

# Title 5: ADMINISTRATIVE PROCEDURES AND SERVICES

## Chapter 383: ECONOMIC AND COMMUNITY DEVELOPMENT

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## Maine Revised Statutes

### Title 5: ADMINISTRATIVE PROCEDURES AND SERVICES

#### Chapter 383: ECONOMIC AND COMMUNITY DEVELOPMENT

##### Subchapter 1: GENERAL DEPARTMENT STRUCTURE AND AUTHORITY

##### Article 1: DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT: GENERAL ORGANIZATION MISSION AND RESPONSIBILITIES

#### **§13051. LEGISLATIVE FINDINGS**

*(REPEALED)*

##### SECTION HISTORY

1987, c. 534, §§A17,A19 (NEW). 1987, c. 816, §P4 (AMD). 1991, c. 622, §F5 (AMD). RR 2013, c. 2, §5 (COR). 2017, c. 264, §1 (RP).

#### **§13052. PURPOSE**

The Legislature finds that the decentralization of economic growth and development programs among several state agencies without any coordination of programs and agencies and without coordination with the State's municipal and regional economic efforts is not in the best interest of the State. The Legislature further finds that the State's economic development programs and policies and the economies of municipalities and regions mutually affect each other. [1987, c. 534, Pt. A, §§17, 19 (NEW).]

For state economic growth and development policies and programs to realize the greatest possible degree of effectiveness, it is necessary to coordinate these policies and programs on the state level, as well as with local and regional levels. It is necessary to formulate and implement economic development policies and programs that are consistent with an economic development strategy for the State. [1987, c. 534, Pt. A, §§17, 19 (NEW).]

##### SECTION HISTORY

1987, c. 534, §§A17,A19 (NEW). 1987, c. 816, §P5 (AMD). 1991, c. 622, §F6 (AMD).

#### **§13053. ESTABLISHMENT**

The Department of Economic and Community Development is established to encourage economic and community planning and development policies and programs of the State and to coordinate these programs and policies within the context of a state economic development plan and the long-term economic plan for the State developed pursuant to Title 10, section 929-A, subsection 1. The department is also established to work with municipalities and regional planning and economic development organizations to build strong local and regional economies and to implement programs and services through these local and regional organizations. [2017, c. 264, §2 (AMD).]

The department shall encourage the creation and retention of quality jobs through increased private sector investment and to enhance the quality of life for all by assisting local governments to plan and implement comprehensive community planning and development strategies. [1987, c. 816, Pt. P, §6 (AMD).]

##### SECTION HISTORY

1987, c. 534, §§A17,A19 (NEW). 1987, c. 816, §P6 (AMD). 2017, c. 264, §2 (AMD).

## §13054. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1987, c. 534, Pt. A, §§17, 19 (NEW).]

**1. Commissioner.** "Commissioner" means the Commissioner of Economic and Community Development.

[ 2003, c. 451, Pt. L, §1 (AMD) .]

**2. Department.** "Department" means the Department of Economic and Community Development.

[ 2003, c. 451, Pt. L, §1 (AMD) .]

**2-A. Permit.** "Permit" means a license, certificate, registration or other authorization required by a governmental agency for a business undertaking. "Permit" includes, but is not limited to, a permit by rule issued by the Department of Environmental Protection in accordance with Title 38, section 344, subsection 7.

[ 1991, c. 826, §1 (NEW) .]

**3. State Development Office.** "State Development Office" means the Department of Economic and Community Development.

[ 1987, c. 534, Pt. A, §§17, 19 (NEW) .]

### SECTION HISTORY

1987, c. 534, §§A17,A19 (NEW). 1991, c. 826, §1 (AMD). 2003, c. 20, §Q1 (AMD). 2003, c. 451, §L1 (AMD).

## §13055. ORGANIZATION OF DEPARTMENT

The department shall consist of the organizations as established in this section to fulfill the purposes and mission as stated in this chapter and in a manner consistent with the State's economic development strategy. [1987, c. 534, Pt. A, §§17, 19 (NEW).]

**1. Organizations.** The department contains the following organizations:

A. The Office of Business Development; [2003, c. 198, §1 (AMD).]

B. The Office of Tourism; [2003, c. 673, Pt. M, §2 (AMD).]

C. [1989, c. 875, Pt. M, §§3, 13 (RP).]

D. [1989, c. 875, Pt. M, §§3, 13 (RP).]

E. [1991, c. 622, Pt. F, §7 (RP).]

F. The Office of Community Development; and [2003, c. 673, Pt. M, §2 (AMD).]

G. The Office of Innovation. [2003, c. 673, Pt. M, §2 (NEW).]

[ 2003, c. 673, Pt. M, §2 (AMD) .]

### SECTION HISTORY

1987, c. 534, §§A17,A19 (NEW). 1987, c. 816, §§P7,P7A (AMD). 1989, c. 502, §B73 (AMD). 1989, c. 875, §§M2,3,13 (AMD). 1991, c. 622, §F7 (AMD). 1995, c. 560, §B2 (AMD). 2003, c. 198, §1 (AMD). 2003, c. 673, §M2 (AMD).

## §13056. DUTIES AND RESPONSIBILITIES OF DEPARTMENT

The department shall have the duties and responsibilities to: [1987, c. 534, Pt. A, §§17, 19 (NEW).]

**1. Implement policies and programs.** Implement economic development policies and programs in compliance with the state economic development strategy;

[ 1987, c. 534, Pt. A, §§17, 19 (NEW) .]

**2. Work with other organizations.** Work with other state agencies, municipalities and regional planning, community and economic development organizations for the purpose of assisting and encouraging the orderly and coordinated development of the State;

[ 1987, c. 534, Pt. A, §§17, 19 (NEW) .]

**3. Conduct planning and research.** Conduct planning, research and analysis for department needs, but not macroeconomic forecasting, which is the responsibility of the Governor's Office of Policy and Management. The department shall gather, maintain and have access to all economic and other information necessary to the performance of its duties;

[ 2011, c. 655, Pt. DD, §6 (AMD); 2011, c. 655, Pt. DD, §24 (AFF) .]

**4. Communication with private sector.** Communicate, on a regular basis, with the private sector to inform the private sector of departmental programs and services and to determine the needs, problems and opportunities of the private sector;

[ 1987, c. 534, Pt. A, §§17, 19 (NEW) .]

**5. Prepare and distribute publications.** Prepare and distribute publications that:

A. Describe various business development programs within the State that are available to Maine businesses; [1987, c. 534, Pt. A, §§17, 19 (NEW).]

B. Describe the various community and economic development programs of the State; and [1987, c. 534, Pt. A, §§17, 19 (NEW).]

C. Market the State of Maine and its communities as suitable areas for business development; [2003, c. 159, §1 (AMD).]

[ 2003, c. 159, §1 (AMD) .]

**6. Implement programs.** Implement economic and community development programs which are assigned to the department by the Governor or Legislature, including those formerly administered by the following other state agencies:

A. The programs of the State Development Office; and [1987, c. 534, Pt. A, §§17, 19 (NEW).]

B. Other community planning and development assistance programs of the State Planning Office; [2003, c. 159, §2 (AMD).]

[ 2003, c. 159, §2 (AMD) .]

**7. Contract for services.** When contracting for services, to the maximum extent feasible, seek to use the State's private sector resources in conducting studies, providing services and preparing publications; and

[ 2003, c. 159, §3 (AMD) .]

**8. Lead agency for business assistance in response to certain events.** Be the lead agency for the State to provide information and business assistance to employers and businesses as part of the State's response to an event that causes the Department of Labor to carry out rapid-response activities as described in 29 United States Code, Sections 2801 to 2872 (2002).

[ 2003, c. 159, §4 (NEW) .]

SECTION HISTORY

1987, c. 534, §§A17,A19 (NEW). 2003, c. 159, §§1-4 (AMD). 2011, c. 655, Pt. DD, §6 (AMD). 2011, c. 655, Pt. DD, §24 (AFF).

**§13056-A. COMPREHENSIVE EVALUATION OF STATE INVESTMENTS IN ECONOMIC DEVELOPMENT**

*(REPEALED)*

SECTION HISTORY

2007, c. 434, §1 (NEW). 2011, c. 563, §2 (AMD). 2017, c. 264, §3 (RP).

**§13056-B. REPORTING REQUIREMENTS OF RECIPIENTS OF ECONOMIC DEVELOPMENT FUNDING**

*(REPEALED)*

SECTION HISTORY

2007, c. 434, §2 (NEW). 2009, c. 337, §1 (AMD). 2017, c. 264, §4 (RP).

**§13056-C. MAINE ECONOMIC DEVELOPMENT EVALUATION FUND**

*(REPEALED)*

SECTION HISTORY

2007, c. 434, §3 (NEW). 2009, c. 337, §2 (AMD). 2011, c. 563, §3 (AMD). 2017, c. 264, §5 (RP).

**§13056-D. COMMUNITIES FOR MAINE'S FUTURE PROGRAM**

**1. Program established; administration.** The Communities for Maine's Future Program, referred to in this section as "the program," is established within the department to assist and encourage communities to revitalize and to promote community development and enhance projects. The department shall administer the program to provide funding for the rehabilitation, revitalization and enhancement of downtowns and village centers and main streets in the State. All funds received for this program must be deposited into the Communities for Maine's Future Fund established in subsection 7.

[ 2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF) .]

**2. Review panel.** The Community for Maine's Future Review Panel, referred to in this section as "the panel," is established to evaluate proposals and determine funding under the program. The panel consists of:

A. The commissioner; [2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF) .]

B. The Director of the Maine Historic Preservation Commission; [2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF) .]

C. The Commissioner of Agriculture, Conservation and Forestry or the commissioner's designee; and [2011, c. 655, Pt. EE, §7 (AMD); 2011, c. 655, Pt. EE, §30 (AFF); 2011, c. 657, Pt. W, §6 (REV).]

D. Four members of the public, one with experience in economic and community development, one with experience in historic preservation, one with experience in downtown revitalization and one with experience in tourism development and promotion. The first 2 of these members are appointed by the President of the Senate and the remaining 2 by the Speaker of the House. [2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

[ 2011, c. 655, Pt. EE, §7 (AMD); 2011, c. 655, Pt. EE, §30 (AFF); 2011, c. 657, Pt. W, §6 (REV) .]

**3. Review process.** The panel shall review proposals for funding under the program in accordance with this subsection.

A. The panel shall establish the deadline by which proposals must be postmarked and received. [2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

B. Department staff shall undertake the initial review and preliminary scoring of proposals. [2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

C. A subcommittee appointed by the panel to score proposals shall review and determine the final score for the proposals. [2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

D. A subcommittee appointed by the panel to nominate finalists shall review all of the proposals, identify issues for full review and discussion by the panel and recommend project finalists to the full panel for detailed review and consideration. [2017, c. 1, §1 (COR).]

E. The panel shall review all the proposals submitted, select the finalists and allocate funding. [2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

In reviewing proposals, the panel shall use the scoring system established in subsection 5.

[ 2017, c. 1, §1 (COR) .]

**4. Applicant requirements.** An applicant for funding under this section must:

A. Be a city or town; and [2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

B. Demonstrate the capacity to undertake the project with a reasonable prospect of bringing it to a successful conclusion. In assessing an applicant's ability to meet the requirements of this paragraph, the panel may consider all relevant factors, including but not limited to the applicant's level of debt; fund-raising ability; past economic and community development activities; grants from federal, state or local sources; previous historic preservation, rehabilitation or enhancement activity; organizational history; scope of economic or revitalization vision; and evidence of success in previous efforts. [2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

[ 2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF) .]

**5. Scoring system.** The department and the panel shall develop a scoring system for use by the panel in evaluating proposals under this section. The scoring system must be designed to identify those projects that are most aligned with the State's economic and community development and historic preservation and enhancement priorities. The scoring system must assign points according to the relative value of:

A. The economic significance of the proposed project to the immediate vicinity and to the State as a whole; [2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

- B. The level of compatibility with the historic community character; [2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]
- C. The value of the proposed project with respect to historic preservation and rehabilitation; [2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]
- D. The value of the proposed project with respect to downtown revitalization; [2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]
- E. The value of the proposed project to encourage or accomplish sustainable, mixed-use, pedestrian-oriented or transit-oriented development; [2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]
- F. The extent to which the proposed project meets or exceeds minimum energy efficiency standards, uses green building practices or materials, or both; [2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]
- G. The value of the proposed project with respect to tourism promotion and development; [2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]
- H. The degree of community support for the proposed investment; [2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]
- I. The extent to which the proposed project involves other preservation partnerships and meets multiple criteria within this section; [2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]
- J. The match provided by the applicant; and [2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]
- K. Related public funding sources supporting the project. [2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

[ 2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF) .]

**6. Additional criteria.** In addition to evaluating the proposals using the scoring system established in subsection 5, the panel shall also consider criteria in reviewing a proposal:

- A. The level to which a proposal supports the open space or recreation objectives, or both, of a local comprehensive plan; [2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]
- B. The extent to which a project is consistent with an adopted comprehensive plan that meets the standards of the laws governing growth management pursuant to Title 30-A, chapter 187; [2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]
- C. The extent to which a project is consistent with an existing strategic plan for downtown or village center revitalization; [2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]
- D. The current and anticipated demand for use and diversity of uses of this site; [2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]
- E. The extent to which the project is consistent with any relevant regional economic development plan or other relevant regional plan; and [2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]
- F. Any additional benefits that contribute to the character of the town or region in which the project is situated, including the rehabilitation or renovation of mills and other buildings in the community. [2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

[ 2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF) .]

**7. Communities for Maine's Future Fund created.** The Communities for Maine's Future Fund, referred to in this subsection as "the fund," is established to provide funding for the rehabilitation, revitalization and enhancement of downtowns and village centers and main streets in the State. The fund is a dedicated, nonlapsing fund, and all revenues deposited in the fund remain in the fund and must be disbursed in accordance with this section.

[ 2017, c. 1, §2 (COR) .]

**8. Rules.** The department may adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[ 2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF) .]

#### SECTION HISTORY

2009, c. 414, Pt. G, §1 (NEW). 2009, c. 414, Pt. G, §5 (AFF). 2011, c. 655, Pt. EE, §7 (AMD). 2011, c. 655, Pt. EE, §30 (AFF). 2011, c. 657, Pt. W, §6 (REV). RR 2017, c. 1, §§1, 2 (COR).

### §13056-E. ASSISTANCE FROM COMMUNITIES FOR MAINE'S FUTURE FUND

**1. Application for downtown improvement or asset grants.** In addition to the other forms of financial assistance available, an eligible municipality or group of municipalities may apply for a downtown and community development grant from the Communities for Maine's Future Fund established in section 13056-D, subsection 7 and referred to in this section as "the fund," the proceeds of which must be used to acquire, design, plan, construct, enlarge, repair, protect or enhance downtown improvements or assets. The department may prescribe an application form or procedure for an eligible municipality or group of municipalities to apply for a grant under this section. The application must include all information necessary for the purpose of implementing this section.

[ 2017, c. 1, §3 (COR) .]

**2. Eligibility certification.** In addition to criteria established in section 13056-D:

A. The applicant must certify that it has secured all permits, licenses and approvals necessary to construct the improvements to be financed by the grant; [2009, c. 414, Pt. G, §2 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

B. The department must affirm that the applicant has met the conditions of this paragraph.

(1) A municipality is eligible to receive a grant if that municipality has adopted a growth management program certified under Title 30-A, section 4347-A that includes a capital improvement program composed of:

(a) An assessment of all public facilities and services, including, but not limited to, roads and other transportation facilities, sewers, schools, parks and open space, fire departments and police departments;

(b) An annually reviewed 5-year plan for the replacement and expansion of existing public facilities or the construction of such new facilities as are required to meet expected growth and economic development. The plan must include projections of when and where those facilities will be required; and

(c) An assessment of the anticipated costs for replacement, expansion or construction of public facilities, an identification of revenue sources available to meet these costs and recommendations for meeting costs required to implement the plan.

Subject to the limitations of this subsection, 2 or more municipalities that each meet the requirements of divisions (a), (b) or (c) may jointly apply for assistance under this section; and [2009, c. 414, Pt. G, §2 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

C. The department must affirm that the applicant has met the conditions of this paragraph. A municipality is eligible to receive a downtown improvement grant if that municipality has:

- (1) Shown broad-based support for downtown revitalization;
- (2) Established a comprehensive downtown revitalization work plan, including a definition and a map of the affected area;
- (3) Developed measurable goals and objectives;
- (4) Demonstrated a historic preservation ethic;
- (5) Developed the capacity to report on the progress of the downtown program; and
- (6) Established the ability and willingness to support integrated marketing efforts for retailers, services, activities and events. [2009, c. 414, Pt. G, §2 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

[ 2009, c. 414, Pt. G, §2 (NEW); 2009, c. 414, Pt. G, §5 (AFF) .]

**3. Criteria; conditions for downtown village center grants.** The department shall develop criteria and conditions for the award of downtown and village center grants to eligible municipalities subject to the requirements of this section, including:

A. Basic criteria for redevelopment or revitalization of a downtown growth area as defined under Title 30-A, section 4301, subsection 6-C or village; [2009, c. 414, Pt. G, §2 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

B. A preference for capital investment projects that provide substantial regional benefits; [2009, c. 414, Pt. G, §2 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

C. The adoption of other criteria as the department determines necessary to ensure that grants made under this section maximize the ability of municipalities to accommodate planned growth and economic development; [2009, c. 414, Pt. G, §2 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

D. Consistency with the municipality's comprehensive plan or local growth management program; [2009, c. 414, Pt. G, §2 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

E. Leveraging of other private, federal or local dollars; and [2009, c. 414, Pt. G, §2 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

F. Economic gain to the community, including tax income and jobs created. [2009, c. 414, Pt. G, §2 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

[ 2009, c. 414, Pt. G, §2 (NEW); 2009, c. 414, Pt. G, §5 (AFF) .]

**4. Coordination.** The department shall coordinate the grants made under this section with community assistance loans and grants administered by the department and with other state assistance programs designed to accomplish similar objectives, including those administered by the Department of Education, the Department of Transportation, the Finance Authority of Maine, the Maine State Housing Authority, the Maine Historic Preservation Commission, the Department of Administrative and Financial Services, the Department of Agriculture, Conservation and Forestry and the Department of Environmental Protection.

[ 2011, c. 655, Pt. JJ, §2 (AMD); 2011, c. 655, Pt. JJ, §41 (AFF); 2011, c. 657, Pt. W, §5 (REV) .]



**5. Report to the Legislature.** The department shall report to the joint standing committee of the Legislature having jurisdiction over economic development matters no later than January 1st of each odd-numbered year on the grants program. The department may make any recommendations it finds necessary to more effectively achieve the purposes of this section, including the appropriation of any necessary additional funds.

[ 2009, c. 414, Pt. G, §2 (NEW); 2009, c. 414, Pt. G, §5 (AFF) .]

#### SECTION HISTORY

2009, c. 414, Pt. G, §2 (NEW). 2009, c. 414, Pt. G, §5 (AFF). 2011, c. 655, Pt. JJ, §2 (AMD). 2011, c. 655, Pt. JJ, §41 (AFF). 2011, c. 657, Pt. W, §5 (REV). RR 2017, c. 1, §3 (COR).

## §13056-F. HISTORIC PRESERVATION REVOLVING FUND

**1. Fund established; administration.** The Historic Preservation Revolving Fund, referred to in this section as "the revolving fund," is established within the Maine Historic Preservation Commission, referred to in this section as "the commission," in order to provide funds to qualified nonprofit historic preservation organizations in the State for the purpose of acquisition of endangered historic properties of local, state or national significance, as determined by the commission, for resale to new owners who agree to preserve, rehabilitate or restore the properties as necessary, subject to preservation easements or covenants held by the qualified organization. The commission may provide funds to the qualified organization for purposes outlined in subsection 4.

All funds received must be deposited into the revolving fund.

[ 2009, c. 414, Pt. G, §3 (NEW); 2009, c. 414, Pt. G, §5 (AFF) .]

**2. Review process.** The commission shall review proposals for acquisition of historic properties by qualified organizations with funds from the revolving fund in accordance with this subsection.

[ 2009, c. 414, Pt. G, §3 (NEW); 2009, c. 414, Pt. G, §5 (AFF) .]

**3. Applicant requirements.** An applicant for funding under this section must be a qualified nonprofit historic preservation organization. For purposes of this section, "qualified nonprofit historic preservation organization" or "qualified organization" means a nonprofit preservation or historical organization whose purposes include preservation of historic property or a governmental body. A qualified organization must also demonstrate previous historic preservation, rehabilitation or acquisition activity; availability of staff with demonstrated professional training and experience in administration of historic preservation programs; and familiarity with preservation standards and with acquisition and resale of historic property.

The qualified organization must also demonstrate the capacity to undertake the project with a reasonable prospect of bringing it to a successful conclusion. In assessing an applicant's ability to meet the requirements of this subsection, the commission may consider all relevant factors, including but not limited to the applicant's organizational purpose; organizational history; previous historic preservation, rehabilitation or acquisition activity; scope of economic or revitalization vision; and evidence of success in previous efforts.

[ 2009, c. 414, Pt. G, §3 (NEW); 2009, c. 414, Pt. G, §5 (AFF) .]

**4. Revolving fund expenditures.** Payment from the revolving fund is made by the commission to qualified nonprofit historic preservation organizations for the purpose of preservation of significant endangered historic properties through acquisition and resale. Payments may include all costs associated with such an acquisition and carrying costs, as well as stabilization, rehabilitation and completion of a conditions study by the qualified organization for approval by the commission and may also include a fee for establishing a preservation easement or covenant to be held by the qualified organization. When possible,

the qualified organization shall seek to secure the qualified property by option to be executed at closing to minimize carrying costs. The qualified organization shall seek to resell the property at fair market value to a new private, nonprofit or public owner who agrees to preserve, rehabilitate or restore the property as provided in the easement or covenant. Net proceeds from the resale of properties must be returned to the revolving fund within the commission. Funds returned to the revolving fund are to be used exclusively for the acquisition of additional historic properties, except that no more than 5% of the fund balance may be used by the commission to fund administration of the program by cooperating organizations.

[ 2009, c. 414, Pt. G, §3 (NEW); 2009, c. 414, Pt. G, §5 (AFF) .]

**5. Evaluation criteria.** The commission shall evaluate proposals under this section. The commission shall seek to fund those proposals that best meet its historic preservation priorities for the State and region and that support its economic and community development and enhancement priorities and shall evaluate properties in such proposals relative to:

- A. The level of historic or architectural significance; [2009, c. 414, Pt. G, §3 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]
- B. The value with respect to historic preservation and rehabilitation; [2009, c. 414, Pt. G, §3 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]
- C. The degree to which the property is endangered; [2009, c. 414, Pt. G, §3 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]
- D. The economic significance to the immediate vicinity and to the State; [2009, c. 414, Pt. G, §3 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]
- E. The value with respect to downtown revitalization, open space conservation or other public purposes; [2009, c. 414, Pt. G, §3 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]
- F. The availability at fair market value; [2009, c. 414, Pt. G, §3 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]
- G. The degree to which the property is available below fair market value; [2009, c. 414, Pt. G, §3 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]
- H. The potential marketability; [2009, c. 414, Pt. G, §3 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]
- I. The feasibility of rehabilitation or restoration and reuse; [2009, c. 414, Pt. G, §3 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]
- J. The value of the proposed property with respect to tourism promotion and development; [2009, c. 414, Pt. G, §3 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]
- K. The degree of community support; and [2009, c. 414, Pt. G, §3 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]
- L. The extent to which the proposed project involves partnerships or meets multiple criteria. [2009, c. 414, Pt. G, §3 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

[ 2009, c. 414, Pt. G, §3 (NEW); 2009, c. 414, Pt. G, §5 (AFF) .]

**6. Rules.** The commission may adopt rules to implement this section. Rules adopted to implement this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[ 2009, c. 414, Pt. G, §3 (NEW); 2009, c. 414, Pt. G, §5 (AFF) .]

#### SECTION HISTORY

2009, c. 414, Pt. G, §3 (NEW). 2009, c. 414, Pt. G, §5 (AFF).

## §13056-G. MAINE COWORKING DEVELOPMENT FUND

The Maine Coworking Development Fund is established within the department to strengthen opportunities for entrepreneurship, stimulate innovation in the State by increasing the availability of collaborative workspace environments and address a regional market demand for affordable work environments that support communication, information sharing and networking opportunities. The fund is established to match public and private funds to further the purposes of this section. [2015, c. 362, §1 (NEW).]

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Collaborative workspace" means coworking, shared working environments that promote collaboration, interaction, socialization and coordination among tenants through the clustering of multiple businesses or individuals within the shared work environment. [2015, c. 362, §1 (NEW).]

B. "Collaborative workspace business" means a corporation, partnership, limited liability corporation, professional corporation or other legal business entity recognized under the laws of the State engaging or proposing to engage in economic activity within the State. [2015, c. 362, §1 (NEW).]

C. "Fund" means the Maine Coworking Development Fund established in this section. [2015, c. 362, §1 (NEW).]

D. "Participant" means a sole proprietorship, business partnership or corporation operating a business for profit through which the owner accesses business development services in a collaborative workspace. [2015, c. 362, §1 (NEW).]

E. "Tenant" means a sole proprietorship, business partnership or corporation operating a business for profit and leasing or otherwise occupying collaborative workspace from a collaborative workspace business. [2015, c. 362, §1 (NEW).]

F. "Transformative development" means redevelopment on a scale and of a character capable of catalyzing significant follow-on private investment, leading over time to transformation of an entire downtown or urban neighborhood and consistent with local plans. Transformative development may involve major investment in new construction, rehabilitation and adaptive reuse or multiple smaller investments on a sustained basis. [2015, c. 362, §1 (NEW).]

[2015, c. 362, §1 (NEW).]

**2. Organization.** The department has all the powers and authority not explicitly prohibited by law necessary or convenient to carry out and effectuate the functions, duties and responsibilities of the fund, including, but not limited to:

A. Promoting transformative development by taking actions in partnership with private enterprise and the Federal Government to:

- (1) Make equity investments and provide technical assistance to revitalize and support residential, commercial, industrial and institutional development, or any mix of such uses, in order to promote collaborative workspaces;
- (2) Promote the creation of collaborative workspaces by providing financial assistance for capital investments in underutilized buildings;
- (3) Foster collaboration and connections among innovative and creative enterprises by providing central locations for such businesses or individuals to work in an environment designed to promote sharing of resources, experience and expertise;
- (4) Support partnerships between municipalities, property owners and collaborative workspace businesses to establish such collaborative workspaces; and

(5) Require such collaborative workspaces to provide shared space that promotes the interaction, socialization and coordination among tenants and participants through the clustering of multiple tenants and participants within the collaborative workspace; [2015, c. 362, §1 (NEW).]

B. Soliciting, borrowing, accepting and receiving money from a public or private source to augment state contributions to the fund; [2015, c. 362, §1 (NEW).]

C. Approving an annual budget for the fund and investing and expending money from the fund; [2015, c. 362, §1 (NEW).]

D. Contracting with public entities as necessary to further the purposes of this section; [2015, c. 362, §1 (NEW).]

E. Carrying forward any unexpended state appropriations and allocations into succeeding fiscal years; [2015, c. 362, §1 (NEW).]

F. Receiving and accepting allocations, appropriations, grants or contributions of money to be held, used or applied to carry out this subchapter, subject to the conditions upon which the grants and contributions may be made, including, but not limited to, appropriations, allocations, grants or gifts from any federal agency or governmental subdivision or the State and its agencies. The amounts of the revenues generated by the investment of money contained in the fund may be used to pay the department's operating expenses associated with the operation of the fund; [2015, c. 362, §1 (NEW).]

G. Engaging in matching grants activities, including, but not limited to, federal, private and foundation awards that require state funding matches and are considered consistent with the purposes of the fund; and [2015, c. 362, §1 (NEW).]

H. Awarding collaborative workspace grants in an amount not to exceed \$25,000 per collaborative workspace. All awards must be tied to specific and demonstrated financial need to achieve the goals set forth under this section. [2015, c. 362, §1 (NEW).]

[2015, c. 362, §1 (NEW).]

**3. Guidelines.** The department shall establish guidelines for the fund in accordance with this section.

A. Loans or grants made from the fund may be made to collaborative workspace businesses for building improvements used by the collaborative workspace tenants and participants as long as the use of the fund results in corresponding private investment that matches or exceeds the loans or grants from the fund. In the case of a grant, any participating collaborative workspace business shall at least match the investment of the fund. In the case of a loan, the department shall reasonably anticipate that its loan will leverage additional private investment in the property. [2015, c. 362, §1 (NEW).]

B. The department shall solicit applications for grants or loans from the fund through a request for proposals, which must include, at a minimum, the following criteria for the submission of applications:

- (1) A description of the parties involved in the project, including the professional expertise and qualifications of the principals;
- (2) A description of the scope of work that will be undertaken by each party involved in the project;
- (3) The proposed budget, including verification of funding from other sources;
- (4) A statement of the project objective, including specific information on how the project will promote the use of the space as a collaborative workspace;
- (5) A statement that sets forth the implementation plan, the facilities and resources available or needed for the project and the proposed commencement and termination dates of the project;
- (6) A description of the expected significance of the project, including a description of the market demand for the type of collaborative workspace proposed in the region in which the space will be located and the number of tenants and participants that will be served as a result of the project;

(7) Guidelines for the review and approval of applications that include preferences for applications that propose to redevelop existing properties located in the downtown area of a municipality, dedicate at least 25% of accessible space to collaborative use and support a cluster of at least 5 separate tenants;

(8) A description of the ability of the collaborative workspace business to carry out the provisions of this section;

(9) A summary of the proposed economic impact of the collaborative workspace on the community;

(10) A description of plans for conformance with regional and local economic development plans, if such plans exist; and

(11) A statement of the proximity of the collaborative workspace to an accredited Maine community college, college or university, as defined in Title 20-A, section 12541, subsection 1. [2015, c. 362, §1 (NEW).]

C. The department shall enter into an agreement with each collaborative workspace business that receives a grant or loan under this section. The agreement must include performance measures and indicators to evaluate the performance of the collaborative workspace business in carrying out the activities described in its application and any other indicators determined to be necessary to evaluate the performance of the business. A collaborative workspace business shall submit an annual report for the department's review for the duration of the collaborative workspace project. [2015, c. 362, §1 (NEW).]

[ 2015, c. 362, §1 (NEW) . ]

**4. Duties of the collaborative workspace business.** A collaborative workspace business that receives assistance under this section shall:

A. Secure title on a facility for the collaborative workspace or a lease of a facility for the collaborative workspace; [2015, c. 362, §1 (NEW).]

B. Manage the physical development of the collaborative workspace, including the provision of common conference or meeting space; [2015, c. 362, §1 (NEW).]

C. Provide furnishings and equipment to the collaborative workspace to provide services to the tenants and participants; [2015, c. 362, §1 (NEW).]

D. Market the collaborative workspace and secure tenants and participants; [2015, c. 362, §1 (NEW).]

E. Provide financial consulting, marketing and management assistance services or arrange for the provision of these services for tenants and participants, including assistance in accessing private financial markets; [2015, c. 362, §1 (NEW).]

F. Set rental and service fees that would be revenue for the collaborative workspace business upon approval from the department; [2015, c. 362, §1 (NEW).]

G. Encourage the sharing of ideas between tenants and participants and otherwise aid the tenants and participants using innovative technology and facilities; [2015, c. 362, §1 (NEW).]

H. Establish policies and criteria for the acceptance of tenants and participants and for the termination of occupancy of tenants so as to maximize the opportunity to succeed for the greatest number of tenants and participants; and [2015, c. 362, §1 (NEW).]

I. Submit annual reports to the department that include a financial statement for the collaborative workspace business, a summary of the economic impact of the collaborative workspace on the local community and a list of tenants and participants in the collaborative workspace. [2015, c. 362, §1 (NEW).]

[ 2015, c. 362, §1 (NEW) . ]

**5. Report.** Beginning February 1, 2016, the department shall annually provide a report to the Governor, the President of the Senate and the Speaker of the House of Representatives that must include, but is not limited to:

- A. The number of applications for collaborative workspace submitted to the department; [ 2015, c. 362, §1 (NEW). ]
- B. The number of applications for collaborative workspace approved by the department; [ 2015, c. 362, §1 (NEW). ]
- C. The number of collaborative workspaces created through the fund; [ 2015, c. 362, §1 (NEW). ]
- D. The numbers of tenants and participants engaged in each collaborative workspace; [ 2015, c. 362, §1 (NEW). ]
- E. The number of jobs provided by each collaborative workspace; [ 2015, c. 362, §1 (NEW). ]
- F. The occupancy rate of each collaborative workspace; and [ 2015, c. 362, §1 (NEW). ]
- G. The number of tenants that have left collaborative workspace and that are operating in the State and the number of jobs they have provided. [ 2015, c. 362, §1 (NEW). ]

[ 2015, c. 362, §1 (NEW) . ]

#### SECTION HISTORY

2015, c. 362, §1 (NEW).

### §13057. COMMISSIONER; APPOINTMENT

The commissioner shall be appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over economic development matters and legislation and to confirmation by the Legislature. The commissioner shall serve at the pleasure of the Governor. [1987, c. 534, Pt. A, §§ 17, 19 (NEW). ]

**1. Qualifications.** The commissioner shall be a person with background, experience and interest in the areas of community and economic development.

[ 1987, c. 534, Pt. A, §§ 17, 19 (NEW) . ]

#### SECTION HISTORY

1987, c. 534, §§A17,A19 (NEW).

### §13058. DUTIES AND RESPONSIBILITIES OF COMMISSIONER

The department shall be administered by the commissioner. The commissioner shall have the following powers and duties. [1987, c. 534, Pt. A, §§17, 19 (NEW). ]

**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 serve at the pleasure of the commissioner. The office directors serve at the pleasure of the commissioner.

- A. All professional positions 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 retain their current status, including their rights as members of bargaining units. The position responsible for the administration of the tax incentive programs and classified, clerical and other nonprofessional staff must be hired pursuant to the Civil Service Law for classified state employees. [ 2005, c. 425, §4 (AMD). ]

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 the commissioner in carrying out the commissioner's duties under this chapter. [ 2005, c. 425, §4 (AMD) . ]

[ 2005, c. 425, §4 (AMD) . ]

**2. Accept federal funds.** The commissioner may accept for the State any federal funds appropriated under any federal law relating to the authorized programs of the department, including community and economic development in those nonentitlement areas and for those projects duly authorized under the United States Housing and Community Development Act of 1974, Title 1, and its subsequent amendments. The commissioner may undertake the necessary duties and tasks to implement federal law with respect to the authorized programs of the department.

A. The commissioner may accept for the department any funds from any other agency of government, individual, group, foundation or corporation to carry out this chapter, including fees designated by the commissioner for books, brochures, pamphlets, films, photos, maps and similar materials. A revolving fund is established within the department for the use of the department to cover the printing and distribution costs of these materials. Income from the sale of publications shall be credited to the revolving fund to be used as a continuing carrying account to carry out the purposes of the revolving funds. [1987, c. 534, Pt. A, §§17, 19 (NEW) . ]

[ 1987, c. 534, Pt. A, §§17, 19 (NEW) . ]

**2-A. Accept grants.** The commissioner may accept grant funds from other public or private sources to be used to carry out the duties of the department.

[ 1989, c. 875, Pt. E, §7 (NEW) . ]

**3. Hold hearings and adopt rules.** The commissioner may hold hearings and adopt rules, in accordance with the Maine Administrative Procedure Act, with respect to the implementation of authorized programs of the department.

A. The commissioner may adopt rules to distribute funds or assistance under the United States Housing and Community Development Act of 1974, Title 1, and its subsequent amendments. The rules must be consistent with the annual final statement for the State Community Development Program submitted to the Federal Government. The department shall give notice in writing of any such rules to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs at least 20 days before the hearing, as stipulated in the Maine Administrative Procedure Act, or before the deadline for comments if no hearing is scheduled. [ 2015, c. 1, §3 (COR) . ]

[ 2015, c. 1, §3 (COR) . ]

**4. Coordinate programs and services.** The commissioner shall coordinate the programs and services of the department. The commissioner shall coordinate the department's programs and services with those programs and services of other state agencies and regional planning and economic development organizations.

[ 1987, c. 534, Pt. A, §§17, 19 (NEW) . ]

**5. Review of program; report to Governor and Legislature.** The commissioner shall review and evaluate the programs and functions of the department and the operation of the economic delivery system using the information available from the long-term economic plan for the State pursuant to Title 10, section 929-A, subsection 1, the evaluation of state economic development investments pursuant to section 13070-P and the evaluations of tax expenditures pursuant to Title 3, section 999. The commissioner shall report the

commissioner's findings and recommendations with respect to the issues described in this subsection to the Governor and to the Legislature no later than February 1st of each first regular session of the Legislature. The commissioner shall conduct the review and evaluation with respect to the following:

- A. The purpose of these programs and the degree to which the purpose is being met; [1993, c. 349, §14 (RPR).]
- B. The degree of significance of the purpose of the programs and functions of the department; [1993, c. 349, §14 (RPR).]
- C. The extent of the coordination of programs and services as required in subsection 4; [1993, c. 349, §14 (RPR).]
- D. The needs, problems and opportunities that are not being met by the programs and services of the department; [1993, c. 349, §14 (RPR).]
- E. The types of programs and services necessary to meet the needs, problems and opportunities as set out in paragraph D; [1993, c. 349, §14 (RPR).]
- F. The problems and successes in the economic delivery system; [1993, c. 349, §14 (RPR).]
- G. The state of small business in this State, including economic data, the effectiveness of state programs to aid small business, problems of small business that may be affected by state policies and such other information on small business as desired by the commissioner; [1993, c. 349, §14 (RPR).]
- H. Within available resources, the extent of business growth and change, including business expansions, new businesses and business closings; [1999, c. 776, §4 (AMD).]
- I. Within available resources, the status of investments in business in the State; and [1999, c. 776, §4 (AMD).]
- J. The extent to which the purposes of the Maine Downtown Center are being met. [1999, c. 776, §5 (NEW).]

[ 2017, c. 264, §6 (AMD) .]

**6. Responsible for oversight.** The commissioner shall be responsible for the oversight and implementation of the following:

- A. A program of assistance to encourage business development pursuant to subchapter II; [1987, c. 534, Pt. A, §§17, 19 (NEW).]
- B. Community development programs; [1987, c. 534, Pt. A, §§17, 19 (NEW).]
- C. A program of tourism promotion and development; [1987, c. 534, Pt. A, §§17, 19 (NEW).]
- D. The promotion of Maine products and Maine as an investment opportunity; [1987, c. 534, Pt. A, §§17, 19 (NEW).]
- E. A foreign trade zone program; and [2001, c. 703, §2 (AMD).]
- F. The Business Assistance Referral and Facilitation Program, pursuant to section 13063. [2001, c. 703, §2 (AMD).]
- G. [2001, c. 703, §3 (RP).]

[ 2001, c. 703, §§2, 3 (AMD) .]

**7. Commissioner to coordinate programs.**

[ 2003, c. 673, Pt. M, §3 (RP) .]



**8. Dependent care services.**

[ 2003, c. 673, Pt. M, §4 (RP) .]

**9. Designate and certify local and regional organizations.** The commissioner may designate and certify competent local and regional economic development organizations to implement state programs and services in whole or in part.

A. The commissioner may assist in forming regional planning commissions and councils of governments and may assist with financing the cost of operation of the regional planning commissions established under Title 30, chapter 204-A, subchapter III, and councils of governments empowered under Title 30, chapter 204-A, subchapter II. [1987, c. 534, Pt. A, §§17, 19 (NEW).]

B. The commissioner shall adopt rules with respect to standards and criteria for local and regional agencies to be certified and evaluate local and regional organizations in regard to the implementation of these programs and services. [1987, c. 534, Pt. A, §§17, 19 (NEW).]

[ 1987, c. 534, Pt. A, §§17, 19 (NEW) .]

**10. Assistance to municipalities to generate economic growth.** The commissioner shall administer a program of assistance to municipalities to generate jobs and business development. Potential uses of this money include infrastructure development, planning and technical assistance, marketing and other types of capacity building.

A. This program may consist of a fund consisting of money derived from any general obligation bonds issued for the purposes of generating economic development and jobs. This fund with money not exceeding \$1,000,000 shall be administered by the Department of Economic and Community Development to provide assistance as defined in this subsection. Money available for the purpose of this subsection shall not be used to provide financial assistance to business. [1987, c. 769, Pt. A, §19 (NEW).]

B. [1995, c. 462, Pt. A, §11 (RP).]

[ 1995, c. 462, Pt. A, §11 (AMD) .]

**10-A. Maine Downtown Center.**

[ 1999, c. 790, Pt. R, §1 (RP) .]

**11. Federally mandated programs.**

[ 1989, c. 875, Pt. M, §§4, 13 (RP) .]

**12. Energy conservation standards.**

[ 1989, c. 875, Pt. M, §§4, 13 (RP) .]

**13. Approval or denial of certificates.**

[ 1989, c. 875, Pt. M, §§4, 13 (RP) .]

**14. Preparation of manual.**

[ 1989, c. 875, Pt. M, §§4, 13 (RP) .]

**15. Review and inspection.**

[ 1989, c. 875, Pt. M, §§4, 13 (RP) .]

**16. Administration of state standards.**

[ 1989, c. 875, Pt. M, §§4, 13 (RP) .]

**17. Rule-making authority.**

[ 1989, c. 875, Pt. M, §§4, 13 (RP) .]

**18. Commissioner's designee.** When the commissioner is explicitly empowered by statute to appoint a designee to replace the commissioner on any board, commission or similar body, none of which have a termination date, and the commissioner appoints a designee, the commissioner shall appoint that designee from within the commissioner's department. The commissioner shall make this designee known to the appointing authority and to the chair of the body to which the appointment is made, if that body exists at the time of appointment. The designee is the only person who may fill that appointee position until a successor is designated through the same appointment procedure.

[ 1995, c. 688, §7 (NEW) .]

**19. Coordinate assessment of transportation needs related to economic development projects.**

The commissioner shall coordinate the activities of the department, the Department of Agriculture, Conservation and Forestry, the Department of Transportation and regional planning and economic development organizations to ensure that the location of rail lines, potential use of passenger and freight rail and costs of transportation improvements related to development are considered during initial planning and locating of projects reviewed by the commissioner in administering economic development programs under this chapter.

[ 2011, c. 655, Pt. JJ, §3 (AMD); 2011, c. 655, Pt. JJ, §41 (AFF); 2011, c. 657, Pt. W, §5 (REV) .]

## SECTION HISTORY

1987, c. 534, §§A17,A19 (NEW). 1987, c. 769, §A19 (AMD). 1989, c. 501, §DD16 (AMD). 1989, c. 857, §44 (AMD). 1989, c. 875, §§E7,L3,4,M4 ,13 (AMD). 1993, c. 349, §14 (AMD). 1995, c. 462, §A11 (AMD). 1995, c. 688, §7 (AMD). 1997, c. 530, §A34 (AMD). 1999, c. 776, §§4-6 (AMD). 1999, c. 790, §R1 (AMD). 2001, c. 703, §§2,3 (AMD). 2003, c. 498, §1 (AMD). 2003, c. 673, §§M3,4 (AMD). 2005, c. 425, §4 (AMD). 2009, c. 337, §3 (AMD). 2011, c. 655, Pt. JJ, §3 (AMD). 2011, c. 655, Pt. JJ, §41 (AFF). 2011, c. 657, Pt. W, §5 (REV). RR 2015, c. 1, §3 (COR). 2017, c. 264, §6 (AMD).

**§13059. STATE AGENCIES TO COOPERATE**

All state agencies and any other organizations designated by the department to implement community and economic development programs and policies shall cooperate with and expeditiously respond to requests of the department. [1987, c. 534, Pt. A, §§ 17, 19 (NEW).]

## SECTION HISTORY

1987, c. 534, §§A17,A19 (NEW).

**§13060. STATE STANDARDS FOR APPLIANCE ENERGY EFFICIENCY**

*(REPEALED)*

## SECTION HISTORY

1989, c. 501, §DD17 (NEW). 1989, c. 875, §§M5,13 (RP).

Subchapter 1-A: SCIENCE AND TECHNOLOGY

Article 1: PLANNING AND EVALUATION

**§13060-A. SCIENCE AND TECHNOLOGY PLAN**

*(REPEALED)*

SECTION HISTORY

2003, c. 20, §RR2 (NEW). 2003, c. 20, §RR18 (AFF). 2003, c. 673, §M5 (RP).

**§13060-B. COMPREHENSIVE RESEARCH AND DEVELOPMENT EVALUATION**

*(REPEALED)*

SECTION HISTORY

2003, c. 20, §RR2 (NEW). 2003, c. 20, §RR18 (AFF). 2003, c. 673, §M5 (RP).

**§13060-C. REPORTING REQUIREMENTS OF RECIPIENTS OF RESEARCH AND DEVELOPMENT FUNDING**

*(REPEALED)*

SECTION HISTORY

2003, c. 20, §RR2 (NEW). 2003, c. 20, §RR18 (AFF). 2003, c. 464, §1 (AMD). 2003, c. 673, §M5 (RP).

Article 2: SCIENCE AND TECHNOLOGY PROGRAMS

**§13060-D. MAINE RESEARCH AND DEVELOPMENT EVALUATION FUND**

*(REPEALED)*

SECTION HISTORY

2003, c. 20, §RR2 (NEW). 2003, c. 20, §RR18 (AFF). 2003, c. 464, §2 (AMD). 2003, c. 673, §M5 (RP).

**§13060-E. EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE RESEARCH**

*(REPEALED)*

SECTION HISTORY

2003, c. 20, §RR2 (NEW). 2003, c. 20, §RR18 (AFF). 2003, c. 673, §M5 (RP).

**§13060-F. MAINE EPSCOR CAPACITY FUND**

*(REPEALED)*

SECTION HISTORY

2003, c. 20, §RR2 (NEW). 2003, c. 20, §RR18 (AFF). 2003, c. 673, §M5 (RP).

Subchapter 1-B: MARKETING AND PROMOTION

**§13060-G. COMPREHENSIVE MARKETING STRATEGY***(REPEALED)*

## SECTION HISTORY

2003, c. 704, §2 (NEW). 2005, c. 425, §5 (RP).

## Subchapter 2: BUSINESS DEVELOPMENT

## Article 1: GENERAL PROVISIONS

**§13061. OFFICE ESTABLISHED**

The commissioner shall establish the Office of Business Development. This office shall encourage the initiation, expansion and location of businesses in Maine which would expand quality employment opportunities for Maine citizens. [1987, c. 534, Pt. A, §§ 17, 19 (NEW).]

The Office of Business Development shall encourage business by removing barriers to growth, facilitating exploration of opportunities and providing assistance necessary to enhance business consistent with the State's economic development strategy. [1987, c. 534, Pt. A, §§ 17, 19 (NEW).]

## SECTION HISTORY

1987, c. 534, §§A17,A19 (NEW).

**§13062. OFFICE OF BUSINESS DEVELOPMENT**

The Director of the Office of Business Development shall administer the office in accordance with the policies of the commissioner and the provisions of this chapter, emphasizing a program of targeted business development designed to attract particular types of businesses that have potential for Maine and businesses that are considered to be compatible with Maine's environment and interests. The office shall actively seek and encourage firms to expand or locate in Maine. The office is responsible for the implementation of programs designed to promote Maine products in national and international markets and to develop markets for industry located in Maine. [2003, c. 673, Pt. M, §6 (AMD).]

The Office of Business Development shall be responsible for the implementation of a program consisting of 3 primary elements. [1987, c. 534, Pt. A, §§17, 19 (NEW).]

**1. Business investment.** Business investment shall be encouraged consistent with this subsection.

A. The office shall conduct an analysis of the various industrial sectors of the economy. The types of businesses to be targeted for attraction are those that have potential for development in Maine and that will contribute to a healthy climate for Maine's businesses, families and environment. [1999, c. 272, §1 (AMD).]

B. The office shall report its findings and recommendations to the commissioner. The commissioner, with the advice of the director shall determine the type and extent of the business investment program to be implemented. [1987, c. 534, Pt. A, §§17, 19 (NEW).]

C. The director, with the approval of the commissioner, may make grants for market development from appropriations for that purpose to any municipality or group of municipalities which have received a grant of authority from the Federal Government to establish a foreign trade zone. [1987, c. 534, Pt. A, §§17, 19 (NEW).]

D. Application for foreign trade zones shall be according to this paragraph.

(1) The director, with the approval of the commissioner, on behalf of the State, may make applications to the Foreign Trade Zone Board and establish foreign trade zones that are to be located on state-owned, leased or otherwise controlled property. A municipality, group of municipalities or a public or private corporation may, with the approval of the department, make applications to the Foreign Trade Zone Board and establish foreign trade zones at other locations.

Foreign trade zones shall be established in or adjacent to any ports of entry in the State, where personal property in transit shall be exempt from the stock-in-trade tax and such other taxes and customs as are normally levied in a port of entry.

(2) Any development or activity with a foreign trade zone established in the State is subject to the laws which the Department of Environmental Protection, Department of Agriculture, Conservation and Forestry, Department of Marine Resources and Department of Inland Fisheries and Wildlife are responsible for administering, as well as any other law which protects the environment.

(3) For the purpose of this subsection, "personal property in transit" through the areas established under this paragraph means goods, wares and merchandise either moving in interstate or international commerce through these zones or consigned to a warehouse, public or private, within these zones, whether specified when transportation begins or afterward. This property shall not be deprived of exemption because, while in the warehouse, the property is assembled, bound, joined, processed, disassembled, divided, cut, broken in bulk, relabeled or repackaged. The exemption granted shall be liberally construed to effect the purposes of this subsection. The warehouse in which these goods, wares or merchandise are stored shall not be owned, in whole or in part, by either the consignee or consignor. This paragraph does not apply to agricultural products. [1989, c. 781, (AMD); 2011, c. 657, Pt. W, §5 (REV).]

[ 1999, c. 272, §1 (AMD); 2011, c. 657, Pt. W, §5 (REV) .]

**2. Business assistance.** Business assistance services shall be provided consistent with this subsection.

A. The office shall provide business assistance services that are convenient to businesses throughout the State. The office shall use certified local and regional economic development organizations, educational institutions or certified private sector firms to implement this subsection.

(1) Business assistance services shall include managerial and technical assistance and assistance with applications for loans and the completion of applications for licenses and permits from regulatory agencies.

(2) The office, in conjunction with local and regional organizations and other institutions and firms in the private sector with marketing expertise, may conduct seminars on marketing and marketing-related topics for Maine businesses. [1987, c. 534, Pt. A, §§17, 19 (NEW).]

B. In accordance with section 13063, the office shall implement a business ombudsman program. [2011, c. 304, Pt. C, §1 (AMD).]

[ 2011, c. 304, Pt. C, §1 (AMD) .]

**3. Industry-wide assistance and market development.** The director shall be responsible for a program of industry-wide assistance and market development.

A. The director shall work with other state agencies which implement marketing programs and strive to coordinate the marketing activities of the department with those of other agencies whenever possible. [1987, c. 534, Pt. A, §§17, 19 (NEW).]

B. The director shall be responsible, to the maximum extent possible, for providing assistance to industry sectors and business to identify market opportunities, develop market strategies and to promote industry-wide development. [1987, c. 534, Pt. A, §§17, 19 (NEW).]

[ 1987, c. 534, Pt. A, §§17, 19 (NEW) .]

#### SECTION HISTORY

1987, c. 534, §§A17,A19 (NEW). 1989, c. 781, (AMD). 1999, c. 272, §1 (AMD). 2003, c. 673, §M6 (AMD). 2011, c. 304, Pt. C, §1 (AMD). 2011, c. 657, Pt. W, §5 (REV).

**§13062-A. ECONOMIC CONVERSION DIVISION***(REPEALED)*

## SECTION HISTORY

1993, c. 410, §NNN1 (NEW). 1993, c. 725, §1 (AMD). 1995, c. 395, §D5 (AMD). 1995, c. 395, §D18 (AFF). 1995, c. 560, §B3 (AMD). MRSA T. 5, §13062-A, sub-§5 (RP).

**Article 2: BUSINESS ASSISTANCE REFERRAL AND FACILITATION  
PROGRAM: PROGRAM RESPONSIBILITIES AND DELIVERY**

**§13063. BUSINESS OMBUDSMAN PROGRAM**

The director shall establish and implement pursuant to this section the Business Ombudsman Program, referred to in this section as "the program," and the director shall serve as the ombudsman for the program. The program is established to: resolve problems encountered by businesses dealing with other state agencies; facilitate responsiveness of State Government to small business needs; report to the commissioner and the Legislature on breakdowns in the economic delivery system, including problems encountered by businesses dealing with state agencies; assist businesses by referring businesses and persons to resources that provide the business services or assistance requested; provide comprehensive permit information and assistance; and serve as a central clearinghouse of information with respect to business assistance programs and services available in the State. [2011, c. 304, Pt. C, §2 (AMD).]

**1. Referral and central clearinghouse service.** The ombudsman shall maintain and update annually a list of the business assistance programs and services and the names, locations, websites and telephone numbers of the organizations providing these programs and services that are available within the State. The ombudsman may publish a guide consisting of the business assistance programs and services available from public or private sector organizations throughout the State. This program must be designed to:

- A. Respond to written and oral requests for information about business services and assistance programs available throughout the State; [1987, c. 534, Pt. A, §§17, 19 (NEW).]
- B. Obtain and compile the most current and available information pertaining to business assistance programs and services within the State; [1987, c. 534, Pt. A, §§17, 19 (NEW).]
- C. Delineate the business assistance programs and services by type of program or service and by agency; and [1987, c. 534, Pt. A, §§17, 19 (NEW).]
- D. Maintain a list, to be updated annually, of marketing programs of state agencies with a description of each program. [1987, c. 534, Pt. A, §§17, 19 (NEW).]

[ 2011, c. 304, Pt. C, §2 (AMD) .]

**2. Business fairness and responsiveness.** The ombudsman shall implement a business fairness and responsiveness service designed to:

- A. Resolve problems encountered by businesses with other state agencies and with certified regional and local economic development organizations; [2011, c. 304, Pt. C, §2 (AMD).]
- B. Coordinate programs and services for business among agencies and all levels of government; [1987, c. 534, Pt. A, §§17, 19 (NEW).]
- C. Facilitate responsiveness of State Government to business needs; and [2011, c. 304, Pt. C, §2 (AMD).]

D. Report to the commissioner and the Legislature any breakdowns in the economic delivery system, including problems encountered by businesses dealing with state agencies. [2011, c. 304, Pt. C, §2 (AMD).]

[2011, c. 304, Pt. C, §2 (AMD).]

**3. Comprehensive permit information.** The ombudsman shall develop and maintain a program to provide comprehensive information on permits required for business undertakings, projects and activities and to make that information available to any person. This program must function as follows.

A. By December 15, 2011, each state agency required to review, approve or grant permits for business undertakings, projects and activities shall report to the office in a form prescribed by the office on each type of review, approval and permit administered by that state agency. Application forms, applicable agency rules and the estimated time period necessary for permit application consideration based on experience and statutory or regulatory requirements must accompany each state agency report. [2011, c. 304, Pt. C, §2 (AMD).]

B. Each state agency required to review, approve or grant permits for business undertakings, projects and activities, subsequent to its report pursuant to paragraph A, shall provide to the office, for information purposes only, a report of any new permit or modification of any existing permit together with applicable forms, rules and information required under subsections 1 and 2 regarding the new or modified permit. To ensure that the department's information is current, each agency shall report immediately to the office when a new permit is adopted or any existing permit is modified. "Permit," as used in this paragraph, refers to the categorical authorization required for an activity. "Permit" does not mean a permit issued to a particular individual or business. [1991, c. 826, §2 (NEW).]

C. The office shall prepare an information file on each state agency's permit requirements upon receipt of that state agency's reports and shall develop methods for that file's maintenance, revision, updating and ready access. [1991, c. 826, §2 (NEW).]

D. The office shall provide comprehensive permit information on the basis of the information received under this subsection. The office may prepare and distribute publications, guides and other materials explaining permit requirements affecting business and including requirements involving multiple permits or multiple state agencies that are based on the state agency reports and the information file for the convenience of permit applicants. [1991, c. 826, §2 (NEW).]

[2011, c. 304, Pt. C, §2 (AMD).]

**4. Permit assistance.** By December 15, 2011, the ombudsman shall set up procedures to assist permit applicants who have encountered difficulties in obtaining timely and efficient permit review. These procedures must include the following.

A. Any applicant for permits required for a business undertaking, project or activity must be allowed to confer with the office to obtain assistance in the prompt and efficient processing and review of applications. [1991, c. 826, §2 (NEW).]

B. The office shall, as far as possible, give assistance, and the ombudsman may designate an officer or employee of the office to act as an expeditor with the purpose of:

- (1) Facilitating contacts for the applicant with state agencies responsible for processing and reviewing permit applications;
- (2) Arranging conferences to clarify the interest and requirements of any state agency with respect to permit applications;
- (3) Considering with state agencies the feasibility of consolidating hearings and data required of the applicant;
- (4) Assisting the applicant in the resolution of outstanding issues identified by state agencies, including delays experienced in permit review; and

(5) Coordinating federal, state and local permit review actions to the extent practicable. [ 2011, c. 304, Pt. C, §2 (AMD). ]

[ 2011, c. 304, Pt. C, §2 (AMD) . ]

**5. Retail business permitting program.** The ombudsman shall establish and administer a central permitting program for all permits required by retail businesses selling directly to the final consumer, including, but not limited to, permits required for the operation of hotels and motels, convenience stores and eating establishments, and permits required for the sale of liquor or beer, tobacco, food, beverages, lottery tickets and gasoline. Permits issued by the Department of Environmental Protection, the Department of Marine Resources and the Maine Land Use Planning Commission are not included in this program. The ombudsman shall:

- A. Create a consolidated permit procedure that allows each business to check on a cover sheet all state permits for which it is applying and to receive all permit applications from a centralized office; [1993, c. 430, §1 (NEW). ]
- B. Total all permit fees due from a business, collect those fees on a semiannual basis, with 1/2 of the total fees due by January 1st and 1/2 of the total fees due by July 1st, and distribute the fees to the appropriate funds or permitting entities; [1993, c. 430, §1 (NEW). ]
- C. Forward a copy of the appropriate permit application to any commission, department, municipality or other agency that has responsibility for permitting that retail business; [1993, c. 430, §1 (NEW). ]
- D. Develop a tracking system to track permits issued by state agencies. This system must at a minimum include information on the applicant, agency involvement, time elapsed or expended on the permit and action taken; [1993, c. 430, §1 (NEW). ]
- E. Coordinate and supervise the permitting process to ensure that all involved state agencies process the applications and complete any necessary inspections in a timely fashion; and [1993, c. 430, §1 (NEW). ]
- F. Respond to inquiries from the business community and requests for information from the individual permitting entities, including reports on the status of an application. [1993, c. 430, §1 (NEW). ]

A retail business is not required to participate in the retail business permitting program. An enforcement action taken against a retail business for a permit obtained through the retail business permitting program does not affect other permits issued to that same retail business through that program.

[ 2017, c. 322, §1 (AMD) . ]

**6. Municipal permitting agents.** By February 1, 2012, the ombudsman shall establish a municipal centralized permitting program.

A. Upon application by the municipal officers of a municipality and upon evidence that the municipality meets all qualifications as determined by departmental rulemaking, the ombudsman shall appoint the municipality as a centralized permitting agent to provide all permits for retail businesses. Upon evidence that a municipality qualified to provide permits meets the qualifications for conducting the inspection associated with any of those permits as determined by departmental rulemaking, the ombudsman shall appoint that municipality as an agent to provide that inspection for retail businesses with less than 10,000 square feet of retail space. The ombudsman shall ensure that municipalities appointed as agents for purposes of inspection are qualified and capable of conducting those inspections in a manner that ensures compliance with all applicable public health and safety requirements. Retail businesses shall pay the municipality an additional fee of \$4 for each permit included in the consolidated application up to a limit of \$40. Municipalities may retain 1/2 of all fees collected for permits requiring inspection. The remaining 1/2 of those permit fees and all fees for permits not requiring inspection must be remitted to the department, which shall remit the fees to the issuing agency. A municipality with a population of



less than 4,000 may contract with an appointed municipality for centralized permitting and inspection services. A retail business is not required to participate in the municipal central permitting program. [2011, c. 304, Pt. C, §2 (AMD).]

B. The ombudsman shall make permitting and inspection training programs available to a municipality seeking appointment or appointed as a central permitting agent. The municipality shall pay a fee of \$25 for each person receiving permitting training and \$100 for each person receiving inspection training. [2011, c. 304, Pt. C, §2 (AMD).]

C. A business that seeks to determine why it has not received its permits must be directed to the municipal office where the application was filed. That office shall bring the matter to the attention of the department, which shall contact the appropriate issuing agency. [1993, c. 430, §1 (NEW).]

D. A joint standing committee of the Legislature that recommends legislation that involves a new permit for retail businesses shall indicate in the legislation whether the permit is to be included in the municipal centralized permitting program.

During a review under Title 3, chapter 35 of a permit issuing agency, the joint standing committee having responsibility for the review shall recommend whether any of the permits issued by that agency should be included in the municipal centralized permitting program. [1995, c. 488, §3 (AMD).]

The ombudsman may extend by rulemaking, but may not curtail, the department's centralized permitting program or the municipal centralized permitting program, except that the programs may not be extended to include additional issuing agencies.

[ 2011, c. 304, Pt. C, §2 (AMD) .]

**7. Goal and evaluation.** It is the goal of the programs established in subsections 5 and 6 for retail businesses to obtain permits more quickly at no additional cost to the taxpayers of the State. The ombudsman shall devise and implement a program of data collection and analysis that allows a determination as to whether these goals have been met. This program must include the collection of benchmark data before the initiation of the programs and an enumeration of the number of municipalities participating in the program. By January 15, 2012 and every 2 years after that date, the ombudsman shall prepare and submit a report to the joint standing committee of the Legislature having jurisdiction over economic development matters regarding the effectiveness of the program and any recommendations as to why the retail business program and the municipal centralized permitting program should not be expanded to other sizes or types of businesses, to other issuing agencies and to smaller municipalities. The first report must contain an assessment of the levels of willingness of municipalities to participate in the programs established by this section.

[ 2011, c. 304, Pt. C, §2 (AMD) .]

**8. Report.** By January 15, 2012 and at least annually thereafter, the ombudsman shall report to the Governor and the joint standing committee of the Legislature having jurisdiction over economic development matters about the program with any recommendations for changes in the statutes to improve the program and its delivery of services to businesses. The joint standing committee of the Legislature having jurisdiction over economic development matters may report out a bill relating to the program.

[ 2011, c. 304, Pt. C, §2 (NEW) .]

#### SECTION HISTORY

1987, c. 534, §§A17,A19 (NEW). 1991, c. 826, §2 (AMD). 1993, c. 430, §1 (AMD). 1995, c. 488, §3 (AMD). RR 1997, c. 2, §§17,18 (COR). 2011, c. 304, Pt. C, §2 (AMD). 2011, c. 682, §38 (REV). 2017, c. 322, §1 (AMD).

**§13063-A. MAINE EDUCATION AND TRAINING EXPORT PARTNERSHIP***(REPEALED)*

## SECTION HISTORY

1993, c. 410, §RRR1 (NEW). 1993, c. 558, §1 (AMD). 1993, c. 558, §2 (AFF). 1995, c. 519, §1 (AMD). 1995, c. 648, §9 (AFF). 1995, c. 648, §1 (RP).

**§13063-B. ENERGY CONSERVATION PROGRAMS***(REPEALED)*

## SECTION HISTORY

1995, c. 560, §B4 (NEW). 2003, c. 2, §L1 (AMD). 2003, c. 20, §RR18 (AFF). 2003, c. 20, §RR3 (RP). 2003, c. 644, §1 (AMD).

**§13063-C. JOB RETENTION PROGRAM**

**1. Establishment.** The Job Retention Program is established within the Department of Economic and Community Development to encourage the retention of existing quality jobs in this State. Funds available in this program do not lapse but must be carried forward, except as provided in subsection 4, in order to carry out the purposes of this section.

[ 1995, c. 706, §2 (NEW) .]

**2. Definitions.** As used in this section the following terms have the following meanings.

A. "Certified retained business" means any for-profit business in this State other than a public utility as defined by Title 35-A, section 102 that retains 100 or more qualified employees in this State and that meets all of the following criteria to the satisfaction of the commissioner:

(1) The business is not engaged in retail operations; or, if it is engaged in retail operations, less than 50% of its total annual revenues from state-based operations are derived from sales taxable in this State or the business can demonstrate to the commissioner by a preponderance of the evidence that any increased sales will not include sales tax revenues derived from a transferring or shifting of retail sales from other businesses in this State; and

(2) The commissioner determines that the business is a successor to a business that would have ceased operations in this State but for the acquisition of that business after September 1, 1996 by the applicant by any means and the applicant demonstrates to the commissioner its intention to continue to operate and employ qualified employees in the State.

For purposes of this paragraph, "retail operations" means sales of consumer goods for household use to consumers who personally visit the business location to purchase the goods. [1997, c. 393, Pt. A, §13 (RPR) .]

B. "Qualified employees" means full-time employees who are employed by a certified retained business, for whom a retirement program subject to the Employee Retirement Income Security Act of 1974, 29 United States Code, Sections 101 to 1461, as amended, and group health insurance are provided, and whose income, calculated on a calendar year basis, is greater than the average annual per capita income in the labor market area in which the qualified employee is employed. Qualified employees must be residents of this State. [1997, c. 393, Pt. A, §13 (RPR) .]

[ 1997, c. 393, Pt. A, §13 (RPR) .]

**3. Expenditures from the program.** The commissioner shall authorize payment from the program in an amount not to exceed \$150,000 annually. In determining the amount of payment to any certified retained business, the commissioner may use the calculation methodology established in Title 36, section 6754, subsection 1. A certified retained business may receive payments for a period not to exceed 10 years, only if the business continues to meet the criteria established in subsection 2. Payments must be made no later than July 31st of each fiscal year beginning in fiscal year 1997-98 and ending in fiscal year 2006-07. Payments received by a certified retained business pursuant to this section must be used for capital investments, including, but not limited to, the acquisition, refurbishments, upgrading, modification and leasing of buildings, machinery and equipment.

[ 1995, c. 706, §2 (NEW) .]

**4. Transfer from program.** Funds must be transferred from the program as follows:

A. Upon the revocation of a certificate of approval, any balance remaining in the program and allocated to the business whose certificate has been revoked must be transferred to the department's "Administration - Economic and Community Development" program as nonlapsing funds to be used in accordance with section 13063-D; and [2001, c. 680, §1 (NEW).]

B. Notwithstanding section 1585, any balance remaining in the program after July 31, 2007 must be transferred to the Maine Budget Stabilization Fund as established in section 1532. [2005, c. 2, Pt. A, §9 (AMD); 2005, c. 2, Pt. A, §14 (AFF).]

The commissioner may consider the layoff or termination of all, or substantially all, of the employees of a certified retained business as demonstration that it has ceased operations.

[ 2005, c. 2, Pt. A, §9 (AMD); 2005, c. 2, Pt. A, §14 (AFF) .]

**5. Investment of funds.** The money in the program may be invested as provided by law with the earnings credited to the program.

[ 1995, c. 706, §2 (NEW) .]

**6. Criteria for approval.** Prior to issuing a certificate of approval to a business, the commissioner must find that the applicant qualifies as a certified retained business. Notwithstanding the provisions of this section, the commissioner may not accept or certify an application for a certified retained business that is submitted by the applicant after February 28, 1997.

[ 1995, c. 706, §2 (NEW) .]

#### SECTION HISTORY

1995, c. 706, §2 (NEW). 1997, c. 393, §A13 (AMD). 2001, c. 680, §1 (AMD). 2003, c. 451, §X10 (AMD). 2005, c. 2, §A9 (AMD). 2005, c. 2, §A14 (AFF).

### **§13063-D. GRANTS TO MUNICIPALITIES TO RETAIN MATURE OR DOMINANT EMPLOYERS**

The commissioner shall authorize grants to municipalities for the purpose of assisting those municipalities to retain mature or dominant employers, as defined in rules adopted by the commissioner, especially manufacturing firms presently located in the State. In awarding grants under this section, the commissioner shall consider the economic health of the region in which the municipality is located, the economic and social impacts that would be or have been created by the loss of the mature or dominant employer and the likelihood of returning that employer to a financially viable condition. In awarding any grant under this section, the commissioner shall take appropriate measures to ensure accountability and a positive return on the public's investment. To the extent that grant funds have been transferred from the Job

Retention Program in accordance with section 13063-C, subsection 4, the commissioner shall give priority to projects that are reasonably expected to return a former certified retained business, as defined in section 13063-C, to financial viability or its facilities to appropriate productive use. Rules adopted pursuant to this section are routine technical rules as defined in chapter 375, subchapter II-A. [2001, c. 680, §2 (RPR).]

## SECTION HISTORY

1999, c. 731, §§MM1, VV1 (NEW). RR 2001, c. 1, §12 (COR). 2001, c. 680, §2 (RPR).

## Article 2-A: MAINE MICROENTERPRISE INITIATIVE

**§13063-E. MAINE MICROENTERPRISE INITIATIVE FUND**

*(REPEALED)*

## SECTION HISTORY

1999, c. 731, §VV1 (NEW). 2001, c. 471, §A6 (RP).

**§13063-F. APPLICATION PROCESS**

*(REPEALED)*

## SECTION HISTORY

1999, c. 731, §VV1 (NEW). 2001, c. 471, §A6 (RP).

**§13063-G. RULES**

*(REPEALED)*

## SECTION HISTORY

1999, c. 731, §VV1 (NEW). 2001, c. 471, §A6 (RP).

**§13063-H. REPORT**

*(REPEALED)*

## SECTION HISTORY

1999, c. 731, §VV1 (NEW). 2001, c. 471, §A6 (RP).

## Article 2-B: MAINE MICROENTERPRISE INITIATIVE

**§13063-J. DEFINITIONS**

As used in this article, unless the context otherwise indicates, the following terms have the following meanings. [2001, c. 471, Pt. A, §7 (NEW).]

**1. Community-based organization.** "Community-based organization" means a nonprofit organization that has:

- A. A viable plan for providing training and technical assistance to microenterprises; [2001, c. 471, Pt. A, §7 (NEW).]
- B. Broad-based community support; [2001, c. 471, Pt. A, §7 (NEW).]
- C. An adequate source of operating capital; and [2001, c. 471, Pt. A, §7 (NEW).]

D. A demonstrated need for funding to provide training and technical assistance to microenterprises. [ 2001, c. 471, Pt. A, §7 (NEW). ]

[ 2001, c. 471, Pt. A, §7 (NEW) . ]

**2. Fund.** "Fund" means the Maine Microenterprise Initiative Fund established in section 13063-K.

[ 2001, c. 471, Pt. A, §7 (NEW) . ]

**3. Microenterprise.** "Microenterprise" means a business located in the State that produces goods or provides services and has fewer than 10 full-time equivalent employees.

[ 2001, c. 471, Pt. A, §7 (NEW) . ]

#### SECTION HISTORY

2001, c. 471, §A7 (NEW).

## §13063-K. MAINE MICROENTERPRISE INITIATIVE FUND

**1. Fund established.** The Maine Microenterprise Initiative Fund is established as a nonlapsing fund administered by the department. The fund consists of money appropriated to it by the Legislature from the General Fund and eligible investment earnings from fund assets. The fund must be held separate from all other money, funds and accounts, and all eligible investment earnings from fund assets must be credited to the fund.

[ 2001, c. 471, Pt. A, §7 (NEW) . ]

**2. Fund purposes.** The department shall administer the fund to provide grants to community-based organizations to aid them in providing technical assistance and training to microenterprises.

[ 2001, c. 471, Pt. A, §7 (NEW) . ]

#### SECTION HISTORY

2001, c. 471, §A7 (NEW).

## §13063-L. APPLICATION PROCESS

**1. Process established.** The department shall adopt rules establishing an application process for fund grants for the purposes set forth in section 13063-K, subsection 2. In establishing the application process, the department shall consult with business experts involved with microenterprises in the State.

[ 2001, c. 471, Pt. A, §7 (NEW) . ]

**2. Process requirements.** The application process must be competitive. An applicant shall specify whether a grant is sought for microenterprise technical assistance or training or a combination thereof. In making grants, the department shall give priority to applications that:

A. Are joint applications by 2 or more community-based organizations or otherwise provide for cooperation among community-based organizations; [ 2001, c. 471, Pt. A, §7 (NEW). ]

B. Target aid to low-income individuals; or [ 2001, c. 471, Pt. A, §7 (NEW). ]

C. Target aid to areas of high unemployment or to underserved areas of the State. [ 2001, c. 471, Pt. A, §7 (NEW). ]

The department may establish additional criteria for assessing applications for fund grants.

[ 2001, c. 471, Pt. A, §7 (NEW) .]

SECTION HISTORY

2001, c. 471, §A7 (NEW).

## §13063-M. RULES

The department shall adopt rules necessary to carry out this article. Rules adopted pursuant to this article are routine technical rules as defined in chapter 375, subchapter II-A. [2001, c. 471, Pt. A, §7 (NEW) .]

SECTION HISTORY

2001, c. 471, §A7 (NEW).

## §13063-N. REPORT

The department shall submit to the joint standing committee of the Legislature having jurisdiction over business and economic development matters an update on the fund by January 1, 2001 and every year thereafter. [2001, c. 471, Pt. A, §7 (NEW) .]

SECTION HISTORY

2001, c. 471, §A7 (NEW).

## §13063-O. MICROENTERPRISE INITIATIVE FUND PROGRAM REVIEW

**1. Accounting and reporting requirements.** The department shall:

A. Maintain an accurate accounting of the use of all program funds as required by state procedures and program guidelines, including a detailed accounting of all program funding sources and expenditures; and [2009, c. 337, §4 (AMD) .]

B. [2009, c. 337, §4 (RP) .]

C. Each year, submit a report to the joint standing committee of the Legislature having jurisdiction over business, research and economic development matters. The report must include:

(1) An accounting of the use of all program funds received and expended since the program's inception;

(2) A summary of the status of any approved projects;

(3) A summary of the results of any completed projects;

(4) Evaluation data and assessment consistent with section 13070-P; and

(5) Other information required to be submitted and evaluated by the joint standing committee of the Legislature having jurisdiction over business, research and economic development matters.

[2017, c. 264, §7 (AMD) .]

[ 2017, c. 264, §7 (AMD) .]

**2. Report.** The department shall report no later than January 15th of each year.

[ 2003, c. 451, Pt. MMM, §1 (NEW) .]

**3. Rulemaking.** The department shall adopt major substantive rules pursuant to chapter 375, subchapter 2-A to implement this section.

[ 2003, c. 451, Pt. MMM, §1 (NEW) .]

SECTION HISTORY

2003, c. 451, §MMM1 (NEW). 2009, c. 337, §4 (AMD). 2017, c. 264, §7 (AMD).

Article 2-C: MAINE WORKFORCE OPPORTUNITIES PROGRAM

**§13063-R. MAINE WORKFORCE OPPORTUNITIES PROGRAM**

*(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)*

*(WHOLE SECTION TEXT EFFECTIVE UNTIL 3/31/21)*

*(WHOLE SECTION TEXT REPEALED 3/31/21)*

**1. Definitions.** As used in this article, unless the context otherwise indicates, the following terms have the following meanings.

A. "Departments" means the Department of Economic and Community Development and the Department of Labor. [2013, c. 443, §1 (NEW); 2013, c. 443, §4 (AFF).]

B. "Fund" means the Maine Workforce Opportunities Marketing Fund established in subsection 5. [2013, c. 443, §1 (NEW); 2013, c. 443, §4 (AFF).]

C. "Program" means the Maine Workforce Opportunities Program established in subsection 2. [2013, c. 443, §1 (NEW); 2013, c. 443, §4 (AFF).]

D. "Qualified employee" means an employee qualified to participate in the program and listed in the qualified employee registry created pursuant to subsection 3. [2013, c. 443, §1 (NEW); 2013, c. 443, §4 (AFF).]

E. "Qualified employee registry" means the electronic registry that contains a list of qualified employees created pursuant to subsection 3. [2013, c. 443, §1 (NEW); 2013, c. 443, §4 (AFF).]

F. "Qualified employer" means an employer who has registered with the program in accordance with rules adopted under subsection 4. [2013, c. 443, §1 (NEW); 2013, c. 443, §4 (AFF).]

G. "Qualified employer registry" means the electronic registry that contains a list of qualified employers created pursuant to subsection 4. [2013, c. 443, §1 (NEW); 2013, c. 443, §4 (AFF).]

[ 2013, c. 443, §1 (NEW); 2013, c. 443, §4 (AFF) .]

**2. Program established.** The Maine Workforce Opportunities Program is established as a pilot project that seeks to match qualified employees with positions at companies in the State representing industries with significant unmet demand for skilled labor by promoting incentives, including a tax credit for an employee's education costs, when applicable, through the Job Creation Through Educational Opportunity Program established in Title 20-A, section 12542 and through other programs or initiatives operated by the State that seek to attract new employees to businesses in this State. The program is designed to achieve the following goals:

A. Promote economic opportunity and growth by providing an incentive to those individuals with certain skills and experience in occupations when there exists a demonstrable gap between the number of available jobs requiring those skills and experience and a smaller number of individuals willing and able to accept and succeed in those jobs; [2013, c. 443, §1 (NEW); 2013, c. 443, §4 (AFF).]

B. Assist businesses by providing them with a registry of skilled and available individuals; [2013, c. 443, §1 (NEW); 2013, c. 443, §4 (AFF).]

C. Offer incentives to individuals to pursue educational, training and retraining opportunities; [2013, c. 443, §1 (NEW); 2013, c. 443, §4 (AFF).]

D. Keep individuals in the State through education tax credits and the opportunity to secure jobs in industries with significant demand; and [2013, c. 443, §1 (NEW); 2013, c. 443, §4 (AFF).]

E. Provide immediate support for economic development in the State during a period during which comprehensive long-term workforce development solutions are implemented. [2013, c. 443, §1 (NEW); 2013, c. 443, §4 (AFF).]

[ 2013, c. 443, §1 (NEW); 2013, c. 443, §4 (AFF) .]

**3. Creation of qualified employee registry.** Working with the Maine Community College System, the University of Maine System, career centers, private postsecondary educational institutions, relevant trade associations and other entities as appropriate, the Department of Labor, in accordance with rules adopted by the departments, shall create an electronic registry of qualified employees.

The Department of Economic and Community Development shall manage the qualified employee registry and shall coordinate with the Department of Labor when supplying information from the qualified employee registry to qualified employers.

[ 2013, c. 443, §1 (NEW); 2013, c. 443, §4 (AFF) .]

**4. Creation of qualified employer registry.** Working with employers, the Department of Labor, the Maine Community College System, the University of Maine System, private postsecondary educational institutions, relevant trade associations and other entities as appropriate, the Department of Economic and Community Development, in accordance with rules adopted by the departments, shall create an electronic registry of qualified employers.

The Department of Economic and Community Development shall manage the qualified employer registry and shall coordinate with the Department of Labor when supplying information from the qualified employer registry to qualified employees.

[ 2013, c. 443, §1 (NEW); 2013, c. 443, §4 (AFF) .]

**5. Fund established.** The Maine Workforce Opportunities Marketing Fund is established to receive contributions from public and private entities.

A. Payments from the fund must be used solely for the purpose of financing the marketing and promotion of the program to prospective employees, employers and tourists visiting this State and to a national and international audience. [2013, c. 443, §1 (NEW); 2013, c. 443, §4 (AFF).]

B. The Commissioner of Economic and Community Development shall administer the fund. The commissioner may adopt routine technical rules, as defined in chapter 375, subchapter 2-A, to implement this subsection. [2013, c. 443, §1 (NEW); 2013, c. 443, §4 (AFF).]

[ 2013, c. 443, §1 (NEW); 2013, c. 443, §4 (AFF) .]



**6. Eligibility limited.** A qualified employee becomes ineligible for the program if:

A. The qualified employee leaves the employment of the qualified employer first employing the qualified employee; [2013, c. 443, §1 (NEW); 2013, c. 443, §4 (AFF).]

B. The qualified employee is employed in a different position with a qualified employer; or [2013, c. 443, §1 (NEW); 2013, c. 443, §4 (AFF).]

C. The qualified employee's qualified employer opts out of the program. [2013, c. 443, §1 (NEW); 2013, c. 443, §4 (AFF).]

[ 2013, c. 443, §1 (NEW); 2013, c. 443, §4 (AFF) .]

**7. Monitoring, evaluation and annual report.** For any year in which the program is funded, the departments shall use an independent nonpartisan reviewer to complete a comprehensive evaluation of the program, using both quantitative and qualitative data and including an analysis of the return on investment of the program. The evaluation must consider, at a minimum, the effectiveness of education tax credits as a catalyst for employment, the effect on employee productivity and performance and the impact on the demand for skilled workers in industries in the State. The evaluation must measure the results of the program over time, including a longitudinal analysis that captures productivity and other outcomes related to the program and a determination of the impact on the addition of net new jobs to the State. The departments shall jointly submit a report to the joint standing committee of the Legislature having jurisdiction over labor matters by February 1st of each year on the status of the program and on the evaluation data collected and analyzed.

[ 2013, c. 443, §1 (NEW); 2013, c. 443, §4 (AFF) .]

**8. Rules.** The departments shall adopt rules to implement this article. Rules adopted pursuant to this subsection are routine technical rules as defined in chapter 375, subchapter 2-A.

[ 2013, c. 443, §1 (NEW); 2013, c. 443, §4 (AFF) .]

**9. Insufficient funding.** Notwithstanding any other provision of this section, if the State does not receive sufficient funds to fund this program or if funds are deappropriated so as to result in insufficient funding, the State is not obligated to make payments under this program.

[ 2013, c. 443, §1 (NEW); 2013, c. 443, §4 (AFF) .]

**10. Repeal.** This section is repealed March 31, 2021.

[ 2013, c. 443, §1 (NEW); 2013, c. 443, §4 (AFF) .]

#### SECTION HISTORY

2013, c. 443, §1 (NEW). 2013, c. 443, §4 (AFF).

### Article 3: TOURISM

#### §13064. FINDINGS

*(REPEALED)*

#### SECTION HISTORY

1989, c. 875, §M6,13 (NEW). 1989, c. 914, §2 (NEW). RR 1991, c. 1, §11 (COR). 1995, c. 560, §B5 (RP).

#### §13065. OFFICE OF TOURISM

*(REPEALED)*

## SECTION HISTORY

1989, c. 875, §§M6,13 (NEW). 1989, c. 914, §2 (NEW). RR 1991, c. 1, §11 (COR). RR 1993, c. 1, §16 (COR). 1995, c. 560, §B5 (RP).

**§13066. HISTORICAL MARKER PROGRAM**

*(REPEALED)*

## SECTION HISTORY

1989, c. 875, §§M6,13 (NEW). 1989, c. 914, §2 (NEW). RR 1991, c. 1, §11 (COR). 1995, c. 560, §B5 (RP).

**§13066-A. IMPULSE TRAVELER PROGRAM**

*(REPEALED)*

## SECTION HISTORY

RR 1991, c. 1, §13 (RNU). 1991, c. 591, §III21 (NEW). 1993, c. 471, §1 (RP).

**§13066-B. TOURISM MARKETING AND DEVELOPMENT STRATEGY**

*(REPEALED)*

## SECTION HISTORY

1993, c. 471, §2 (NEW). 1995, c. 368, §K1 (AMD). 1995, c. 560, §B5 (RP).

**§13067. MAINE TOURISM COMMISSION**

*(REPEALED)*

## SECTION HISTORY

1989, c. 875, §§M6,13 (NEW). 1989, c. 914, §2 (NEW). RR 1991, c. 1, §11 (COR). 1995, c. 560, §B5 (RP).

**§13068. TRAVEL PROMOTION MATCHING FUND PROGRAM**

*(REPEALED)*

## SECTION HISTORY

1989, c. 875, §§M6,13 (NEW). RR 1991, c. 1, §13 (COR). 1991, c. 528, §III21 (NEW). 1991, c. 528, §RRR (AFF). 1991, c. 591, §III21 (NEW). 1995, c. 560, §B5 (RP).

**§13069. MAINE STATE FILM COMMISSION**

*(REPEALED)*

[2007, c. 466, Pt. A, §23 (RP).]

## SECTION HISTORY

1989, c. 875, §§M6,13 (NEW). 1995, c. 560, §B5 (RP). 1995, c. 688, §8 (AMD). 2007, c. 466, Pt. A, §23 (RP).

**§13069-A. POWERS AND DUTIES**

*(REPEALED)*

SECTION HISTORY

1989, c. 875, §§M6,13 (NEW). 1995, c. 560, §B5 (RP).

**§13070. DIRECTOR OF THE MAINE STATE FILM OFFICE**

*(REPEALED)*

SECTION HISTORY

1989, c. 875, §§M6,13 (NEW). 1995, c. 560, §B5 (RP).

Article 4: INTERNATIONAL COMMERCE DIVISION

**§13070-A. INTERNATIONAL COMMERCE DIVISION; ESTABLISHED**

*(REPEALED)*

SECTION HISTORY

1989, c. 875, §§M6,13 (NEW). 1995, c. 648, §2 (RP).

**§13070-B. INTERNATIONAL COMMERCE DIVISION; DUTIES**

*(REPEALED)*

SECTION HISTORY

1989, c. 875, §§M6,13 (NEW). 1995, c. 648, §2 (RP).

**§13070-C. INTERNATIONAL TRADE DIRECTOR**

**1. Appointment.** The Governor shall appoint a full-time International Trade Director, subject to review by the joint standing committee of the Legislature having jurisdiction over business and economic development matters and confirmation by the Legislature, who shall serve at the pleasure of the Governor. The director shall report to the commissioner in the execution of the director's responsibilities.

[ 1995, c. 648, §3 (NEW) .]

**2. Duties.** The International Trade Director shall implement the State's policies with respect to development of international trade opportunities for the State's businesses and citizens. The director shall serve as the State's diplomat and shall advocate within the State and abroad on behalf of the State and the State's international community.

The director shall serve as the president of the Maine International Trade Center upon confirmation by the center's Board of Directors of the Maine International Trade Center. The director shall oversee activities of the center and has the duties and responsibilities as provided in Title 10, chapter 107-B.

[ 1995, c. 648, §3 (NEW) .]

SECTION HISTORY

1995, c. 648, §3 (NEW).

Article 5: COMMISSION ON INVESTMENT CAPITAL

**§13070-F. COMMISSION ON INVESTMENT CAPITAL**

*(REPEALED)*

## SECTION HISTORY

1989, c. 914, §2 (NEW). RR 1991, c. 1, §11 (RNU). MRSA T. 5, §13070-I (RP).

**§13070-G. DUTIES AND RESPONSIBILITIES OF THE COMMISSION**

*(REPEALED)*

## SECTION HISTORY

1989, c. 914, §2 (NEW). RR 1991, c. 1, §11 (RNU). 1993, c. 182, §1 (AMD). MRSA T. 5, §13070-I (RP).

**§13070-H. AGENCY COOPERATION**

*(REPEALED)*

## SECTION HISTORY

1989, c. 914, §2 (NEW). RR 1991, c. 1, §11 (RNU). MRSA T. 5, §13070-I (RP).

**§13070-I. SUNSET**

*(REPEALED)*

## SECTION HISTORY

1989, c. 914, §2 (NEW). RR 1991, c. 1, §11 (RNU). 1993, c. 182, §2 (AMD). 1993, c. 725, §2 (AMD). 1993, c. 725, §4 (AFF). MRSA T. 5, §13070-I (RP).

**Article 6: RETURN ON PUBLIC INVESTMENT  
FROM ECONOMIC DEVELOPMENT INCENTIVES**

**§13070-J. BUSINESS DISCLOSURE ASSOCIATED WITH ELIGIBILITY FOR PUBLIC SUBSIDIES AND INCENTIVES**

**1. Definitions.** As used in this article, unless the context otherwise indicates, the following terms have the following meanings.

A. [2001, c. 481, §2 (RP).]

B. [2017, c. 264, §8 (RP).]

C. [2017, c. 264, §8 (RP).]

D. "Economic development incentive" means federal and state statutorily defined programs that receive state funds, dedicated revenue funds and tax expenditures as defined by section 1666 whose purposes are to create, attract or retain business entities related to business development in the State.

[2017, c. 264, §8 (AMD).]

D-1. "Economic development investments" means commitments of state funds, dedicated revenue funds and tax expenditures as defined by section 1666 for research and development activities and economic development incentive programs. [2017, c. 264, §8 (NEW).]

E. "Economic development proposal" means proposed legislation that establishes a new program or that expands an existing program that:

- (1) Is intended to encourage significant business expansion or retention in the State; and
- (2) Contains a tax expenditure, as defined in section 1666, or a budget expenditure with a cost that is estimated to exceed \$100,000 per year. [2015, c. 494, Pt. B, §1 (AMD).]

F. "Research and development activities" means activities that directly or through capital investment support basic and applied scientific research and related commercial development funded by state appropriations and bond proceeds. [2017, c. 264, §8 (NEW).]

G. "State strategic economic improvement plan" means the long-term economic plan for the State's economy developed by the Maine Economic Growth Council pursuant to Title 10, section 929-A, subsection 1. [2017, c. 264, §8 (NEW).]

[ 2011, c. 380, Pt. HHHH, §1 (AMD); 2011, c. 573, §1 (AMD); 2015, c. 494, Pt. B, §1 (AMD); 2017, c. 264, §8 (AMD) .]

## 2. Disclosure.

[ 2017, c. 264, §9 (RP) .]

**2-A. Disclosure.** The following provisions govern disclosure requirements.

A. An applicant for an economic development incentive shall at a minimum identify in writing:

- (1) The public purpose that will be served by the business through use of the economic development incentive and the specific uses to which the benefits will be put; and
- (2) The goals of the business for the number, type and wage levels of jobs to be created or retained as a result of the economic development incentive received.

Applications filed for economic development incentives are public records for purposes of Title 1, chapter 13. [2017, c. 264, §10 (NEW).]

B. To assist the department in preparing the comprehensive evaluation of state investments in economic development pursuant to section 13070-P, subsection 1, a recipient of state funding for research and development activities or economic development incentives, including General Fund appropriations, dedicated revenue, tax expenditures as defined in section 1666 and general obligation bond proceeds for economic development, shall, in addition to any other reporting requirements required by law, collect, maintain and provide data as requested by the department. [2017, c. 264, §10 (NEW).]

[ 2017, c. 264, §10 (NEW) .]

## 3. Report.

[ 2009, c. 337, §5 (RP) .]

**4. Agency reports.** The following agencies shall submit the following reports.

A. [2017, c. 475, Pt. A, §5 (RP).]

B. The Commissioner of Labor shall report by October 1st annually to the Legislature and the department on the amount of public funds spent on workforce development and training programs directly benefiting businesses in the State. The report must identify the amount of economic development incentives under the jurisdiction of the Department of Labor received by each business and the public benefit resulting from those economic development incentives. [2017, c. 264, §11 (AMD).]

C. The Maine Community College System shall report by October 1st annually to the Legislature and the department on the amount of public funds spent on job training programs directly benefiting businesses in the State. The report must identify the amount of economic development incentives under the jurisdiction of the system received by each business and the public benefit resulting from those economic development incentives. [2017, c. 264, §11 (AMD).]

D. [2009, c. 337, §5 (RP).]

E. [2009, c. 337, §5 (RP).]

F. [2009, c. 337, §5 (RP).]

[ 2017, c. 211, Pt. E, §1 (AMD); 2017, c. 475, Pt. A, §5 (AMD) .]

**5. (REALLOCATED FROM T. 5, §13070-J, sub-§6) Rules.** Rules adopted by the commissioner under this section are routine technical rules as defined in chapter 375, subchapter 2-A.

[ 2009, c. 337, §5 (AMD) .]

**6. (REALLOCATED TO T. 5, §13070-J, sub-§5) Rules.**

[ 1997, c. 761, §2 (NEW); 1999, c. 790, Pt. A, §3 (RAL) .]

#### SECTION HISTORY

1997, c. 761, §2 (NEW). 1999, c. 768, §§1,2 (AMD). 1999, c. 790, §A3 (AMD). RR 2001, c. 2, §A11 (COR). 2001, c. 481, §2 (AMD). 2001, c. 642, §§1-3 (AMD). 2001, c. 642, §12 (AFF). 2001, c. 652, §2 (AMD). 2001, c. 710, §§2,3 (AMD). 2001, c. 710, §4 (AFF). 2003, c. 20, §002 (AMD). 2003, c. 20, §004 (AFF). 2005, c. 519, §TTT1 (AMD). 2009, c. 337, §5 (AMD). 2011, c. 380, Pt. HHHH, §1 (AMD). 2011, c. 573, §1 (AMD). 2013, c. 588, Pt. A, §7 (AMD). 2015, c. 494, Pt. B, §1 (AMD). 2017, c. 211, Pt. E, §1 (AMD). 2017, c. 264, §§8-11 (AMD). 2017, c. 475, Pt. A, §5 (AMD).

### §13070-K. ECONOMIC DEVELOPMENT INCENTIVE CONTRACT

If the commissioner enters into a contractual relationship with a business regarding the provision of an economic development incentive in return for the business's agreement to locate, expand or retain its facilities in the State, that contract must contain a statement of the State's expected public benefit from its investment of public funds. [2001, c. 481, §3 (AMD).]

#### SECTION HISTORY

1997, c. 761, §2 (NEW). 2001, c. 481, §3 (AMD).

### §13070-L. ECONOMIC DEVELOPMENT INCENTIVE COMMISSION

*(REPEALED)*

#### SECTION HISTORY

1997, c. 761, §2 (NEW). 1999, c. 768, §3 (AMD). 2001, c. 481, §4 (RP).

### §13070-M. REPEAL

*(REPEALED)*

#### SECTION HISTORY

1997, c. 761, §2 (NEW). 1999, c. 768, §4 (AMD). 2001, c. 481, §5 (RP).

## §13070-N. MAINE TECHNOLOGY INSTITUTE DIRECTOR (REALLOCATED TO TITLE 5, SECTION 15310)

### SECTION HISTORY

1999, c. 401, §AAA2 (NEW). 1999, c. 708, §3 (RAL).

## §13070-O. EVALUATION OF ECONOMIC DEVELOPMENT PROPOSALS

### 1. Criteria. An economic development proposal must:

A. Have a program name that accurately describes the nature of the program; [1999, c. 768, §5 (NEW).]

B. Have specific stated objectives, such as the number of jobs to be created or retained, the wage levels and benefits associated with those jobs or a project with significant value to the State or a community within the State; [1999, c. 768, §5 (NEW).]

C. Specify a method to measure whether the objectives of the program have been met; [1999, c. 768, §5 (NEW).]

D. Require that a business that receives benefits under the program report on the use of the benefits received; [1999, c. 768, §5 (NEW).]

E. Require that the appropriate joint standing committee of the Legislature review the program at specific and regular intervals; [1999, c. 768, §5 (NEW).]

F. Provide incentives for a business to meet objectives of the program and, when incentives are provided in anticipation of contractual performance, penalties for a business that does not meet the objectives of the program; [2007, c. 434, §4 (AMD).]

G. Provide a cost analysis of the program based on at least a 10-year period; [2007, c. 434, §5 (AMD).]

H. Have a clearly defined public purpose; [2007, c. 434, §6 (NEW).]

I. In addition to standard data, report performance data specific to its goals and objectives annually to the entity that is assigned to coordinate the State's portfolio of economic development programs; and [2007, c. 434, §7 (NEW).]

J. Require that a business that receives benefits under the program have a business statement that includes the requirements of section 13070-J, subsection 2-A. [2017, c. 264, §12 (AMD).]

[ 2007, c. 434, §§4-8 (AMD); 2017, c. 264, §12 (AMD) .]

**2. Review of criteria.** The department shall review each economic development proposal and any information relevant to the proposal and shall report to the joint standing committee of the Legislature having jurisdiction over the proposal on the extent to which the proposal meets the criteria specified in subsection 1.

[ 1999, c. 768, §5 (NEW) .]

### SECTION HISTORY

1999, c. 768, §5 (NEW). 2007, c. 434, §§4-8 (AMD). 2017, c. 264, §12 (AMD).

## §13070-P. COMPREHENSIVE EVALUATION OF STATE INVESTMENTS IN ECONOMIC DEVELOPMENT

**1. Conduct evaluation.** By February 1, 2021, and every 4 years thereafter, the commissioner shall submit a comprehensive evaluation of state economic development investments, referred to in this section as "the evaluation," not to include programs subjected to independent evaluations required by federal programs, to the Governor and the Legislature.

A. The scope of the evaluation must include research and development activities and economic development incentives in this State. [2017, c. 264, §13 (NEW).]

B. The evaluation must be performed by independent, objective reviewers. [2017, c. 264, §13 (NEW).]

C. The evaluation objectives include, but are not limited to, an assessment of:

- (1) The extent to which the State's portfolio of economic development investments, particularly in terms of level and types of investments, aligns with and supports the state strategic economic improvement plan;
- (2) The extent to which individual activities and programs, or groups of activities and programs, within the State's portfolio are contributing to the achievement of particular goals, measurable objectives and performance targets associated with the state strategic economic improvement plan;
- (3) How the State's portfolio of economic development investments, particularly in terms of level and types of investments, compares to investments in other states;
- (4) The effect of the State's economic development investments in improving the competitiveness of the State's established and emerging technology and industry sectors in regional, national and global arenas; and
- (5) The extent to which the overall framework for the State's economic development investments provides for sufficient transparency and accountability, effective and efficient coordination among the State's activities and programs and easy access for interested businesses and other entities. [2017, c. 264, §13 (NEW).]

D. The evaluation must include recommendations to the department, the Governor and the Legislature on any identified:

- (1) Opportunities to modify the current portfolio of state economic development investments, particularly with regard to level of investment or types of activities and programs, in order to better align resources with the state strategic economic improvement plan and more cost-effectively support achievement of goals, objectives and performance targets associated with the plan;
- (2) Opportunities to shift investments from economic development activities and programs to other state efforts in order to better align resources with the state strategic economic improvement plan and more cost-effectively support achievement of goals, objectives and performance targets associated with the plan;
- (3) Opportunities to improve transparency and accountability for state economic development investments, coordination among economic activities and programs in the portfolio or accessibility of business and other entities to those activities and programs; and
- (4) Areas for improvement. [2017, c. 264, §13 (NEW).]

E. In planning and conducting the evaluation, the department and independent reviewers may consider pertinent information available from the Maine Economic Growth Council, as established in Title 10, section 929-A, and from reviews conducted by the Office of Program Evaluation and Government



Accountability, as established in Title 3, section 991. The independent reviewers may consult with the Office of Program Evaluation and Government Accountability on accessing data, confidential or otherwise, necessary for the evaluation. [ 2017, c. 264, §13 (NEW) . ]

[ 2017, c. 264, §13 (NEW) . ]

**2. Action on evaluation recommendations.** By February 1, 2021 and every 4 years thereafter, the commissioner shall present the evaluation and results from the most recent evaluation required under this section to the joint standing committee of the Legislature having jurisdiction over labor, commerce, research and economic development matters. The commissioner shall report to the Governor and the committee on actions planned by the department and other entities administering the programs to address the recommendations made. The committee shall also consider the independent reviewers' recommendations and may submit a bill to the Legislature to implement recommendations.

By February 1, 2023 and by February 1st every 4 years thereafter, the commissioner shall submit to the Governor and the joint standing committee of the Legislature having jurisdiction over labor, commerce, research and economic development matters a progress report related to the evaluation required under this section that describes the implementation status of the planned actions to address the recommendations from the prior evaluation.

[ 2017, c. 264, §13 (NEW) . ]

#### SECTION HISTORY

2017, c. 264, §13 (NEW) .

## §13070-Q. MAINE ECONOMIC DEVELOPMENT EVALUATION FUND

**1. Fund established.** The Maine Economic Development Evaluation Fund, referred to in this section as "the fund," is established as a nonlapsing Other Special Revenue Funds account administered by the department for the purposes of funding the comprehensive economic development investments evaluation required pursuant to section 13070-P, subsection 1.

[ 2017, c. 264, §14 (NEW) . ]

**2. Fund sources.** The fund receives money deposited by the Treasurer of State pursuant to this section and any other gift, grant or other source of revenue deposited for funding the comprehensive economic development investments evaluation required pursuant to section 13070-P, subsection 1.

[ 2017, c. 264, §14 (NEW) . ]

**3. Payments to fund.** Notwithstanding section 1585 or any other provision of law:

A. The department shall assess agencies or private entities that receive General Fund appropriations or general obligation bonds for economic development incentives an amount for contribution to the fund that is not to exceed 0.8% of General Fund appropriations received by or general obligation bonds issued to an agency or entity for economic development incentives. Private entities that receive funds from general obligation bonds for economic development incentives shall pay to the Treasurer of State in the fiscal year in which the general obligation bond was issued an assessment amount determined by the department that is 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 \$250,000 or more in economic development appropriations in any fiscal year or those entities that receive funds from a general obligation bond issue of \$250,000 or more for economic development incentives in any fiscal year, as identified and certified by the department and the Office of Fiscal and Program Review, may be assessed pursuant to this subsection. The department shall provide to each

agency or private entity that is assessed a payment under this paragraph an annual budget for the fund and a detailed account of each institution's required assessment. Total payments made pursuant to this paragraph may not exceed \$200,000 in any fiscal year; and [2017, c. 264, §14 (NEW).]

B. Agencies or private entities that receive General Fund appropriations or general obligation bonds for research and development activities 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 activities. Private entities that receive funds from general obligation bonds for research and development activities 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 activities in any fiscal year, as identified and certified by the Office of Innovation, established pursuant to section 13105, and the Office of Fiscal and Program Review, may be assessed. The Office of Innovation shall provide to each agency or private entity that is assessed a payment under this paragraph an annual budget for the fund and a detailed account of each institution's required assessment. Total payments made pursuant to this paragraph may not exceed \$200,000 in any fiscal year. [2017, c. 264, §14 (NEW).]

[2017, c. 264, §14 (NEW).]

#### SECTION HISTORY

2017, c. 264, §14 (NEW).

## Subchapter 3: TOURISM AND COMMUNITY DEVELOPMENT

### Article 1: COMMUNITY DEVELOPMENT

#### §13071. FINDINGS

The Legislature finds that the strength of the State's economy is based on the strength of the local economies of municipalities and their ability to adjust to the dramatic changes in the national and international economies. The Legislature also recognizes the need for the coordination of state, regional and local efforts and resources to produce solid economic growth and development for the State. [1987, c. 534, Pt. A, §§ 17, 19 (NEW).]

Economic growth and development is not limited exclusively to the generation of new businesses and business expansions. It requires sufficient housing and infrastructure facilities, planning and availability of an educated and well-trained labor force which are necessary to the prosperity of municipalities. [1987, c. 534, Pt. A, §§ 17, 19 (NEW).]

It is necessary to coordinate the development and delivery of community programs. By coordinating and focusing various community development programs, the impact of these programs can be far more effective. The existence of a central community development agency can improve and facilitate communication and assistance between the State and its municipalities. [1987, c. 534, Pt. A, §§ 17, 19 (NEW).]

By working together, coordinating resources and developing policies which are mutually consistent and consistent with an overall state strategy, the State and its municipalities can realize their potential and prosperity in the future. [1987, c. 534, Pt. A, §§ 17, 19 (NEW).]

#### SECTION HISTORY

1987, c. 534, §§A17,A19 (NEW).

#### §13071-A. MAINE PROMOTION COUNCIL COOPERATIVE

*(REPEALED)*

## SECTION HISTORY

1993, c. 181, §1 (NEW). 2003, c. 673, §M7 (RP).

**§13072. COMMUNITY DEVELOPMENT**

The Office of Community Development shall assist municipalities in planning for and achieving economic growth and development while, at the same time, preserving and protecting their resources and assets. To achieve this purpose, the department, through the office, shall strive to remove barriers to balanced economic growth and provide planning, technical and financial resources to the municipalities to enhance economic development. [2003, c. 198, §2 (AMD).]

The Director of the Office of Community Development shall administer the office in accordance with the policies of the commissioner and the provisions of this chapter. The director has the following powers and duties. [2003, c. 198, §3 (AMD).]

**1. Establish communication network.** The director shall establish a communication network by which information, resources and assistance are transferred between State Government and the municipalities.

A. The director shall work with municipalities and regional community and economic development organizations. The director shall work closely with persons or organizations representing municipalities and with regional community and economic development organizations to address the development needs, problems and opportunities of municipalities and regions. [1987, c. 534, Pt. A, §§17, 19 (NEW).]

[ 1987, c. 534, Pt. A, §§17, 19 (NEW) .]

**2. Designate local and regional community and economic development organizations.** The director shall monitor the activities of designated public and private, local and regional community and economic development organizations. In order to receive financial assistance and resources from the department, an agency must demonstrate the effective administration of programs and services and the effectiveness of these programs.

[ 1987, c. 534, Pt. A, §§17, 19 (NEW) .]

**3. Development grants.** The director, with the approval of the commissioner, may provide grants to municipalities and regional development organizations for the purpose of creating economic and community development strategies and policies.

[ 1987, c. 534, Pt. A, §§17, 19 (NEW) .]

**4. Provide information.** The director shall provide municipalities with information about the department's programs and services and shall refer municipalities to the offices and programs within the State that can best assist them.

[ 1995, c. 395, Pt. D, §6 (AMD) .]

**5. Work with state agencies.** The director shall work with other state agencies that administer community and economic development programs and services used by municipalities. The director shall strive to coordinate department programs and services with the programs and services of these agencies.

[ 1987, c. 816, Pt. P, §9 (AMD) .]

**6. Administer Community Industrial Buildings Program.**

[ 2001, c. 703, §4 (RP) .]

**7. Oversee community development resources and programs.** The director shall oversee the implementation of community development programs to include at a minimum:

- A. The Community Development Block Grant Program; and [2011, c. 655, Pt. FF, §1 (AMD); 2011, c. 655, Pt. FF, §16 (AFF).]
- B. [1987, c. 816, Pt. P, §10 (RP).]
- C. [1987, c. 816, Pt. P, §10 (RP).]
- D. [1995, c. 395, Pt. D, §7 (RP).]
- E. [1993, c. 92, §13 (RP).]
- F. [1995, c. 395, Pt. D, §7 (RP).]
- G. Training and certification for municipal code enforcement officers under Title 30-A, chapter 187, subchapter 5. [2011, c. 655, Pt. FF, §1 (NEW); 2011, c. 655, Pt. FF, §16 (AFF).]

[ 2011, c. 655, Pt. FF, §1 (AMD); 2011, c. 655, Pt. FF, §16 (AFF) .]

**8. Provide technical assistance.** The director shall oversee delivery of technical assistance and resources to municipalities and regional community and economic development organizations for the purpose of encouraging economic growth while maintaining the quality of life.

[ 1995, c. 395, Pt. D, §8 (AMD) .]

**9. Provide technical assistance and resources for local parks and recreation development.**

[ 1987, c. 816, Pt. P, §12 (RP) .]

**10. Enforcement assistance program.**

[ 1995, c. 395, Pt. D, §9 (RP) .]

#### SECTION HISTORY

1987, c. 534, §§A17,A19 (NEW). 1987, c. 816, §§P8-P12 (AMD). 1991, c. 622, §§F8-12 (AMD). 1993, c. 92, §§12,13 (AMD). 1995, c. 395, §§D6-9 (AMD). 1995, c. 560, §§B8-10 (AMD). 2001, c. 703, §4 (AMD). 2003, c. 198, §§2,3 (AMD). 2011, c. 655, Pt. FF, §1 (AMD). 2011, c. 655, Pt. FF, §16 (AFF).

### §13073. COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

The director shall implement the Community Development Block Grant Program pursuant to the United States Housing and Community Development Act of 1974, Title 1, and its subsequent amendments. For purposes of this section, "program" means the Community Development Block Grant Program and "fund" means the Community Development Revolving Loan Fund. [1987, c. 534, Pt. A, §§ 17, 19 (NEW) .]

**1. Revolving loan fund.** The Community Development Block Grant Program shall include the Community Development Revolving Loan Fund which shall be a nonlapsing revolving fund.

[ 1987, c. 534, Pt. A, §§ 17, 19 (NEW) .]

**2. Repayments to fund.** To this fund shall be credited all repayments of grants made to municipalities that elect not to retain those funds under the fund part of the program, including interest, penalties and other fees and charges related to fund grants.

[ 1987, c. 534, Pt. A, §§ 17, 19 (NEW) .]

**3. Investment of fund money.** Money in the fund not needed to meet the current obligations of the program shall be deposited with the Treasurer of State to the credit of the fund and may be invested in such manner as is provided by law. Interest received on that investment shall be credited to the fund.

[ 1987, c. 534, Pt. A, §§ 17, 19 (NEW) .]

**4. Legislative allocation of fund required.** The Department of Economic and Community Development shall submit to the Legislature, through the budget process as required by chapter 149, its recommendations for disbursement from the fund.

[ 1987, c. 534, Pt. A, §§ 17, 19 (NEW) .]

**5. Expenditures from fund.** Upon approval of the allocation by the Legislature and approval of the allotment by the Governor, the State Controller shall authorize expenditures from the fund as approved by the department for the following purposes:

A. Administrative expenses related to the fund; [1987, c. 534, Pt. A, §§ 17, 19 (NEW) .]

B. Grants to cities and towns under the fund; and [1987, c. 534, Pt. A, §§ 17, 19 (NEW) .]

C. Grants related to the fund and to other public and private organizations. [1987, c. 534, Pt. A, §§ 17, 19 (NEW) .]

[ 1987, c. 534, Pt. A, §§ 17, 19 (NEW) .]

**6. Encumbered balances at year-end.** At the end of each fiscal year, all encumbered balances in the Community Development Block Grant may be carried twice.

[ 1989, c. 7, Pt. O, §3 (NEW) .]

#### SECTION HISTORY

1987, c. 534, §§A17,A19 (NEW). 1989, c. 7, §O3 (AMD).

## §13073-A. REGIONAL ECONOMIC DEVELOPMENT ASSISTANCE FUND

The Director of the Office of Community Development shall administer the Regional Economic Development Assistance Fund, referred to in this section as the "fund." [2003, c. 198, §4 (AMD) .]

**1. Fund established.** The fund is established as a nonlapsing fund within the Office of Community Development.

[ 2003, c. 198, §5 (AMD) .]

**2. Fund purpose.** The purpose of the fund is to provide funding to develop effective local and regional economic development programs. The department shall administer the fund to award start-up grants to nonprofit local or regional community organizations that are providing local or regional economic development programs.

[ 1999, c. 731, Pt. VVV, §2 (NEW) .]

**3. Application process.** The department shall adopt rules establishing an application process for fund grants for the purposes set forth in this section.

[ 1999, c. 731, Pt. VVV, §2 (NEW) .]

**4. Competitive procedure.** Funds must be dispersed in accordance with a competitive, quality-based selection procedure as established and administered by the department.

[ 1999, c. 731, Pt. VVV, §2 (NEW) .]

**5. Preference in awards.** In awarding grants, the department shall give preference to those projects or programs that will benefit economically distressed communities and regions. In determining preference, the department shall consider such factors as unemployment rates, per capita income, educational attainment, business failures and dependence upon mature or dominant industries.

[ 1999, c. 731, Pt. VVV, §2 (NEW) .]

**6. Local match requirements.** All funds awarded must be matched by local funds on a minimum one-to-one basis.

[ 1999, c. 731, Pt. VVV, §2 (NEW) .]

**7. Rules.** The department shall adopt rules necessary to carry out this section. Rules adopted pursuant to this section are routine technical rules as defined in chapter 375, subchapter II-A.

[ 1999, c. 731, Pt. VVV, §2 (NEW) .]

#### SECTION HISTORY

1999, c. 731, §VVV2 (NEW). 2003, c. 198, §§4,5 (AMD).

## §13073-B. MAINE DOWNTOWN CENTER

**1. Establishment.** The Maine Downtown Center, referred to in this section as "the center," is established to encourage downtown revitalization in the State.

[ 2011, c. 655, Pt. JJ, §4 (NEW); 2011, c. 655, Pt. JJ, §41 (AFF) .]

**2. Purpose.** The center serves the following functions:

A. To advocate for downtown revitalization; [2011, c. 655, Pt. JJ, §4 (NEW); 2011, c. 655, Pt. JJ, §41 (AFF).]

B. To promote awareness about the importance of vital downtowns; [2011, c. 655, Pt. JJ, §4 (NEW); 2011, c. 655, Pt. JJ, §41 (AFF).]

C. To serve as a clearinghouse for information relating to downtown development; and [2011, c. 655, Pt. JJ, §4 (NEW); 2011, c. 655, Pt. JJ, §41 (AFF).]

D. To provide training and technical assistance to communities that demonstrate a willingness and ability to revitalize their downtowns. [2011, c. 655, Pt. JJ, §4 (NEW); 2011, c. 655, Pt. JJ, §41 (AFF).]

[ 2011, c. 655, Pt. JJ, §4 (NEW); 2011, c. 655, Pt. JJ, §41 (AFF) .]

**3. Collaboration.** The Department of Agriculture, Conservation and Forestry shall work collaboratively with the Commissioner of Economic and Community Development, the Maine Development Foundation and other state agencies to coordinate the programs of the center.

[ 2011, c. 655, Pt. JJ, §4 (NEW); 2011, c. 655, Pt. JJ, §41 (AFF); 2011, c. 657, Pt. W, §5 (REV) .]

**4. Funding.** The center shall develop a plan for the ongoing funding of the center.

[ 2011, c. 655, Pt. JJ, §4 (NEW); 2011, c. 655, Pt. JJ, §41 (AFF) .]

**5. Definition.** For the purposes of this section, "downtown" has the same meaning as in Title 30-A, section 4301, subsection 5-A.

[ 2011, c. 655, Pt. JJ, §4 (NEW); 2011, c. 655, Pt. JJ, §41 (AFF) .]

#### SECTION HISTORY

2011, c. 655, Pt. JJ, §4 (NEW). 2011, c. 655, Pt. JJ, §41 (AFF). 2011, c. 657, Pt. W, §5 (REV).

### **§13074. LOCAL GRANTS PROGRAM**

*(REPEALED)*

#### SECTION HISTORY

1987, c. 534, §§A17,A19 (NEW). 1987, c. 816, §P13 (RP).

### **§13074-A. MAINE NATURAL HERITAGE PROGRAM**

*(REPEALED)*

#### SECTION HISTORY

1991, c. 622, §F13 (NEW). 1993, c. 92, §14 (RP).

### **§13075. ECONOMIC CORRIDOR ACTION GRANT PROGRAM**

*(REPEALED)*

#### SECTION HISTORY

1987, c. 855, §1 (NEW). 1989, c. 105, (AMD). 1989, c. 502, §D3 (AMD). 1989, c. 700, §A20 (AMD). 1989, c. 702, §E4 (RP). 2007, c. 466, Pt. A, §24 (RP).

## Article 1-A: NATURAL AREAS

### **§13076. NATURAL RESOURCES INFORMATION AND MAPPING CENTER**

*(REPEALED)*

#### SECTION HISTORY

1993, c. 92, §15 (NEW). 1995, c. 395, §§D10,11 (AMD). 1995, c. 502, §E32 (AMD). 1999, c. 556, §6 (RP). 1999, c. 592, §1 (AMD). 2001, c. 471, §B1 (AMD).

### **§13077. NATURAL AREAS ADVISORY BOARD**

*(REPEALED)*

## SECTION HISTORY

1993, c. 92, §15 (NEW). 1995, c. 502, §E32 (AMD). 1999, c. 556, §6 (RP).

**§13078. RESPONSIBILITIES OF COMMISSIONER**

*(REPEALED)*

## SECTION HISTORY

1993, c. 92, §15 (NEW). 1995, c. 502, §E32 (AMD). 1999, c. 556, §6 (RP).

**§13079. NATURAL AREAS CONSERVATION FUND**

*(REPEALED)*

## SECTION HISTORY

1993, c. 92, §15 (NEW). 1999, c. 556, §6 (RP).

## Article 1-B: LORING DEVELOPMENT AUTHORITY OF MAINE

**§13080. LORING DEVELOPMENT AUTHORITY OF MAINE ESTABLISHED**

The Loring Development Authority of Maine is established as a body corporate and politic and a public instrumentality of the State to carry out the provisions of this article and shall take title, acquire and manage the properties within the geographical boundaries of Loring Air Force Base in the name of the State. [1993, c. 729, §2 (RPR).]

## SECTION HISTORY

1993, c. 474, §1 (NEW). 1993, c. 729, §1 (RPR).

**§13080-A. DEFINITIONS**

As used in this article, unless the context otherwise indicates, the following terms have the following meanings. [1993, c. 474, §1 (NEW).]

**1. Authority.** "Authority" means the Loring Development Authority of Maine.

[ 1993, c. 474, §1 (NEW) .]

**2. Base area.** "Base area" means the area within the geographic boundaries of Loring Air Force Base.

[ 1993, c. 474, §1 (NEW) .]

**3. Bond.** "Bond" means a bond or note or other evidence of indebtedness authorized under this article, whether issued under or pursuant to a bond resolution, trust indenture, loan or other security agreement.

[ 1993, c. 474, §1 (NEW) .]

**4. Department.** "Department" means the Department of Economic and Community Development or its successor.

[ 1993, c. 474, §1 (NEW) .]



**5. Governing body.** "Governing body" means, for a municipality, the municipal legislative body as defined by Title 30-A, section 2001 or, for a county, the board of county commissioners.

[ 1993, c. 474, §1 (NEW) . ]

**6. Loring Air Force Base.** "Loring Air Force Base" or "base" means those properties and facilities within the geographic boundaries of the United States Department of Defense air force base at Limestone existing on July 13, 1993. "Base" also includes the Madawaska dam site, the Loring Water System, the Loring #3 communications site in Limestone, the pipeline from Searsport to Limestone and other geographically separate property that the authority determines should be considered part of the base, if the municipality in which the property is located has chosen not to accept the property and utilize it for other purposes.

[ 2003, c. 598, §1 (AMD) . ]

**7. Operating revenues.** "Operating revenues" means funds available to the authority from fees, fares, rental or sale of property and miscellaneous revenue and interest generated by the airport and collected in accordance with the provisions of the Surplus Property Act, 49 United States Code App. Section 2210 and Federal Aviation Administration Order 5190.6A.

[ 1993, c. 729, §2 (AMD) . ]

**8. Primary impact community.** "Primary impact community" means the municipalities of Caribou, Caswell, Fort Fairfield, Limestone, Presque Isle and Van Buren and Aroostook County.

[ 1993, c. 474, §1 (NEW) . ]

**9. Readjustment or reuse.** "Readjustment" or "reuse" means an alternative use of the base facility from its use as a military installation.

[ 1993, c. 474, §1 (NEW) . ]

**10. Real or personal property.** "Real or personal property" means those properties and assets transferred by the United States Government or the United States Air Force pursuant to the closure of Loring Air Force Base.

[ 1993, c. 474, §1 (NEW) . ]

**11. Reconstruct or reconstruction.** "Reconstruct" or "reconstruction" means any activities undertaken to maintain the properties of Loring Air Force Base, or any part of those properties, as a modern, safe and efficient facility and includes, but is not limited to, any rebuilding, redesign, improvement or enlargement of the real properties or environmental mitigation activities on base properties.

[ 1993, c. 474, §1 (NEW) . ]

#### SECTION HISTORY

1993, c. 474, §1 (NEW). 1993, c. 729, §2 (AMD). 1995, c. 495, §1 (AMD). RR 1997, c. 2, §19 (COR). 2003, c. 598, §1 (AMD).

## §13080-B. LORING DEVELOPMENT AUTHORITY OF MAINE; POWERS; MEMBERSHIP; OBLIGATIONS

**1. Powers.** The authority is a public municipal corporation and may:

A. Sue and be sued; [1993, c. 474, §1 (NEW) . ]

- B. Adopt bylaws or regulations consistent with this article for the governance of its affairs; [1993, c. 474, §1 (NEW).]
- C. Exercise all of the general powers of corporations under Title 13-C, section 302; [2001, c. 2, Pt. B, §58 (AFF); 2001, c. 2, Pt. B, §3 (COR).]
- D. Exercise the power of eminent domain; [1993, c. 474, §1 (NEW).]
- E. Provide for the public safety by imposing appropriate regulations, regulating appropriate use of the base facilities and enforcing laws and regulations as they apply to the use of the base facilities; [1993, c. 474, §1 (NEW).]
- F. Charge and collect fees, charges and rents for the use of the properties and other services and use the proceeds of those fees, charges and rents for the purposes provided in this article, both subject to and in accordance with any agreement with bondholders that may be made as provided in this article. Fees, charges and rents collected from properties contained in the public benefit transfer or otherwise generated by the airport must be used to support the development, maintenance and operation of aeronautical facilities and in accordance with Federal Aviation Administration Order 5190.6A; [1993, c. 729, §3 (AMD).]
- G. Contract with the Federal Government or its instrumentalities or agencies, this State or its agencies, instrumentalities or municipalities, public bodies, private corporations, partnerships, associations, individuals and other persons to carry out the purposes of this article; [2003, c. 598, §2 (AMD).]
- H. Accept the cooperation of the Federal Government or its agencies in the construction, maintenance, reconstruction, operation and financing of the readjustment of the base and take necessary actions to utilize that aid and cooperation; [1993, c. 474, §1 (NEW).]
- I. Borrow money and apply for and accept advances, loans, grants, contributions and other forms of financial assistance from the Federal Government, the State, a municipality or other public body or from other sources, public or private, for the purposes of this article, give any security that is required and enter into and carry out contracts in connection with that financial assistance; [1993, c. 474, §1 (NEW).]
- J. Borrow money, make, issue and sell at public or private sale negotiable notes, bonds and other evidences of indebtedness or obligation of the authority for the purposes under this article and secure the payment of that obligation or any part of that obligation by pledge of all or any part of the operating revenues or other revenues or property of the authority; [2003, c. 598, §2 (AMD).]
- K. Enter into loan or security agreements with borrowers or one or more lending institutions, including, but not limited to, banks, insurance companies and pension funds, or trustees for those institutions for the purposes for which bonds may be issued and exercise with respect to those loan or security agreements all of the powers delineated in this article for the issuance of bonds; [2003, c. 598, §2 (AMD).]
- L. Provide from operating revenues for the maintenance, construction or reconstruction of facilities to ensure the public safety for which the authority has not otherwise provided and in keeping with limitations set forth in paragraph F; [1993, c. 729, §3 (AMD).]
- M. Use operating revenues to provide payment of obligations, if any, due to the United States to implement the readjustment or reuse of the facility. Use of operating revenues for this purpose must be in accordance with the provisions of the Surplus Property Act, 50 United States Code App. Section 1622 et seq. and Federal Aviation Administration Order 5190.6A; [1993, c. 729, §3 (AMD).]
- N. Adopt rules pursuant to the Maine Administrative Procedure Act; and [1993, c. 474, §1 (NEW).]

O. Take all other lawful action necessary and incidental to these powers. [1993, c. 474, §1 (NEW).]

[ 2003, c. 598, §2 (AMD) .]

**2. Membership; appointment.** The authority is governed by a board of trustees composed of 13 voting members appointed by the Governor and subject to review by the joint standing committee of the Legislature having jurisdiction over economic development matters and to confirmation by the Senate.

A. Trustees are appointed for 4-year terms except that, for initial appointments, 3 trustees are appointed to one-year terms, 3 trustees to 2-year terms, 2 trustees to 3-year terms, 4 trustees to 4-year terms and the commissioner designated pursuant to paragraph D serves at the pleasure of the Governor. [1995, c. 166, §1 (AMD).]

B. A trustee 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 trustee's term. [1993, c. 474, §1 (NEW).]

C. The Governor shall make 12 appointments, of which no less than 7 must be from candidates who are residents of Aroostook County and are nominated by the primary impact communities. The Governor shall appoint members who reflect the diversity of interests represented by these communities. At least 4 of the remaining appointments must be from candidates who are not residents of Aroostook County. [1995, c. 166, §1 (AMD).]

D. The Governor shall designate a commissioner of a department of State Government to be a voting, ex officio member of the board of trustees. [1993, c. 474, §1 (NEW).]

[ 1995, c. 166, §1 (AMD) .]

**3. Quorum.** Seven members constitute a quorum. Seven affirmative votes are required for the board to take action.

[ 1995, c. 166, §1 (AMD) .]

**4. Liability.** The liability of the authority is governed by the Maine Tort Claims Act, Title 14, chapter 741. A member of the authority, a member of a board of the authority and an employee of the authority may not be subject to any personal liability for having acted in the service of their duty as board members of the authority within the course and scope of membership or employment to carry out a power or duty under this chapter. The authority shall indemnify a member of the authority, a member of a board of the authority and an employee of the authority against expenses actually and necessarily incurred in connection with the defense of an action or proceeding in which the member or employee is made a party by reason of past or present association with the authority.

[ 1997, c. 71, §1 (AMD) .]

**5. Expenses.** A trustee is not entitled to receive compensation for services to the authority but is entitled to receive reimbursement for necessary expenditures, including travel expenses, incurred in carrying out those services.

[ 1993, c. 474, §1 (NEW) .]

**6. Officers; employees.** The trustees shall elect a chair and vice-chair from among their members. The authority may employ an executive director, technical experts and other 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 Public Employees Retirement

System, any state-deferred compensation plan or any other plan or program adopted by the trustees to the extent the trustees may determine. For required legal services, the authority may employ or retain its own counsel and legal staff.

[ 1995, c. 495, §2 (AMD); 2007, c. 58, §3 (REV) .]

**7. Term limits.** A person may not serve more than 2 consecutive 4-year terms as a trustee.

[ 1995, c. 644, §1 (NEW); 1995, c. 644, §3 (AFF) .]

#### SECTION HISTORY

1993, c. 474, §1 (NEW). 1993, c. 729, §§3,4 (AMD). 1995, c. 166, §1 (AMD). 1995, c. 495, §2 (AMD). 1995, c. 644, §1 (AMD). 1995, c. 644, §3 (AFF). 1997, c. 71, §1 (AMD). RR 2001, c. 2, §B58 (AFF). RR 2001, c. 2, §B3 (COR). 2003, c. 598, §2 (AMD). 2007, c. 58, §3 (REV).

### §13080-C. USE OF OPERATING REVENUES

**1. Use of revenue.** Operating revenue generated from property transferred in the Federal Aviation Administration public benefit transfer or otherwise generated by the airport must be used to support the development, maintenance and operation of aeronautical facilities, operating costs of the airport and costs substantially related to the actual air transportation of passengers or property. Revenues generated from other properties granted to the authority in subsequent or different transfers must be used as the authority determines appropriate within the powers established by this article.

[ 1993, c. 729, §5 (RPR) .]

**2. Permitted liability limited.** All expenses incurred in carrying out this article must be paid solely from funds provided under the authority of this article, and liability or obligation may not be incurred under this article beyond the extent to which money has been provided under the authority of this article.

[ 1993, c. 474, §1 (NEW) .]

**3. Equal opportunity employers.** Contractors and subcontractors on authority construction and reconstruction projects must be equal opportunity employers and, for contracts in excess of \$250,000, shall pursue in good faith affirmative action programs as defined in section 782. The authority may by rule provide for the enforcement of this requirement.

[ 1993, c. 474, §1 (NEW) .]

#### SECTION HISTORY

1993, c. 474, §1 (NEW). 1993, c. 729, §5 (AMD).

### §13080-D. PROPERTY OF AUTHORITY

The authority shall hold and acquire property as follows. [1993, c. 474, §1 (NEW) .]

**1. Lease or sale.** Properties may be leased or sold to accomplish the readjustment or reuse of the facilities as determined appropriate by the authority. Resources acquired as a result of the lease or sale of these properties become operating revenues or assets of the authority.

[ 1993, c. 474, §1 (NEW) .]

**2. Entry upon lands.** The authority and its authorized agents and employees may enter upon lands, waters and premises in the State for the purpose of making surveys, soundings, drillings and examinations it determines necessary or convenient for the purposes of this article. The entry is not a trespass, but the authority is liable for damages its entry creates.

[ 1993, c. 474, §1 (NEW) .]

**3. Authority for transfers of interest in land to the authority.** Notwithstanding any contrary provisions 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 referred to in Title 13-C.

[ 2001, c. 2, Pt. B, §58 (AFF); 2001, c. 2, Pt. B, §4 (COR) .]

**4. Enforcement on ways under jurisdiction of the authority.** A law enforcement officer may enforce the traffic laws under Title 29-A on a way under the jurisdiction of the authority.

[ 2013, c. 48, §1 (NEW) .]

#### SECTION HISTORY

1993, c. 474, §1 (NEW). RR 2001, c. 2, §B58 (AFF). RR 2001, c. 2, §B4 (COR). 2013, c. 48, §1 (AMD).

## §13080-E. SPECIAL UTILITY DISTRICTS

The authority may form special utility districts and provide municipal utility services within its jurisdiction. The board of trustees of the authority has the authority of a municipal legislative body for these purposes. [1993, c. 474, §1 (NEW).]

**1. Sewer services.** The authority may provide sewer services as a sanitary district under Title 38, chapter 11, subchapters III and IV. The authority may establish a board of trustees for the district and appoint the members of the board or may act as the trustees of the district.

[ 1993, c. 474, §1 (NEW) .]

**2. Solid waste disposal.** The authority may provide solid waste disposal services as a refuse disposal district under Title 38, chapter 17. The authority may establish a board of trustees for the district and appoint the members of the board or may act as the trustees of the district.

[ 1993, c. 474, §1 (NEW) .]

**3. Water.** The authority may provide water as a water district under Title 35-A, Part 6. The authority may establish a board of trustees for the district and appoint the members of the board or may act as the trustees of the district.

[ 1993, c. 474, §1 (NEW) .]

**4. Revenue-producing services.** The authority has all the powers of a municipality to provide services under Title 30-A, chapter 213.

[ 1993, c. 474, §1 (NEW) .]

SECTION HISTORY

1993, c. 474, §1 (NEW).

## §13080-F. OTHER MUNICIPAL POWERS

**1. Traffic ordinances.** The authority has the power to enact traffic ordinances and regulate the operation of motor vehicles under Title 30-A, section 3009, to the extent that power is not inconsistent with other validly enacted municipal ordinances.

[ 1993, c. 474, §1 (NEW) .]

**2. Operating expenses.** The authority has all the powers of a municipality to raise and appropriate money under Title 30-A, sections 5722 and 5723.

[ 1993, c. 474, §1 (NEW) .]

**3. Zoning.** The authority may adopt and enforce zoning and other land use ordinances for all Loring Air Force Base property. The authority shall comply with the mandatory shoreland zoning provisions of Title 38, sections 435 to 449. The ordinances preempt any municipal or local ordinances affecting the property. The authority shall secure rights-of-way, easements and zoning rules needed to adequately clear and protect the aerial approaches to the airport by removing, lowering, relocating, marking, lighting or otherwise mitigating existing airport hazards. The authority shall endeavor, to the extent reasonable, to ensure compatible use of land adjacent to or in the immediate vicinity area of the airport as provided in the Maine Aeronautics Act, Title 6, section 122.

[ 1995, c. 495, §3 (AMD) .]

**3-A. Loring Development Authority Planning Board.** The Loring Development Authority Planning Board is established as follows.

A. The Loring Development Authority Planning Board consists of 6 members. One member must be a nonvoting member appointed by the authority's board of trustees. The municipal officers of Caswell and Caribou shall each appoint one member and the municipal officers of Limestone shall appoint 3 members. [1995, c. 495, §4 (NEW) .]

B. The Loring Development Authority Planning Board shall:

- (1) Develop and recommend land use and zoning ordinances for Loring Air Force Base for approval by the authority;
- (2) Hold public hearings as necessary and appropriate in the member communities during the development of and changes to the ordinances; and
- (3) Upon adoption by the authority of any land use and zoning ordinances, review proposed projects at Loring Air Force Base under the ordinances and submit its decisions with respect to the projects to the authority for its approval. [1995, c. 495, §4 (NEW) .]

[ 1995, c. 495, §4 (NEW) .]

**4. Highway maintenance.** The authority may maintain, repair, plow and control public ways as a municipality under Title 23, Part 3. The authority shall consult and coordinate with the appropriate primary impact community in appointing a road commissioner.

[ 1993, c. 474, §1 (NEW) . ]

#### SECTION HISTORY

1993, c. 474, §1 (NEW). 1993, c. 729, §6 (AMD). 1995, c. 495, §§3,4 (AMD).

## §13080-G. BONDS

**1. Hearing required.** The authority may issue bonds to finance its activities only after giving notice of the proposed issuance at least twice in a newspaper of general circulation in the county and holding a duly advertised public hearing on the issuance.

[ 2003, c. 598, §3 (AMD) . ]

**1-A. Credit of State pledged.** The authority may ask the State to issue bonds to finance the undertaking of any authorized activity under this article, those bonds to have the full faith and credit of the State. Before any such bonds are issued they must be authorized by the Legislature and ratified by the electors in accordance with the Constitution of Maine, Article IX, Section 14. Subsections 1 and 2 and subsection 7, the 2nd 2 sentences, do not apply to bonds issued under this subsection.

[ 1995, c. 495, §5 (NEW) . ]

**2. Authority.** In addition to the authority provided in subsection 1-A, the authority may issue bonds from time to time in its discretion to finance the undertaking of an authorized activity under this article, including but not limited to the payment of costs of acquisition, construction, reconstruction, renovation, equipping, start-up, testing, capitalized interest, reserves, reuse or improvement within the base undertaken by a person and the payment of principal and interest upon advances for surveys and plans, and may issue refunding bonds for the payment or retirement of bonds previously issued.

A. The principal, interest and all other amounts that may at any time become due and payable under the bonds must be made payable solely from the income, proceeds, revenues and funds of the authority derived from or held for activities under this article. Payment of the principal and interest of bonds may be further secured by a pledge of a loan, grant or contribution from the Federal Government or other source in aid of activities of the authority under this article or solely from income, proceeds, revenues, loan repayments, funds and other property, real or personal, pledged, assigned or mortgaged by or to the authority in connection with the provision of financial assistance by the authority to any person or any combination of the foregoing and by a mortgage of an urban activity or a project or part of a project, title to which is in the authority. [ 2003, c. 598, §4 (AMD) . ]

B. Bonds issued under this section and paragraph do not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction and are not subject to other laws or charters relating to the authorization, issuance or sale of bonds. Notwithstanding this paragraph, the authority may issue bonds in an original principal amount not to exceed \$100,000,000 to which the authority may designate section 13080-N to apply. Bonds issued under this article are declared to be issued for an essential public and governmental purpose and, together with interest on and income from the bonds, are exempt from all taxes. [ 1995, c. 495, §7 (AMD) . ]

C. Bonds may not be issued by the authority until the authority has received a certificate of approval from the Finance Authority of Maine authorizing issuance of bonds. Before issuing a certificate of approval under this section, the Finance Authority of Maine shall determine that there is a reasonable likelihood that the income, proceeds, revenues and funds of the authority derived from or held for activities under this article or otherwise pledged to payment of the bonds will be sufficient to pay

principal, interest and all other amounts that may at any time become due and payable under the bonds. In making this determination, the Finance Authority of Maine must consider the authority's analysis of the proposed bond issue and the revenues to make payments on the bond and may require such information, projections, studies and independent analyses as it considers necessary or desirable and may charge the authority reasonable fees and expenses. The issuance by the Finance Authority of Maine of a certificate of approval under this section does not constitute an endorsement of the bonds or the projects or purposes for which those bonds are issued and neither the authority nor any other person or entity, including, without limitation, any holders of bonds of the authority, have any cause of action against the Finance Authority of Maine with respect to any such certificate of approval. The Finance Authority of Maine may require that it be indemnified, defended and held harmless by the authority for any liability or cause of action arising out of or with respect to the bonds. [2003, c. 598, §4 (AMD).]

D. Bonds may be issued by the authority only to finance projects that are substantially located within Aroostook County. [2003, c. 598, §4 (NEW).]

[ 2003, c. 598, §4 (AMD) .]

**3. General characteristics.** Bonds authorized under this section may be issued in one or more series. The resolution, trust indenture or mortgage under which the bonds are issued may include the following:

- A. The date or dates borne by the bonds; [1993, c. 474, §1 (NEW).]
- B. Whether the bonds are payable upon demand or mature at a certain time or times; [1993, c. 474, §1 (NEW).]
- C. The interest rate or rates of the bonds; [1993, c. 474, §1 (NEW).]
- D. The denomination or denominations of the bonds; [1993, c. 474, §1 (NEW).]
- E. The form of the bonds, whether coupon or registered; [1993, c. 474, §1 (NEW).]
- F. The conversion or registration privileges carried by the bonds; [1993, c. 474, §1 (NEW).]
- G. The rank or priority of the bonds; [1993, c. 474, §1 (NEW).]
- H. The manner of execution of the bonds; [1993, c. 474, §1 (NEW).]
- I. The medium and place or places of payment; [1993, c. 474, §1 (NEW).]
- J. The terms of redemption of the bonds, with or without premium; [1993, c. 474, §1 (NEW).]
- K. The manner secured; and [1993, c. 474, §1 (NEW).]
- L. Any other characteristics of the bonds. [1993, c. 474, §1 (NEW).]

[ 1993, c. 474, §1 (NEW) .]

**4. Price sold.** The bonds may be:

- A. Sold to any person on such terms as the authority may negotiate; [2003, c. 598, §5 (AMD).]
- B. Exchanged for other bonds on the basis of par; or [1993, c. 474, §1 (NEW).]
- C. Sold to the Federal Government at private sale at not less than par. If less than all of the authorized principal amount of the bonds is sold to the Federal Government, the balance may be sold at private sale at not less than par at an interest cost to the municipality that does not exceed the interest cost to the municipality of the portion of the bonds sold to the Federal Government. [1993, c. 474, §1 (NEW).]

[ 2003, c. 598, §5 (AMD) .]



**5. Signatures of outgoing officers; negotiability.** If an official of the authority whose signature appears on a bond or coupon issued under this article ceases to be an official before the bond is delivered, the signature is nevertheless valid for all purposes, as if the official had remained in office until the delivery. Notwithstanding contrary provisions of law, bonds issued under this article are fully negotiable.

[ 1993, c. 474, §1 (NEW) . ]

**6. Bond recitation; conclusive presumptions.** In actions or proceedings involving the validity or enforceability of a bond issued under this article or the security for that bond, a bond reciting in substance that it has been issued by the authority in connection with an activity is conclusively deemed to have been issued for that purpose and the activity is conclusively deemed to have been planned, located and carried out in accordance with this article.

[ 1993, c. 474, §1 (NEW) . ]

**7. No personal liability; not debt of State or municipality.** Neither the trustees of the authority nor the person executing the bonds is liable personally on the bonds by reason of the issuance of the bonds. The bonds and other obligations of the authority must have stated on their face that they are not a debt of the State and that the State is not liable on the bonds. The bonds or obligations may not be payable out of funds or properties other than those of the authority acquired for the purposes of this article or otherwise pledged therefor.

[ 2003, c. 598, §6 (AMD) . ]

**8. Bonds as legal investments.** Public officers, municipal corporations, political subdivisions and public bodies; banks, trust companies, bankers, savings banks and institutions, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking business; insurance companies, insurance associations and other persons carrying on an insurance business; and executors, administrators, curators, trustees and other fiduciaries may legally invest sinking funds, money or other funds belonging to them or within their control in bonds or other obligations issued by the authority under this article. These bonds or other obligations are authorized security for all public deposits. It is the purpose of this section to authorize persons, political subdivisions and officers, public or private, to use funds owned or controlled by them for the purchase of these bonds or other obligations. This section does not relieve a person of any duty or of exercising reasonable care in selecting securities.

[ 1993, c. 474, §1 (NEW) . ]

**9. Investment of funds; redemption of bonds.** The authority may:

A. Invest, in property or securities in which savings banks may legally invest funds subject to their control, funds held in reserves, sinking funds or funds not required for immediate disbursement;

[ 2003, c. 598, §6 (AMD) . ]

B. Cancel its bonds by redeeming them at the redemption price established in the bonds or by purchasing them at less than redemption price; and [ 2003, c. 598, §6 (AMD) . ]

C. Invest funds in accordance with Title 30-A, chapter 223, subchapter 3-A. [ 2003, c. 598, §6 (NEW) . ]

[ 2003, c. 598, §6 (AMD) . ]

**10. Issue of bonds.** With respect to all or any portion of any issue of any bonds or any series of bonds that the authority may issue in accordance with this article, the authority may covenant and consent that the interest on the bonds is includable, under the United States Internal Revenue Code of 1986 or any subsequent corresponding internal revenue law of the United States, in the gross income of the holders of the bonds to

the same extent and in the same manner that the interest on the bills, bonds, notes or other obligations of the United States is includable in the gross income of the holders under the United States Internal Revenue Code of 1986 or any subsequent law.

[ 2003, c. 598, §7 (NEW) . ]

**11. Pledge of security interests.** Any pledge or assignment of revenue or collateral or other security interests under this article is valid and binding and perfected from the time when the pledge is made. All the revenues or collateral pledged by the authority is subject immediately to the lien of the pledge or assignment without any physical delivery or further action under the Uniform Commercial Code or otherwise. The lien of any pledge or assignment and perfection is valid and binding against all parties having claims of any kind in tort, contract or otherwise against the authority, whether the parties have notice of the pledge or assignment.

[ 2003, c. 598, §7 (NEW) . ]

#### SECTION HISTORY

1993, c. 474, §1 (NEW). 1993, c. 729, §§7,8 (AMD). 1995, c. 495, §§5-7 (AMD). 2003, c. 598, §§3-7 (AMD).

## §13080-H. INTEREST OF PUBLIC OFFICIALS, TRUSTEES OR EMPLOYEES

**1. Acquisition of interest.** An official, trustee or employee of the authority may not acquire or hold a direct or an indirect financial or personal interest in:

- A. An authority activity; [1993, c. 474, §1 (NEW).]
- B. Property included or planned to be included in the base area; or [1993, c. 474, §1 (NEW).]
- C. A contract or proposed contract in connection with an authority activity. [1993, c. 474, §1 (NEW).]

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

[ 1993, c. 474, §1 (NEW) . ]

**2. Present or past interest in property.** If an official, trustee or employee 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 official, trustee or employee must disclose this fact immediately in writing to the authority and the disclosure must be entered in the authority's minutes.

[ 1993, c. 474, §1 (NEW) . ]

**3. Recusal.** The official, trustee or employee with an interest may not participate in an action by the authority affecting that property.

[ 1993, c. 474, §1 (NEW) . ]

**4. Incompatible offices.** A trustee or other officer of the authority may not hold elected office in a municipality in Aroostook County or in Aroostook County government.

[ 1993, c. 474, §1 (NEW) . ]

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

[ 1993, c. 474, §1 (NEW) .]

SECTION HISTORY

1993, c. 474, §1 (NEW).

## §13080-I. EXEMPTION FROM EXECUTION

**1. Property exempt from execution.** The property, including funds, of the authority is exempt from levy and sale by virtue of an execution. An execution or other judicial process may not be issued against the authority's property and a judgment against the authority may not be a charge or lien upon its property.

[ 1993, c. 474, §1 (NEW) .]

**2. Construction; limitation of application.** This section does not:

A. Prohibit the authority from making payments in lieu of taxes to the municipality; or [1993, c. 474, §1 (NEW) .]

B. Apply to or limit the right of an obligee to foreclose or otherwise enforce a mortgage of the authority or to pursue remedies for the enforcement of a pledge or lien given by the authority on its rents, fees, grants or revenues or any other sources pledged by the authority to the payment of its bonds. [2003, c. 598, §8 (AMD) .]

[ 2003, c. 598, §8 (AMD) .]

SECTION HISTORY

1993, c. 474, §1 (NEW). 2003, c. 598, §8 (AMD).

## §13080-J. DESIGNATION AS PORT OF ENTRY, INTERNATIONAL AIRPORT, FOREIGN TRADE ZONE AND FREE PORT AREA

**1. Port of entry.** The authority may apply to the Secretary of the Treasury of the United States for the purpose of having Loring Air Force Base or a portion of the base designated, established or constituted as a port of entry or an international airport pursuant to the Customs Reorganization Act, 19 United States Code, Section 1, as amended, and Section 58b, as amended, and regulations of the United States Customs Service, including 19 Code of Federal Regulations, Sections 101.0 and 122.1, as amended.

[ 1993, c. 474, §1 (NEW) .]

**2. Foreign trade zone.** The authority may apply to the Secretary of Commerce of the United States for the purpose of establishing, operating and maintaining foreign trade zones at Loring Air Force Base pursuant to the federal Free Trade Zone Act, 19 United States Code, Section 81, as amended, providing for the establishment, operation and maintenance of foreign trade zones in or adjacent to ports of entry of the United States for expediting and encouraging foreign commerce and for other purposes.

A. The authority may select and describe the location of the zone, make regulations and take other actions concerning the operation, maintenance and policing of the zone as necessary to comply with the Free Trade Zone Act and the regulations promulgated under that Act. [1993, c. 474, §1 (NEW) .]

B. The authority may lease or may erect, maintain and operate structures, buildings or enclosures necessary for the establishment and operation of foreign trade zones. [1993, c. 474, §1 (NEW).]

[ 1993, c. 474, §1 (NEW) .]

**3. Other tax-free provisions.** The authority may establish an area at Loring Air Force Base in which personal property in transit is exempt from the provisions of the stock-in-trade tax and other taxes and customs normally levied in a port of entry. For the purposes of this section, personal property in transit through the area established by the port authority includes goods, wares and merchandise that:

A. Are moving in interstate or international commerce through or over the areas established; [1993, c. 474, §1 (NEW).]

B. Are consigned from outside the State to a public or private warehouse within the State, whether that consignment is specified before or after transportation; or [1993, c. 474, §1 (NEW).]

C. Do not lose their exempt status because, while in a warehouse, they are assembled, bound, joined, processed, disassembled, divided, cut, broken in bulk, relabeled or repackaged. The warehouse in which the goods, wares and merchandise are stored may not be owned in whole or in part by either the consignee or the consignor. The exemption granted may be liberally construed to effect the purposes of this article. [1993, c. 474, §1 (NEW).]

[ 1993, c. 474, §1 (NEW) .]

#### SECTION HISTORY

1993, c. 474, §1 (NEW).

### §13080-K. TERMINATION OF THE AUTHORITY

The authority is not dissolved until: [1993, c. 474, §1 (NEW).]

**1. Legislature provides for termination.** It is terminated by the Legislature; and

[ 1993, c. 474, §1 (NEW) .]

**2. Payment of bonds, premiums and interest.** The bonds, premium, if any, and interest have been paid or a sufficient amount for the payment of the bonds and interest to maturity or a prior redemption date have been irrevocably set aside in trust for the benefit of the bondholders in accordance with agreements with the bondholders.

[ 2003, c. 598, §9 (AMD) .]

#### SECTION HISTORY

1993, c. 474, §1 (NEW). 2003, c. 598, §9 (AMD).

### §13080-L. ANNUAL REPORT

**1. Annual financial report.** The authority shall submit to the Governor, the Executive Director of the Legislative Council and the joint standing committee of the Legislature having jurisdiction over housing and economic development matters, not later than 120 days after the close of the authority's 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 for the previous year:

A. A description of the authority's operations; [1993, c. 474, §1 (NEW).]

B. An accounting of the authority's receipts and expenditures, assets and liabilities at the end of its fiscal year; [1993, c. 474, §1 (NEW).]

C. A listing of all property transactions pursuant to section 13080-D; [1993, c. 474, §1 (NEW).]

D. An accounting of all activities of any special utility district formed under section 13080-E; [1993, c. 474, §1 (NEW).]

E. A listing of any property acquired by eminent domain under section 13080-G; [1993, c. 474, §1 (NEW).]

F. A listing of any bonds issued during the fiscal year; [1993, c. 474, §1 (NEW).]

G. A statement of the authority's proposed and projected activities for the ensuing year; and [1993, c. 474, §1 (NEW).]

H. Recommendations regarding further actions that may be suitable for achieving the purposes of this article. [1993, c. 474, §1 (NEW).]

[ 1993, c. 474, §1 (NEW) .]

#### SECTION HISTORY

1993, c. 474, §1 (NEW).

### §13080-M. RELATIONSHIP TO OTHER LAWS

The activities of the authority must be conducted in accordance with the terms and conditions of the Federal Surplus Property Act, 50 Appendix United States Code, Section 1622 et seq.; the federal Airport and Airway Improvement Act of 1982, 49 United States Code App. Section 2201 et seq.; and Federal Aviation Administration Order 5190.6A. If a conflict exists between this article and those federal laws and rules, the federal requirements control. [1995, c. 462, Pt. A, §12 (AMD).]

#### SECTION HISTORY

1993, c. 729, §9 (NEW). 1995, c. 462, §A12 (AMD).

### §13080-N. CAPITAL RESERVE FUNDS; OBLIGATION OF STATE

**1. Capital reserve fund.** The authority may create and establish one or more capital reserve funds and may pay into any such capital reserve fund money appropriated and made available by the State for the purposes of any such fund, any proceeds of sale by the authority of bonds to the extent determined by the authority and any other money available to the authority. For purposes of this section, the amount of any letter of credit, insurance contract, surety bond or similar financial undertaking available to be drawn on and applied to obligations to which money in any such fund may be applied is considered and counted as money in the capital reserve fund.

[ 1993, c. 729, §10 (NEW) .]

**2. Application.** Money held in any capital reserve fund, except as provided in this section, must be used solely with respect to bonds, repayment of which is secured by any such fund and solely for the payment of principal of the securities, the purchase or redemption of the securities, including any fees or premiums, or the payment of interest on the securities. In addition, if the authority obtains a letter of credit, insurance contract, surety bond or similar financial undertaking to establish and fund a capital reserve fund under subsection 1, money in the fund may be used to pay, when due, whether by acceleration or otherwise, all reimbursement obligations of the authority established in connection with that letter of credit, insurance contract, surety

bond or similar financial undertaking, including, but not limited to, all fees, expenses, indemnities and commissions. Money in excess of the reserve requirement established as provided in subsection 3 may be transferred to other funds and accounts of the authority.

[ 1993, c. 729, §10 (NEW) .]

**3. Reserve requirement.** The authority may provide that money in a capital reserve fund under subsection 2 may not be withdrawn at any time in an amount that would reduce the amount of that fund below an amount, referred to in this section as the "capital reserve requirement," established by the authority, except for the purpose of paying the amount due and payable with respect to bonds, repayment of which is secured by that fund, or reimbursement obligations of the authority with respect to any letter of credit, insurance contract, surety bond or similar financial undertaking pertaining to that fund.

[ 1993, c. 729, §10 (NEW) .]

**4. Issuance limit.** The authority may provide that it will not issue bonds if the capital reserve requirement established by the authority with respect to securities outstanding and then to be issued and secured by a capital reserve fund will exceed the amount of that fund, including the amount available under any letter of credit, insurance contract, surety bond or other similar financial undertaking given to secure the capital reserve requirement, at the time of issuance, unless the authority, at the time of issuance of the securities, deposits in that fund from proceeds of the securities to be issued, or from other sources, an amount that, together with the amounts then in that fund and amounts available under any letter of credit, insurance contract, surety bond or other similar financial undertaking will not be less than the capital reserve requirement.

[ 1993, c. 729, §10 (NEW) .]

**5. Appropriation.** On or before December 1st, annually, the authority shall certify to the Governor the amount, if any, necessary to restore the amount in any capital reserve fund. In trust agreements or other pertinent documents, it must be clearly stated that this subsection applies to the capital reserve requirement. The Governor shall pay from the Contingent Account to that fund as much of the amount as is available in the Contingent Account and shall transmit to the Legislature a certification and a statement of the amount, if any, remaining to be paid and the amount certified must be appropriated and paid to the authority during the then current state fiscal year.

[ 2003, c. 598, §10 (AMD) .]

**6. Securities outstanding.** The authority may not have at any one time outstanding bonds, which, in the trust agreement or other document, subsection 5 is stated to apply to, in principal amount exceeding an amount equal to \$100,000,000. The amount of bonds issued to refund securities previously issued may not be taken into account in determining the principal amount of securities outstanding, provided that proceeds of the refunding securities are applied as promptly as possible to the refunding of the previously issued securities. In computing the total amount of bonds of the authority that may at any time be outstanding for any purpose, the amounts of outstanding bonds that have been issued as capital appreciation bonds or as similar instruments are valued as of any date of calculation at their then current accreted value rather than their face value.

[ 1995, c. 495, §8 (AMD) .]

**7. Other capital reserve funds.** This section, including subsection 5, may not be construed to require that each capital reserve fund established under this section have the benefit described in subsection 5.

[ 2003, c. 598, §11 (NEW) .]

#### SECTION HISTORY

1993, c. 729, §10 (NEW). 1995, c. 495, §8 (AMD). 2003, c. 598, §§10,11 (AMD).

## Article 1-C: LORING JOB INCREMENT FINANCING FUND

### §13080-O. LORING JOB INCREMENT FINANCING FUND

**1. Short title.** This article may be known and cited as the Loring Job Increment Financing Program Act.

[ 1995, c. 644, §2 (NEW) . ]

**2. Establishment of fund.** The Loring Job Increment Financing Fund is established in accordance with this article.

*§13080-O. Tourism*

*(As enacted by PL 1995, c. 560, Pt. B, §11 is REALLOCATED TO TITLE 5, SECTION 13090-C)*

[ 1995, c. 644, §2 (NEW) . ]

#### SECTION HISTORY

RR 1995, c. 2, §11 (RAL). 1995, c. 560, §B11 (NEW). 1995, c. 644, §2 (NEW) .

### §13080-P. DEFINITIONS

As used in this article, unless the context otherwise indicates, the following terms have the following meanings. [1995, c. 644, §2 (NEW).]

**1. Affiliated business.** "Affiliated business" means 2 businesses exhibiting either of the following relationships:

A. One business owns 50% or more of the stock of the other business or owns a controlling interest in the other; or [1995, c. 644, §2 (NEW) . ]

B. Fifty percent of the stock of each business or a controlling interest in each business is directly or indirectly owned by a common owner or owners. [1995, c. 644, §2 (NEW) . ]

[ 1995, c. 644, §2 (NEW) . ]

**2. Affiliated group.** "Affiliated group" means a qualified business and its corresponding affiliated businesses.

[ 1995, c. 644, §2 (NEW) . ]

**3. Assessor.** "Assessor" means the State Tax Assessor.

[ 1995, c. 644, §2 (NEW) . ]

**4. Authority.** "Authority" means the Loring Development Authority of Maine.

[ 1995, c. 644, §2 (NEW) . ]

**5. Base area.** "Base area" means the area within the geographic boundaries of Loring Air Force Base, as defined in section 13080-A.

[ 1995, c. 644, §2 (NEW) . ]

**6. Base level of employment.** "Base level of employment" means the total employment in the base area as of July 1, 1996.

[ 1995, c. 644, §2 (NEW) .]

**7. Employment tax increment.** "Employment tax increment" means that level of state income withholding taxes attributed to employees employed within the base area, adjusted pursuant to section 13080-R.

[ 1995, c. 644, §2 (NEW) .]

**8. Fund.** "Fund" means the Loring Job Increment Financing Fund.

[ 1995, c. 644, §2 (NEW) .]

**9. Gross employment tax increment.** "Gross employment tax increment" means that level of state income withholding taxes attributed to employees employed within the base area that is greater than the base level of employment.

[ 1995, c. 644, §2 (NEW) .]

**10. Successor business.** "Successor business" means a business that has acquired the organization, trade or business, or 50% or more of the assets of the organization, trade or business, of another taxpayer.

*§13080-P. Historical marker program*

*(As enacted by PL 1995, c. 560, Pt. B, §11 is REALLOCATED TO TITLE 5, SECTION 13090-D)*

[ 1995, c. 644, §2 (NEW) .]

#### SECTION HISTORY

RR 1995, c. 2, §11 (RAL). 1995, c. 560, §B11 (NEW). 1995, c. 644, §2 (NEW).

## §13080-Q. PAYMENTS ALLOWED

**1. Fund to receive income tax revenues from job creation.** Subject to the provisions of subsection 2, the fund must receive annually from the State the amount of the employment tax increment determined in accordance with section 13080-S.

[ 2015, c. 486, §1 (AMD); 2015, c. 486, §5 (AFF) .]

**2. Limitations.** Payments to the fund pursuant to this section are subject to the following limitations.

A. Revenues received under this section must be used solely to fund the costs of municipal services, including, but not limited to, water, sewer, fire protection, police protection, sanitation services and the maintenance of grounds and roads. [1995, c. 644, §2 (NEW) .]

B. To the extent that revenues received by the fund are not expended for current costs of municipal services, the fund must retain the revenues to defray future costs of providing the municipal services. [1995, c. 644, §2 (NEW) .]

C. State income withholding taxes derived from employment at a business within the base area are not eligible for use in the calculation of a payment to the fund if the business is eligible during the current year to receive a payment under any other program authorized by Title 36, Part 9 that is based on the amount of employer withholding taxes and the business has made or makes an election to receive that payment. [1997, c. 504, §1 (AMD) .]



D. Payments made to the fund may not be made for tax years beginning on or after July 1, 2026.  
[2013, c. 413, §1 (AMD).]

[ 2013, c. 413, §1 (AMD) .]

#### SECTION HISTORY

RR 1995, c. 2, §11 (RAL). 1995, c. 560, §B11 (NEW). 1995, c. 644, §2 (NEW). 1997, c. 504, §1 (AMD). 2013, c. 413, §1 (AMD). 2015, c. 486, §1 (AMD). 2015, c. 486, §5 (AFF).

### §13080-R. CALCULATION OF EMPLOYMENT TAX INCREMENT

The assessor shall calculate the employment tax increment as follows. [1995, c. 644, §2 (NEW) .]

**1. Adjustment for shifted revenues.** The assessor shall subtract from the gross employment tax increment any revenues attributed to employment shifted from affiliated businesses to a business located within the base area. This adjustment is calculated by comparing the current year's income withholding tax revenues for businesses that are members of an affiliated group with revenues for the group as a whole. If the growth in income withholding tax revenue for any group exceeds the growth of income withholding tax revenue generated by the group's member business within the base area, the portion of the gross employment tax increment attributable to that business does not have to be adjusted to remove employment shifted from affiliated businesses. If the growth in income withholding tax revenue for any group is less than the growth in income withholding tax revenue for that group's member business within the base area, the difference is presumed to have been shifted from affiliated businesses to the base area and the portion of the gross employment tax increment attributable to that business is reduced by the difference.

[ 1995, c. 644, §2 (NEW) .]

**2. Adjustment based on percentage change in withholding taxes for all business in State.**

The assessor shall adjust the calculation of the employment tax increment by subtracting from the gross employment tax increment a figure obtained by multiplying the previous year's total amount of income taxes withheld within the base area by the percentage change in withholding taxes for all business within the State as a whole.

[ 1995, c. 644, §2 (NEW) .]

**3. Adjustment for successor business.** The assessor shall further adjust the calculation of the employment tax increment, for any business that is a successor business, by subtracting from the gross employment tax increment any income tax withholding revenues attributable to a business acquired by the successor business after July 1, 1994.

*§13080-R. Maine Tourism Commission*

*(As enacted by PL 1995, c. 560, Pt. B, §11 is REALLOCATED TO TITLE 5, SECTION 13090-F)*

[ 1995, c. 644, §2 (NEW) .]

#### SECTION HISTORY

RR 1995, c. 2, §§12,13 (COR). RR 1995, c. 2, §11 (RAL). 1995, c. 560, §B11 (NEW). 1995, c. 644, §2 (NEW).

## §13080-S. INFORMATION TO BE PROVIDED TO THE ASSESSOR; APPROVAL OF PAYMENT

**1. Certification by authority.** The authority shall certify annually to the assessor by October 31st of each year, beginning in 2016, the following information:

A. Employment, payroll and state withholding data necessary to calculate the base level of employment; [1995, c. 644, §2 (NEW); 1995, c. 644, §5 (AFF).]

B. The total number of employees added during the previous year within the base area above the base level of employment, including additional associated payroll and withholding data necessary to calculate the gross employment tax increment and establish the appropriate payment to the fund; [1995, c. 644, §2 (NEW); 1995, c. 644, §5 (AFF).]

C. A listing of all employers within the base area that pay withholding taxes, the locations of those employers and the number of employees at each location; and [1995, c. 644, §2 (NEW); 1995, c. 644, §5 (AFF).]

D. A listing of all affiliated businesses and affiliated groups, data regarding current employment, payroll and state income withholding taxes for each affiliated business within the base area. [1995, c. 644, §2 (NEW); 1995, c. 644, §5 (AFF).]

[ 2015, c. 486, §2 (AMD); 2015, c. 486, §5 (AFF) .]

**2. Approval of payment.** Upon receipt of the information required by this section, the assessor shall review the information by December 1st immediately following receipt of the information and shall determine the amount of the employment tax increment. If the assessor determines that the requirements of this article are satisfied, the assessor shall approve payment to the fund.

[ 2015, c. 486, §2 (AMD); 2015, c. 486, §5 (AFF) .]

**3. Deposit and payment of revenue.** On or before July 15th of each year, the assessor shall deposit an amount equal to 50% of the employment tax increment for the preceding year into a contingent account established, maintained and administered by the State Controller. On or before July 31st of each year, the assessor shall pay that amount to the fund.

[ 2015, c. 486, §3 (AMD); 2015, c. 486, §5 (AFF) .]

**4. Additional deposit and payment of revenue in December 2016.** On or before December 15, 2016, the assessor shall deposit an amount equal to 50% of the employment tax increment for the preceding year into a contingent account established, maintained and administered by the State Controller. On or before December 31, 2016, the assessor shall pay that amount to the fund.

[ 2015, c. 486, §4 (NEW); 2015, c. 486, §5 (AFF) .]

### SECTION HISTORY

RR 1995, c. 2, §11 (RAL). 1995, c. 560, §B11 (NEW). 1995, c. 644, §2 (NEW). 2009, c. 571, Pt. LL, §1 (AMD). 2015, c. 486, §§2-4 (AMD). 2015, c. 486, §5 (AFF).

## §13080-T. PROGRAM ADMINISTRATION

The assessor shall administer the Loring Job Increment Financing Program. The assessor may adopt rules pursuant to the Maine Administrative Procedure Act for implementation of the program. The assessor may also by rule establish reasonable fees, including fees payable to the assessor for obligations under

this article. Any fees collected pursuant to this article must be deposited into a special revenue account administered by the assessor and these fees may be used only to defray the actual costs of administering the Loring Job Increment Financing Program. [1995, c. 644, §2 (NEW).]

*§13080-T. Maine State Film Commission*

*(As enacted by PL 1995, c. 560, Pt. B, §11 is REALLOCATED TO TITLE 5, SECTION 13090-H)*

SECTION HISTORY

RR 1995, c. 2, §14 (COR). RR 1995, c. 2, §11 (RAL). 1995, c. 560, §B11 (NEW). 1995, c. 644, §2 (NEW).

**§13080-U. MAINE STATE FILM OFFICE**

*(REALLOCATED TO TITLE 5, SECTION 13090-I)*

SECTION HISTORY

RR 1995, c. 2, §11 (RAL). 1995, c. 560, §B11 (NEW).

Article 2: COMMUNITY INDUSTRIAL BUILDING AUTHORITY

**§13081. DEFINITIONS**

*(REPEALED)*

SECTION HISTORY

1987, c. 534, §§A17,A19 (NEW). 1989, c. 914, §3 (AMD). 1999, c. 612, §1 (AMD). 2001, c. 703, §5 (RP).

**§13082. COMMUNITY INDUSTRIAL BUILDINGS FUND**

*(REPEALED)*

SECTION HISTORY

1987, c. 534, §§A17,A19 (NEW). 1999, c. 127, §A11 (AMD). 1999, c. 612, §2 (AMD). 2001, c. 703, §5 (RP).

**§13083. ASSISTANCE TO DEVELOPMENT CORPORATIONS**

*(REPEALED)*

SECTION HISTORY

1987, c. 534, §§A17,A19 (NEW). 1989, c. 182, §§1,2 (AMD). 1999, c. 612, §§3,4 (AMD). 2001, c. 703, §5 (RP).

Article 2-A: WASHINGTON COUNTY DEVELOPMENT AUTHORITY

**§13083-A. WASHINGTON COUNTY DEVELOPMENT AUTHORITY ESTABLISHED**

The Washington County Development Authority is established as a body corporate and politic and a public instrumentality of the State to carry out the provisions of this article. The authority is authorized to take title, acquire and manage in the name of the State and by agreement with the Federal Government the property located within the geographical boundaries of any decommissioned federal military facility located within Washington County. The authority is also authorized to purchase, develop, redevelop, sell and lease commercial, residential and public property for the purpose of developing the economy of

Washington County. This authorization allows the authority to provide financial and technical assistance to any governmental entity and nonprofit located within Washington County in support of community and economic development projects. [2005, c. 367, §1 (AMD).]

SECTION HISTORY

2001, c. 568, §1 (NEW). 2005, c. 367, §1 (AMD).

## §13083-B. DEFINITIONS

As used in this article, unless the context otherwise indicates, the following terms have the following meanings. [2001, c. 568, §1 (NEW).]

**1. Authority.** "Authority" means the Washington County Development Authority.

[ 2001, c. 568, §1 (NEW) .]

**2. Base area.** "Base area" means the area within the geographical boundaries of any decommissioned federal military facility located within Washington County to which the authority has taken title.

[ 2001, c. 568, §1 (NEW) .]

**2-A. Operating revenues.** "Operating revenues" means funds available to the authority from fees, fares, rental or sale of property and miscellaneous revenue and interest not otherwise pledged or dedicated.

[ 2011, c. 136, §1 (NEW) .]

**3. Primary impact community.** "Primary impact community" means all municipalities in Washington County, including the unorganized territories.

[ 2005, c. 367, §2 (AMD) .]

**4. Readjustment or reuse.** "Readjustment" or "reuse" means an alternative use of the base area from its use as a military installation.

[ 2001, c. 568, §1 (NEW) .]

**5. Real or personal property.** "Real or personal property" means any property or assets transferred by the Federal Government or the United States Department of Defense pursuant to the closure of a federal military installation located in Washington County. "Real or personal property" also means any property or assets purchased, sold, developed, redeveloped or leased by the authority pursuant to its authority under this article.

[ 2005, c. 367, §2 (AMD) .]

SECTION HISTORY

2001, c. 568, §1 (NEW). 2005, c. 367, §2 (AMD). 2011, c. 136, §1 (AMD).

## §13083-C. WASHINGTON COUNTY DEVELOPMENT AUTHORITY; POWERS; MEMBERSHIP; OBLIGATIONS

**1. Powers.** The authority is a public municipal corporation and may:

A. Sue and be sued; [2001, c. 568, §1 (NEW).]

B. Adopt bylaws or regulations consistent with this article for the governance of its affairs; [2001, c. 568, §1 (NEW).]

C. Exercise all of the general powers of corporations under Title 13-C, section 302; [ 2003 , c . 688 , Pt. A , §2 (AMD) . ]

D. Accept from the Federal Government and dispose of by lease, sale or transfer the real or personal property located within the geographical boundaries of a decommissioned federal military facility located within Washington County; [ 2001 , c . 568 , §1 (NEW) . ]

E. Apply for and accept grants from private and public entities to provide necessary funding for the activities of the authority and to carry out the purposes of this article; [ 2001 , c . 568 , §1 (NEW) . ]

F. Contract with the Federal Government or its instrumentalities or agencies; this State or its agencies, instrumentalities or municipalities; public bodies; and private corporations, partnerships, associations and individuals to carry out the purposes of this article; [ 2001 , c . 568 , §1 (NEW) . ]

F-1. Borrow money and apply for and accept advances, loans, grants, contributions and other forms of financial assistance from the Federal Government, the State, a municipality or other public body or from other sources, public or private, for the purposes provided in this article, give any security that is required and enter into and carry out contracts in connection with that financial assistance; [ 2005 , c . 367 , §3 (NEW) . ]

F-2. Charge and collect fees, charges and rents for the use of the properties and other services and use the proceeds of those fees, charges and rents for the purposes provided in this article; [ 2005 , c . 367 , §3 (NEW) . ]

F-3. Employ an executive director and other staff as considered necessary by the board of trustees; [ 2005 , c . 367 , §3 (NEW) . ]

F-4. Borrow money, make, issue and sell at public or private sale negotiable notes, bonds and other evidences of indebtedness or obligation of the authority for the purposes under this article and secure the payment of that obligation or any part of that obligation by pledge of all or any part of the operating revenues of the authority; [ 2011 , c . 136 , §2 (NEW) . ]

*(Paragraph F-4 as enacted by PL 2011, c. 148, §1 is REALLOCATED TO TITLE 5, SECTION 13083-C, SUBSECTION 1, PARAGRAPH F-6)*

F-5. Enter into loan or security agreements with one or more lending institutions, including, but not limited to, banks, insurance companies and institutions that administer pension funds, or trustees for those institutions for the issuance of bonds and exercise with respect to those loan or security agreements all of the powers delineated in this article for the issuance of bonds; [ 2011 , c . 136 , §3 (NEW) . ]

F-6. (REALLOCATED FROM T. 36, §13083-C, sub-§1, ¶F-4) Enter into a memorandum of understanding with a municipality to perform the function of a local development corporation under section 13120-B, subsection 9; [ 2011 , c . 1 , §7 (RAL) . ]

G. Adopt rules pursuant to the Maine Administrative Procedure Act. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter II-A; and [ 2001 , c . 568 , §1 (NEW) . ]

H. Take all other lawful action necessary and incidental to the powers under this subsection. [ 2001 , c . 568 , §1 (NEW) . ]

[ 2011 , c . 1 , §7 (COR) ; 2011 , c . 136 , §§2 , 3 (AMD) ; 2011 , c . 148 , §1 (AMD) . ]

**2. Membership; appointment.** The authority is governed by a board of trustees composed of 13 voting members appointed or designated by the Governor.

A. The Governor shall make 12 appointments to the board of trustees, 9 of whom must be selected from candidates who are residents of Washington County and are nominated by private, nonprofit, countywide, federally recognized Washington County-based economic development organizations other than the authority. Primary impact communities also may make nominations. The Governor shall appoint members who reflect the diversity of interests represented by these communities. The Governor shall ensure that all regions of the county, as defined by the 3 county commissioner districts, are equally represented on the board of trustees. A municipality may not have more than 2 trustees sitting on the board of trustees. [2005, c. 367, §4 (AMD).]

B. The Governor shall designate a commissioner of a department of State Government to be a voting, ex officio member of the board of trustees. The ex officio member designated pursuant to this paragraph may name a designee. [2005, c. 367, §4 (AMD).]

The members appointed pursuant to paragraph A are subject to review by the joint standing committee of the Legislature having jurisdiction over business and economic development matters and to confirmation by the Senate.

[ 2005, c. 367, §4 (AMD) .]

**3. Terms.** Trustees are appointed for 4-year terms. The commissioner designated pursuant to subsection 2, paragraph B, or that commissioner's designee, serves at the pleasure of the Governor. Trustees may be removed by the Governor. The board of trustees by majority vote may recommend trustee removal due to poor attendance at board meetings. A trustee 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 that term. A person may not serve more than 2 consecutive 4-year terms as a trustee.

[ 2005, c. 367, §5 (AMD) .]

**4. Quorum.** A majority of appointed and sworn trustees constitutes a quorum. A majority vote of those present and voting is required for the board of trustees to take action.

[ 2005, c. 367, §5 (AMD) .]

**5. Liability.** The liability of the authority is governed by the Maine Tort Claims Act, Title 14, chapter 741. Trustees are not subject to any personal liability for having acted in the service of their duty as board members of the authority.

[ 2001, c. 568, §1 (NEW) .]

**6. Expenses.** A trustee is not entitled to receive compensation for services to the authority but is entitled to receive reimbursement for necessary expenditures, including travel expenses, incurred in carrying out those services if the authority has available funds to reimburse such expenses.

[ 2001, c. 568, §1 (NEW) .]

**7. Officers; temporary agents.** The trustees shall elect a chair and vice-chair from among the trustees. The authority may employ an executive director, technical experts and other agents and employees, permanent and temporary, that it requires and may determine their qualifications, duties and compensation. For required legal services, the authority may retain its own legal counsel.

[ 2005, c. 367, §5 (AMD) .]

#### SECTION HISTORY

2001, c. 568, §1 (NEW). 2003, c. 688, §A2 (AMD). 2005, c. 367, §§3-5 (AMD). RR 2011, c. 1, §7 (COR). 2011, c. 136, §§2, 3 (AMD). 2011, c. 148, §1 (AMD).

## §13083-D. PROPERTY OF AUTHORITY

The authority may lease, sell or transfer property or interests in property owned by the authority. A person may not hold any pecuniary interest in property owned by the authority while that person is a member of the board of trustees. [ 2005, c. 367, §6 (AMD) . ]

### SECTION HISTORY

2001, c. 568, §1 (NEW). 2005, c. 367, §6 (AMD).

## §13083-D-1. BONDS

**1. Hearing required.** The authority may issue bonds to finance its activities only after giving notice of the proposed issuance and its terms at least twice in a newspaper of general circulation in Washington County and holding a duly advertised public hearing on the issuance.

[ 2011, c. 136, §4 (NEW) . ]

**2. Authority.** The authority may issue bonds from time to time in its discretion to finance the undertaking of an authorized activity under this article, including but not limited to the payment of principal and interest upon advances for surveys and plans, and may issue refunding bonds for the payment or retirement of bonds previously issued.

A. The principal and interest of bonds must be made payable solely from the income, proceeds, revenues and funds of the authority derived from or held for activities under this article. Payment of the principal and interest of bonds may be further secured by a pledge of a loan, grant or contribution from the Federal Government or other source in aid of activities of the authority under this article and by a mortgage of an urban activity or a project or part of a project, title to which is in the authority. [ 2011, c. 136, §4 (NEW) . ]

B. Bonds issued under this section do not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction and are not subject to other laws or charters relating to the authorization, issuance or sale of bonds. Bonds issued under this article are declared to be issued for an essential public and governmental purpose and, together with interest on and income from the bonds, are exempt from all taxes. [ 2011, c. 136, §4 (NEW) . ]

C. Bonds may not be issued by the authority until the authority has received a certificate of approval from the Finance Authority of Maine authorizing issuance of the bonds. Before issuing a certificate of approval under this section, the Finance Authority of Maine must determine that there is a reasonable likelihood that the income, proceeds, revenues and funds of the authority derived from or held for activities under this article or otherwise pledged to payment of the bonds will be sufficient to pay the principal, the interest and all other amounts that may at any time become due and payable under the bonds. In making this determination, the Finance Authority of Maine shall consider the authority's analysis of the proposed bond issue and the revenues to make payments on the bonds and may require such information, projections, studies and independent analyses as it considers necessary or desirable and may charge the authority reasonable fees and expenses. The issuance by the Finance Authority of Maine of a certificate of approval under this section does not constitute an endorsement of the bonds or the projects or purposes for which those bonds are issued and neither the authority nor any other person or entity, including, without limitation, any holders of bonds of the authority, have any cause of action against the Finance Authority of Maine with respect to any such certificate of approval. The Finance Authority of Maine may require that it be indemnified, defended and held harmless by the authority for any liability or cause of action arising out of or with respect to the bonds. [ 2011, c. 136, §4 (NEW) . ]

[ 2011, c. 136, §4 (NEW) . ]

**3. General characteristics.** Bonds authorized under this section may be issued in one or more series. The resolution, trust indenture or mortgage under which the bonds are issued may include the following:

- A. The date or dates borne by the bonds; [2011, c. 136, §4 (NEW).]
- B. Whether the bonds are payable upon demand or mature at a certain time or times; [2011, c. 136, §4 (NEW).]
- C. The interest rate or rates of the bonds; [2011, c. 136, §4 (NEW).]
- D. The denomination or denominations of the bonds; [2011, c. 136, §4 (NEW).]
- E. The form of the bonds, whether coupon or registered; [2011, c. 136, §4 (NEW).]
- F. The conversion or registration privileges carried by the bonds; [2011, c. 136, §4 (NEW).]
- G. The rank or priority of the bonds; [2011, c. 136, §4 (NEW).]
- H. The manner of execution of the bonds; [2011, c. 136, §4 (NEW).]
- I. The medium and place or places of payment; [2011, c. 136, §4 (NEW).]
- J. The terms of redemption of the bonds, with or without premium; [2011, c. 136, §4 (NEW).]
- K. The manner secured; and [2011, c. 136, §4 (NEW).]
- L. Any other characteristics of the bonds. [2011, c. 136, §4 (NEW).]

[ 2011, c. 136, §4 (NEW) .]

**4. Price sold.** The bonds may be:

- A. Sold to a person on such terms as the authority may negotiate; [2011, c. 136, §4 (NEW).]
- B. Exchanged for other bonds on the basis of par; or [2011, c. 136, §4 (NEW).]
- C. Sold to the Federal Government at private sale at not less than par. If less than all of the authorized principal amount of the bonds is sold to the Federal Government, the balance may be sold at private sale at not less than par at an interest cost to the municipality that does not exceed the interest cost to the municipality of the portion of the bonds sold to the Federal Government. [2011, c. 136, §4 (NEW).]

[ 2011, c. 136, §4 (NEW) .]

**5. Signatures of outgoing officers; negotiability.** If an official of the authority whose signature appears on a bond or coupon issued under this article ceases to be an official before the bond is delivered, the signature is nevertheless valid for all purposes as if the official had remained in office until the delivery. Notwithstanding contrary provisions of law, bonds issued under this article are fully negotiable.

[ 2011, c. 136, §4 (NEW) .]

**6. Bond recitation; conclusive presumptions.** In actions or proceedings involving the validity or enforceability of a bond issued under this article or the security for that bond, a bond reciting in substance that it has been issued by the authority in connection with an activity is conclusively deemed to have been issued for that purpose and the activity is conclusively deemed to have been planned, located and carried out in accordance with this article.

[ 2011, c. 136, §4 (NEW) .]



**7. No personal liability; not debt of State or municipality.** Neither the trustees of the authority nor the person executing the bonds is liable personally on the bonds by reason of the issuance of the bonds. The bonds and other obligations of the authority must have stated on their face that they are not a debt of the State and that the State is not liable on the bonds. The bonds or obligations may not be payable out of funds or properties other than those of the authority acquired for the purposes of this article.

[ 2011, c. 136, §4 (NEW) .]

**8. Bonds as legal investments.** Public officers, municipal corporations, political subdivisions and public bodies; banks, trust companies, bankers, savings banks and institutions, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking business; insurance companies, insurance associations and other persons carrying on an insurance business; and executors, administrators, curators, trustees and other fiduciaries may legally invest sinking funds, money or other funds belonging to them or within their control in bonds or other obligations issued by the authority under this article. These bonds or other obligations are authorized security for all public deposits. It is the purpose of this section to authorize persons, political subdivisions and officers, public or private, to use funds owned or controlled by them for the purchase of these bonds or other obligations. This section does not relieve a person of any duty or of exercising reasonable care in selecting securities.

[ 2011, c. 136, §4 (NEW) .]

**9. Investment of funds; redemption of bonds.** The authority may:

A. Invest, in property or securities in which savings banks may legally invest funds subject to their control, funds held in reserves, sinking funds or funds not required for immediate disbursement; and [2011, c. 136, §4 (NEW) .]

B. Cancel its bonds by redeeming them at the redemption price established in the bonds or by purchasing them at less than redemption price. [2011, c. 136, §4 (NEW) .]

[ 2011, c. 136, §4 (NEW) .]

#### SECTION HISTORY

2011, c. 136, §4 (NEW) .

### §13083-E. TERMINATION OF AUTHORITY

The authority is not dissolved until it is terminated by the Legislature. [2001, c. 568, §1 (NEW) .]

#### SECTION HISTORY

2001, c. 568, §1 (NEW) .

### §13083-F. ANNUAL REPORT

**1. Annual report.** The authority shall submit to the Governor, the Executive Director of the Legislative Council and the joint standing committee of the Legislature having jurisdiction over business and economic development matters, not later than 120 days after the close of the authority's 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 for the previous year:

A. A description of the authority's operations and activities; [2001, c. 568, §1 (NEW) .]

B. An accounting of the authority's receipts and expenditures and assets and liabilities at the end of its fiscal year; [2001, c. 568, §1 (NEW) .]

C. A listing of all property transactions pursuant to section 13083-D; [2001, c. 568, §1 (NEW).]

D. A statement of the authority's proposed and projected activities for the ensuing year; and [2001, c. 568, §1 (NEW).]

E. Recommendations regarding further actions that may be suitable for achieving the purposes of this article. [2001, c. 568, §1 (NEW).]

[2001, c. 568, §1 (NEW).]

#### SECTION HISTORY

2001, c. 568, §1 (NEW).

## Article 2-B: MIDCOAST REGIONAL REDEVELOPMENT AUTHORITY

### §13083-G. MIDCOAST REGIONAL REDEVELOPMENT AUTHORITY ESTABLISHED; GOALS

The Midcoast Regional Redevelopment Authority is established as a body corporate and politic and a public instrumentality of the State to carry out the purposes of this article. The authority is entrusted with acquiring and managing the properties within the geographic boundaries of Brunswick Naval Air Station. [2009, c. 641, §1 (AMD).]

The authority is established to facilitate the rapid development of the properties within the geographic boundaries of Brunswick Naval Air Station. In order to achieve this objective, the authority shall make every effort to: [2009, c. 641, §1 (NEW).]

**1. Short-term goal.** Recover civilian job losses in the primary impact community resulting from the base closure;

[2009, c. 641, §1 (NEW).]

**2. Intermediate goal.** Recover economic losses and total job losses in the primary impact community resulting from the base closure; and

[2009, c. 641, §1 (NEW).]

**3. Long-term goal.** Facilitate the maximum redevelopment of base properties.

[2009, c. 641, §1 (NEW).]

#### SECTION HISTORY

2005, c. 599, §1 (NEW). 2009, c. 641, §1 (AMD).

### §13083-H. DEFINITIONS

As used in this article, unless the context otherwise indicates, the following terms have the following meanings. [2005, c. 599, §1 (NEW).]

**1. Authority.** "Authority" means the Midcoast Regional Redevelopment Authority established in section 13083-G.

[2005, c. 599, §1 (NEW).]

**2. Base area.** "Base area" means the area within the geographic boundaries of Brunswick Naval Air Station.

[ 2005, c. 599, §1 (NEW) . ]

**3. Bond.** "Bond" means a bond or note or other evidence of indebtedness authorized under this article, whether issued under or pursuant to a bond resolution, trust indenture, loan or other security agreement.

[ 2005, c. 599, §1 (NEW) . ]

**4. Brunswick Naval Air Station.** "Brunswick Naval Air Station" or "base" means those properties and facilities within the geographic boundaries of the United States Department of Defense naval air station at Brunswick existing on the effective date of this section. "Base" also includes other geographically separate property that the authority determines should be part of the base if the municipality in which the property is located has chosen not to accept the property and use it for other purposes.

[ 2005, c. 599, §1 (NEW) . ]

**5. Operating revenues.** "Operating revenues" means funds available to the authority from fees, fares, rental or sale of property and miscellaneous revenue and interest not otherwise pledged or dedicated.

[ 2005, c. 599, §1 (NEW) . ]

**6. Primary impact community.** "Primary impact community" means the municipalities of Bath, Bowdoin, Bowdoinham, Brunswick, Freeport, Harpswell, Lisbon Falls and Topsham and Androscoggin County, Cumberland County and Sagadahoc County.

[ 2005, c. 599, §1 (NEW) . ]

**7. Readjustment or reuse.** "Readjustment" or "reuse" means an alternative use of the base facility from its use as a military installation.

[ 2005, c. 599, §1 (NEW) . ]

**8. Real or personal property.** "Real or personal property" means those properties and assets transferred by the United States Government or the United States Navy after the closure of Brunswick Naval Air Station.

[ 2005, c. 599, §1 (NEW) . ]

**9. Reconstruct or reconstruction.** "Reconstruct" or "reconstruction" means any activities undertaken to maintain the properties of Brunswick Naval Air Station, or any part of those properties, as a modern, safe and efficient facility and includes, but is not limited to, any rebuilding, redesign, improvement or enlargement of the real properties or environmental mitigation activities on base properties.

[ 2005, c. 599, §1 (NEW) . ]

#### SECTION HISTORY

2005, c. 599, §1 (NEW).

## **§13083-I. MIDCOAST REGIONAL REDEVELOPMENT AUTHORITY; POWERS; MEMBERSHIP; OBLIGATIONS**

**1. Powers.** The authority is a public municipal corporation and may:

A. Sue and be sued; [ 2005, c. 599, §1 (NEW) . ]

- B. Adopt bylaws or rules consistent with this article for the governance of its affairs; [ 2005 , c . 599 , §1 (NEW) . ]
- C. Exercise all of the general powers of corporations under Title 13-C, section 302; [ 2005 , c . 599 , §1 (NEW) . ]
- D. Exercise the power of eminent domain; [ 2005 , c . 599 , §1 (NEW) . ]
- E. Provide for the public safety by imposing appropriate rules, regulating appropriate use of the base facilities and enforcing laws and rules as they apply to the use of the base facilities; [ 2005 , c . 599 , §1 (NEW) . ]
- F. Charge and collect fees, charges and rents for the use of the properties and other services and use the proceeds of those fees, charges and rents for the purposes provided in this article, both subject to and in accordance with any agreement with bondholders that may be made as provided in this article; [ 2005 , c . 599 , §1 (NEW) . ]
- G. Contract with the Federal Government or its instrumentalities or agencies, this State or its agencies, instrumentalities or municipalities, public bodies, private corporations, partnerships, associations and individuals to carry out the purposes of this article; [ 2005 , c . 599 , §1 (NEW) . ]
- H. Accept the cooperation of the Federal Government or its agencies in the construction, maintenance, reconstruction, operation and financing of the readjustment of the base and take necessary actions to utilize that aid and cooperation; [ 2005 , c . 599 , §1 (NEW) . ]
- I. Borrow money and apply for and accept advances, loans, grants, contributions and other forms of financial assistance from the Federal Government, the State, a municipality or other public body or from other sources, public or private, for the purposes of this article, give any security that is required and enter into and carry out contracts in connection with that financial assistance; [ 2005 , c . 599 , §1 (NEW) . ]
- J. Borrow money, make, issue and sell at public or private sale negotiable notes, bonds and other evidences of indebtedness or obligation of the authority for the purposes under this article and secure the payment of that obligation or any part of that obligation by pledge of all or any part of the operating revenues of the authority; [ 2005 , c . 599 , §1 (NEW) . ]
- K. Enter into loan or security agreements with one or more lending institutions, including, but not limited to, banks, insurance companies and institutions that administer pension funds, or trustees for those institutions for the issuance of bonds and exercise with respect to those loan or security agreements all of the powers delineated in this article for the issuance of bonds; [ 2005 , c . 599 , §1 (NEW) . ]
- L. Provide from operating revenues for the maintenance, construction or reconstruction of facilities to ensure the public safety for which the authority has not otherwise provided; [ 2005 , c . 599 , §1 (NEW) . ]
- M. Use operating revenues to provide payment of obligations, if any, due to the United States to implement the readjustment or reuse of the base facility; [ 2005 , c . 599 , §1 (NEW) . ]
- N. Adopt rules pursuant to the Maine Administrative Procedure Act; and [ 2005 , c . 599 , §1 (NEW) . ]
- O. Take all other lawful action necessary and incidental to these powers. [ 2005 , c . 599 , §1 (NEW) . ]

[ 2005 , c . 599 , §1 (NEW) . ]

**2. Membership; appointment.** The authority is governed by a board of trustees composed of 11 voting members appointed by the Governor and subject to review by the joint standing committee of the Legislature having jurisdiction over economic development matters and to confirmation by the Senate.

A. Trustees are appointed for 4-year terms, except that, for initial appointments, 3 trustees are appointed to one-year terms, 3 trustees are appointed to 2-year terms, 2 trustees are appointed to 3-year terms, 2 trustees are appointed to 4-year terms and the commissioner designated pursuant to paragraph D serves at the pleasure of the Governor. A vacancy must be filled in the same manner as the original appointment for the balance of the unexpired term. [2005, c. 599, §1 (NEW).]

B. A trustee 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 trustee's term. [2005, c. 599, §1 (NEW).]

C. The Governor shall make 10 appointments, of which no fewer than 7 must be from candidates who are residents of Androscoggin County, Cumberland County and Sagadahoc County and are nominated by the primary impact communities. The Governor shall appoint members who reflect the diversity of interests represented by these communities. [2005, c. 599, §1 (NEW).]

D. The Governor shall designate a commissioner of a department of State Government to be a voting, ex officio member of the board of trustees. [2005, c. 599, §1 (NEW).]

E. A member appointed to the board of trustees may not hold an elected office in municipal, county or state government. [2005, c. 599, §1 (NEW).]

[ 2005, c. 599, §1 (NEW) .]

**3. Quorum.** Six members constitute a quorum. Six affirmative votes are required for the board of trustees to take action.

[ 2005, c. 599, §1 (NEW) .]

**4. Liability.** The liability of the authority is governed by the Maine Tort Claims Act. A member of the board of trustees or an employee of the authority is not subject to any personal liability for having acted in the service of the member's or employee's duty as a member of the board or an employee of the authority within the course and scope of membership or employment to carry out a power or duty under this article. The authority shall indemnify a member of the board or an employee of the authority against expenses actually and necessarily incurred in connection with the defense of an action or proceeding in which a member of the board or an employee is made a party by reason of past or present association with the authority.

[ 2009, c. 641, §2 (AMD) .]

**5. Expenses.** A trustee is not entitled to receive compensation for services to the authority but is entitled to receive reimbursement for necessary expenditures, including travel expenses, incurred in carrying out those services.

[ 2005, c. 599, §1 (NEW) .]

**6. Officers; employees.** The board of trustees shall elect a chair and vice-chair from among its members. The authority may employ an executive director, technical experts and other agents and employees, permanent and temporary, that it requires and may determine their qualifications, duties and compensation. For required legal services, the authority may employ or retain its own counsel and legal staff.

[ 2005, c. 599, §1 (NEW) .]

#### SECTION HISTORY

2005, c. 599, §1 (NEW). 2009, c. 641, §2 (AMD).

## §13083-J. USE OF OPERATING REVENUES

**1. Principal use of revenue.** Operating revenue must be used principally to reinvest in the properties held by the authority.

[ 2005, c. 599, §1 (NEW) .]

**2. Permitted liability limited.** All expenses incurred in carrying out this article must be paid solely from funds provided under the authority of this article, and liability or obligation may not be incurred under this article beyond the extent to which money has been provided under the authority of this article.

[ 2005, c. 599, §1 (NEW) .]

**3. Equal opportunity employers.** Contractors and subcontractors on authority construction and reconstruction projects must be equal opportunity employers and, for contracts in excess of \$250,000, shall pursue in good faith affirmative action programs as defined in section 782. The authority may by rule provide for the enforcement of this requirement.

[ 2005, c. 599, §1 (NEW) .]

### SECTION HISTORY

2005, c. 599, §1 (NEW).

## §13083-K. PROPERTY OF AUTHORITY

The authority shall hold and acquire property as follows. [2005, c. 599, §1 (NEW) .]

**1. Lease or sale.** Properties may be leased or sold to accomplish the readjustment or reuse of the base facilities as determined appropriate by the authority. Resources acquired as a result of the lease or sale of these properties become operating revenues or assets of the authority.

[ 2005, c. 599, §1 (NEW) .]

**2. Entry upon lands.** The authority and its authorized agents and employees may enter upon lands, waters and premises in the State for the purpose of making surveys, soundings, drillings and examinations the authority determines necessary or convenient for the purposes of this article. The entry is not a trespass, but the authority is liable for damages its entry creates.

[ 2005, c. 599, §1 (NEW) .]

**3. Authority for transfers of interest in land to the authority.** Notwithstanding any contrary provisions 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 referred to in Title 13-C.

[ 2005, c. 599, §1 (NEW) .]

**4. Enforcement on ways under jurisdiction of the authority.** A law enforcement officer may enforce the traffic laws under Title 29-A on a way under the jurisdiction of the authority.

[ 2013, c. 48, §2 (NEW) . ]

#### SECTION HISTORY

2005, c. 599, §1 (NEW). 2013, c. 48, §2 (AMD).

## §13083-L. SPECIAL UTILITY DISTRICTS

The authority may form special utility districts and provide municipal utility services within its jurisdiction. The board of trustees of the authority has the authority of a municipal legislative body for these purposes. [2005, c. 599, §1 (NEW).]

**1. Sewer services.** The authority may provide sewer services as a sanitary district under Title 38, chapter 11, subchapters 3 and 4. The authority may establish a board of trustees for the sanitary district and appoint the members of the board of trustees or may act as the board of trustees of the district.

[ 2005, c. 599, §1 (NEW) . ]

**2. Solid waste disposal.** The authority may provide solid waste disposal services as a refuse disposal district under Title 38, chapter 17. The authority may establish a board of trustees for the refuse disposal district and appoint the members of the board of trustees or may act as the board of trustees of the district.

[ 2005, c. 599, §1 (NEW) . ]

**3. Water.** The authority may provide water as a water district under Title 35-A, Part 6. The authority may establish a board of trustees for the water district and appoint the members of the board of trustees or may act as the board of trustees of the district.

[ 2005, c. 599, §1 (NEW) . ]

**4. Revenue-producing services.** The authority has all the powers of a municipality to provide services under Title 30-A, chapter 213.

[ 2005, c. 599, §1 (NEW) . ]

**5. Airport; Brunswick Naval Air Station Fund established.** The authority has all the powers of a municipality to operate as an airport authority under Title 30-A, chapter 213 for use in connection with a public airport, heliport or other location for the landing or taking off of aircraft. To support this operation, there is established a nonlapsing fund to be known as the Brunswick Naval Air Station Airport Fund, referred to in this section as "the fund," for the purpose of receiving funds from the State and gifts, grants, devises, bequests, trusts or security documents. The State shall credit to the fund any appropriation made to the authority in each fiscal year.

A. The fund must be used to:

- (1) Purchase, lease, acquire, own, improve, use, sell, convey, transfer or otherwise deal in and with airport property, an airport project or any interest in the airport property or airport project, whether tangible or intangible, as otherwise authorized under this article;
- (2) Pay the costs of operating, maintaining, improving and repairing all airport property and airport projects of the authority;
- (3) Pay the costs of administering and operating the authority, including, but not limited to, all wages, salaries, benefits and other expenses authorized by the board of trustees or the executive director;

- (4) Pay the principal and premium, if any, and the interest on the outstanding bonds of the authority related to airport property or airport projects as the same become due and payable;
- (5) Create and maintain reserves required or provided for in any resolution authorizing or any security document securing such bonds of the authority related to airport property or airport projects;
- (6) Create and maintain a capital improvement fund for airport property and airport projects to be established by the board;
- (7) Pay all taxes owed by the authority related to airport property or airport projects; and
- (8) Pay all expenses incident to the management and operation of the authority operating as an airport authority as are consistent with its statutory purpose and as the board may from time to time determine. [2009, c. 641, §3 (NEW).]

B. The fund constitutes a continuing appropriation for the benefit of the authority. Any amount remaining in the fund at the close of any fiscal year is carried over and credited to the fund for the succeeding year. [2009, c. 641, §3 (NEW).]

C. Money in the fund must be paid to the authority on manifests approved by the Governor and Legislature in the same manner as other state claims are paid. [2009, c. 641, §3 (NEW).]

D. The revenues received and due to the authority from all other sources, except by way of state appropriation, from whatever source derived, must be retained by the authority and must be used in such a manner as the board of trustees may determine consistent with the provisions of this section or as is otherwise provided by law or by the terms and conditions incident to any gift, grant, devise, bequest, trust or security document. [2009, c. 641, §3 (NEW).]

[ 2009, c. 641, §3 (NEW) .]

#### SECTION HISTORY

2005, c. 599, §1 (NEW). 2009, c. 641, §3 (AMD).

### §13083-M. OTHER MUNICIPAL POWERS

**1. Traffic ordinances.** The authority has the power to enact traffic ordinances and regulate the operation of motor vehicles under Title 30-A, section 3009 to the extent that power is not inconsistent with other validly enacted municipal ordinances.

[ 2005, c. 599, §1 (NEW) .]

**2. Operating expenses.** The authority has all the powers of a municipality to raise and appropriate money under Title 30-A, sections 5722 and 5723.

[ 2005, c. 599, §1 (NEW) .]

**3. Zoning.** The authority may not adopt zoning or land-use ordinances but may coordinate zoning and land-use regulation with interested primary impact communities.

[ 2005, c. 599, §1 (NEW) .]



**4. Highway maintenance.** The authority may maintain, repair, plow and control public ways as a municipality under Title 23, Part 3. The authority shall consult and coordinate with the appropriate primary impact community in appointing a road commissioner.

[ 2005, c. 599, §1 (NEW) . ]

SECTION HISTORY

2005, c. 599, §1 (NEW).

## §13083-N. BONDS

**1. Hearing required.** The authority may issue bonds to finance its activities only after giving notice of the proposed issuance and its terms at least twice in a newspaper of general circulation in the appropriate counties and holding a duly advertised public hearing on the issuance.

[ 2005, c. 599, §1 (NEW) . ]

**2. Authority.** The authority may issue bonds from time to time in its discretion to finance the undertaking of an authorized activity under this article, including but not limited to the payment of principal and interest upon advances for surveys and plans, and may issue refunding bonds for the payment or retirement of bonds previously issued.

A. The principal and interest of bonds must be made payable solely from the income, proceeds, revenues and funds of the authority derived from or held for activities under this article. Payment of the principal and interest of bonds may be further secured by a pledge of a loan, grant or contribution from the Federal Government or other source in aid of activities of the authority under this article and by a mortgage of an urban activity or a project or part of a project, title to which is in the authority. [ 2005, c. 599, §1 (NEW) . ]

B. Bonds issued under this section do not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction and are not subject to other laws or charters relating to the authorization, issuance or sale of bonds. Bonds issued under this article are declared to be issued for an essential public and governmental purpose and, together with interest on and income from the bonds, are exempt from all taxes. [ 2005, c. 599, §1 (NEW) . ]

C. Bonds may not be issued by the authority until the authority has received a certificate of approval from the Finance Authority of Maine authorizing issuance of the bonds. Before issuing a certificate of approval under this section, the Finance Authority of Maine must determine that there is a reasonable likelihood that the income, proceeds, revenues and funds of the authority derived from or held for activities under this article or otherwise pledged to payment of the bonds will be sufficient to pay the principal, the interest and all other amounts that may at any time become due and payable under the bonds. In making this determination, the Finance Authority of Maine shall consider the authority's analysis of the proposed bond issue and the revenues to make payments on the bonds and may require such information, projections, studies and independent analyses as it considers necessary or desirable and may charge the authority reasonable fees and expenses. The issuance by the Finance Authority of Maine of a certificate of approval under this section does not constitute an endorsement of the bonds or the projects or purposes for which those bonds are issued and neither the authority nor any other person or entity, including, without limitation, any holders of bonds of the authority, have any cause of action against the Finance Authority of Maine with respect to any such certificate of approval. The Finance Authority of Maine may require that it be indemnified, defended and held harmless by the authority for any liability or cause of action arising out of or with respect to the bonds. [ 2005, c. 599, §1 (NEW) . ]

[ 2005, c. 599, §1 (NEW) . ]

**3. General characteristics.** Bonds authorized under this section may be issued in one or more series. The resolution, trust indenture or mortgage under which the bonds are issued may include the following:

- A. The date or dates borne by the bonds; [2005, c. 599, §1 (NEW).]
- B. Whether the bonds are payable upon demand or mature at a certain time or times; [2005, c. 599, §1 (NEW).]
- C. The interest rate or rates of the bonds; [2005, c. 599, §1 (NEW).]
- D. The denomination or denominations of the bonds; [2005, c. 599, §1 (NEW).]
- E. The form of the bonds, whether coupon or registered; [2005, c. 599, §1 (NEW).]
- F. The conversion or registration privileges carried by the bonds; [2005, c. 599, §1 (NEW).]
- G. The rank or priority of the bonds; [2005, c. 599, §1 (NEW).]
- H. The manner of execution of the bonds; [2005, c. 599, §1 (NEW).]
- I. The medium and place or places of payment; [2005, c. 599, §1 (NEW).]
- J. The terms of redemption of the bonds, with or without premium; [2005, c. 599, §1 (NEW).]
- K. The manner secured; and [2005, c. 599, §1 (NEW).]
- L. Any other characteristics of the bonds. [2005, c. 599, §1 (NEW).]

[ 2005, c. 599, §1 (NEW) .]

**4. Price sold.** The bonds may be:

- A. [2009, c. 641, §4 (RP).]
- B. Exchanged for other bonds on the basis of par; [2009, c. 641, §4 (AMD).]
- C. Sold to the Federal Government at private sale at not less than par. If less than all of the authorized principal amount of the bonds is sold to the Federal Government, the balance may be sold at private sale at not less than par at an interest cost to the municipality that does not exceed the interest cost to the municipality of the portion of the bonds sold to the Federal Government; or [2009, c. 641, §4 (AMD).]
- D. Sold to a person on such terms as the authority may negotiate. [2009, c. 641, §4 (NEW).]

[ 2009, c. 641, §4 (AMD) .]

**5. Signatures of outgoing officers; negotiability.** If an official of the authority whose signature appears on a bond or coupon issued under this article ceases to be an official before the bond is delivered, the signature is nevertheless valid for all purposes as if the official had remained in office until the delivery. Notwithstanding contrary provisions of law, bonds issued under this article are fully negotiable.

[ 2005, c. 599, §1 (NEW) .]

**6. Bond recitation; conclusive presumptions.** In actions or proceedings involving the validity or enforceability of a bond issued under this article or the security for that bond, a bond reciting in substance that it has been issued by the authority in connection with an activity is conclusively deemed to have been issued for that purpose and the activity is conclusively deemed to have been planned, located and carried out in accordance with this article.

[ 2005, c. 599, §1 (NEW) .]

**7. No personal liability; not debt of State or municipality.** Neither the trustees of the authority nor the person executing the bonds is liable personally on the bonds by reason of the issuance of the bonds. The bonds and other obligations of the authority must have stated on their face that they are not a debt of the State and that the State is not liable on the bonds. The bonds or obligations may not be payable out of funds or properties other than those of the authority acquired for the purposes of this article.

[ 2005, c. 599, §1 (NEW) .]

**8. Bonds as legal investments.** Public officers, municipal corporations, political subdivisions and public bodies; banks, trust companies, bankers, savings banks and institutions, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking business; insurance companies, insurance associations and other persons carrying on an insurance business; and executors, administrators, curators, trustees and other fiduciaries may legally invest sinking funds, money or other funds belonging to them or within their control in bonds or other obligations issued by the authority under this article. These bonds or other obligations are authorized security for all public deposits. It is the purpose of this section to authorize persons, political subdivisions and officers, public or private, to use funds owned or controlled by them for the purchase of these bonds or other obligations. This section does not relieve a person of any duty or of exercising reasonable care in selecting securities.

[ 2005, c. 599, §1 (NEW) .]

**9. Investment of funds; redemption of bonds.** The authority may:

A. Invest, in property or securities in which savings banks may legally invest funds subject to their control, funds held in reserves, sinking funds or funds not required for immediate disbursement; and [2005, c. 599, §1 (NEW) .]

B. Cancel its bonds by redeeming them at the redemption price established in the bonds or by purchasing them at less than redemption price. [2005, c. 599, §1 (NEW) .]

[ 2005, c. 599, §1 (NEW) .]

#### SECTION HISTORY

2005, c. 599, §1 (NEW). 2009, c. 641, §4 (AMD).

## §13083-O. INTEREST OF PUBLIC OFFICIALS, TRUSTEES OR EMPLOYEES

**1. Acquisition of interest.** A public official, trustee or employee of the authority may not acquire or hold a direct or an indirect financial or personal interest in:

A. An authority activity; [2005, c. 599, §1 (NEW) .]

B. Property included or planned to be included in the base area; or [2005, c. 599, §1 (NEW) .]

C. A contract or proposed contract in connection with an authority activity. [2005, c. 599, §1 (NEW) .]

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

[ 2005, c. 599, §1 (NEW) .]

**2. Present or past interest in property.** If a public official, trustee 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 public official, trustee or employee must disclose this fact immediately in writing to the authority and the disclosure must be entered in the authority's minutes.

[ 2005, c. 599, §1 (NEW) .]

**3. Recusal.** The public official, trustee or employee of the authority with an interest may not participate in an action by the authority affecting that property.

[ 2005, c. 599, §1 (NEW) .]

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

[ 2005, c. 599, §1 (NEW) .]

#### SECTION HISTORY

2005, c. 599, §1 (NEW).

## §13083-P. EXEMPTION FROM EXECUTION

**1. Property exempt from execution.** The property, including funds, of the authority is exempt from levy and sale by virtue of an execution. An execution or other judicial process may not be issued against the authority's property, and a judgment against the authority may not be a charge or lien upon its property.

[ 2005, c. 599, §1 (NEW) .]

**2. Construction; limitation of application.** This section does not:

A. Prohibit the authority from making payments in lieu of taxes to the municipality; or [ 2005, c. 599, §1 (NEW) .]

B. Apply to or limit the right of an obligee to foreclose or otherwise enforce a mortgage of the authority or to pursue remedies for the enforcement of a pledge or lien given by the authority on its rents, fees, grants, revenues or other sources pledged by the authority to the payment of its bonds. [ 2009, c. 641, §5 (AMD) .]

[ 2009, c. 641, §5 (AMD) .]

#### SECTION HISTORY

2005, c. 599, §1 (NEW). 2009, c. 641, §5 (AMD).

## §13083-Q. DESIGNATION AS PORT OF ENTRY, INTERNATIONAL AIRPORT, FOREIGN TRADE ZONE AND FREE PORT AREA

**1. Port of entry.** The authority may apply to the Secretary of the Treasury of the United States for the purpose of having Brunswick Naval Air Station or a portion of the base designated, established or constituted as a port of entry or an international airport pursuant to the federal Customs Reorganization Act, 19 United States Code, Section 1, as amended, and Section 58b, as amended, and regulations of the United States Customs Service, including 19 Code of Federal Regulations, Sections 101.0 and 122.1, as amended.

[ 2005, c. 599, §1 (NEW) .]

**2. Foreign trade zone.** The authority may apply to the Secretary of Commerce of the United States for the purpose of establishing, operating and maintaining foreign trade zones at Brunswick Naval Air Station pursuant to the federal Foreign Trade Zones Act, 19 United States Code, Section 81a-81u, as amended, providing for the establishment, operation and maintenance of foreign trade zones in or adjacent to ports of entry of the United States for expediting and encouraging foreign commerce and for other purposes.

A. The authority may select and describe the location of the foreign trade zone, make rules and take other actions concerning the operation, maintenance and policing of the zone as necessary to comply with the federal Foreign Trade Zones Act and the regulations promulgated under that Act. [ 2005, c. 599, §1 (NEW) . ]

B. The authority may lease or may erect, maintain and operate structures, buildings or enclosures necessary for the establishment and operation of foreign trade zones. [ 2005, c. 599, §1 (NEW) . ]

[ 2005, c. 599, §1 (NEW) . ]

**3. Other tax-free provisions.** The authority may establish a free port area at Brunswick Naval Air Station in which personal property in transit is exempt from the provisions of the stock-in-trade tax and other taxes and customs normally levied in a port of entry. For the purposes of this section, personal property in transit through the free port area established by the authority includes goods, wares and merchandise that:

A. Are moving in interstate or international commerce through or over the free port areas established; [ 2005, c. 599, §1 (NEW) . ]

B. Are consigned from outside the State to a public or private warehouse within the State, whether that consignment is specified before or after transportation; or [ 2005, c. 599, §1 (NEW) . ]

C. Do not lose their tax-exempt status because, while in a warehouse, they are assembled, bound, joined, processed, disassembled, divided, cut, broken in bulk, relabeled or repackaged. The warehouse in which the goods, wares and merchandise are stored may not be owned in whole or in part by either the consignee or the consignor. The tax-exemption granted may be liberally construed to effect the purposes of this article. [ 2005, c. 599, §1 (NEW) . ]

[ 2005, c. 599, §1 (NEW) . ]

#### SECTION HISTORY

2005, c. 599, §1 (NEW).

## §13083-R. TERMINATION OF THE AUTHORITY

The authority is not dissolved until: [ 2005, c. 599, §1 (NEW) . ]

**1. Legislature provides for termination.** It is terminated by the Legislature; and

[ 2005, c. 599, §1 (NEW) . ]

**2. Payment of bonds, premiums and interest.** The bonds, premium, if any, and interest have been paid or a sufficient amount for the payment of the bonds and interest to maturity or a prior redemption date have been irrevocably set aside in trust for the benefit of the bondholders.

[ 2005, c. 599, §1 (NEW) . ]

#### SECTION HISTORY

2005, c. 599, §1 (NEW).

## §13083-S. ANNUAL REPORT

**1. Annual financial report.** The authority shall submit annually to the Governor, the Executive Director of the Legislative Council and the joint standing committee of the Legislature having jurisdiction over housing and economic development matters, not later than 120 days after the close of the authority's 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 for the previous year:

- A. A description of the authority's operations; [2005, c. 599, §1 (NEW).]
- B. An accounting of the authority's receipts and expenditures, assets and liabilities at the end of its fiscal year; [2005, c. 599, §1 (NEW).]
- C. A listing of all property transactions pursuant to section 13083-K; [2005, c. 599, §1 (NEW).]
- D. An accounting of all activities of any special utility district formed under section 13083-L; [2005, c. 599, §1 (NEW).]
- E. A listing of any property acquired by eminent domain under section 13083-I; [2005, c. 599, §1 (NEW).]
- F. A listing of any bonds issued during the fiscal year under section 13083-I; [2005, c. 599, §1 (NEW).]
- G. A statement of the authority's proposed and projected activities for the ensuing year; [2009, c. 641, §6 (AMD).]
- H. Recommendations regarding further actions that may be suitable for achieving the purposes of this article; and [2009, c. 641, §7 (AMD).]
- I. A description of the authority's progress toward achieving the goals set forth in section 13083-G. [2009, c. 641, §8 (NEW).]

[2009, c. 641, §§6-8 (AMD).]

### SECTION HISTORY

2005, c. 599, §1 (NEW). 2009, c. 641, §§6-8 (AMD).

## §13083-S-1. BRUNSWICK NAVAL AIR STATION JOB INCREMENT FINANCING FUND

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

- A. "Affiliated business" means one of 2 businesses exhibiting either of the following relationships:
  - (1) One business owns 50% or more of the stock of the other business or owns a controlling interest in the other; or
  - (2) Fifty percent of the stock of each business or a controlling interest in each business is directly or indirectly owned by a common owner or owners. [2009, c. 641, §9 (NEW).]
- B. "Assessor" means the State Tax Assessor. [2009, c. 641, §9 (NEW).]
- C. "Base level of employment" means either the total employment of an employer as of the March 31st, June 30th, September 30th and December 31st of the calendar year immediately preceding the date the employer begins operations at the base area divided by 4 or its average employment during the base period, whichever is greater. [2009, c. 641, §9 (NEW).]

D. "Base period" means the 3 calendar years prior to the year in which an employer begins operations at the base area. [2009, c. 641, §9 (NEW).]

E. "College" means Southern Maine Community College in the Maine Community College System. [2009, c. 641, §9 (NEW).]

F. "Commissioner" means the Commissioner of Economic and Community Development. [2009, c. 641, §9 (NEW).]

G. "Fund" means the Brunswick Naval Air Station Job Increment Financing Fund established pursuant to subsection 2. [2009, c. 641, §9 (NEW).]

H. "Job tax increment" means that level of state income tax withholding attributed to any employees employed within the base area above the base level of employment for an employer in the base area or its average employment during the base period. "Job tax increment" does not include withholding from employees or positions shifted by an employer as calculated generally pursuant to Title 36, chapter 917. The shifting restriction must apply to all employers in the base area. [2009, c. 641, §9 (NEW).]

[2009, c. 641, §9 (NEW).]

**2. Fund established.** The Brunswick Naval Air Station Job Increment Financing Fund is established to receive job tax increment transfers from job creation in the base area. The fund must receive annually from the State the amount calculated under subsection 5.

[2009, c. 641, §9 (NEW).]

**3. Limitations.** The fund is subject to the following limitations.

A. Subject to the provisions of paragraph E, payments from the fund allocated to the authority must be used solely to fund the costs of municipal services, including, but not limited to, water, sewer, electricity, telecommunications, fire protection, police protection, sanitation services and the maintenance of buildings, facilities, grounds and roads in the base area. [2009, c. 641, §9 (NEW).]

B. Subject to the provisions of paragraph E, payments allocated to the college must be used solely to fund the costs of higher education services, including, but not limited to, faculty and staff salaries and instruction, operations, equipment, maintenance and financing costs, including, but not limited to, closing costs, issuance costs and interest paid to holders of evidences of indebtedness issued to pay for project costs and any premium paid over the principal amount of that indebtedness because of the redemption of the obligations before maturity. [2009, c. 641, §9 (NEW).]

C. To the extent that revenues received by the fund are not expended for current costs under paragraphs A and B, the fund must retain the revenues to defray future costs under those paragraphs. [2009, c. 641, §9 (NEW).]

D. State income tax withholding eligible for reimbursement to a qualified business pursuant to Title 36, chapter 917 or to a qualified pine tree development zone business under Title 30-A, chapter 206 is not eligible for use in the calculation of a payment to the fund under subsections 4 and 5. State income tax withholding under Title 36, chapter 919, or any other tax credit or reimbursement program based on state income tax withholding, is not eligible for use in calculation of a payment to the fund under subsections 4 and 5. [2009, c. 641, §9 (NEW).]

E. Payments made to the fund must be allocated as follows:

- (1) For payments transferred to the fund in 2011 and 2012, 100% must be allocated to the college;
- (2) For payments made to the fund in 2013, 75% must be allocated to the college and 25% must be allocated to the authority; and
- (3) For payments made to the fund in 2014 and after, 50% must be allocated to the college and 50% must be allocated to the authority. [2009, c. 641, §9 (NEW).]

F. Payments to the fund are not allowed for calendar years beginning on or after January 1, 2031. If at least 5,000 net new jobs are created in the base area prior to 2031, the services funded under paragraphs A and B must be reviewed by the joint standing committee of the Legislature having jurisdiction over economic development matters in order to determine whether continuance of the fund is necessary. [2009, c. 641, §9 (NEW).]

[ 2009, c. 641, §9 (NEW) .]

**4. Certification by authority.** By February 15th of each year, beginning in 2011, the authority shall provide a report identifying each employer located at the base area to the commissioner. The commissioner shall certify annually to the assessor on or before June 30th of each year, beginning in 2011, the following information:

A. Employment, payroll and state withholding data necessary to calculate the base level of employment; [2009, c. 641, §9 (NEW).]

B. The total number of employees added during the previous year within the base area above the base level of employment, including additional associated payroll and withholding data necessary to calculate the job tax increment and establish the appropriate payment to the fund; [2009, c. 641, §9 (NEW) .]

C. A listing of all employers within the base area that pay withholding taxes, the locations of those employers and the number of employees at each location; [2009, c. 641, §9 (NEW) .]

D. A listing of all affiliated businesses, data regarding current employment, payroll and Maine income tax withholding for each affiliated business within the base area; and [2009, c. 641, §9 (NEW) .]

E. Any information required by the assessor to determine the employment tax increment revenues pursuant to Title 36, chapter 917. [2009, c. 641, §9 (NEW) .]

[ 2009, c. 641, §9 (NEW) .]

**5. Procedure for payment of revenue to the fund.** On or before July 15th of each year, the assessor shall review the information required by subsection 4 and calculate the job tax increment for the preceding calendar year. The assessor shall also calculate the employment tax increment in the base area for reimbursement to qualified businesses and qualified Pine Tree Development Zone businesses pursuant to Title 36, chapter 917. On or before July 15th of each year, the assessor shall certify to the State Controller the total remaining job tax increment after reimbursements have been made to qualified businesses and qualified Pine Tree Development Zone businesses pursuant to Title 36, chapter 917. On or before July 31st of each year, the State Controller shall transfer 50% of the remaining job tax increment to the state job tax increment contingent account established, maintained and administered by the State Controller from General Fund undedicated revenue within the withholding tax category. On or before July 31st of each year, the State Controller shall deposit this revenue into the fund and distribute the payments pursuant to subsection 3.

[ 2009, c. 641, §9 (NEW) .]

**6. Administration.** The Commissioner of Administrative and Financial Services shall administer the fund and may adopt rules pursuant to the Maine Administrative Procedure Act for implementation of the fund. Rules adopted pursuant to this subsection are routine technical rules pursuant to chapter 375, subchapter 2-A.

[ 2009, c. 641, §9 (NEW) .]

#### SECTION HISTORY

2009, c. 641, §9 (NEW) .



## Article 2-C: RIVERFRONT COMMUNITY DEVELOPMENT PROGRAM

**§13083-T. RIVERFRONT COMMUNITY DEVELOPMENT PROGRAM**

**1. Program established; administration.** The Riverfront Community Development Program, referred to in this section as "the program," is established within the department to assist and encourage communities along the State's rivers to revitalize their riverfronts in an environmentally sustainable manner and to promote river-oriented community development and enhancement projects. The department shall administer the program in conjunction with the Municipal Investment Trust Fund established under the Maine Municipal Bond Bank to provide funding for the rehabilitation, revitalization and enhancement of riverfront communities and river ecosystems in the State.

[ 2007, c. 39, Pt. F, §1 (NEW); 2007, c. 39, Pt. F, §2 (AFF) .]

**2. Review panel.** The Riverfront Community Development Review Panel, referred to in this section as "the panel," is established to evaluate proposals and determine funding under the program. The panel consists of:

A. The Commissioner of Economic and Community Development; [2007, c. 39, Pt. F, §1 (NEW); 2007, c. 39, Pt. F, §2 (AFF).]

B. The Commissioner of Agriculture, Conservation and Forestry; and [2011, c. 655, Pt. EE, §8 (AMD); 2011, c. 655, Pt. EE, §30 (AFF); 2011, c. 657, Pt. W, §6 (REV).]

C. [2011, c. 655, Pt. EE, §30 (AFF); 2011, c. 655, Pt. EE, §9 (RP).]

D. Four members of the public, one with expertise in economic and community development, one with expertise in environmental conservation, one with expertise in tourism and ecotourism development and promotion and one with expertise in park and trail design and development. Two of these members are appointed by the President of the Senate and 2 by the Speaker of the House. [2007, c. 39, Pt. F, §1 (NEW); 2007, c. 39, Pt. F, §2 (AFF).]

[ 2011, c. 655, Pt. EE, §§8, 9 (AMD); 2011, c. 655, Pt. EE, §30 (AFF); 2011, c. 657, Pt. W, §6 (REV) .]

**3. Review process.** The panel shall review proposals for funding under the program in accordance with this subsection.

A. The panel shall establish the deadline by which proposals must be postmarked and received. [2007, c. 39, Pt. F, §1 (NEW); 2007, c. 39, Pt. F, §2 (AFF).]

B. Department staff shall undertake the initial review and preliminary scoring of proposals. [2007, c. 39, Pt. F, §1 (NEW); 2007, c. 39, Pt. F, §2 (AFF).]

C. A subcommittee appointed by the panel to score proposals shall review and determine the final score for the proposals. [2007, c. 39, Pt. F, §1 (NEW); 2007, c. 39, Pt. F, §2 (AFF).]

D. A subcommittee appointed by the panel to nominate finalists shall review all of the proposals, identify issues for full review and discussion by the panel and recommend project finalists to the full panel for detailed review and consideration. [2007, c. 39, Pt. F, §1 (NEW); 2007, c. 39, Pt. F, §2 (AFF).]

E. The panel shall review all the proposals submitted, select the finalists and allocate funding. [2007, c. 39, Pt. F, §1 (NEW); 2007, c. 39, Pt. F, §2 (AFF).]

In reviewing proposals, the panel shall use the scoring system established in subsection 5.

[ 2007, c. 39, Pt. F, §1 (NEW); 2007, c. 39, Pt. F, §2 (AFF) .]

**4. Applicant requirements.** An applicant for funding under this section must:

A. Have the sponsorship of a state agency. An applicant must contact the appropriate sponsoring state agency well in advance of submitting an application; and [2007, c. 39, Pt. F, §1 (NEW); 2007, c. 39, Pt. F, §2 (AFF).]

B. Demonstrate the capacity to undertake the project with a reasonable prospect of bringing it to a successful conclusion. In assessing an applicant's ability to meet the requirements of this paragraph, the panel may consider all relevant factors, including but not limited to the applicant's level of debt; fund-raising ability; past economic and community development activities; grants from federal, state or local sources; previous environmental conservation, restoration or enhancement activity; organizational history; scope of economic or environmental vision; and evidence of success in previous efforts. [2007, c. 39, Pt. F, §1 (NEW); 2007, c. 39, Pt. F, §2 (AFF).]

[ 2007, c. 39, Pt. F, §1 (NEW); 2007, c. 39, Pt. F, §2 (AFF) .]

**5. Scoring system.** The department and the panel shall develop a scoring system for use by the panel in evaluating proposals under this section. The scoring system must be designed to identify those projects that are most aligned with the State's riverfront community development and river restoration and enhancement priorities. The scoring system must assign points according to the relative value or the following criteria associated with the proposal:

A. The economic significance of the proposed project to the immediate vicinity and to the State as a whole; [2007, c. 39, Pt. F, §1 (NEW); 2007, c. 39, Pt. F, §2 (AFF).]

B. The level of compatibility with clean and healthy river ecosystems; [2007, c. 39, Pt. F, §1 (NEW); 2007, c. 39, Pt. F, §2 (AFF).]

C. The value of the proposed project with respect to downtown revitalization; [2007, c. 39, Pt. F, §1 (NEW); 2007, c. 39, Pt. F, §2 (AFF).]

D. The value of the proposed project with respect to environmental protection and ecological restoration; [2007, c. 39, Pt. F, §1 (NEW); 2007, c. 39, Pt. F, §2 (AFF).]

E. The value of the proposed project with respect to recreational uses; [2007, c. 39, Pt. F, §1 (NEW); 2007, c. 39, Pt. F, §2 (AFF).]

F. The degree of community support for the proposed investment; and [2007, c. 39, Pt. F, §1 (NEW); 2007, c. 39, Pt. F, §2 (AFF).]

G. The extent to which the proposed project involves partnerships and meets multiple criteria for benefits. [2007, c. 39, Pt. F, §1 (NEW); 2007, c. 39, Pt. F, §2 (AFF).]

[ 2007, c. 39, Pt. F, §1 (NEW); 2007, c. 39, Pt. F, §2 (AFF) .]

**6. Additional criteria.** In addition to evaluating the proposals using the scoring system established in subsection 5, the panel shall consider the following criteria in reviewing a proposal:

A. The level to which a proposal supports the open space or recreation objectives, or both, of a local comprehensive plan; [2007, c. 39, Pt. F, §1 (NEW); 2007, c. 39, Pt. F, §2 (AFF).]

B. The extent to which a project is consistent with an adopted comprehensive plan that meets the standards of the laws governing growth management pursuant to Title 30-A, chapter 187; [2007, c. 39, Pt. F, §1 (NEW); 2007, c. 39, Pt. F, §2 (AFF).]

C. The current and anticipated demand for use and diversity of uses of the site; [2007, c. 39, Pt. F, §1 (NEW); 2007, c. 39, Pt. F, §2 (AFF).]

D. The local and regional community planning and support for river protection, enhancement and restoration; and [2007, c. 39, Pt. F, §1 (NEW); 2007, c. 39, Pt. F, §2 (AFF).]

E. Any additional benefits that contribute to scenic landscape values, including the character of the town or region in which the project is situated, the rehabilitation or renovation of riverfront mill and other buildings and the ability to secure public access for conservation, recreation, wildlife and education uses. [2007, c. 39, Pt. F, §1 (NEW); 2007, c. 39, Pt. F, §2 (AFF).]

[ 2007, c. 39, Pt. F, §1 (NEW); 2007, c. 39, Pt. F, §2 (AFF) .]

**7. Rules.** The department may adopt rules to implement this section. Rules adopted to implement this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[ 2007, c. 39, Pt. F, §1 (NEW); 2007, c. 39, Pt. F, §2 (AFF) .]

#### SECTION HISTORY

2007, c. 39, Pt. F, §1 (NEW). 2007, c. 39, Pt. F, §2 (AFF). 2011, c. 655, Pt. EE, §§8, 9 (AMD). 2011, c. 655, Pt. EE, §30 (AFF). 2011, c. 657, Pt. W, §6 (REV).

### Article 3: ENERGY CONSERVATION DIVISION

#### **§13084. ENERGY CONSERVATION PROGRAMS**

*(REPEALED)*

#### SECTION HISTORY

1989, c. 875, §§M7,13 (NEW). 1991, c. 246, §4 (AMD). 1991, c. 548, §A1 (AMD). 1995, c. 560, §B12 (RP).

#### **§13085. STATE STANDARDS FOR APPLIANCE ENERGY EFFICIENCY**

*(REPEALED)*

#### SECTION HISTORY

1989, c. 875, §§M7,13 (NEW). 1995, c. 560, §B13 (RP).

### Article 4: AFFORDABLE HOUSING

#### **§13086. MAINE AFFORDABLE HOUSING ALLIANCE ESTABLISHED**

*(REPEALED)*

#### SECTION HISTORY

1989, c. 875, §§M7,13 (NEW). 1991, c. 610, §1 (RP).

#### **§13087. COORDINATION**

*(REPEALED)*

#### SECTION HISTORY

1989, c. 875, §§M7,13 (NEW). 1991, c. 610, §1 (RP).

#### **§13088. ADVISORY COMMITTEE ESTABLISHED**

*(REPEALED)*

#### SECTION HISTORY

1989, c. 875, §§M7,13 (NEW). 1991, c. 610, §1 (RP).

## Article 5: ECONOMIC OPPORTUNITY

## Article 5-A: ECONOMIC OPPORTUNITY

**§13090-A. ECONOMIC OPPORTUNITY FUND**

**1. Creation.** The Economic Opportunity Fund, referred to in this section as the "fund," is created under the jurisdiction and control of the department.

[ 1991, c. 780, Pt. N, §1 (NEW) . ]

**2. Sources of money.** The fund consists of the following:

A. All money appropriated or allocated for inclusion in the fund, from whatever source; [1991, c. 780, Pt. N, §1 (NEW).]

B. Subject to any pledge, contract or other obligation, all interest, dividends or other pecuniary gains from investment of money from the fund; [1991, c. 780, Pt. N, §1 (NEW).]

C. Subject to any pledge, contract, fee or other obligation, any money that the department receives in repayment of advances from the fund; and [1991, c. 780, Pt. N, §1 (NEW).]

D. Any other money available to the department and directed by the department to be paid into the fund. [1991, c. 780, Pt. N, §1 (NEW).]

[ 1991, c. 780, Pt. N, §1 (NEW) . ]

**3. Application of fund.** Money in the fund may be applied to carry out any power of the department under or in connection with section 13090-B or to pay obligations incurred in connection with the fund. Money in the fund not needed to meet the obligations of the department as provided in this section may accrue interest and be invested in a manner permitted by law.

[ 1991, c. 780, Pt. N, §1 (NEW) . ]

**4. Allocations from fund.** The department may request allocations from the fund as it determines necessary or convenient to carry out this article, including, but not limited to, allocations for grants or loans.

[ 1991, c. 780, Pt. N, §1 (NEW) . ]

**5. Revolving fund.** The fund is a nonlapsing, revolving fund. The department shall apply continuously all money in the fund to carry out this article.

[ 1991, c. 780, Pt. N, §1 (NEW) . ]

## SECTION HISTORY

1991, c. 780, §N1 (NEW).

**§13090-B. ECONOMIC OPPORTUNITY PROGRAM**

The Economic Opportunity Program, referred in this section as the "program," is established to provide grants to municipalities for public and private investments to stimulate economic growth. [1991, c. 780, Pt. N, §1 (NEW).]

**1. Eligibility for loans.** Municipalities may apply to the department for grants under the program. Municipalities shall loan money from those grants to business entities based on the following eligibility criteria.

A. The projects to be financed must:

- (1) Pertain to manufacturing, industrial, real estate development, child care, recreational or natural resource enterprises;
- (2) Be located or establishing a presence in the State; and
- (3) Provide significant public benefit in relation to the amount of the loan, as determined by the department. Public benefits include, but are not limited to: increased opportunities for employment; increased capital flows, particularly of capital from outside the State; increased state and municipal tax revenues; rehabilitation of blighted or underutilized areas; and provision of necessary services.

Loan proceeds may be used for any appropriate commercial purpose, as determined by the department, including working capital. [1999, c. 272, §2 (AMD).]

B. The department must determine that the borrower is a for-profit or nonprofit commercial entity and that it is creditworthy and reasonably likely to repay the loan. [1991, c. 780, Pt. N, §1 (NEW).]

C. The department must determine that the loan is necessary to implement the project because the borrower either has insufficient access to other funds or demonstrates, and the department determines, that the project would not provide the projected public benefits without the availability of the loan. [1991, c. 780, Pt. N, §1 (NEW).]

D. The department must determine that the project would not result in a substantial detriment to existing business in the State. In making this determination, the department shall consider factors it considers necessary to measure and evaluate the effect of the project on existing business, including:

- (1) Whether a loan for a project should be approved if, as a result of the project, there would not be sufficient demand within the market area of the State served by the project to employ the efficient capacity of existing business; and
- (2) Whether any adverse economic effect of the project on existing business or other municipalities is outweighed by the contribution that the project would make to the economic growth and vitality of the State.

The applicant for the loan has the burden of demonstrating a reasonable likelihood that the project would not result in a substantial detriment to existing business or other municipalities, except in cases in which no interested parties object to the project, in which event the requirements of this paragraph are satisfied. Interested parties must be given an opportunity, with or without a hearing at the discretion of the department, to present their objections to the project on grounds that the project would result in a substantial detriment to existing business or other municipalities. If such a party presents these objections with reasonable specificity and persuasiveness, the department may divulge whatever information concerning the project it considers necessary for a fair presentation by the objecting party and evaluation of such objections. If the department finds that the applicant has failed to meet its burden of proof as specified in this paragraph, the application must be denied. [1991, c. 780, Pt. N, §1 (NEW).]

[ 1999, c. 272, §2 (AMD) . ]

**2. Loan terms and conditions.** The department may establish prudent terms and conditions for loans, including limiting the amount of loans for any one project and requiring adequate collateral for the loans. Loan terms may not exceed 20 years for loans primarily secured by real estate, 10 years for loans secured primarily for machinery and equipment and 7 years for other loans. The interest rate charged on each loan must be determined on a case-by-case basis.

[ 1991, c. 780, Pt. N, §1 (NEW) . ]

**3. Rulemaking.** The department shall establish rules to implement the program.

[ 1991, c. 780, Pt. N, §1 (NEW) . ]

**4. Local and regional organizations.**

[ 1995, c. 40, §1 (NEW); T. 5, §13090-B, sub-§4 (RP) .]

**5. Nonprofit organizations.**

[ 1997, c. 590, §1 (NEW); T. 5, §13090-B, sub-§5 (RP) .]

## SECTION HISTORY

1991, c. 780, §N1 (NEW). 1995, c. 40, §1 (AMD). 1997, c. 590, §1 (AMD).  
1999, c. 272, §2 (AMD).

**Article 5-B: TOURISM****§13090-C. TOURISM**

*(REALLOCATED FROM TITLE 5, SECTION 13080-O)*

**1. Tourism; establishment.** The Office of Tourism shall administer a program to support and expand the tourism industry and promote the State as a tourist destination. The Director of the Office of Tourism shall administer the office in accordance with the policies of the commissioner and the provisions of this article. The office includes the Maine State Film Commission.

[ 2011, c. 563, §4 (AMD) .]

**2. Duties.** The Director of the Office of Tourism shall:

A. Implement advertising and promotion programs to market the State's travel industry and to attract on-location filming of movies, advertisements and videos in the State; [1995, c. 2, §11 (RAL).]

B. Print, or cause to have printed, alone or in cooperation with other travel promotion agencies and groups, booklets, brochures, pamphlets and other materials as required to fulfill requests for information on the State's travel products and the State's facilities, sites and services for the filming of movies and videos in the State; [1995, c. 2, §11 (RAL).]

C. Encourage the development of travel product facilities and activities by locating potential developers, providing market and feasibility analysis, assisting developers in complying with applicable laws and rules and providing technical assistance to local decision making, including decisions regarding site selection, financing and utilities; [1995, c. 2, §11 (RAL).]

D. Review and comment upon the policies and programs of state agencies that directly affect the achievement of the duties and responsibilities of the office; [1995, c. 2, §11 (RAL).]

E. Provide basic support and discretionary matching grants to local, regional and statewide nonprofit agencies that directly affect the achievement of the duties and responsibilities of the office; [1995, c. 2, §11 (RAL).]

F. Staff or cause to be staffed any information center constructed, owned, leased, acquired or operated by the State; [1995, c. 2, §11 (RAL).]

G. Employ or engage outside technical or professional consultants or organizations as are necessary or appropriate to assist the office in carrying out its functions; [1995, c. 2, §11 (RAL).]

H. Accept fees as the director may designate for the preparation and distribution of books, booklets, brochures, pamphlets, films, photos, maps, exhibits, mailing lists and all similar materials and media advertising. There is established within the office a revolving fund for the use of the office to help offset the preparation and distribution costs of these materials. The office shall retain, without charge, an appropriate number of each publication for complimentary distribution. Income from the sale of

publications and other materials charged to the revolving fund is credited to the revolving fund to be used as a continuing carrying account to carry out the purposes of the revolving fund; [1995, c. 2, §11 (RAL).]

I. Subject to the approval of the commissioner, adopt, amend and repeal rules to carry out the purposes of this section; and [1995, c. 2, §11 (RAL).]

J. Undertake other activities that the commissioner considers appropriate and necessary to ensure the successful implementation of this section. [1995, c. 2, §11 (RAL).]

[ 2003, c. 198, §7 (AMD) .]

#### SECTION HISTORY

RR 1995, c. 2, §11 (RAL). 2003, c. 198, §§6,7 (AMD). 2011, c. 563, §4 (AMD).

### §13090-D. HISTORICAL MARKER PROGRAM

*(REALLOCATED FROM TITLE 5, SECTION 13080-P)*

**1. Historical markers.** The Director of the Office of Tourism may erect historical markers or signs on any highway. No more than 10 historical markers may be erected in one year. Markers that would interfere with reasonable use of highways may not be erected.

[ 2003, c. 198, §8 (AMD) .]

**2. Review council.** The Director of the Office of Tourism shall consult with the Maine Historic Preservation Commission and the Department of Transportation on the historical marker program. Before erecting any marker, the director shall secure the Maine Historic Preservation Commission's approval of the marker, the marker's location and the marker's wording. The Maine Historic Preservation Commission shall obtain, or cause to be obtained, as needed, information on the event to be commemorated and on the appropriate location for the marker, including consulting historians and holding public hearings.

[ 2003, c. 198, §8 (AMD) .]

**3. Municipal permission.** Municipal officers may permit the erection of monuments, tablets and markers by individuals or societies on public highways or other public grounds, in places and of a character as may be approved by the municipal officers, to indicate the occurrence of historic events and matters of public interest, as long as the markers do not interfere with reasonable use of the highways or other public places.

[ 1995, c. 2, §11 (RAL) .]

**4. Cooperative agreements.** The Maine Historic Preservation Commission may enter into cooperative agreements with any municipality or historical society to erect a historical marker on any highway. The agreement must provide for reasonable sharing of the initial expense and for the municipality or society to maintain and care for the marker.

[ 1995, c. 2, §11 (RAL) .]

**5. Damages.** If a person's property is damaged by the erection of a monument, tablet or marker, that person may apply to the municipal officers within 6 months after the erection to assess and recover damages.

[ 1995, c. 2, §11 (RAL) .]

**6. Change of location.** A person whose rights or interests are affected by the location of a monument, tablet or marker may, within 60 days after the approval of the municipal officers, petition the municipal officers for a change of location and, after notice to parties and hearing, the municipal officers may alter or revoke approval to use the location.

[ 1995, c. 2, §11 (RAL) .]

**7. Petition to court.** If the municipal officers neglect or refuse after 30 days to decide upon any petition addressed to them or if a party whose interests are affected by the decision is dissatisfied with the decision, the dissatisfied petitioner or party may apply to the Superior Court for relief within 60 days of the decision.

[ 1995, c. 2, §11 (RAL) .]

**8. Return; record; fees.** The municipal officers shall, within 30 days, decide upon every petition presented to them and upon every location approved under this section, and shall cause this information to be recorded by the town clerk. The fees of the municipal officers and town clerk must be paid by the petitioner.

[ 1995, c. 2, §11 (RAL) .]

#### SECTION HISTORY

RR 1995, c. 2, §11 (RAL). 2003, c. 198, §8 (AMD).

## §13090-E. TOURISM MARKETING AND DEVELOPMENT STRATEGY

*(REALLOCATED FROM TITLE 5, SECTION 13080-Q)*

**1. Development.** The Office of Tourism with input from the tourism industry shall develop a 5-year marketing and development strategy for state tourism growth that maximizes the effectiveness of state and private sector contributions in attracting visitors to the State and increasing tourism-based revenues. The strategy must incorporate components of direct marketing in maintenance and primary markets, matching grants programs, trade markets, regional development and research.

[ 2011, c. 563, §5 (AMD) .]

**2. Administration.** The Office of Tourism shall administer the components of the strategy after development. Administration includes development of new markets, creation of an image of the State to entice visitor inquiries and provision of appropriate technical assistance and response mechanisms. The Office of Tourism shall support staffing of the visitor information centers and fulfill tourism information requests and shall work in partnership with the tourism industry in the State in administering the strategy. The Office of Tourism shall seek direct input and consultation from the tourism industry on the Office of Tourism's marketing and promotional plans and collaborate with tourism regions and industry sectors to accomplish the goals identified in the marketing and promotional plans and the marketing and development strategy required under subsection 1, including, but not limited to, the outdoor recreation industry, the lodging industry, the restaurant industry, representatives of large landowners, campground organizations, the transportation industry, the retail industry, cultural organizations, tourism destination marketing organizations, private businesses, statewide tourism associations and nonprofit organizations. The Office of Tourism shall seek tourism industry input in other areas the commissioner considers appropriate and necessary to ensure the successful implementation of this section. The Office of Tourism shall provide a quarterly presentation of its activities under this section beginning January 1, 2013 to tourism industry stakeholders and provide an annual report to the Governor and the Legislature summarizing the goals and achievements of the Office of Tourism.

[ 2011, c. 563, §5 (AMD) .]



### 3. Tourism Marketing and Development Fund.

[ 1995, c. 2, §11 (RAL); T. 5, §13090-E, sub-§3 (RP) .]

#### SECTION HISTORY

RR 1995, c. 2, §11 (RAL). 2003, c. 198, §9 (AMD). 2011, c. 563, §5 (AMD).

### §13090-F. MAINE TOURISM COMMISSION

*(REPEALED)*

#### SECTION HISTORY

RR 1995, c. 2, §11 (RAL). RR 1995, c. 2, §§12, 13 (COR). 1997, c. 268, §1 (AMD). 1999, c. 445, §1 (AMD). 2003, c. 198, §10 (AMD). 2005, c. 33, §1 (AMD). 2009, c. 211, Pt. B, §2 (AMD). 2011, c. 563, §6 (RP).

### §13090-G. TRAVEL PROMOTION MATCHING FUND PROGRAM

*(REALLOCATED FROM TITLE 5, SECTION 13080-S)*

**1. Statement of purpose.** The Travel Promotion Matching Fund Program is established for the following purposes:

A. To allow the State to provide part of the funds necessary for public and private, nonprofit travel promotional organizations to conduct promotional programs; and [1995, c. 2, §11 (RAL).]

B. To strengthen the State's image by coordinating the promotional efforts of the private sector with those of the Office of Tourism. [2003, c. 198, §11 (AMD).]

[ 2003, c. 198, §11 (AMD) .]

**2. Eligible organization.** Matching funds must be made available to those nonprofit travel promotional organizations that best meet the purposes of this section. An organization may not disburse state matching funds to a private, for-profit business for the purpose of promoting its goods, services, functions or activities.

[ 1995, c. 2, §11 (RAL) .]

**3. Limitations.** This section does not reduce any organization's financial participation in any ongoing project, but rather to increase or develop new programs. The grant program as established in subsection 4, must be geared to specific promotional efforts and costs and is not intended to match any administrative costs, including any form of personal services.

[ 1995, c. 2, §11 (RAL) .]

**4. Administration.** The Office of Tourism in consultation with the tourism industry shall administer the Travel Promotion Matching Fund Program with such flexibility as to bring about the most effective and economical travel promotion program possible. Applications from all regions of the State must be equally considered. The Office of Tourism shall consult with the tourism industry in the development of rules and procedures necessary and appropriate to the proper operation of the Travel Promotion Matching Fund Program. These rules must establish eligibility requirements, allocation formulas, application procedures and criteria subject to the final approval of the commissioner. The Office of Tourism, in consultation with the tourism industry, shall establish a schedule and process for review and approval of grant applications. Grants must be approved by the Director of the Office of Tourism prior to any disbursement of funds.

[ 2011, c. 563, §7 (AMD) .]

**5. Bookkeeping systems.** The department and all tourist promotional organizations qualifying for matching funds under this section shall keep accurate records of any applications, transactions, payment receipts and correspondence relating to the implementation of the Travel Promotion Matching Fund Program.

A. The department shall establish a standard accounting procedure to be used by any organization receiving money under this section. [1995, c. 2, §11 (RAL).]

B. The records of any organization pertaining to accounts and contracts funded with money under this section must be open to audit by the State or by any firm employed by the State to audit these records. [1995, c. 2, §11 (RAL).]

Additional matching funds may not be awarded to an organization until the provisions of this subsection have been met.

[ 1995, c. 2, §11 (RAL) .]

#### SECTION HISTORY

RR 1995, c. 2, §11 (RAL). 2003, c. 198, §§11,12 (AMD). 2011, c. 563, §7 (AMD).

### §13090-H. MAINE STATE FILM COMMISSION

*(REALLOCATED FROM TITLE 5, SECTION 13080-T)*

**1. Maine State Film Commission established.** The Maine State Film Commission, as established by section 12004-I, subsection 88, is within the Office of Tourism and shall advise and assist the office as necessary. The commission shall advise the commissioner and the Director of the Office of Tourism with respect to the operation of the Maine State Film Office program.

A. The commission consists of 11 members appointed by the Governor.

(1) The members appointed must be involved in a related business field or have experience or familiarity with media marketing or public relations. The Governor shall ensure an equitable regional representation from the State.

(2) The Director of the Maine Arts Commission and the commissioner or the commissioner's designee shall serve as ex officio, nonvoting members of the commission. [2007, c. 466, Pt. B, §1 (AMD).]

B. The terms of office of commission members are as follows.

(1) All members are appointed for 3-year terms. Of those first appointed, 3 are appointed for 3-year terms, 4 are appointed for 2-year terms and 4 are appointed for one-year terms. The Governor shall designate the terms of office of those first appointed at the time of appointment.

(2) Members shall serve until their successors are appointed and take office. The Governor may terminate the membership of any appointee for just cause and the reason for the termination must be communicated in writing to each member whose term is so terminated.

(3) Vacancies must be filled in the same manner as original appointments, except that any person appointed to fill a vacancy shall serve for the remainder of the unexpired term of the vacancy. [1995, c. 2, §11 (RAL).]

C. The chair and vice-chair are appointed by the Governor annually at the first meeting of the commission and serve for one-year terms.

(1) The chair shall call meetings of the commission. [1995, c. 2, §11 (RAL).]

D. Members are compensated for expenses only in accordance with chapter 379. [1995, c. 2, §11 (RAL).]

E. Financing of promotional and development materials and expenses pursuant to this section must be made with funds within the limit of the budget of the department for the Office of Tourism. [2003, c. 198, §13 (AMD).]

[2007, c. 466, Pt. B, §1 (AMD) .]

**2. Powers and duties.** The Maine State Film Commission has the following powers and duties:

A. To recommend rules for the implementation of the provisions relating to the promotion of filming activities in the State; [1995, c. 2, §11 (RAL).]

B. To advise and assist the Director of the Maine State Film Office and the Director of the Office of Tourism with respect to this section and section 13090-I; [2003, c. 198, §14 (AMD).]

C. To raise and accept funds from public and private sources to be used to promote filming activities in the State; and [1995, c. 2, §11 (RAL).]

D. To promote the State for in-state, on-location filming of movies, advertisements and videos. [1995, c. 2, §11 (RAL).]

[2003, c. 198, §14 (AMD) .]

#### SECTION HISTORY

RR 1995, c. 2, §11 (RAL). RR 1995, c. 2, §14 (COR). 2003, c. 198, §§13,14 (AMD). 2005, c. 519, §P1 (AMD). 2007, c. 466, Pt. B, §1 (AMD).

### **§13090-I. MAINE STATE FILM OFFICE**

*(REALLOCATED FROM TITLE 5, SECTION 13080-U)*

The Maine State Film Office is established within the Office of Tourism. The Director of the Maine State Film Office is responsible for undertaking a program of film promotion and implementing the recommendations and policies of the commissioner. [2003, c. 198, §15 (AMD).]

#### SECTION HISTORY

RR 1995, c. 2, §11 (RAL). 2003, c. 198, §15 (AMD).

### **§13090-J. TOURISM COOPERATIVE MARKETING FUND**

**1. Statement of purpose.** The Tourism Cooperative Marketing Fund is established to allow the Office of Tourism to accept private donations to be used in support of special public and private marketing opportunities.

[2003, c. 198, §16 (AMD) .]

**2. Tourism Cooperative Marketing Fund.** The Tourism Cooperative Marketing Fund, referred to in this section as the "fund," is established as an interest-bearing account. All charges collected pursuant to this section must be deposited into the fund. All interest earned by the account becomes part of the fund. Any balance remaining in the fund at the end of the fiscal year does not lapse but is carried forward into subsequent fiscal years. Revenue to the fund is collected, managed, deposited, invested and disbursed by the Office of Tourism.

[2003, c. 198, §16 (AMD) .]

**3. Revenue sources.** For purposes of funding its activities, the Office of Tourism is authorized to accept donations from private sources and shall consult with donors in making distribution determinations.

[2003, c. 198, §16 (AMD) .]

**4. Administrative costs.** The Office of Tourism may retain a portion of the total donations collected equivalent to the office's administrative costs incurred in the collection and remission of the donations, not to exceed 2% of the total donations collected.

[ 2003, c. 198, §16 (AMD) .]

**5. Reporting requirements.** The Office of Tourism shall submit a report by February 1, 1998 and February 1st of each subsequent year to the joint standing committees of the Legislature having jurisdiction over economic development matters and appropriations and financial affairs identifying the amount collected and how the fund was disbursed by the office.

[ 2003, c. 198, §16 (AMD) .]

#### **6. Repeal.**

[ 2005, c. 517, §1 (RP) .]

#### SECTION HISTORY

1997, c. 395, §H1 (NEW). 2003, c. 198, §16 (AMD). 2005, c. 517, §1 (AMD).

## **§13090-K. TOURISM MARKETING PROMOTION FUND**

**1. Fund established.** The Tourism Marketing Promotion Fund is established in the Department of Economic and Community Development, Office of Tourism as a nonlapsing dedicated account.

[ 2001, c. 439, Pt. UUUU, §1 (NEW) .]

**2. Source of fund.** Beginning July 1, 2003 and every July 1st thereafter, the State Controller shall transfer to the Tourism Marketing Promotion Fund an amount, as certified by the State Tax Assessor, that is equivalent to 5% of the 7% tax imposed on tangible personal property and taxable services pursuant to Title 36, section 1811, for the first 6 months of the prior fiscal year after the reduction for the transfer to the Local Government Fund as described by Title 30-A, section 5681, subsection 5, except that, from October 1, 2013 to December 31, 2015, the amount is equivalent to 5% of the 8% tax imposed on tangible personal property and taxable services pursuant to Title 36, section 1811 and beginning July 1, 2016 the amount is equivalent to 5% of the 8% tax and 5% of the 9% tax imposed on tangible personal property and taxable services pursuant to Title 36, section 1811. Beginning on October 1, 2003 and every October 1st thereafter, the State Controller shall transfer to the Tourism Marketing Promotion Fund an amount, as certified by the State Tax Assessor, that is equivalent to 5% of the 7% tax imposed on tangible personal property and taxable services pursuant to Title 36, section 1811, for the last 6 months of the prior fiscal year after the reduction for the transfer to the Local Government Fund, except that, from October 1, 2013 to December 31, 2015, the amount is equivalent to 5% of the 8% tax imposed on tangible personal property and taxable services pursuant to Title 36, section 1811 and beginning October 1, 2016 the amount is equivalent to 5% of the 8% tax and 5% of the 9% tax imposed on tangible personal property and taxable services pursuant to Title 36, section 1811. The tax amount must be based on actual sales for that fiscal year and may not consider any accruals that may be required by law. The amount transferred from General Fund sales and use tax revenues does not affect the calculation for the transfer to the Local Government Fund.

[ 2015, c. 267, Pt. OOOO, §1 (AMD); 2015, c. 267, Pt. OOOO, §7 (AFF) .]

**3. Restrictions.** A minimum of 10% of the funds received by the Tourism Marketing Promotion Fund in accordance with subsection 2 must be used for regional marketing promotion and regional special events promotion.

[ 2001, c. 439, Pt. UUUU, §1 (NEW) . ]

#### SECTION HISTORY

2001, c. 439, §UUUU1 (NEW). 2013, c. 368, Pt. M, §1 (AMD). 2015, c. 267, Pt. OOOO, §1 (AMD). 2015, c. 267, Pt. OOOO, §7 (AFF).

## §13090-L. VISUAL MEDIA PRODUCTION CERTIFICATION

**1. Generally.** A visual media production company that intends to undertake a visual media production in this State may apply to the department to have the production, or a portion of the production, certified under subsection 3 for purposes of the visual media production reimbursement pursuant to Title 36, chapter 919-A and the credit under Title 36, section 5219-Y.

[ 2009, c. 470, §1 (AMD) . ]

### 2. Definitions.

[ 2009, c. 470, §1 (RP) . ]

**2-A. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Digital media project" means visual and audio content on an electronic, digital medium and created, referred to and distributed electronically. "Digital media project" includes publicly accessible websites, computer multimedia, video and computer games and digital video discs. [2009, c. 470, §1 (NEW) . ]

B. "Maine State Film Office" means the Maine State Film Office established in the Office of Tourism pursuant to section 13090-I. [2009, c. 470, §1 (NEW) . ]

C. "Person" has the same meaning as in Title 36, section 111, subsection 3. [2009, c. 470, §1 (NEW) . ]

D. "Visual media production" means a single-medium or multimedia feature film, television show or series, video, digital media project or photographic project intended for a local, regional, national or international audience and fixed on film, videotape, computer disk, laser disc or other delivery medium that can be viewed or reproduced and that is exhibited in theaters or by individual television stations or groups of stations, television networks or cable television stations or via other means or licensed for home viewing or use. "Visual media production" does not include:

- (1) A news, current events or public programming show or a program that includes weather or market reports;
- (2) A talk show;
- (3) A sports event or activity;
- (4) A gala presentation or awards show;
- (5) A finished production that solicits funds; or
- (6) A production for which records are required to be maintained by 18 United States Code, Section 2257. [2009, c. 470, §1 (NEW) . ]

E. "Visual media production company" means a person engaged in the business of producing a visual media production. [2009, c. 470, §1 (NEW) . ]

F. "Visual media production expense" means an expense directly incurred in this State for preproduction, production or postproduction of a visual media production certified under this section. "Visual media production expense" includes wages and salaries of individuals employed in the production on which taxes have been paid or accrued if those wages do not exceed \$50,000 per individual and payments to a temporary employee-leasing company, as defined in Title 36, section 6901, subsection 3-A, and other contractual payments for the services of individuals working in the State if those payments do not exceed \$50,000 per individual providing services in the production. "Visual media production expense" includes the cost of construction; operations; editing and related services; music, photography and film processing, including transferring film to tape or a digital format; sound recording, mixing and synchronization; lighting, makeup, wardrobe and accessories; transportation; food and lodging for cast and crew; insurance and bonding; and the rental of facilities and equipment, including location fees. "Visual media production expense" does not include expenses incurred in marketing or advertising a visual media production or in printing or disseminating a visual media production. [ 2009 , c . 470 , §1 (NEW) . ]

[ 2009 , c . 470 , §1 (NEW) . ]

**3. Requirements for visual media production certificate.** Applications for a visual media production certificate must be made on a form prescribed and furnished by the department. The applicant must:

- A. Provide the names of the principals involved in the visual media production and contact information for them; [ 2009 , c . 470 , §1 (AMD) . ]
- B. Provide a certificate of insurance for the visual media production; [ 2009 , c . 470 , §1 (AMD) . ]
- C. Provide financial information that demonstrates that the visual media production is fully financed and that at least \$75,000 of visual media production expense will be incurred for the visual media production certified in accordance with this subsection; [ 2009 , c . 470 , §1 (AMD) . ]
- D. Provide data demonstrating that the visual media production will benefit the people of the State by increasing opportunities for employment and will strengthen the economy of the State; [ 2009 , c . 470 , §1 (AMD) . ]
- E. Agree to include, in the certified visual media production, an on-screen credit for the State of Maine. The exact wording and size of that credit must be determined in rules adopted by the Maine State Film Office and the department. The Maine State Film Office or the department may, at its discretion, exempt visual media productions from this requirement. Rules adopted pursuant to this paragraph are routine technical rules as defined in chapter 375, subchapter 2-A; [ 2009 , c . 470 , §1 (AMD) . ]
- F. Provide evidence that the visual media production company is not owned by, affiliated with or controlled by, in whole or in part, a person that is in default on a loan made by the State or a loan guaranteed by the State; [ 2009 , c . 470 , §1 (AMD) . ]
- G. Provide any other information required by the department; and [ 2009 , c . 470 , §1 (AMD) . ]
- H. Provide a projected schedule for preproduction, production and postproduction of the visual media production that shows that the production will begin within 60 days after certification pursuant to this subsection. [ 2009 , c . 470 , §1 (NEW) . ]

To qualify for a visual media production certificate, a visual media production company must demonstrate to the satisfaction of the commissioner that the visual media production company has met, or will meet, the requirements of this subsection. If the department determines that the applicant does not qualify for a visual media production certificate, it must inform the applicant of that determination in writing within 4 weeks of receiving the application. As soon as practicable, the department shall issue a visual media production

certificate for a visual media production that qualifies. The department shall include with the certificate information regarding the tax credit report under subsection 4 and procedures for claiming reimbursement under Title 36, chapter 919-A and the credit under Title 36, section 5219-Y.

[ 2009, c. 470, §1 (AMD) .]

**4. Certified visual media production report.** No later than 4 weeks after completion of a certified visual media production, the visual media production company shall report, in a format specified by the Maine State Film Office or the department, its compliance with the requirements of subsection 3 with respect to the certified visual media production to the Maine State Film Office.

[ 2011, c. 285, §1 (AMD) .]

**5. Department to provide information to State Tax Assessor.** The department shall provide to the State Tax Assessor copies of the visual media production certificate issued pursuant to subsection 3, together with any other information reasonably required by the State Tax Assessor for the administration of visual media production reimbursement under Title 36, chapter 919-A and the credit under Title 36, section 5219-Y.

[ 2009, c. 470, §1 (AMD) .]

**6. Rulemaking.** The department shall develop rules as necessary to administer this section in cooperation with the State Tax Assessor. Rules adopted pursuant to this section are routine technical rules as defined in chapter 375, subchapter 2-A.

[ 2005, c. 519, Pt. GG, §1 (NEW) .]

**7. Report.** The Maine State Film Office shall submit a report by January 15th annually to the joint standing committee of the Legislature having jurisdiction over taxation matters regarding the certification and reporting process pursuant to this section and the visual media production tax credit and reimbursement activities pursuant to Title 36, section 5219-Y and Title 36, chapter 919-A. The report must include a description of any rule-making activity related to the implementation of the credit and reimbursement activities, outreach efforts to visual media production companies, the number of applications for the visual media production credit and tax reimbursement, the number of credits and reimbursements granted, the revenue loss associated with the credit and reimbursement and the amount of visual media production expenses generated in the State as a result of the credit and reimbursement.

[ 2009, c. 470, §1 (NEW) .]

#### SECTION HISTORY

2005, c. 519, §GG1 (NEW). 2009, c. 470, §1 (AMD). 2011, c. 285, §1 (AMD).

### **§13090-M. VISUAL AND DIGITAL MEDIA LOAN PROGRAM**

*(REPEALED)*

#### SECTION HISTORY

2011, c. 372, §1 (NEW). MRSA T. 5, §13090-M, sub-§7 (RP).

## Subchapter 4: TOURISM

### **§13091. FINDINGS**

*(REPEALED)*

#### SECTION HISTORY

1987, c. 534, §§A17,A19 (NEW). 1989, c. 875, §§M8,13 (RP).

**§13092. OFFICE OF TOURISM**  
*(REPEALED)*

SECTION HISTORY

1987, c. 534, §§A17,A19 (NEW). 1989, c. 875, §§M8,13 (RP).

**§13092-A. HISTORICAL MARKER PROGRAM**  
*(REPEALED)*

SECTION HISTORY

1989, c. 553, §1 (NEW). 1989, c. 700, §A21 (AMD). 1989, c. 875, §§M8,13 (RP). 2003, c. 198, §17 (RP).

**§13093. MAINE TOURISM COMMISSION**  
*(REPEALED)*

SECTION HISTORY

1987, c. 534, §§A17,A19 (NEW). 1989, c. 503, §B30 (AMD). 1989, c. 700, §A22 (AMD). 1989, c. 875, §§M8,13 (RP).

**§13094. TRAVEL PROMOTION MATCHING FUND PROGRAM**  
*(REPEALED)*

SECTION HISTORY

1987, c. 534, §§A17,A19 (NEW). 1989, c. 875, §§M8,13 (RP).

**§13095. MAINE STATE FILM COMMISSION**  
*(REPEALED)*

SECTION HISTORY

1987, c. 534, §§A17,A19 (NEW). 1989, c. 503, §B31 (AMD). 1989, c. 875, §§M8,13 (RP).

**§13096. POWERS AND DUTIES**  
*(REPEALED)*

SECTION HISTORY

1987, c. 534, §§A17,A19 (NEW). 1989, c. 875, §§M8,13 (RP).

**§13097. DIRECTOR OF THE MAINE STATE FILM COMMISSION**  
*(REPEALED)*

SECTION HISTORY

1987, c. 534, §§A17,A19 (NEW). 1989, c. 875, §§M8,13 (RP).

Subchapter 4-A: SMALL BUSINESS AND ENTREPRENEURSHIP



## §13100. SMALL BUSINESS AND ENTREPRENEURSHIP

The commissioner shall create within existing budgeted resources the Office of Small Business and Entrepreneurship and appoint a director to operate the office. [2005, c. 458, §2 (NEW).]

**1. Director.** The director reports to the commissioner. The director is responsible for advocacy, policies and programs that stimulate investment and growth in small business and entrepreneurship. The director is the liaison to the public for gubernatorial initiatives on small business and entrepreneurship.

[2005, c. 458, §2 (NEW).]

**2. Duties.** The director shall:

A. Advocate for small business and entrepreneurship throughout all levels of State Government; [2005, c. 458, §2 (NEW).]

B. Assist in the oversight and auditing of the State's investments in small business and entrepreneurship initiatives, programs and service providers; [2005, c. 458, §2 (NEW).]

C. Chair the Maine Entrepreneurship Working Group, which shall act as the advisory group to the Maine Small Business and Entrepreneurship Commission and subsequently the department; [2005, c. 458, §2 (NEW).]

D. Prepare a biennial state of small business and entrepreneurship report to the Legislature; and [2005, c. 458, §2 (NEW).]

E. Oversee the Business Answers program, the Maine Products Marketing Program and other department programs and initiatives relevant to small business and entrepreneurship. [2005, c. 458, §2 (NEW).]

[2005, c. 458, §2 (NEW).]

### SECTION HISTORY

2005, c. 458, §2 (NEW).

## Subchapter 5: DEVELOPMENT POLICY

### §13101. DIVISION OF DEVELOPMENT POLICY; ESTABLISHED (REPEALED)

#### SECTION HISTORY

1987, c. 534, §§A17,A19 (NEW). 1989, c. 875, §§M9,13 (RP).

### §13102. DIVISION OF DEVELOPMENT POLICY; DUTIES (REPEALED)

#### SECTION HISTORY

1987, c. 534, §§A17,A19 (NEW). 1989, c. 875, §§M9,13 (RP).

## Subchapter 5-A: RESEARCH

### §13103. MAINE BIOMEDICAL RESEARCH PROGRAM

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Biennium" means that period of time encompassed by the state budget fiscal biennium. [1999, c. 731, Pt. SSS, §1 (NEW).]

A-1. "Academic medical center" is a Maine-based nonprofit clinical, educational and research organization with a critical number of hospital beds, with multiple and independent residency and fellowship programs, with a significant number of residents and fellows and that is affiliated with but independent of a medical school. [2001, c. 196, §2 (NEW).]

A-2. "Affiliate" means a corporation, limited liability company or other entity that controls, is controlled by or is under common control with the applicant. A majority of the membership, stock ownership or other voting authority is conclusively presumed to establish control. [2005, c. 168, §1 (NEW).]

B. "Eligible institution" means a Maine-based private nonprofit biomedical research institution or academic medical center or medical school that, as of July 1, 2001:

(1) Performs competitive biomedical research in on-site, wetbench biomedical research laboratories in the State, as evidenced by publications in recognized peer review journals; and

(2) Receives or expends funds in the State from federal agencies or specified grant sources for the purpose of producing peer-reviewed biomedical research in on-site, wetbench biomedical research laboratories.

For purposes of this paragraph, "wetbench" has the meaning generally ascribed to that term by the biomedical research community and refers to laboratories that use solutions or cell extracts and biological reagents. [2001, c. 196, §3 (RPR).]

C. "Fund" means the Maine Biomedical Research Fund established in subsection 3. [1999, c. 731, Pt. SSS, §1 (NEW).]

D. "Program" means the Maine Biomedical Research Program established in subsection 2. [1999, c. 731, Pt. SSS, §1 (NEW).]

E. "Private nonprofit biomedical research institution" means a Maine-based institution that is a nonprofit organization described in 26 United States Code, Section 501(c)(3); with a primary purpose of biomedical research; with research laboratories on site; with scientific doctoral degrees who are principal investigators on biomedical research grants expended in the State through that institution and who have published a significant number of publications in Index Medicus journals in each of the past 3 years; and with a significant level of research activity funded by specified grant sources. [2001, c. 196, §4 (NEW).]

F. "Specified grant sources" means a federal agency, a nonprofit foundation, private company or corporation, a voluntary membership organization such as the American Cancer Society, or an out-of-state educational university, that, as of July 1, 2001, issues grants or contracts for the purpose of producing peer-reviewed biomedical research when the grantee retains complete editorial control over the content of the research performed. [2001, c. 196, §4 (NEW).]

G. "Medical school" means a state-based private nonprofit medical school that, as of July 1, 2001, is authorized to grant a doctorate degree in osteopathic or allopathic medicine and is accredited by the American Osteopathic Association or its successor or the Liaison Committee on Medical Education or its successor. [2001, c. 196, §4 (NEW).]

[ 2005, c. 168, §1 (AMD) .]

**1-A. Eligibility and fulfillment of requirements based on prior activity of affiliate.** Until July 1, 2009, any one or more of the requirements of this subchapter, including eligibility requirements under subsection 1, paragraph B, may be satisfied by an applicant created after July 1, 2001 if that requirement is satisfied by one or more affiliates of the applicant and if at least one affiliate of the applicant received funding from the fund prior to July 1, 2005. After July 1, 2009, an applicant that has established eligibility pursuant to this subsection must itself meet all other requirements of this subchapter.

[ 2005, c. 168, §2 (NEW) .]

**2. Program established.** The Maine Biomedical Research Program is established to promote economic development and jobs in the State primarily by making state investments in organizations with successful results in attracting biomedical research funds from specified grant sources. As a secondary purpose, the Maine Biomedical Research Program is intended to provide incentives for small eligible institutions to grow. The program shall disburse program funds from the Maine Biomedical Research Fund to eligible institutions pursuant to this section. The Maine Biomedical Research Board shall administer the program. The Maine Biomedical Research Board shall:

- A. Develop and modify detailed program guidelines consistent with this section in consultation as needed with members of the biomedical community; [1999, c. 731, Pt. SSS, §1 (NEW).]
- B. Review and if necessary verify applications for funds from eligible institutions; [1999, c. 731, Pt. SSS, §1 (NEW).]
- C. Determine whether the institution is an eligible institution; [1999, c. 731, Pt. SSS, §1 (NEW).]
- D. Verify that the proposed use of program funds is consistent with subsection 4; [1999, c. 731, Pt. SSS, §1 (NEW).]
- E. Determine the allocation that each eligible institution will receive in a given biennium; [1999, c. 731, Pt. SSS, §1 (NEW).]
- F. Advertise the availability of funds each biennium; and [1999, c. 731, Pt. SSS, §1 (NEW).]
- G. Submit each biennium a report to the Governor, the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over business, research and economic development matters. The report must include detailed information on the status of the funds in the Maine Biomedical Research Fund and a listing and explanation of each specific source of funding from grant sources for biomedical research. [2009, c. 337, §6 (AMD).]

[ 2009, c. 337, §6 (AMD) .]

**3. Fund established.** The Maine Biomedical Research Fund is established as an Other Special Revenue fund for the purposes specified in this section. Funds appropriated for this purpose may be transferred on a one-time basis to the Other Special Revenue fund in fiscal year 2000-01. Any unexpended balance in the fund may not lapse, but must be carried forward for the benefit of the fund.

[ 1999, c. 731, Pt. SSS, §1 (NEW) .]

**4. Use of funds.** Program funds are to support biomedical research in this State, with priority given to research and research technologies with the potential to affect diseases and biomedical mechanisms. An eligible institution receiving program funds under this section may use those funds for any of the following purposes:

- A. Project funding; [1999, c. 731, Pt. SSS, §1 (NEW).]
- B. Facilities funding, including debt service; [1999, c. 731, Pt. SSS, §1 (NEW).]
- C. Equipment used in research, including debt service; or [1999, c. 731, Pt. SSS, §1 (NEW).]
- D. Ancillary support. [1999, c. 731, Pt. SSS, §1 (NEW).]

An eligible institution that receives funds under this section may charge overhead expenses consistent with federal research granting criteria. The institution may utilize up to 2% of the program funds it receives to evaluate the impact of the research it is conducting. An institution is not obligated to expend program funds during the period in which those funds are received, but may carry over funding for up to 5 years.

[ 2001, c. 196, §6 (AMD) .]

**5. Application procedure.** In order to receive program funds, an eligible institution must submit to the program:

- A. A preliminary plan describing how the institution would utilize program funds and what research and economic benefits it anticipates as a result of this funding; [1999, c. 731, Pt. SSS, §1 (NEW) .]
- B. Citations of articles from peer review journals published within the previous 2 years that show the institution is engaged in competitive biomedical research; [1999, c. 731, Pt. SSS, §1 (NEW) .]
- C. Copies of the institution's Internal Revenue Service form 990, showing the amount of funding from outside sources; [1999, c. 731, Pt. SSS, §1 (NEW) .]
- D. A breakdown and explanation of all funding from specified grant sources for biomedical research, listing each specific source of funding and its use; and [2001, c. 196, §7 (AMD) .]
- E. A statement signed by the institution's chief executive officer asserting that all the submitted materials are accurate. [1999, c. 731, Pt. SSS, §1 (NEW) .]

[ 2001, c. 196, §7 (AMD) .]

**6. Allocation of funds to eligible institutions.** The Maine Biomedical Research Board shall allocate funds from the fund to eligible institutions biannually, based on a formula to be developed by the board. The formula must be designed both to provide an ongoing incentive to leverage outside funding and to facilitate the growth of smaller institutions.

- A. The formula must link the amount of the program funds to be received by an eligible institution to the total amount of funding that the institution has received or expended from specific grant sources during the previous 2 calendar years for the purpose of producing peer-reviewed biomedical research in on-site biomedical research laboratories in the State. An institution receiving more funding from federal agencies and specified grant sources must receive more program funds under the formula. [2001, c. 196, §8 (RPR) .]
- B. The formula must be weighted to provide smaller eligible institutions with an incentive to grow. [2001, c. 196, §8 (RPR) .]
- C. [2001, c. 196, §8 (RP) .]

[ 2001, c. 196, §8 (RPR) .]

**7. Final plan.** Once funding decisions are made according to the formula established pursuant to subsection 6, each eligible institution shall revise its preliminary plan into a final plan that reflects the actual amount of funding allocated. A final plan must describe how the institution would utilize the allocated program funds and what research and economic benefits it anticipates as a result of this funding. An institution must submit a final plan to the department prior to disbursement of funding.

[ 1999, c. 731, Pt. SSS, §1 (NEW) .]

**8. Accounting, evaluation and reporting requirements.** Each institution receiving funding shall:

- A. Maintain an accurate accounting of the use of all program funds as required by state procedures and program guidelines; [1999, c. 731, Pt. SSS, §1 (NEW) .]

B. Undertake an ongoing process to evaluate the impact of the research undertaken with program funds. At a minimum, the evaluation process must be designed to provide the following:

- (1) An assessment of the direct and indirect economic impact of the funded research; and
- (2) An assessment of the contribution of the funded research to scientific advancement and the institution's competitive position; and [1999, c. 731, Pt. SSS, §1 (NEW).]

C. Each biennium, submit a report to the department. The report must include:

- (1) An accounting of the use of all program funds received in the previous 2 years, prepared by a certified public accountant;
- (2) A summary of the status of any ongoing research;
- (3) A summary of the results of any completed research; and
- (4) Evaluation data and assessment. [2003, c. 20, Pt. RR, §4 (AMD); 2003, c. 20, Pt. RR, §18 (AFF).]

[ 2003, c. 20, Pt. RR, §4 (AMD); 2003, c. 20, Pt. RR, §18 (AFF) .]

**9. Rulemaking.** The Maine Biomedical Research Board may adopt routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A to implement this section.

[ 2003, c. 464, §3 (AMD) .]

#### SECTION HISTORY

1999, c. 731, §SSS1 (NEW). 2001, c. 196, §§2-8 (AMD). 2003, c. 20, §RR4 (AMD). 2003, c. 20, §RR18 (AFF). 2003, c. 50, §B1 (AMD). 2003, c. 50, §B2 (AFF). 2003, c. 464, §3 (AMD). 2005, c. 168, §§1,2 (AMD). 2009, c. 337, §6 (AMD).

## §13104. MAINE BIOMEDICAL RESEARCH BOARD

**1. Board established.** The Maine Biomedical Research Board, referred to in this section as the "board," is established pursuant to section 12004-G, subsection 4-B to administer the Maine Biomedical Research Fund and the Maine Biomedical Research Program as provided in section 13103.

[ 2001, c. 196, §9 (NEW) .]

**2. Board membership.** The board consists of 7 members appointed as follows:

A. Four persons, appointed by the Governor and nominated by a statewide biomedical research coalition; [2001, c. 196, §9 (NEW).]

B. Two members, appointed by the Governor, who are distinguished and credentialed in the type of biomedical research that is performed by eligible institutions defined in section 13103, subsection 1; and [2001, c. 196, §9 (NEW).]

C. The commissioner or the commissioner's designee. [2001, c. 196, §9 (NEW).]

[ 2001, c. 196, §9 (NEW) .]

**3. Initial appointment; terms.** Members of the board appointed by the Governor are appointed for 3-year terms, except for the initial terms of appointment, which are as follows: Two members appointed for one year; 2 members appointed for 2 years; and 2 members appointed for 3 years. Members who serve on the board by virtue of their office serve terms coincident with their terms in office.

[ 2001, c. 196, §9 (NEW) .]

**4. Powers and duties of board.** The board has the following powers and duties:

- A. To perform all duties and take such actions pursuant to section 13103 as necessary to administer the Maine Biomedical Research Program; [2001, c. 196, §9 (NEW).]
- B. To contract with the Maine Technology Institute for such assistance in fulfilling the board's duties as the board may require; and [2001, c. 196, §9 (NEW).]
- C. To approve a budget for administration of the Maine Biomedical Research Program. [2001, c. 196, §9 (NEW).]

[ 2001, c. 196, §9 (NEW) .]

## SECTION HISTORY

2001, c. 196, §9 (NEW).

## Subchapter 5-B: OFFICE OF INNOVATION

## Article 1: OFFICE OF INNOVATION

**§13105. OFFICE OF INNOVATION**

**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.

[ 2005, c. 425, §6 (AMD) .]

**2. Office functions.** The office shall promote, evaluate and support research and development relevant to the State including:

- A. Technology transfer activities to increase the competitiveness of businesses and public institutions of higher education in the State; [2003, c. 673, Pt. M, §8 (NEW).]
- B. Effective and efficient application of technologies in the public and private sectors; [2003, c. 673, Pt. M, §8 (NEW).]
- C. The development of new commercial products and the fabrication of such products in the State through the Maine Technology Institute under section 15302 and the technology centers under section 15322; and [2011, c. 691, Pt. C, §2 (AMD).]
- D. Research opportunities that create sustained, interinstitutional, multidisciplinary efforts. [2003, c. 673, Pt. M, §8 (NEW).]

The office shall coordinate cooperative efforts among government agencies, the private sector and universities and colleges for the purposes outlined in this subchapter.

[ 2011, c. 691, Pt. C, §2 (AMD) .]

## SECTION HISTORY

2003, c. 673, §8 (NEW). 2005, c. 19, §2 (AMD). 2005, c. 425, §6 (AMD). 2011, c. 691, Pt. C, §2 (AMD).

**§13106. SCIENCE AND TECHNOLOGY PLAN**

The office shall develop and submit the following to the Governor and the Legislature by the first day of the first legislative session of each biennium: [2003, c. 673, Pt. M, §8 (NEW).]

**1. Action plan.**

[ 2007, c. 420, §3 (AMD); T. 5, §13106, sub-§1 (RP) .]

**2. Report card.** A report card that:

A. Compares the State's science and technology infrastructure standing to that of other states, based on the results of all independent organizations or reports that make such comparisons and on any other appropriate comparisons as determined by the office and those agencies with which the office is directed by this section to consult; [2003, c. 673, Pt. M, §8 (NEW).]

B. Assesses the performance of the State and those who receive state funds in meeting the goals and objectives and taking the action steps outlined in the action plan; and [2003, c. 673, Pt. M, §8 (NEW).]

C. Makes recommendations for improving the results shown on the report card. [2003, c. 673, Pt. M, §8 (NEW).]

[ 2003, c. 673, Pt. M, §8 (NEW) .]

## SECTION HISTORY

2003, c. 673, §M8 (NEW). 2007, c. 420, §3 (AMD). MRSA T. 5, §13106, sub-§1 (AMD).

## **§13107. COMPREHENSIVE RESEARCH AND DEVELOPMENT EVALUATION** *(REPEALED)*

## SECTION HISTORY

2003, c. 673, §M8 (NEW). 2007, c. 420, §4 (AMD). 2011, c. 563, §§8, 9 (AMD). 2011, c. 655, Pt. EE, §10 (AMD). 2011, c. 655, Pt. EE, §30 (AFF). 2017, c. 264, §15 (RP).

## **§13108. REPORTING REQUIREMENTS OF RECIPIENTS OF RESEARCH AND DEVELOPMENT FUNDING** *(REPEALED)*

## SECTION HISTORY

2003, c. 673, §M8 (NEW). 2017, c. 264, §16 (RP).

### Article 2: SCIENCE AND TECHNOLOGY PROGRAMS

## **§13109. MAINE RESEARCH AND DEVELOPMENT EVALUATION FUND** *(REPEALED)*

## SECTION HISTORY

2003, c. 673, §M8 (NEW). 2005, c. 425, §§7,8 (AMD). 2009, c. 337, §7 (AMD). 2017, c. 264, §17 (RP).

## §13110. MAINE EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE RESEARCH ESTABLISHED

The office, the University of Maine System and the Governor's Maine Science and Technology Advisory Council are jointly responsible for the administration of the Maine Experimental Program to Stimulate Competitive Research, referred to in this chapter as "the Maine EPSCoR Program," which is established in this section as a partnership effort between the State Government and the Federal Government to strengthen the State's science and engineering infrastructure. [2007, c. 240, Pt. K, §1 (AMD).]

**1. Linkage with state policies.** The policies, programs and activities of the Maine EPSCoR Program must consider the State's economic, education and science and technology strategies and policies.

[ 2003, c. 673, Pt. M, §8 (NEW) .]

**2. Policy recommendation.** Through the office, the University of Maine System and the Governor's Maine Science and Technology Advisory Council, the Maine EPSCoR Program may recommend to the Governor and the Legislature policies and programs essential to the strengthening of the State's science and engineering infrastructure.

[ 2007, c. 240, Pt. K, §2 (AMD) .]

### SECTION HISTORY

2003, c. 673, §M8 (NEW). 2007, c. 240, Pt. K, §§1, 2 (AMD).

## §13110-A. MAINE EPSCOR CAPACITY FUND

The Maine EPSCoR Capacity Fund is established within the office to provide the matching funds that are required by several federal agencies in their EPSCoR activities. The fund must be used to match EPSCoR awards, and is a nonlapsing Other Special Revenue Funds account. [2003, c. 673, Pt. M, §8 (NEW) .]

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Fund" means the Maine EPSCoR Capacity Fund account within the Other Special Revenue Funds account. [2003, c. 673, Pt. M, §8 (NEW) .]

B. "Match" means the cash commitment required from the State as defined by a federal funding agency. Match requirements vary among federal agencies. [2003, c. 673, Pt. M, §8 (NEW) .]

C. "Research capacity committee" means the Governor's Maine Science and Technology Advisory Council referred to in section 13110. [2007, c. 240, Pt. K, §3 (AMD) .]

[ 2007, c. 240, Pt. K, §3 (AMD) .]

**2. Organization.** The commissioner, at the commissioner's discretion, may delegate the administration of the fund to the director of the office. The research capacity committee shall advise the commissioner or the director of the office on the use of the funds.

[ 2003, c. 673, Pt. M, §8 (NEW) .]



**3. Guidelines.** The commissioner or the director of the office, with the advice of the research capacity committee, shall establish guidelines for cash and in-kind match requirements based on the activities to be supported with the fund. Match levels must reflect the requirements identified by federal funding agencies.

[ 2003, c. 673, Pt. M, §8 (NEW) .]

SECTION HISTORY

2003, c. 673, §M8 (NEW). 2007, c. 240, Pt. K, §3 (AMD).

Subchapter 6: COMPREHENSIVE LAND USE PLANNING

**§13111. OFFICE OF COMPREHENSIVE LAND USE PLANNING**

*(REPEALED)*

SECTION HISTORY

1987, c. 816, §P14 (NEW). 1987, c. 861, §6 (AMD). 1989, c. 7, §O4 (AMD). 1989, c. 878, §B5 (AMD). RR 1991, c. 2, §17 (COR). 1991, c. 528, §D1 (AMD). 1991, c. 528, §RRR (AFF). 1991, c. 562, (AMD). 1991, c. 591, §D1 (AMD). 1991, c. 622, §F14 (RP). 1993, c. 92, §16 (AMD).

Article 1: MUNICIPAL GROWTH MANAGEMENT AND CAPITAL INVESTMENT

**§13112. MUNICIPAL GROWTH MANAGEMENT AND CAPITAL INVESTMENT FUND**

*(REPEALED)*

SECTION HISTORY

1989, c. 631, §§3,6 (NEW). 1991, c. 622, §F14 (RP).

**§13113. ASSISTANCE TO MUNICIPALITIES**

*(REPEALED)*

SECTION HISTORY

1989, c. 631, §§3,6 (NEW). 1991, c. 622, §F14 (RP).

**§13114. REPORT TO THE LEGISLATURE**

*(REPEALED)*

SECTION HISTORY

1989, c. 631, §§3,6 (NEW). 1991, c. 622, §F14 (RP).

Subchapter 7: MAINE AFFORDABLE HOUSING ALLIANCE

**§13116. MAINE AFFORDABLE HOUSING ALLIANCE ESTABLISHED**

*(REPEALED)*

SECTION HISTORY

1989, c. 601, §B3 (NEW). 1989, c. 875, §§M10,13 (RP).

**§13117. COORDINATION**

*(REPEALED)*

## SECTION HISTORY

1989, c. 601, §B3 (NEW). 1989, c. 875, §§M10,13 (RP).

**§13118. ADVISORY COMMITTEE CREATED**

*(REPEALED)*

## SECTION HISTORY

1989, c. 601, §B3 (NEW). 1989, c. 875, §§M10,13 (RP).

## Subchapter 8: CONFIDENTIALITY OF RECORDS

**§13119. DEFINITIONS**

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [1991, c. 368, (NEW).]

**1. Local development corporation.** "Local development corporation" means any nonprofit corporation organized by a city or town under Title 13, chapter 81 or Title 13-B.

[ 1991, c. 368, (NEW) .]

**2. Municipality.** "Municipality" means any city, town or local development corporation and any board, commission, agency or authority of any such city, town or local development corporation.

[ 1991, c. 368, (NEW) .]

**3. Person.** "Person" means an individual, corporation, partnership, firm, organization or other legal entity.

[ 1991, c. 368, (NEW) .]

**4. Program of assistance.** "Program of assistance" means any financial or technical assistance program established or authorized by the department or a municipality and providing assistance to persons for the improvement and development of housing, community and economic development opportunities.

[ 1991, c. 368, (NEW) .]

## SECTION HISTORY

1991, c. 368, (NEW).

**§13119-A. RECORDS CONFIDENTIAL**

The following records are confidential for purposes of Title 1, section 402, subsection 3, paragraph A and are not open for public inspection: [1991, c. 368, (NEW).]

**1. Proprietary information.** Information that is provided to or developed by the department or a municipality that has to do with a program of assistance and is included in a business or marketing plan or a grant application or provided or developed to fulfill reporting requirements, as long as:

A. The person to whom the information belongs or pertains requests that it be designated as confidential; and [1991, c. 368, (NEW).]

B. The department or municipality determines that the information gives the person making the request opportunity to obtain business or competitive advantage over another person who does not have access to that information or will result in loss of business or other significant detriment to the person making the request if access is provided to others; [1991, c. 368, (NEW).]

[ 1991, c. 368, (NEW) .]

**2. Tax or financial information.** Any financial statement, supporting data or tax return of any person;

[ 1991, c. 368, (NEW) .]

**3. Monitoring.** Any financial statement, supporting data or tax return obtained or developed by the department or the municipality in connection with any monitoring or servicing activity by the department or the municipality pertaining to any program of assistance provided or to be provided;

[ 1991, c. 368, (NEW) .]

**4. Credit assessment.** Any record obtained by the department or the municipality that contains an assessment of the credit worthiness, credit rating or financial condition of any person or project; and

[ 1991, c. 368, (NEW) .]

**5. Potential investors.** Any record, including any financial statement or supporting data, business plan or tax return obtained or developed by the department or municipality in connection with the matching of potential investors with businesses in the State by the department or the municipality through its maintenance of a data base or other record-keeping system.

[ 1991, c. 368, (NEW) .]

Nothing in this section prevents the disclosure of any records, correspondence or other materials to authorized officers and employees of municipal government, State Government or Federal Government for authorized use. [1991, c. 368, (NEW).]

#### SECTION HISTORY

1991, c. 368, (NEW).

## §13119-B. DISCLOSURE REQUIRED

Notwithstanding section 13119-A, the department or the municipality shall make available, upon request, to any person reasonably describing the records to which access is sought or, if no request is made, in any manner and at any time that the department or municipality determines appropriate, the following information. [1991, c. 368, (NEW).]

**1. Certain limited information.** The following must be released after provision of assistance:

A. Names of recipients of or applicants for business assistance, including the business principals, if applicable; [1991, c. 368, (NEW).]

B. Types and general terms of assistance provided to those recipients or requested by those applicants; [1991, c. 368, (NEW).]

C. Descriptions of projects and businesses benefiting or to benefit from the assistance provided; [1991, c. 368, (NEW).]

D. Number of jobs and the amount of tax revenues projected or resulting in connection with a completed project; and [1991, c. 368, (NEW).]

E. Amounts and names of recipients of assistance provided under a program of assistance. [1991, c. 368, (NEW).]

[ 1991, c. 368, (NEW) .]

**2. Subject to waiver.** Any information pursuant to waiver determined satisfactory by the department must be released.

[ 1991, c. 368, (NEW) .]

**3. Available to public.** Information that the department determines has already been made available to the public must be released.

[ 1991, c. 368, (NEW) .]

**4. Not otherwise confidential.** Any information not otherwise confidential under section 13119-A or other applicable law must be released.

[ 1991, c. 368, (NEW) .]

#### SECTION HISTORY

1991, c. 368, (NEW).

### §13119-C. DISCLOSURE PERMITTED

Notwithstanding section 13119-A, information otherwise confidential under that section may be disclosed: [1991, c. 368, (NEW).]

**1. Financing institutions or credit reporting services.** To a financing institution or credit reporting service;

[ 1991, c. 368, (NEW) .]

**2. Transfer of securities or bonds.** To the extent necessary to the sale or transfer of revenue obligation securities or of general obligation bonds;

[ 1991, c. 368, (NEW) .]

**3. Collection of certain obligations.** If necessary to ensure collection of any obligation in which the department or municipality has or may have an interest;

[ 1991, c. 368, (NEW) .]

**4. Litigation or proceeding.** In any litigation or proceeding in which the department or the municipality appears, for the purposes of introduction of the information into the record;

[ 1991, c. 368, (NEW) .]

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

[ 1991, c. 368, (NEW) .]

**6. Authorization.** Upon written authorization of release of the confidential information by the person or persons to whom such information pertains.

[ 1991, c. 368, (NEW) .]

#### SECTION HISTORY

1991, c. 368, (NEW).

## Subchapter 9: 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 lender or investor in the acquisition, development, redevelopment and sale of commercial facilities in areas where economic needs are not supported by private investment. The authority may also provide loans to businesses that currently do not own real estate and that are not supported by private investment. [2011, c. 563, §10 (AMD).]

The purposes of this subchapter are public and the authority is performing a governmental function in carrying out this subchapter. [2001, c. 703, §6 (NEW).]

#### SECTION HISTORY

2001, c. 703, §6 (NEW). 2003, c. 281, §1 (AMD). 2011, c. 563, §10 (AMD).

### §13120-B. DEFINITIONS

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [2001, c. 703, §6 (NEW).]

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

[ 2005, c. 425, §9 (AMD) .]

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

[ 2001, c. 703, §6 (NEW) .]

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

[ 2001, c. 703, §6 (NEW) .]

**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; [2001, c. 703, §6 (NEW).]

B. Manufacturing, processing, assembly and other industrial buildings and related improvements; [2001, c. 703, §6 (NEW).]

C. Property used in connection with commercial fishing and other marine-related industries; [ 2001, c. 703, §6 (NEW). ]

D. Property used in connection with agricultural production, storage, processing, packing and transportation; [ 2001, c. 703, §6 (NEW). ]

E. Warehouses, transportation and distribution facilities; [ 2001, c. 703, §6 (NEW). ]

F. Service and repair facilities; [ 2001, c. 703, §6 (NEW). ]

G. Retail establishments; and [ 2001, c. 703, §6 (NEW). ]

H. Lodging, restaurant and entertainment facilities. [ 2001, c. 703, §6 (NEW). ]

[ 2001, c. 703, §6 (NEW) . ]

**5. Community industrial building.**

[ 2005, c. 425, §10 (RP) . ]

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

[ 2001, c. 703, §6 (NEW) . ]

**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.

[ 2001, c. 703, §6 (NEW) . ]

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

[ 2001, c. 703, §6 (NEW) . ]

**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. "Local development corporation" also means a development authority under subchapter 3 that is acting under the authority of a memorandum of understanding with a municipality to carry out the authorized activities of a local development corporation under this subsection.

[ 2011, c. 148, §2 (AMD) . ]

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

[ 2001, c. 703, §6 (NEW) . ]

**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.

[ 2005, c. 425, §11 (NEW) .]

#### SECTION HISTORY

2001, c. 703, §6 (NEW). 2005, c. 425, §§9-11 (AMD). 2011, c. 148, §2 (AMD).

## §13120-C. ORGANIZATION AND RESPONSIBILITIES

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

A. Speculative industrial building program, pursuant to section 13120-N; [2005, c. 425, §12 (AMD) .]

B. Commercial Facilities Development Program, established under section 13120-P; and [2001, c. 703, §6 (NEW) .]

C. Such other programs as the authority may by law be authorized to administer. [2001, c. 703, §6 (NEW) .]

[ 2005, c. 425, §12 (AMD) .]

**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.

[ 2001, c. 703, §6 (NEW) .]

#### SECTION HISTORY

2001, c. 703, §6 (NEW). 2005, c. 425, §12 (AMD).

## §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 economic development matters and to confirmation by the Senate; and [2001, c. 703, §6 (NEW) .]

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. [2005, c. 425, §13 (AMD) .]

[ 2005, c. 425, §13 (AMD) .]

**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.

[ 2001, c. 703, §6 (NEW) .]

**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.

[ 2001, c. 703, §6 (NEW) .]

**4. Administration.** The 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.

[ 2003, c. 281, §2 (AMD) .]

**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.

[ 2001, c. 703, §6 (NEW) .]

**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.

[ 2001, c. 703, §6 (NEW) .]

**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 Public Employees 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.

[ 2003, c. 281, §3 (AMD); 2007, c. 58, §3 (REV) .]

**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.

[ 2001, c. 703, §6 (NEW) .]

#### SECTION HISTORY

2001, c. 703, §6 (NEW). 2003, c. 281, §§2,3 (AMD). 2005, c. 425, §13 (AMD). 2007, c. 58, §3 (REV).



## §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. [2001, c. 703, §6 (NEW).]

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. [2001, c. 703, §6 (NEW).]

### SECTION HISTORY

2001, c. 703, §6 (NEW).

## §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. [2001, c. 703, §6 (NEW).]

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. [2001, c. 703, §6 (NEW).]

### SECTION HISTORY

2001, c. 703, §6 (NEW).

## §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. [2001, c. 703, §6 (NEW).]

The authority may acquire, use and dispose of real and personal property as follows. [2001, c. 703, §6 (NEW).]

**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.

[2001, c. 703, §6 (NEW).]

**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-C.

[ 2003, c. 688, Pt. A, §3 (AMD) .]

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. [2001, c. 703, §6 (NEW) .]

#### SECTION HISTORY

2001, c. 703, §6 (NEW). 2003, c. 688, §A3 (AMD).

## §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. [2001, c. 703, §6 (NEW) .]

**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.

[ 2001, c. 703, §6 (NEW) .]

**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.

[ 2001, c. 703, §6 (NEW) .]

**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.

[ 2001, c. 703, §6 (NEW) .]

#### SECTION HISTORY

2001, c. 703, §6 (NEW).

## §13120-I. BONDS

**1. Authorization.** The authority may provide by resolution for the issuance of bonds for the purpose of funding the 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.

[ 2005, c. 425, §14 (AMD) . ]

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

- A. The manner of executing bonds and coupons; [2001, c. 703, §6 (NEW).]
- B. The form and denomination of bonds or coupons; [2001, c. 703, §6 (NEW).]
- C. Maturity dates; [2001, c. 703, §6 (NEW).]
- D. Interest rates on bonds or coupons; [2001, c. 703, §6 (NEW).]
- E. For redemption prior to maturity and the premium payable; [2001, c. 703, §6 (NEW).]
- F. The place or places for the payment of interest and principal; [2001, c. 703, §6 (NEW).]
- G. For registration if the authority determines it to be desirable; [2001, c. 703, §6 (NEW).]
- H. For the pledge of all or any of the revenue for securing payment; [2001, c. 703, §6 (NEW).]
- I. For the replacement of lost, destroyed or mutilated bonds; [2001, c. 703, §6 (NEW).]
- J. For the setting aside and the regulation and disposition of reserve and sinking funds; [2001, c. 703, §6 (NEW).]
- K. For limitation on the issuance of additional bonds; [2001, c. 703, §6 (NEW).]
- L. For the procedure, if any, by which the contract with a bondholder may be abrogated or amended; [2001, c. 703, §6 (NEW).]
- M. For the manner of sale and purchase of bonds; [2001, c. 703, §6 (NEW).]
- N. For covenants against pledging of any of the revenue of the authority; [2001, c. 703, §6 (NEW).]
- 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; [2001, c. 703, §6 (NEW).]
- P. For such other covenants as to rates and charges as the board of trustees determines; [2001, c. 703, §6 (NEW).]
- Q. For covenants as to the rights, liability, powers and duties arising upon the breach by the authority of any covenant, condition or obligation; [2001, c. 703, §6 (NEW).]
- 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; [2001, c. 703, §6 (NEW).]
- S. For covenants as to the use of its facilities and their maintenance and replacement, and the insurance to be carried on them, and the use and disposition of insurance money; [2001, c. 703, §6 (NEW).]
- T. For the issuance of bonds in series; [2001, c. 703, §6 (NEW).]

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 [ 2001, c. 703, §6 (NEW) .]

V. For the issuance of bonds on terms and conditions to effectuate the purpose of this subchapter. [2001, c. 703, §6 (NEW) .]

[ 2001, c. 703, §6 (NEW) .]

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

[ 2005, c. 425, §15 (AMD) .]

**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.

[ 2001, c. 703, §6 (NEW) .]

**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.

[ 2001, c. 703, §6 (NEW) .]

**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.

[ 2001, c. 703, §6 (NEW) .]

**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.

[ 2001, c. 703, §6 (NEW) .]

**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.

[ 2001, c. 703, §6 (NEW) .]

**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.

[ 2001, c. 703, §6 (NEW) .]

#### SECTION HISTORY

2001, c. 703, §6 (NEW). 2003, c. 281, §4 (AMD). 2005, c. 425, §§14,15 (AMD).

## §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 personal financial interest in:

A. An authority activity; [2001, c. 703, §6 (NEW) .]

B. Property or facilities included, planned to be included or expected to directly benefit from an authority activity; or [2001, c. 703, §6 (NEW) .]

C. A contract or proposed contract in connection with an authority activity. [2001, c. 703, §6 (NEW) .]

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.

[ 2005, c. 425, §16 (AMD) .]

**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.

[ 2001, c. 703, §6 (NEW) .]

**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.

[ 2001, c. 703, §6 (NEW) .]

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

[ 2001, c. 703, §6 (NEW) .]

#### SECTION HISTORY

2001, c. 703, §6 (NEW). 2005, c. 425, §16 (AMD).

## §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; [2001, c. 703, §6 (NEW).]
- B. An accounting of the authority's receipts and expenditures, assets and liabilities at the end of its fiscal year; [2001, c. 703, §6 (NEW).]
- 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; [2001, c. 703, §6 (NEW).]
- 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; [2001, c. 703, §6 (NEW).]
- E. Recommendations as to further actions that may be suitable for achieving the purposes of this subchapter; [2001, c. 703, §6 (NEW).]
- F. A statement of the defaults, if any, of persons, firms, corporations and other organizations receiving assistance under this subchapter; and [2001, c. 703, §6 (NEW).]
- G. A summary of the actual and potential employment opportunities resulting from the authority's activities. [2001, c. 703, §6 (NEW).]

[ 2001, c. 703, §6 (NEW) .]

**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 shall also provide the Treasurer of State with an accounting of the authority's assets and liabilities at the end of its fiscal year. 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. For any complete fiscal year that the authority contracts with the Finance Authority of Maine, or any other state agency or quasi-state agency that is required to submit to the Treasurer of State its own audited financial report, and the audited annual financial report of that state agency or quasi-state agency includes for accounting purposes the funds administered for the authority, the audited financial report of that state agency or quasi-state agency satisfies the requirements of this subsection.

[ 2013, c. 465, §1 (AMD) .]

#### SECTION HISTORY

2001, c. 703, §6 (NEW). 2013, c. 465, §1 (AMD).

### §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. [2001, c. 703, §6 (NEW).]

#### SECTION HISTORY

2001, c. 703, §6 (NEW).

### §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; [2001, c. 703, §6 (NEW).]

B. Any information pursuant to waiver considered satisfactory by the authority; [2001, c. 703, §6 (NEW).]

C. Information that, as determined by the authority, has already been made available to the public; and [2001, c. 703, §6 (NEW).]

D. Information necessary to comply with Title 1, section 407, subsection 1. [2001, c. 703, §6 (NEW).]

Information or records specified in a written request signed by the cochair 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.

[2001, c. 703, §6 (NEW).]

**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; [2001, c. 703, §6 (NEW).]

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; [2001, c. 703, §6 (NEW).]

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; [2001, c. 703, §6 (NEW).]

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; [2001, c. 703, §6 (NEW).]

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; [2001, c. 703, §6 (NEW).]

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 [2001, c. 703, §6 (NEW).]

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. [2001, c. 703, §6 (NEW).]

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

[2001, c. 703, §6 (NEW).]

**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; [2001, c. 703, §6 (NEW).]

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; [2001, c. 703, §6 (NEW).]

C. Information disclosed to a financial institution or credit reporting service; [2001, c. 703, §6 (NEW).]

D. Information necessary to comply with a federal or state law or rule or with an agreement pertaining to financial assistance or investment; [2001, c. 703, §6 (NEW).]

E. Information to the extent the authority determines the disclosure necessary to the sale or transfer of revenue obligation securities; [2001, c. 703, §6 (NEW).]

F. Information necessary to ensure collection of an obligation in which the authority has or may have an interest; [2001, c. 703, §6 (NEW).]

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 [2001, c. 703, §6 (NEW).]

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. [2001, c. 703, §6 (NEW).]

[2001, c. 703, §6 (NEW).]



**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.

[ 2001, c. 703, §6 (NEW) .]

#### SECTION HISTORY

2001, c. 703, §6 (NEW).

## §13120-N. SPECULATIVE INDUSTRIAL BUILDING PROGRAM

The authority may assist a municipality or local development corporation to construct a 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. [2005, c. 425, §17 (AMD).]

**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. [2001, c. 703, §6 (NEW).]

B. Not more than one unoccupied speculative industrial building project may be financed in a municipality. [2005, c. 425, §17 (AMD).]

C. The authority shall charge interest on loans or funds provided under this section to the municipality or local development corporation for a speculative industrial building that remains unoccupied for 3 or more years following completion of the building. [2005, c. 425, §17 (AMD).]

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

- (1) The methodology and criteria for allocating funds to speculative industrial building projects;
- (2) The process through which municipalities and local development corporations must apply for 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. [2005, c. 425, §17 (AMD).]

[ 2005, c. 425, §17 (AMD) .]

**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; [2001, c. 703, §6 (NEW).]
- B. Be responsible for and present evidence to the authority of its ability to carry out the project as planned; [2001, c. 703, §6 (NEW).]
- C. Site and maintain the speculative industrial building on property that is appropriate to the size and location of the speculative industrial building; [2005, c. 425, §17 (AMD).]

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; [2001, c. 703, §6 (NEW).]

E. Comply with applicable zoning, planning and sanitary regulations in the municipality where the 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 [2005, c. 425, §17 (AMD).]

F. Make adequate provisions for insurance and fire protection and for maintenance of the speculative industrial building while it is unoccupied. [2005, c. 425, §17 (AMD).]

[ 2005, c. 425, §17 (AMD) .]

**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. [2001, c. 703, §6 (NEW).]

B. Loans must be repaid in full, including interest and other charges, within 90 days after the speculative industrial building is occupied. [2005, c. 425, §17 (AMD).]

C. A 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 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 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. [2005, c. 425, §17 (AMD).]

[ 2005, c. 425, §17 (AMD) .]

**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 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 speculative industrial building.

[ 2005, c. 425, §17 (AMD) .]

**5. Taxes.** While a 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.

[ 2005, c. 425, §17 (AMD) .]

**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 speculative industrial building subject to the provisions of this subchapter.

[ 2005, c. 425, §17 (AMD) .]

SECTION HISTORY

2001, c. 703, §6 (NEW). 2003, c. 281, §§5,6 (AMD). 2005, c. 425, §17 (AMD).

## §13120-O. COMMUNITY INDUSTRIAL BUILDINGS FUND

*(REPEALED)*

### SECTION HISTORY

2001, c. 703, §6 (NEW). 2003, c. 281, §7 (RP).

## §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 [2003, c. 281, §8 (AMD).]
- 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. [2003, c. 281, §8 (AMD).]

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.

[ 2003, c. 281, §8 (AMD) .]

**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; [2003, c. 281, §8 (AMD).]
- 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; [2001, c. 703, §6 (NEW).]
- C. The property has not been placed under a purchase option or contract; [2001, c. 703, §6 (NEW).]
- 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 [2005, c. 425, §18 (AMD).]
- E. The municipality, 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. [2005, c. 425, §18 (AMD).]

The authority may finance undeveloped land or personal property only if the undeveloped land or personal property is part of the overall redevelopment project. The authority may take custody of any machinery and equipment held as collateral for a loan issued to the commercial facility being redeveloped.

[ 2011, c. 563, §11 (AMD) .]

**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; [2001, c. 703, §6 (NEW).]
- B. The property is currently not in productive commercial use; [2001, c. 703, §6 (NEW).]
- C. The property has not been placed under a purchase option or contract; [2001, c. 703, §6 (NEW).]
- 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 [2005, c. 425, §18 (AMD).]
- E. The municipality, 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. [2005, c. 425, §18 (AMD).]

The authority may finance undeveloped land or personal property only if the undeveloped land or personal property is part of the overall development project. The authority may take custody of any machinery and equipment held as collateral for a loan issued to the commercial facility being redeveloped.

[2011, c. 563, §12 (AMD).]

**4. Other use of program funds.** The authority may use funds available for the program established in this section:

- A. To implement the program established in this section; and [2017, c. 174, §1 (NEW).]
- B. To provide technical assistance, planning grants and implementation grants to municipalities and other entities eligible for assistance under section 13120-R. [2017, c. 174, §1 (NEW).]

[2017, c. 174, §1 (NEW).]

#### SECTION HISTORY

2001, c. 703, §6 (NEW). 2003, c. 281, §8 (AMD). 2005, c. 425, §18 (AMD). 2011, c. 563, §§11, 12 (AMD). 2017, c. 174, §1 (AMD).

### §13120-Q. EXCEPTIONS

The authority, with the advice of the department, the Department of Labor 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: [2011, c. 655, Pt. DD, §7 (AMD); 2011, c. 655, Pt. DD, §24 (AFF).]

**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; [2001, c. 703, §6 (NEW).]

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 [2001, c. 703, §6 (NEW).]

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 [2001, c. 703, §6 (NEW).]

[2001, c. 703, §6 (NEW).]

**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; [2001, c. 703, §6 (NEW).]

B. The significant migration of workers or population out of the area; and [2001, c. 703, §6 (NEW).]

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. [2001, c. 703, §6 (NEW).]

[2001, c. 703, §6 (NEW).]

#### SECTION HISTORY

2001, c. 703, §6 (NEW). 2011, c. 655, Pt. DD, §7 (AMD). 2011, c. 655, Pt. DD, §24 (AFF).

## §13120-R. RURAL MANUFACTURING AND INDUSTRIAL SITE REDEVELOPMENT PROGRAM

**1. Establishment; purpose.** The Rural Manufacturing and Industrial Site Redevelopment Program is established within the authority to provide technical assistance, planning grants and implementation grants for the rehabilitation, revitalization and marketing of manufacturing and industrial sites in rural communities.

[2017, c. 174, §2 (NEW).]

**2. Technical assistance and planning grants.** The authority may provide technical assistance and grants for redevelopment and marketing of a nonproductive industrial or manufacturing site to a municipality or the owner of the nonproductive industrial or manufacturing site. In awarding grants and providing technical assistance under this subsection, the authority shall give preference to nonproductive industrial or manufacturing sites located in communities that have experienced severe economic decline and employment loss due to the nonproductive nature of the site and insufficient technical or planning personnel or resources.

A. The authority shall work collaboratively with other state agencies and regional economic development organizations to provide technical assistance under this subsection. [2017, c. 174, §2 (NEW).]

B. A municipality that receives technical assistance or a planning grant under this subsection shall form a committee, whose membership includes but is not limited to local residents and the owner of the nonproductive industrial or manufacturing site, to provide advice regarding the redevelopment of the site. [2017, c. 174, §2 (NEW).]

C. If the authority is unable to provide technical assistance to a municipality or the owner of a nonproductive industrial or manufacturing site that is qualified for technical assistance under this subsection, as determined by rule, the authority may provide a planning grant to the municipality or the owner of the nonproductive industrial or manufacturing site. [2017, c. 174, §2 (NEW).]

D. The authority shall adopt rules related to the implementation of this subsection, including rules regarding the application process and eligibility of applicants for technical assistance and planning grants. Rules adopted under this paragraph are routine technical rules pursuant to chapter 375, subchapter 2-A. [2017, c. 174, §2 (NEW).]

[ 2017, c. 174, §2 (NEW) .]

**3. Implementation grants; rules.** The authority may provide grants for implementing a project for the redevelopment and marketing of a nonproductive industrial or manufacturing site located in a rural community that has experienced severe economic decline and employment loss due to the nonproductive nature of the site. An applicant for a grant must demonstrate the capacity to undertake the project with a reasonable prospect of bringing it to successful completion.

The authority shall adopt rules, which are routine technical rules pursuant to chapter 375, subchapter 2-A, related to the implementation of this subsection, including rules regarding:

A. The application process for implementation grants; and [2017, c. 174, §2 (NEW).]

B. The criteria and scoring system for awarding implementation grants. The scoring system must include, but is not limited to, an evaluation of the plan for redeveloping and marketing the nonproductive industrial or manufacturing site, community support for the project and consistency with any applicable regional economic development plan. [2017, c. 174, §2 (NEW).]

[ 2017, c. 174, §2 (NEW) .]

#### SECTION HISTORY

2017, c. 174, §2 (NEW).

## §13120-S. INVENTORY OF NONPRODUCTIVE INDUSTRIAL OR MANUFACTURING SITES

By January 1, 2018 and annually thereafter, the authority, in consultation with the Office of Business Development within the department, shall make or require an inventory to be made of all nonproductive industrial or manufacturing sites in the State that are available for redevelopment. [2017, c. 174, §2 (NEW).]

#### SECTION HISTORY

2017, c. 174, §2 (NEW).

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