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An Act To Create the Maine Street Economic Development Bank

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

Sec. 1. 9-B MRSA c. 125 is enacted to read:

CHAPTER 125

MAINE STREET ECONOMIC DEVELOPMENT BANK

§ 1251. Bank established; purposes

The Maine Street Economic Development Bank is established for the following purposes:

1. Economic development. To support job creation and the economic development of the State by increasing access to capital for businesses and farms within the State in partnership with local financial institutions;

2. Financial stability. To provide stability to the state financial sector, but not to compete with state-chartered community banks, credit unions or other financial institutions;

3. Basic banking services. To reduce costs paid by the State for basic banking services; and

4. Return profits. To return profits, beyond the revenue needed to accomplish the mission and continued sound operation of the bank, to the Maine Budget Stabilization Fund established in Title 5, section 1532.

§ 1252. Definitions

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

1. Advisory committee. "Advisory committee" means the Maine Street Economic Development Bank Advisory Committee established in section 1254.

2. Bank. "Bank" means the Maine Street Economic Development Bank established under section 1251.

3. Board. "Board" means the Board of Directors for the Maine Street Economic Development Bank established in section 1253.

4. Public funds. "Public funds" means funds under the control or in the custody of a public official by virtue of office.

§ 1253. Board; duties and powers

1. Members. The Board of Directors for the Maine Street Economic Development Bank is established and consists of 5 voting members appointed by the Governor and subject to approval by the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and confirmation by the Senate. The Treasurer of State and the Commissioner of Administrative and Financial Services serve as ex officio nonvoting members of the board. The board shall oversee the operation, management and control of the bank in accordance with this chapter. The board shall designate one of its members as chair and shall determine the location and maintain places of business of the bank.

2. Meetings; quorum. The board shall establish the frequency of regular board meetings in bylaws and public notice requirements for meetings through rulemaking under subsection 5. A special meeting may be called at any time upon notice by the Governor, or by 3 members of the board. Three voting members constitute a quorum and may transact business and exercise all rights, duties and powers of the board.

3. Appointment of president; employment of officers and agents. The board shall appoint a person with extensive experience in banking as the president of the bank. The board may appoint and employ any subordinate officers, employees and agents that the board considers necessary and shall define the duties, designate the titles and fix the compensation of all those positions.

The board may designate the president or another officer or employee as its agent with respect to the functions of the bank, subject to the supervision, limitation and control of the board. The board may remove and discharge any person appointed and employed under this subsection.

4. Compensation. Board members serve without compensation except that members may be reimbursed for travel expenses associated with their duties under this chapter.

5. Rulemaking. The board, through rulemaking, shall adopt bylaws and operating policies and shall enforce orders necessary to fulfill its functions under this section. Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

§ 1254. Advisory committee

The board shall appoint the Maine Street Economic Development Bank Advisory Committee to actively enlist the help of private enterprise and encourage use of the bank.

1. Members. The advisory committee consists of 7 members and must include:

A. Representatives of the State's financial, business, agricultural and labor sectors; and

B. At least 2 officers of state-chartered financial institutions that do not maintain offices outside the State.

2. Officers. The board shall appoint a chair, vice-chair and secretary for the advisory committee from the members of the advisory committee.

3. Terms. Advisory committee members serve a term of office of 4 years, except as provided by law for initial appointments.

4. Duties. The advisory committee shall:

A. Meet regularly with the board to review and make recommendations concerning the bank's operations and finances and loan practices;

B. Make recommendations to the board for improving management performance, customer service and internal methods, procedures and operating policies of the bank;

C. Make recommendations to the board relating to the establishment of additional objectives for the operation of the bank;

D. Make recommendations to the board concerning the appointment of officers of the bank; and

E. Participate on loan committees.

5. Compensation. Advisory committee members serve without compensation except that members may be reimbursed for travel expenses associated with their duties under this chapter.

§ 1255. Deposit of funds

The bank may accept deposits of public funds. Except as provided in section 1256, the bank may not accept deposits of private funds. All income earned by the bank on public funds must be credited to and becomes a part of the revenues and income of the bank.

1. Paying of interest. The bank shall pay interest on public deposits at a rate comparable to rates paid by private depositories of public funds and may offer other financial products to the Treasurer of State on a competitive basis.

2. Deposit by the Treasurer of State. The Treasurer of State shall deposit with the bank from funds received under Title 5, section 130 an amount the Treasurer of State determines is necessary to allow the bank to fulfill its duties under this chapter.

3. Investment by Maine Public Employees Retirement System. The bank may accept funds from the Maine Public Employees Retirement System pursuant to section 1257.

§ 1256. Powers of the bank

1. Loans. The bank may:

A. Make, purchase, guarantee, modify or hold loans:

(1) To state-chartered financial institutions;

(2) That are insured or guaranteed in whole or in part by the United States or its agencies or instrumentalities;

(3) Obtained as security pledged for, or originated in the restructuring of, any other loan properly originated or participated in by the bank; and

(4) To instrumentalities of this State; and

B. Purchase, guarantee, modify or hold loans originated by financial institutions authorized to do business in this State.

The bank may not make loans to any private individual or legal entity.

2. Participation interests. The bank may:

A. Purchase participation interests in loans made or held by banks, bank holding companies, state-chartered or federally chartered financial institutions, any other financial institutions or any other entity that provides financial services and that meets underwriting standards that are generally accepted by state or federal financial regulatory agencies; and

B. Make loans in the form of participation loans to qualified persons residing in or doing business in this State when the originator of the loan is a private financial institution.

3. Investments. The bank shall invest its funds in conformity with policies of the board and the investment standards in Title 5, chapter 7.

4. Federal bonds. The bank may buy and sell federal bonds.

5. Property. The bank may lease, assign, sell, exchange, transfer, convey, grant, pledge or mortgage all real and personal property, title to which has been acquired in any manner.

6. Services to other banks. The bank may:

A. Act as a custodian bank for financial institutions authorized to do business in this State and accept deposits from the financial institutions in connection with this function;

B. Issue bank stock loans to financial institutions authorized to do business in this State; and

C. For financial institutions that make the bank a reserve depository, perform the functions and render the services of a clearinghouse, including all functions for providing domestic and foreign exchange, and rediscount notes, on terms prescribed by the board.

7. Other powers. The bank may perform all acts and do all things necessary, convenient, advisable or desirable to carry out the powers expressly granted or necessarily implied in this chapter through or by means of its president, officers, agents or employees or by contracts with any person, firm or corporation.

§ 1257. Investment by Maine Public Employees Retirement System authorized

1. Investment authorized. The Maine Public Employees Retirement System, referred to in this section as "the retirement system," may invest funds in the bank in the exercise of its discretion and consistent with its fiduciary duties to the beneficiaries of the retirement system. This subsection does not mandate or require any investment by the retirement system or give the retirement system any responsibilities in the governance and oversight of the bank.

2. Investment restrictions. The retirement system may not invest more than \$20,000,000 in the bank.

3. Disclosure of investment. The retirement system shall make available to the public the following information with respect to any investment in the bank pursuant to this section:

- A. The amount of the retirement system's total investment in the bank;
- B. The date of the investment; and
- C. The rate of interest paid on the investment by the bank in accordance with section 1255, subsection 1.

§ 1258. Transfer to Maine Budget Stabilization Fund

Except as provided in Title 5, section 1533, as soon as possible after the end of each calendar year, the board shall determine the amount of income, if any, earned by the bank in that prior calendar year that is in excess of amounts necessary to pay for expenses of administering the activities of the bank less any reserves required pursuant to rules adopted in accordance with section 1259, subsection 1, paragraph E for delinquencies and future business and payment of debts from any initial funding. The amount of the excess must be transferred to the Maine Budget Stabilization Fund established in Title 5, section 1532.

§ 1259. Rulemaking; oversight

1. Rule-making authority. The bank shall adopt rules to:

- A. Ensure the safety and soundness of the bank that, to the extent possible, reflect applicable standards for safety and soundness set forth in 12 Code of Federal Regulations, Part 364;
- B. Specify the bank's powers and permissible investments and activities consistent with section 1256;
- C. Specify services that the bank may provide;

D. Specify limits for loans and other obligations the bank makes or undertakes;

E. Specify reserve requirements; and

F. Set other requirements that the board considers necessary to administer the bank under this chapter and to accomplish the purposes listed in section 1251.

Rules adopted under this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

2. Examination and report. The bureau shall examine the bank at least once each calendar quarter to verify and ensure that the bank is complying with the rules adopted under subsection 1. The bureau shall report the results of the examination to the board and to the Commissioner of Administrative and Financial Services. The bureau's report is a public record subject to disclosure.

3. Audit. The State Auditor shall audit the accounts and financial affairs of the bank at least once every 2 years.

4. Annual report; performance measures. Beginning July 1, 2014 and annually thereafter, the bank shall report to the Governor and the Legislature on the financial condition and performance of the bank and provide an analysis of the bank's impact on the State consistent with the bank's purposes set forth in section 1251, particularly the bank's impact on job creation and economic development.

§ 1260. Exempt from liability

Whenever any public funds are deposited in the bank, the public official who deposited the funds and the sureties on any bond of the public official are exempt from liability for loss of any of the funds while the funds are deposited in the bank.

§ 1261. Use of name; execution of instruments

All business of the bank must be conducted under the name of the Maine Street Economic Development Bank. Title to property pertaining to the operation of the bank must be obtained and conveyed in the name of the Maine Street Economic Development Bank.

Instruments must be executed in the name of the State. Within the scope of authority granted by the board, the president of the bank may execute instruments on behalf of the bank, including any instrument granting, conveying or otherwise affecting any interest in or lien upon real or personal property.

Officers or employees of and legal counsel to the bank may execute instruments on behalf of the bank when authorized by the board.

Sec. 2. Treasurer of State and Commissioner of Administrative and Financial Services to make recommendations. No later than January 15, 2012, the Treasurer of State and the Commissioner of Administrative and Financial Services, in consultation with the Attorney General, shall submit a report to the Joint Standing Committee on Appropriations and Financial Affairs with

recommendations for implementing the Maine Street Economic Development Bank, as established in the Maine Revised Statutes, Title 9-B, chapter 125 and referred to in this section as "the bank." The report must include:

1. A draft of any legislation needed to amend the Constitution of Maine to authorize the State to establish the bank;
2. A recommendation on the amount of money needed to adequately capitalize the bank;
3. A draft of any legislation needed to transfer funds to the bank;
4. A description and draft of statutory changes needed to fully utilize the resources and powers of the bank and to eliminate any duplication of efforts or conflict with the authority or responsibilities of the Maine Municipal Bond Bank and any other state agencies;
5. Recommendations for guaranteeing funds deposited in the bank;
6. Recommendations pertaining to the liability of the State and the bank in civil actions; and
7. Recommendations regarding the confidentiality of certain records held by the bank.

Sec. 3. Initial appointments. Initial appointments for the Maine Street Economic Development Bank Advisory Committee established in the Maine Revised Statutes, Title 9-B, section 1254 must be for staggered terms. One member must be appointed for a one year term, one member must be appointed for a 2-year term, one member must be appointed for a 3-year term and one member must be appointed for a 4-year term.

Sec. 4. Authority to report out a bill. The Joint Standing Committee on Appropriations and Financial Affairs may report out a bill to the Second Regular Session of the 125th Legislature pertaining to the establishment, oversight and operation of the Maine Street Economic Development Bank established in the Maine Revised Statutes, Title 9-B, chapter 125.

Sec. 5. Effective date. That section of this Act that enacts the Maine Revised Statutes, Title 9-B, chapter 125 takes effect July 1, 2013 except that the Maine Street Economic Development Bank may not make, purchase, modify or hold loans until the bank has adequate capital of at least \$20,000,000.

SUMMARY

This bill establishes the Maine Street Economic Development Bank effective July 1, 2013 except that the bank may not make, purchase, guarantee, modify or hold loans until the bank has adequate capital of at least \$20,000,000. It specifies the purposes of the bank, establishes a board of directors and creates an advisory committee. It allows the bank to accept deposits of public funds, to make, purchase, guarantee, modify or hold certain loans and to serve as a custodian bank. It directs the Treasurer of State to deposit money into the bank in an amount the Treasurer of State determines is necessary to allow the bank to fulfill its duties. Excess income of the bank is deposited in the Maine Budget Stabilization Fund.

The bill provides for a quarterly examination by the Department of Professional and Financial Services, Bureau of Financial Institutions and an audit by the State Auditor every 2 years.

The bill directs the Treasurer of State and the Commissioner of Administrative and Financial Services to consult with the Attorney General and report to the Joint Standing Committee on Appropriations and Financial Affairs by January 15, 2012 with recommendations to fully implement the bank. It authorizes the Joint Standing Committee on Appropriations and Financial Affairs to report out a bill to the Second Regular Session of the 125th Legislature.