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An Act To Amend the Laws Governing Oversight of and Responsibility for the Kim Wallace Adaptive Equipment Loan Program Fund

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

Sec. 1. 5 MRSA §12004-G, sub-§10-A, as amended by PL 1999, c. 731, Pt. FF, §1, is repealed.

Sec. 2. 10 MRSA §371, sub-§1, as amended by PL 1999, c. 731, Pt. FF, §3, is repealed.

Sec. 3. 10 MRSA §371, sub-§§1-A, 1-B and 2-A are enacted to read:

1-A. Center for independent living. "Center for independent living" means an independent nonprofit organization that provides independent living services as defined in Title 26, section 1414, subsection 1.

1-B. Community development financial institution. "Community development financial institution" means a financial institution that is certified and funded by the United States Department of the Treasury to provide support to economically disadvantaged communities.

2-A. Program administrator. "Program administrator" means a center for independent living or a community development financial institution based in this State and designated by the Treasurer of State pursuant to section 374.

Sec. 4. 10 MRSA §371, sub-§3, as amended by PL 1989, c. 191, §1, is further amended to read:

3. Qualifying borrower. "Qualifying borrower" means any individual, for-profit or nonprofit corporation or partnership ~~which~~that demonstrates that the loan will assist one or more persons with disabilities to improve their independence or become more productive members of the community. The individual, corporation or partnership must demonstrate ~~credit worthiness~~creditworthiness and repayment abilities to the satisfaction of the ~~board~~program administrator.

Sec. 5. 10 MRSA §372, sub-§1, as amended by PL 2005, c. 191, §1, is further amended to read:

1. Creation of fund. There is established the Kim Wallace Adaptive Equipment Loan Program Fund, which must be used to provide funding for loans to qualified borrowers within the State in order to acquire adaptive equipment designed to assist the borrower in becoming independent and for other purposes as allowed under section 376. The fund must be deposited with, ~~maintained and administered by the Finance Authority of Maine or other state agency~~the Treasurer of State and contain appropriations provided for that purpose, interest accrued on the fund balance, funds received by the ~~board~~program administrator to be applied to the fund and funds received in repayment of loans. This fund is a nonlapsing revolving fund. All money in the fund must be continuously applied to carry out the purposes of this chapter.

Sec. 6. 10 MRSA §373, as amended by PL 1999, c. 731, Pt. FF, §5, is repealed.

Sec. 7. 10 MRSA §374, as amended by PL 2005, c. 191, §§2 to 4, is further amended to read:

§ 374. Program administrator

The ~~board shall have~~ Treasurer of State shall designate a program administrator, which has the following powers and duties.

1. Receipt of money and property. The ~~board~~ program administrator may accept and receive gifts, grants, bequests or devises from any source, including funds from the Federal Government or any of its political subdivisions.

2. Contracts. The ~~board~~ program administrator may, with the approval of the Governor, enter into any necessary contracts and agreements with appropriate state or community-based groups dealing with disabled persons.

3. Administer loan program. The ~~board~~ program administrator shall administer the Kim Wallace Adaptive Equipment Loan Program Fund established by this chapter and may contract with ~~the Finance Authority of Maine and~~ state or community-based groups dealing with disabled persons for such assistance in administering the program as ~~the board may require~~. The ~~board~~ program administrator may employ persons, including private legal counsel and financial experts, on either a temporary or permanent basis, in order to carry out any of its powers and duties. Employees of the ~~board~~ program administrator are not subject to Title 5, chapter 71 and Title 5, chapter 372, subchapter 2.

4. Rules. ~~The board may adopt rules to carry out the purposes of this chapter. Rules adopted pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter H-A. The rules must ensure that:~~

A. ~~Individuals and business entities are eligible for loans;~~

B. ~~A preference is given for loans to qualifying individual borrowers seeking loans to acquire adaptive equipment for personal, family or household purposes; and~~

D. ~~Loan applications may be approved or denied by the board only at a regular or special meeting except as follows:~~

(1) ~~Approval of applications for loans may be delegated by the board to a subcommittee of the board containing at least 5 members if an applicant would suffer undue hardship by waiting for the next regular meeting; or~~

(2) ~~Approval of applications for loans may be delegated to outside contractors with criteria and terms as provided by the board and approved no less than annually.~~

~~All approved loans must be ratified by the board at the board's next regular or special meeting. All loans recommended for denial by the delegated authority must be acted upon by the board at the board's next regular or special meeting.~~

5. Advisory board. ~~The program administrator may establish an advisory board to assist the program administrator in developing and implementing policies and procedures to carry out the purposes of this chapter. A majority of the members of the advisory board must be citizens of the State who are persons with disabilities, and the advisory board may include persons with relevant financial and legal expertise and knowledge.~~

6. Annual report to Treasurer of State. ~~The program administrator shall report annually to the Treasurer of State regarding fund activities. The report must include, but is not limited to, administrative costs and the performance of the current loan portfolio, including the number and amount of loans as well as the loss ratio. If the loan portfolio performance as measured through the loss ratio exceeds by 10% the average loss ratio of the fund as administered by the Finance Authority of Maine prior to the effective date of this subsection, the Treasurer of State may take remedial action, including but not limited to designating a new program administrator through a request for proposals process.~~

Sec. 8. 10 MRSA §375, as amended by PL 2005, c. 191, §5, is further amended to read:

§ 375.Loans

1. Demonstration of purpose of loan. ~~The board~~program administrator may enter into loan agreements with any qualifying borrower and exercise all powers of a lender or creditor. Loan security may include the acquisition, use, management, improvement or disposition of any interest in, or type of, real or personal property, including grant, purchase, sale, borrow, loan, lease, foreclosure, mortgage, assignment or other lawful means, with or without public bidding and also including the assessment of fees, the forgiveness of indebtedness, the receipt of reimbursements for expenses incurred in carrying out its purposes and the expenditure or investment of its funds. The borrower must demonstrate that:

A. The loan will assist one or more persons with disabilities to improve their independence or become more productive members of the community; and

B. The applicant has the ability to repay the loan.

2. Loan limit. Any necessary loan limitation ~~shall~~must be determined by the ~~board~~program administrator.

3. Terms. All loans must be repaid within such terms and at such interest rates as the ~~board~~program administrator may determine to be appropriate ~~in accordance with guidelines established by rulemaking pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375.~~

Sec. 9. 10 MRSA §376, first ¶, as amended by PL 2003, c. 99, §2, is further amended to read:

The ~~board~~program administrator may award loans to qualifying borrowers for the following purposes:

Sec. 10. 10 MRSA §377, first ¶, as enacted by PL 2003, c. 99, §3, is amended to read:

The ~~board~~program administrator may award loans for the purpose of assisting persons with disabilities to purchase used vehicles necessary to obtain or retain employment or employment training, subject to the following limitations.

Sec. 11. 10 MRSA §377, sub-§1, as enacted by PL 2003, c. 99, §3, is amended to read:

1. Qualifications of borrower. A loan may be made under this section only to a qualifying borrower who meets the other requirements of this chapter and who demonstrates a need for a vehicle as part of an individualized plan toward employment developed with a state or community-based organization that provides employment services to persons with disabilities and that is approved by the ~~board~~program administrator.

SUMMARY

This bill transfers administration of the Kim Wallace Adaptive Equipment Loan Program Fund to a program administrator, eliminates the Kim Wallace Adaptive Equipment Loan Program Fund Board, authorizes the establishment of an advisory board to assist the program administrator and transfers authority over the fund from the Finance Authority of Maine to the Treasurer of State.