, is further amended to read:

**1. Membership.** The board of trustees consists of 13 appointed voting members, one ex officio voting member and ~~2~~ 1 ex officio, nonvoting ~~members~~ member as follows:

- C. Twelve from the field of business and industry, the field of labor, the field of education and the general public;

D. The Commissioner of Education, or the commissioner's successor, who serves as an ex officio voting member;

~~E. The Commissioner of Economic and Community Development, or the commissioner's successor, who serves as an ex officio nonvoting member;~~

F. The Commissioner of Labor, or the commissioner's successor, who serves as an ex officio nonvoting member; and

G. One member who is from the student body of one of the community college campuses at the time of appointment and who is a permanent resident of the State. To be eligible for appointment as a student member, a student must be enrolled for a minimum of 12 credit hours per semester.

The student member is a full voting member of the board of trustees and serves for a 2-year term and until a successor is qualified. By January 1st of every 2nd year, the president of the system shall solicit a list of 6 eligible students from the student governments from 6 of the campuses within the Maine Community College System, the 7th campus being excluded in accordance with this subsection. The Governor shall then nominate a student trustee chosen from the list within 30 days of receiving the list of names. The nomination is subject to review by the joint standing committee of the Legislature having jurisdiction over education matters and to confirmation by the Legislature. The student trustee may not come from the same campus in any 2 consecutive terms. In the event that the student trustee transfers from one campus to another during the student's term of appointment, the student's original campus of enrollment is the campus excluded when the next student trustee is appointed.

See title page for effective date.

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## CHAPTER 426

H.P. 477 - L.D. 657

### An Act To Amend the Axle Weight Laws

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

**Sec. 1. 29-A MRSA §2357, sub-§7**, as amended by PL 2001, c. 513, §1, is further amended to read: