

**Title 10: COMMERCE AND TRADE**  
**Chapter 110: FINANCE AUTHORITY OF MAINE**

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**Maine Revised Statutes**  
**Title 10: COMMERCE AND TRADE**  
**Chapter 110: FINANCE AUTHORITY OF MAINE**

**Subchapter 1: FINANCE AUTHORITY OF MAINE ACT**

**§961. FINANCE AUTHORITY OF MAINE ACT**

This chapter shall be known and may be cited as the "Finance Authority of Maine Act." [1983, c. 519, §6 (NEW).]

SECTION HISTORY  
1983, c. 519, §6 (NEW).

**§962. PURPOSE**

There is a statewide need to provide enlarged opportunities for gainful employment to the people of the State and to ensure the preservation and betterment of the economy and the general health, safety and welfare of the State and its inhabitants; to provide a more healthy environment through the restoration of purity to the air, the water or the earth of the State which are fouled with, among other things, industrial and other waste materials and pollutants, and to ensure the preservation and betterment of the living standards and health of its inhabitants; to stimulate a larger flow of private investment funds from banks, investment institutions, insurance companies and other financial institutions, including pension and retirement funds, to help finance planning, development, acquisition, construction, improvement, expansion and placing in operation of industrial, manufacturing, recreational, fishing, agricultural, business and natural resource enterprises and eligible projects of the State and its political subdivisions; and to increase the access of smaller business, veterans and students pursuing postsecondary education to financing at reasonable terms and rates. [2013, c. 34, §1 (AMD).]

In order to fulfill these purposes and to make the best use of the State's limited resources, the Finance Authority of Maine shall consider the state economic development strategy and the policies and activities of the Department of Economic and Community Development in implementing its powers, duties and responsibilities. [1987, c. 534, Pt. B, §§5, 23 (NEW).]

The Finance Authority of Maine, as established by this chapter and authorized by Title 5, section 12004-F, subsection 1, to fulfill these purposes is, in addition to its other powers, authorized to: [1989, c. 503, Pt. B, §51 (AMD).]

**1. Loans.** Encourage the making of loans to finance the planning, development, acquisition, construction, improvement, expansion and placing in operation of industrial, manufacturing, recreational, fishing, agricultural and other business and natural resource enterprises;

[ 2003, c. 537, §1 (AMD); 2003, c. 537, §53 (AFF) .]

**2. Revenue obligation securities.** Issue revenue obligation securities to finance eligible projects, except that revenue obligation securities may not be issued for energy distribution system projects or energy generating system projects unless the authority issued a certificate of approval for those eligible projects before January 1, 2020 pursuant to subchapter 3;

[ 2015, c. 504, §1 (AMD) .]

**2-A. Interest subsidies; grants.** Provide interest rate subsidies on commercial loans or grants to businesses and nonprofit organizations;

[ 1987, c. 533, §1 (NEW) .]

**3. Assist municipalities.** Assist municipalities to issue revenue obligation securities for financing eligible projects;

[ 1985, c. 344, §5 (AMD) .]

**4. Small businesses and veteran-owned small businesses.** Encourage the making of loans to small businesses and veteran-owned small businesses;

[ 2003, c. 537, §2 (AMD); 2003, c. 537, §53 (AFF) .]

**5. Natural resource financing.** Provide natural resource financing; and

[ 1989, c. 559, §1 (AMD) .]

**6. Student financial assistance programs.** Provide and administer a comprehensive, consolidated system of student financial assistance programs.

[ 1989, c. 559, §2 (NEW) .]

The authority will serve a public purpose and perform an essential governmental function in the exercise of the powers and duties conferred upon it by this chapter. Any benefits accruing to private individuals or associations, as a result of the activities of the authority, are deemed by the Legislature to be incidental to the public purposes to be achieved by the implementation of this chapter. [1985, c. 344, §5 (AMD) .]

#### SECTION HISTORY

1983, c. 519, §6 (NEW). 1983, c. 812, §62 (AMD). 1985, c. 344, §5 (AMD). 1985, c. 714, §5 (AMD). 1987, c. 533, §1 (AMD). 1987, c. 534, §§B5,B23 (AMD). 1989, c. 503, §B51 (AMD). 1989, c. 559, §§1,2 (AMD). 2003, c. 537, §§1,2 (AMD). 2003, c. 537, §53 (AFF). 2011, c. 586, §1 (AMD). 2013, c. 34, §1 (AMD). 2015, c. 504, §1 (AMD).

## §963. DEFINITIONS

*(REPEALED)*

#### SECTION HISTORY

1983, c. 519, §6 (NEW). 1985, c. 344, §6 (RP).

## §963-A. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1985, c. 344, §7 (NEW) .]

**1. Agricultural enterprise.** "Agricultural enterprise" means knowledge, skill or labor applied to growing or raising plants or animals, harvesting plants or growing or obtaining plant or animal by-products, includes forestry and aquaculture and includes production, processing, storing, packaging or marketing products derived from agricultural enterprise.

[ 1985, c. 344, §7 (NEW) .]

**1-A. Aboveground oil storage facility.** "Aboveground oil storage facility," also referred to as a "facility," means any aboveground oil storage tank or tanks, together with associated piping, and transfer and dispensing facilities located over land or water of the State at a single location for more than 4 months per year and used or intended to be used for the storage or supply of oil. Oil terminal facilities, as defined in Title 38, section 542, subsection 7, and propane facilities are not included in this definition.

[ 1993, c. 601, §1 (NEW) . ]

**1-B. Aboveground oil storage tank.** "Aboveground oil storage tank," also referred to as "tank," means any aboveground container, less than 10% of the capacity of which is beneath the surface of the ground, that is used or intended to be used for the storage or supply of oil. Included in this definition are any tanks situated upon or above the surface of a floor in such a manner that they may be readily inspected.

[ 1993, c. 601, §1 (NEW) . ]

**2. Agricultural land.** "Agricultural land" means land capable of supporting commercial farming and forestry production.

[ 1985, c. 344, §7 (NEW) . ]

**3. Application and service fees.** "Application and service fees" means the amount of money charged for the cost of application, servicing or technical assistance.

[ 1985, c. 344, §7 (NEW) . ]

**4. Authority.** "Authority" means the Finance Authority of Maine as established by this chapter.

[ 1985, c. 344, §7 (NEW) . ]

**5. Bond.** "Bond" means revenue obligation security.

[ 1985, c. 344, §7 (NEW) . ]

**5-A. Clean fuel.** "Clean fuel" means all products or energy sources used to propel motor vehicles, as defined in Title 29-A, section 101, other than conventional gasoline, diesel or reformulated gasoline, that, when compared to conventional gasoline, diesel or reformulated gasoline, results in lower emissions of oxides of nitrogen, volatile organic compounds, carbon monoxide or particulates or any combination of these. "Clean fuel" includes, but is not limited to, compressed natural gas; liquefied natural gas; liquefied petroleum gas; hydrogen; hythane, which is a combination of compressed natural gas and hydrogen; dynamic flywheels; solar energy; alcohol fuels containing not less than 85% alcohol by volume; and electricity.

[ 1997, c. 500, §1 (NEW) . ]

**5-B. Clean fuel vehicle.** "Clean fuel vehicle" means a vehicle that may be propelled by a clean fuel or a fuel-cell electric vehicle that uses any fuel.

[ 1997, c. 500, §1 (NEW) . ]

**5-C. Clean fuel vehicle project.** "Clean fuel vehicle project" means the acquisition or lease of clean fuel vehicles, the acquisition of clean fuel vehicle delivery systems and other clean fuel vehicle components, the conversion of vehicle fuel systems to the use of clean fuels and the acquisition of capital equipment necessary to establish clean fuel vehicle support and maintenance facilities.

[ 1997, c. 500, §1 (NEW) . ]

**6. Commitment to issue loan insurance.** "Commitment to issue loan insurance" means a commitment to provide insurance for loan payments subject to terms specified by the authority.

[ 2003, c. 537, §3 (AMD); 2003, c. 537, §53 (AFF) .]

**7. Cost of project.** "Cost of project" means the cost or value of land, buildings, real estate improvements, labor, materials, machinery and equipment, property rights, easements, franchises, financing charges, interest, engineering and legal services, plans, specifications, surveys, cost estimates, studies and other expenses as may be necessary or incidental to the development, construction, acquisition, financing and placing in operation of an eligible project. In addition to these costs, reserves for payment of future debt on any revenue obligation securities may be included as part of the cost of the project.

Any obligation or expenses incurred by the State, the authority, a municipality or any private person in connection with any of the items of cost specified in this subsection related to revenue obligation securities may be included as part of the cost and reimbursed to the State, the authority, municipality or person out of the proceeds of the securities issued.

[ 1985, c. 344, §7 (NEW) .]

**7-A. Electric rate stabilization project.** "Electric rate stabilization project" means an agreement by a transmission and distribution utility with a qualifying facility, as defined in Title 35-A, section 3303, that will result in the reduction of costs to the transmission and distribution utility and that has been certified by the Public Utilities Commission to meet the standards established under Title 35-A, section 3156.

[ 1999, c. 657, §2 (AMD) .]

**8. Eligible collateral.** "Eligible collateral" means accounts, as-extracted collateral, chattel paper, commercial tort claims, consumer goods, deposit accounts, documents, equipment, farm products, fixtures, general intangibles, instruments, investment property, inventory, letter of credit rights, manufactured homes, money, real estate, supporting obligations and accessions to any of the foregoing and any other business assets.

[ 2003, c. 537, §3 (AMD); 2003, c. 537, §53 (AFF) .]

**9. Eligible enterprise.** "Eligible enterprise" means an agricultural enterprise, fishing enterprise, industrial enterprise, manufacturing enterprise or recreational enterprise.

[ 1985, c. 344, §7 (NEW) .]

**10. Eligible project.** "Eligible project" means any of the following:

- A. Any eligible enterprise; [2003, c. 537, §4 (AMD); 2003, c. 537, §53 (AFF).]
- B. [2003, c. 537, §53 (AFF); 2003, c. 537, §4 (RP).]
- C. [2003, c. 537, §53 (AFF); 2003, c. 537, §4 (RP).]
- D. Any vessel registered under the law of the United States or a state; [1985, c. 344, §7 (NEW) .]
- E. Any energy conservation project; [1985, c. 344, §7 (NEW) .]
- F. Any energy distribution system project; [1985, c. 344, §7 (NEW) .]
- G. Any energy generating system project; [1985, c. 344, §7 (NEW) .]
- H. Any pollution-control project; [1987, c. 521, §1 (AMD) .]
- I. Any water supply system project; [1987, c. 846, §1 (AMD) .]

- J. Any underground oil storage facility replacement project, including equipment installed to meet requirements for gasoline service station vapor control and petroleum liquids transfer vapor recovery; [1991, c. 439, §1 (AMD).]
- K. Any overboard discharge replacement project; [1991, c. 439, §2 (AMD).]
- L. Any hazardous waste or solid waste recycling or reduction project; [1993, c. 712, §2 (AMD).]
- M. Any aboveground oil replacement or upgrade project, including equipment installed to meet requirements for gasoline service station vapor control and petroleum liquids transfer vapor recovery; [1995, c. 4, §1 (AMD).]
- N. Any electric rate stabilization project; [1995, c. 289, §1 (AMD).]
- O. Any major business expansion project; [1997, c. 500, §2 (AMD).]
- P. Any workers' compensation residual market mechanism project; [1999, c. 484, §1 (AMD); 1999, c. 513, §1 (AMD).]
- Q. Any clean fuel vehicle project; [1999, c. 1, §7 (COR).]
- R. Any paper industry job retention project; [2009, c. 372, Pt. D, §1 (AMD).]
- S. (REALLOCATED FROM T. 10, §963-A, sub-§10, ¶R) Any transmission facilities project; [2013, c. 378, §1 (AMD).]
- T. An Efficiency Maine project; and [2013, c. 378, §2 (AMD).]
- U. Any offshore wind energy development as defined in Title 35-A, section 102, subsection 10-A or project to manufacture components for an offshore wind energy development. [2013, c. 378, §3 (NEW).]

"Eligible project" includes any project, the financing of which through the issuance of revenue obligation securities would result in the interest on the revenue obligation securities qualifying, as of the date of issuance, as tax-exempt under 26 United States Code, Section 103, as amended.

"Eligible project" also includes any "recovery zone property," as defined under 26 United States Code, Section 1400U-3, as amended, the financing of which through the issuance of revenue obligation securities would result in the interest on the revenue obligation securities qualifying, as of the date of issuance, as tax-exempt under 26 United States Code, Section 103, as amended. "Eligible project" also includes any project that qualifies for financing with a qualified energy conservation bond.

[ 2013, c. 378, §§1-3 (AMD) .]

**10-A. Efficiency Maine project.** "Efficiency Maine project" means a project approved by the Efficiency Maine Trust Board, as established in Title 5, section 12004-G, subsection 10-C, to carry out the purposes of Title 35-A, chapter 97 relating to increasing energy efficiency or conservation.

[ 2009, c. 372, Pt. D, §4 (NEW) .]

**11. Energy conservation project.** "Energy conservation project" means the purchasing and installation of energy conservation equipment or facilities, including building modifications.

[ 1985, c. 344, §7 (NEW) .]

**12. Energy distribution system project.** "Energy distribution system project" means an energy distribution system owned, in whole or in part, by an individual, municipality, corporation or other governmental entity or business association and that uses biomass, peat, solar, waste, water and related dams, wind, wood or coal or that distributes or transmits oil, biofuels, propane, compressed natural gas, liquefied natural gas or natural gas.

[ 2011, c. 586, §2 (AMD) . ]

**13. Energy generating system project.** "Energy generating system project" means:

A. For a system which does not generate electricity, an energy generating system owned, in whole or in part, by an individual, municipality, corporation or other governmental entity or business association and which system uses biomass, peat, solar, waste, water and related dams, wind, wood or coal, or which is an energy conservation project, including a transportation project consistent with the United States Internal Revenue Service guidelines; or [1985, c. 344, §7 (NEW) . ]

B. For a system that does generate electricity, an energy generating system, including wires, cables and other material and equipment necessary and convenient for the delivery of electricity from the electricity generating facility to the transmission and distribution utility system within the State, that uses biomass, peat, solar, waste, water and related dams, wind, wood or coal and that is owned, in whole or in part, by an individual, municipality, corporation, limited liability company or other governmental entity or business association that qualifies as a cogenerator or small power producer under Title 35-A, chapter 33. [2015, c. 504, §2 (AMD) . ]

[ 2015, c. 504, §2 (AMD) . ]

**14. Entrant to natural resource enterprises.** "Entrant to natural resource enterprises" means an individual or a business organization who or which engages or proposes to engage in one or more natural resource enterprises.

[ 1985, c. 344, §7 (NEW) . ]

**15. Facility.** "Facility" means an eligible project.

[ 2003, c. 537, §5 (AMD); 2003, c. 537, §53 (AFF) . ]

**16. Family farm corporation.** "Family farm corporation" means a corporation formed under the laws of the State for the purpose of farming and owning agricultural land in which at least 2/3 of the stock is held by members of a family related to each other within the 3rd degree of consanguinity or affinity, including the spouses, sons-in-law and daughters-in-law of any such family member.

[ 1985, c. 344, §7 (NEW) . ]

**17. Federal agency.** "Federal agency" or "Federal Government" means the United States, the President of the United States and any current or future corporation, department, agency, authority or instrumentality created, designated or established by the United States, including, but not limited to, the Federal Land Bank, the Federal Intermediate Credit Bank and the Bank for Cooperatives.

[ 1985, c. 344, §7 (NEW) . ]

**17-A. Final remedy selection.** "Final remedy selection" means:

A. In the case of the Department of Environmental Protection, a final determination by the Commissioner of Environmental Protection or the commissioner's designee of the appropriate response action at a waste motor oil disposal site that is an uncontrolled hazardous substance site; and [2007, c. 464, §1 (NEW) . ]

B. In the case of the United States Environmental Protection Agency, the remedy selected in a final record of decision for the so-called Hows Corner Federal Superfund Site in Plymouth, Maine. [ 2007, c. 464, §1 (NEW) . ]

[ 2007, c. 464, §1 (NEW) . ]

**18. Financial document.** "Financial document" means a lease, installment sale agreement, conditional sale agreement, note, mortgage, loan agreement or other instrument pertaining to an extension of financial assistance.

[ 1985, c. 344, §7 (NEW) . ]

**19. Financing assistance.** "Financing assistance" or "financial assistance" means guarantees, leases, insurance, financing credits, loans or the purchase or discounts thereof, letters of credit, financing assistance payments, grants or other financial aid.

[ 1985, c. 344, §7 (NEW) . ]

**20. Financing institution.** "Financing institution" or "financial institution" means any bank, trust company, national banking association, savings bank, savings and loan association, federal savings and loan association, industrial bank, mortgage company, insurance company, credit union, local development corporation or any other institution or entity authorized to do business in this State, or any state or federal agency which customarily provides financing assistance.

[ 1985, c. 344, §7 (NEW) . ]

**21. Fishing enterprise.** "Fishing enterprise" means knowledge, skill or labor applied to growing or catching fish, including shellfish, in fresh or salt water, including aquaculture, and includes production, processing, storing, packaging or marketing products derived from fishing enterprises.

[ 1985, c. 344, §7 (NEW) . ]

## **22. Fund.**

[ 1985, c. 714, §6 (RP) . ]

**23. Industrial enterprise.** "Industrial enterprise" means knowledge, skill or labor applied to conduct of a trade or business, selling of goods, providing services, providing dwelling accommodations, mining, education or discovery, research, development or refinement of new or known substances, processes or products.

[ 1985, c. 344, §7 (NEW) . ]

**24. Insured.** "Insured" means any individual, partnership, corporation, association or other entity which is the beneficiary of a loan insurance agreement with the authority.

[ 1985, c. 344, §7 (NEW) . ]

**24-A. Interest rate swap agreement.** "Interest rate swap agreement" means a financial agreement as defined by the Finance Authority of Maine by rule in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375.

[ 1989, c. 552, §4 (NEW) . ]

**24-B. Insured certificate.** "Insured certificate" means a certificate evidencing fractional undivided ownership interest in a pool of mortgage loans, each of which is insured by the authority pursuant to this chapter, that is insured by the authority pursuant to and subject to the limitations of section 1026-E.

[ 1993, c. 460, §1 (NEW) .]

**25. 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. A lease may include such other terms as the authority may permit or require.

[ 1985, c. 344, §7 (NEW) .]

**26. Lessee.** "Lessee" means a tenant under a lease and may include an installment purchaser.

[ 1985, c. 344, §7 (NEW) .]

**27. Loan.** "Loan" means an extension of credit made in consideration of a written promise of repayment or any other conditions that may be established by the authority, performance of which may be secured by mortgage.

[ 2003, c. 537, §6 (AMD); 2003, c. 537, §53 (AFF) .]

**27-A. Loan insurance agreement.** "Loan insurance agreement" means an agreement pursuant to which the authority insures payment of a loan pursuant to subchapter 2, and also means an agreement pursuant to which the authority insures or guarantees an insured certificate, if the authority's loan insurance liability for insuring an insured certificate is in lieu of and not in addition to its liability for insuring that portion of a mortgage loan represented by the insured certificate.

[ 2003, c. 537, §7 (AMD); 2003, c. 537, §53 (AFF) .]

**28. Local development corporation.** "Local development corporation" means a nonprofit corporation established under Title 13, chapter 81; Title 13-B; or other law acceptable to the authority and empowered to foster, encourage and assist any eligible enterprise.

[ 1985, c. 344, §7 (NEW) .]

**29. Maine Job-start Program.** "Maine Job-start Program" means the program governed by subchapter VII.

[ 1985, c. 344, §7 (NEW) .]

**30. Maine Small Business Loan Program.**

[ 2003, c. 537, §53 (AFF); 2003, c. 537, §8 (RP) .]

**31. Maine Veterans' Small Business Loan Program.**

[ 2003, c. 537, §53 (AFF); 2003, c. 537, §8 (RP) .]

**31-A. Major business expansion project.** "Major business expansion project" means any building, structure, system, machinery, equipment or facility proposed to be constructed, developed, rehabilitated, expanded, modernized or acquired in the State by a business entity that has a projected cost of \$1,000,000 or more, that is projected to result in a net gain of at least 50 job opportunities within the State or the retention of at least 50 jobs, directly or indirectly, and that benefits from financing assistance from the authority including

use of a capital reserve fund pursuant to section 1053. A major business expansion project does not include electric rate stabilization projects or projects primarily involved in the provision of housing or retail sales to consumers.

[ 2001, c. 417, §2 (AMD) .]

**32. Manufacturing enterprise.** "Manufacturing enterprise" means knowledge, skill or labor applied to giving of new shapes, new qualities or new combinations to matter as material products and includes assembling, fabricating, making, creating, working, preparing, milling, processing, recycling, manufacturing, finishing, fashioning, producing, storing, warehousing, preserving, distributing, handling or transporting in any manner goods, wares, merchandise, metals, fabrics, materials, substances, product or matter of any kind or nature including materials recovered from solid and hazardous wastes.

[ 1989, c. 585, Pt. C, §7 (AMD) .]

**33. Maturity date.** "Maturity date" means the date on which final payment is due as provided in a note, revenue obligation security or other financial document.

[ 1985, c. 344, §7 (NEW) .]

**34. Mortgage.** "Mortgage" means an agreement granting a lien upon or a security interest in eligible collateral upon certain conditions and includes, but is not limited to, a mortgage of real estate, an assignment of rents, a pledge or a security agreement.

[ 1985, c. 344, §7 (NEW) .]

**35. Mortgagee.** "Mortgagee" means a grantee or obligee under, or a transferee or successor of a grantee or obligee under, a mortgage.

[ 1985, c. 344, §7 (NEW) .]

**36. Loan Insurance Program.** "Loan Insurance Program" means the program governed by subchapter 2.

[ 2003, c. 537, §9 (AMD); 2003, c. 537, §53 (AFF) .]

**37. Mortgage loan.**

[ 2003, c. 537, §53 (AFF); 2003, c. 537, §10 (RP) .]

**38. Loan payments.** "Loan payments" means payments required by or received on account of a mortgage or any other financial document, including, but not limited to, payments covering interest, installments of principal, taxes, assessments, loan insurance premiums and hazard insurance premiums.

[ 2003, c. 537, §11 (AMD); 2003, c. 537, §53 (AFF) .]

**39. Mortgagor.** "Mortgagor" means the grantor or party giving rights to eligible collateral pursuant to a mortgage and includes the successors or assigns of a mortgagor.

[ 1985, c. 344, §7 (NEW) .]

**39-A. Municipal officers.** "Municipal officers" means municipal officers as defined in Title 30-A, section 2001, subsection 10. "Municipal officers" also means the county commissioners of any county but solely for the purpose of authorizing and facilitating the issuance of recovery zone facility bonds.

[ 2009, c. 517, §2 (NEW) . ]

**40. Municipal Securities Approval Program.** "Municipal Securities Approval Program" means the program governed by subchapter IV.

[ 1985, c. 344, §7 (NEW) . ]

**40-A. Municipality.** "Municipality" means any municipality as defined in Title 30-A, section 2001, subsection 8. "Municipality" also means any county but solely for the purpose of issuing recovery zone facility bonds.

[ 2009, c. 517, §3 (NEW) . ]

**41. Natural resource enterprise.** "Natural resource enterprise" means an agricultural enterprise or a fishing enterprise, but does not include selling of food at wholesale or retail, except when that selling is carried out as part of the natural resource enterprise.

[ 1985, c. 344, §7 (NEW) . ]

**42. Note.** "Note" means an evidence of indebtedness and includes a revenue obligation security.

[ 1985, c. 344, §7 (NEW) . ]

**42-A. Overboard discharge.** "Overboard discharge" means the same as set forth in Title 38, section 466, subsection 9-A.

[ 1987, c. 846, §4 (NEW) . ]

**42-B. Overboard discharge replacement project.** "Overboard discharge replacement project" means the removal, rehabilitation or replacement of a privately owned waste water disposal system utilized by a business which results in an overboard discharge.

[ 1987, c. 846, §4 (NEW) . ]

**42-C. Paper industry job retention project.** "Paper industry job retention project" means the acquisition and improvement of a paper production facility in the State, in which not less than 40% of the ownership of the project will be, at the time the financial assistance is provided, owned or controlled by or for the benefit of a majority of the employees of the project through a qualified employee stock ownership program or other employee ownership program recognized in the federal Internal Revenue Code.

[ 1999, c. 484, §4 (NEW) . ]

**42-C. (REALLOCATED TO T. 10, §963-A, sub-§42-D) Orphan share.**

[ 1999, c. 1, §10 (RAL); 1999, c. 505, Pt. A, §2 (NEW) . ]

**42-D. (REALLOCATED FROM T. 10, §963-A, sub-§42-C) Orphan share.** "Orphan share" means the percentage of the total response costs payable by parties who are bankrupt, dissolved, insolvent or no longer in business or whose current identity or location can not be determined.

[ 1999, c. 1, §10 (RAL) . ]

**42-E. Plymouth waste oil site remedial study.** "Plymouth waste oil site remedial study" means a remedial investigation and feasibility study undertaken in accordance with 40 Code of Federal Regulations, Section 300.430 with respect to the Portland-Bangor Waste Oil Services Site in Plymouth designated by the United States Environmental Protection Agency as a National Priorities List site.

[ 1999, c. 713, §1 (NEW) . ]

**42-F. Past cost settlement.** "Past cost settlement" means the settlement between the potentially responsible parties, the United States and the State, embodied in the consent decree filed with the United States District Court for the District of Maine, Civil Docket 00-249-B.

[ 2001, c. 356, §2 (NEW) . ]

**43. Pollution-control project.** "Pollution-control project" means any building, structure, machinery, equipment or facility, including transportation, equipment or facility, which may be deemed necessary for preventing, avoiding, reducing, controlling, abating or eliminating contamination, solid waste, thermal pollution or pollution by any other means of the air, water or earth, together with all land, property, rights, rights-of-way, franchises, easements and interests in lands necessary or convenient for the construction or operation of the project.

[ 1985, c. 344, §7 (NEW) . ]

**43-A. Professional.** "Professional," when used with reference to office space, means professions or professionals regulated or licensed under applicable state law.

[ 1987, c. 393, §1 (NEW) . ]

**44. Project.** "Project" means any eligible project.

[ 2003, c. 537, §12 (AMD); 2003, c. 537, §53 (AFF) . ]

**44-A. Qualified energy conservation bond.** "Qualified energy conservation bond" has the same meaning as in 26 United States Code, Section 54D(a), as amended.

[ 2009, c. 517, §4 (NEW) . ]

**44-B. Recovery zone facility bond.** "Recovery zone facility bond" has the same meaning as in 26 United States Code, Section 1400U-3, as amended.

[ 2009, c. 517, §5 (NEW) . ]

**45. Recreational enterprise.** "Recreational enterprise" means knowledge, skill or labor applied to providing facilities or opportunities for recreation, culture, entertainment or tourism.

[ 1985, c. 344, §7 (NEW) . ]

**45-A. Recycling or waste reduction project.** "Recycling or waste reduction project" means any building, structure, machinery, equipment or facility which may be considered necessary for recovery, separation, remanufacture or reuse of materials contained in solid or hazardous waste or for the reduced generation of solid or hazardous waste, together with all land, property, rights, rights-of-way, franchises, easements and interests in lands necessary or convenient for the construction or operation of the project.

[ 1989, c. 585, Pt. C, §8 (NEW) . ]

**46. Rent or rental.** "Rent" or "rental" means payments under a lease.

[ 1985, c. 344, §7 (NEW) .]

**47. Resident.** "Resident" or "resident of the State" means a person who is domiciled in this State.

[ 1985, c. 344, §7 (NEW) .]

**47-A. Responsible party.** "Responsible party" has the same meaning as set forth in Title 38, section 1362, subsection 2 and has the same meaning as the term "potentially responsible party" as defined in 40 Code of Federal Regulations, Section 304-12(m).

[ 1999, c. 505, Pt. A, §3 (NEW) .]

**47-B. Response costs.** "Response costs" means:

A. Costs incurred or costs that will be incurred by a responsible party for investigation, study, removal, remediation, institutional controls, alternative water supplies, operation, maintenance, monitoring or other acts or activities to protect human health and the environment at a waste motor oil disposal site; [2007, c. 464, §2 (NEW).]

B. Costs incurred or costs that will be incurred by the Department of Environmental Protection or the United States Environmental Protection Agency in conducting, monitoring or supervising work at a waste motor oil disposal site, in reviewing or developing plans, reports and other items at a waste motor oil disposal site and for administrative activities, including providing notice to responsible parties, at a waste motor oil disposal site; [2007, c. 464, §2 (NEW).]

C. [2011, c. 211, §27 (AFF); 2011, c. 211, §1 (RP).]

D. A payment or payments, including any settlement premium, that a responsible party is required to make pursuant to a final de minimis or cash-out settlement among the United States, the State and one or more responsible parties or pursuant to a final de minimis or cash-out settlement among 2 or more responsible parties; and [2007, c. 618, §1 (AMD).]

E. Damages for injury to or destruction or loss of natural resources, including the reasonable costs of assessing such injury, destruction or loss, resulting from hazardous substances at a waste motor oil disposal site pursuant to Title 38, chapter 13-B and 42 United States Code, Section 9601 et seq. [2007, c. 464, §2 (NEW).]

[ 2011, c. 211, §1 (AMD); 2011, c. 211, §27 (AFF) .]

**47-C. Potentially responsible party (PRP) group.** "Potentially responsible party (PRP) group" means a group of responsible parties organized to manage liabilities at a waste motor oil disposal site listed in subsection 51-E and that have negotiated final settlement agreements with the United States Environmental Protection Agency or the Department of Environmental Protection.

[ 2007, c. 464, §3 (NEW) .]

**47-D. Retirement system.** "Retirement system" means the Maine Public Employees Retirement System, established pursuant to Title 5, chapter 421.

[ 2009, c. 633, §2 (NEW) .]

**48. Revenue Obligation Securities Program.** "Revenue Obligation Securities Program" means the program governed by subchapter III.

[ 1985, c. 344, §7 (NEW) .]

**49. Revenue obligation security.** "Revenue obligation security" or "security" means a note, bond, interim certificate, debenture or other evidence of indebtedness, including any recovery zone facility bond or qualified energy conservation bond, payment of which is secured by a pledge of revenues, as provided in section 1045-A or 1065, or by assignment or pledge of other eligible collateral.

[ 2009, c. 517, §6 (AMD) .]

**49-A. Seller-sponsored loan.** "Seller-sponsored loan" means a loan to one or more individuals or to a family farm corporation from the seller of agricultural land, which loan represents all or a significant portion of the purchase price for that land, provided that the authority has issued a certificate designating the loan as a seller-sponsored loan with respect to an identified seller after finding that the interest rate to be charged is reasonably consistent with current interest rates for loans for the purchase of agricultural land, and that the purchasers intend to use the land primarily for growing or raising plants or animals for business purposes. The loan shall cease to be a seller-sponsored loan if the land ceases to be used for agricultural purposes.

[ 1987, c. 769, Pt. A, §43 (RPR) .]

**49-B. Underground oil storage facility.** "Underground oil storage facility" means any tank, together with associated piping and dispensing facilities, 10% or more of which is located beneath the surface of the ground and not on or above a floor in such a manner that it may be readily inspected, located at a single location and used, formerly used or intended to be used for the marketing and distribution of oil, petroleum products or their by-products to persons or entities other than the owner of the facility.

[ 1989, c. 543, §1 (AMD) .]

**49-C. Underground oil storage facility project.** "Underground oil storage facility project" means the renovation, removal, disposal or replacement of all or any part of an underground oil storage facility that is used for marketing and distribution of oil, petroleum products or their by-products to persons or entities other than the owner of the facility.

[ 2001, c. 231, §1 (AMD) .]

**49-D. Underground oil storage tank; tank.** "Underground oil storage tank" or "tank" means any tank, together with associated piping, 10% or more of which is located beneath the surface of the ground and not on or above a floor in such a manner that it may be readily inspected, located at a single location and used, formerly used or intended to be used for consumption by the owner or user of the tank on the premises.

[ 1989, c. 543, §2 (NEW); 1989, c. 552, §4 (NEW); 1989, c. 878, Pt. A, §23 (RPR) .]

**49-E. Underground oil storage tank project.** "Underground oil storage tank project" or "tank project" means the renovation, removal, disposal or replacement of all or any part of an underground oil storage tank.

[ 2001, c. 231, §2 (AMD) .]

**49-F. Swap counterparty.** "Swap counterparty" means a person who is a party to an interest rate swap agreement.

[ 1989, c. 878, Pt. A, §24 (NEW) .]

**49-G. Total response costs.** "Total response costs" means the total costs that have been or will be paid in association with investigatory, removal or remedial activities at the Portland-Bangor Waste Oil Services Site in Plymouth, including costs incurred by the Department of Environmental Protection, the United States

Environmental Protection Agency and 3rd parties to carry out investigatory, removal or remedial activities at that site approved by the Department of Environmental Protection or the United States Environmental Protection Agency.

[ 2001, c. 356, §3 (AMD) .]

**49-G. (REALLOCATED TO T. 10, §963-A, sub-§49-H) Transmission facilities project.**

[ 1999, c. 1, §11 (RAL); 1999, c. 513, §4 (NEW) .]

**49-H. (REALLOCATED FROM T. 10, §963-A, sub-§49-G) Transmission facilities project.**

"Transmission facilities project" means a project approved by the Northern Maine Transmission Corporation, as established in section 9202, to carry out the purposes of chapter 1003 or any electric transmission, gas transmission, energy transfer or electric generation facility, including necessary appurtenances, otherwise proposed to the authority to benefit northern Maine.

[ 2003, c. 506, §1 (AMD) .]

**49-I. Time-critical removal action.** "Time-critical removal action" means the removal activities undertaken pursuant to the Administrative Order by Consent for Time-Critical Removal Action, United States Environmental Protection Agency Docket No. CERCLA 1-97-1080.

[ 2001, c. 356, §4 (NEW) .]

**49-J. Targeted technologies.** "Targeted technologies" means biotechnology, aquaculture and marine technology, composite materials technology, environmental technology, advanced technologies for forestry and agriculture, information technology and precision manufacturing technology.

[ 2009, c. 633, §3 (NEW) .]

**50. User.** "User" means one or more persons acting as lessee, purchaser, mortgagor or borrower under a financial document.

[ 1985, c. 344, §7 (NEW) .]

**50-A. Value-added.** "Value-added" means that an enhancement to a product or service that increases the value or marketability of the product or service has been applied.

[ 2013, c. 438, §1 (NEW) .]

**51. Veteran.** "Veteran" means any person who served in the United States Armed Forces and was not dishonorably discharged.

[ 1997, c. 489, §4 (AMD) .]

**51-A. Wartime veteran.** "Wartime veteran" means any person who served in the United States Armed Forces during any federally recognized period of conflict who is certified to be a wartime veteran by the Bureau of Maine Veterans' Services and was not dishonorably discharged.

[ 2001, c. 417, §3 (AMD) .]

**51-B. Waste oil.** "Waste oil" means a petroleum-based oil that, through use or handling, has become unsuitable for its original purpose due to the presence of impurities or loss of original properties. "Waste oil" includes mixtures of waste oil and water.

[ 1999, c. 505, Pt. A, §5 (NEW) .]

**51-C. Waste oil disposal site.** "Waste oil disposal site" means the Portland-Bangor Waste Oil Services Site in Plymouth designated by the Department of Environmental Protection as an uncontrolled hazardous substance site.

[ 2001, c. 356, §5 (AMD) .]

**51-D. Waste motor oil.** "Waste motor oil" means any lubricating oil classified for use in an internal combustion engine, transmission, gear box, differential or hydraulics for a motor vehicle, a boat, an off-highway recreational vehicle, commercial or household power equipment, earth-moving equipment, special equipment or special mobile equipment, as defined in Title 29-A, section 101, subsections 69 and 70, that through use, storage or handling has become unsuitable for its original purpose due to the presence of impurities or the loss of original properties.

[ 2007, c. 464, §4 (NEW) .]

**51-E. Waste motor oil disposal site.** "Waste motor oil disposal site" means the following 4 sites where waste motor oil was stored and that are now contaminated and subject to such response action requirements as the Department of Environmental Protection or the United States Environmental Protection Agency may impose according to applicable law:

A. Portland-Bangor Waste Oil Services Site/Hows Corner Federal Superfund Site - Plymouth, Maine; [2007, c. 464, §5 (NEW).]

B. Portland-Bangor Waste Oil Services Site/Maine Uncontrolled Hazardous Substances Site - Ellsworth, Maine; [2007, c. 464, §5 (NEW).]

C. Portland-Bangor Waste Oil Services Site/Maine Uncontrolled Hazardous Substances Site - Casco, Maine; and [2007, c. 464, §5 (NEW).]

D. Portland-Bangor Waste Oil Services Site/Maine Uncontrolled Hazardous Substances Site - Presque Isle, Maine. [2007, c. 464, §5 (NEW).]

[ 2007, c. 464, §5 (NEW) .]

**52. Water supply system project.** "Water supply system project" means any building structure, facilities, machinery, pipes, aqueducts, conduits, drains or the equipment which may be deemed necessary to supply water for municipal, domestic, business or combined use, together with all land, property, rights-of-way, franchises, easements and interests in lands which may be acquired for construction or operation of the project.

[ 1985, c. 344, §7 (NEW) .]

**52-A. Workers' compensation residual market mechanism project.** "Workers' compensation residual market mechanism project" means a loan or loans requested by the Board of Governors of the Maine Workers' Compensation Residual Market Pool pursuant to Title 24-A, section 2395, subsection 5.

[ 1995, c. 289, §4 (NEW) .]

**53. Student pursuing higher education.** "Student pursuing higher education" means an eligible student receiving higher education financial assistance from the authority pursuant to Title 20-A, chapter 421, 423, 424 or 428.

[ 1993, c. 410, Pt. EEEE, §1 (NEW) .]

#### SECTION HISTORY

1985, c. 344, §7 (NEW). 1985, c. 714, §6 (AMD). 1987, c. 141, §B7 (AMD). 1987, c. 393, §§1,2 (AMD). 1987, c. 521, §§1-3 (AMD). 1987, c. 769, §§A43-A45 (AMD). 1987, c. 846, §§1-4 (AMD). 1989, c. 543, §§1,2 (AMD). 1989, c. 552, §4 (AMD). 1989, c. 585, §§C4-8 (AMD). 1989, c. 857, §45 (AMD). 1989, c. 878, §§A23,24 (AMD). 1991, c. 439, §§1-4 (AMD). 1993, c. 410, §EEEE1 (AMD). 1993, c. 427, §3 (AMD). 1993, c. 460, §§1,2 (AMD). 1993, c. 601, §1 (AMD). 1993, c. 712, §§1-4 (AMD). 1995, c. 4, §§1-4 (AMD). 1995, c. 289, §§1-4 (AMD). 1997, c. 489, §§4,5 (AMD). 1997, c. 500, §§1-4 (AMD). RR 1999, c. 1, §§7-11 (COR). 1999, c. 484, §§1-4 (AMD). 1999, c. 504, §8 (AMD). 1999, c. 505, §§A2-5 (AMD). 1999, c. 513, §§1-4 (AMD). 1999, c. 657, §2 (AMD). 1999, c. 713, §1 (AMD). 2001, c. 231, §§1,2 (AMD). 2001, c. 356, §§2-5 (AMD). 2001, c. 417, §§2,3 (AMD). 2003, c. 506, §1 (AMD). 2003, c. 537, §§3-12 (AMD). 2003, c. 537, §53 (AFF). 2007, c. 464, §§1-5 (AMD). 2007, c. 618, §1 (AMD). 2009, c. 372, Pt. D, §§1-4 (AMD). 2009, c. 517, §§1-6 (AMD). 2009, c. 633, §§2, 3 (AMD). 2011, c. 211, §1 (AMD). 2011, c. 211, §27 (AFF). 2011, c. 261, §1 (AMD). 2011, c. 586, §2 (AMD). 2013, c. 378, §§1-3 (AMD). 2013, c. 438, §1 (AMD). 2015, c. 504, §2 (AMD).

## §964. ORGANIZATION AND RESPONSIBILITY

**1. Finance Authority of Maine.** The Finance Authority of Maine is established as a body corporate and politic and a public instrumentality of the State, and the exercise by the authority of the powers conferred by this chapter shall be deemed and held to be the performance of essential governmental functions.

The Finance Authority of Maine shall be responsible for the administration of the:

- A. Loan Insurance Program; [2003, c. 537, §13 (AMD); 2003, c. 537, §53 (AFF).]
- B. Revenue Obligation Securities Program; [1983, c. 519, §6 (NEW).]
- C. Municipal Securities Approval Program; [1983, c. 519, §6 (NEW).]
- D. [2003, c. 537, §53 (AFF); 2003, c. 537, §14 (RP).]
- E. [2003, c. 537, §53 (AFF); 2003, c. 537, §15 (RP).]
- F. Natural Resources Financing and Marketing Programs; [1985, c. 344, §8 (AMD).]
- G. Maine Job-start Program; [1989, c. 559, §3 (AMD).]
- H. Such other programs as the authority may by law be authorized to administer; [1989, c. 559, §3 (AMD); 1989, c. 774, §1 (AMD).]
- I. Student financial assistance programs; and [1989, c. 559, §4 (NEW); 1989, c. 774, §2 (AMD).]
- J. Waste oil furnace loan program. [1989, c. 774, §3 (NEW).]

[ 2003, c. 537, §§13-15 (AMD); 2003, c. 537, §53 (AFF) .]

**2. Divisions.** The Finance Authority of Maine contains such divisions as may be of assistance to implement the programs and perform the duties as defined in this chapter and as required by the authority. The divisions include:

- A. [2001, c. 417, §4 (RP).]
- B. [2001, c. 417, §4 (RP).]
- C. Business Assistance; [2001, c. 417, §4 (AMD).]
- D. Finance and Administration; [2001, c. 417, §4 (AMD).]
- E. Education Assistance; and [2001, c. 417, §4 (AMD).]
- F. Legal. [2001, c. 417, §4 (NEW).]

[ 2001, c. 417, §4 (AMD) .]

**3. Programs and policies.** In implementing its powers, duties, responsibilities and programs, the Finance Authority of Maine shall consider the state economic development strategy and the policies and activities of the Department of Economic and Community Development.

[ 1987, c. 534, Pt. B, §§6, 23 (NEW) .]

#### SECTION HISTORY

1983, c. 519, §6 (NEW). 1985, c. 344, §§8,9 (AMD). 1987, c. 534, §§B6,B23 (AMD). 1989, c. 552, §5 (AMD). 1989, c. 559, §§3,4 (AMD). 1989, c. 598, §§2,3 (AMD). 1989, c. 698, §4 (AMD). 1989, c. 774, §§1-3 (AMD). 2001, c. 417, §4 (AMD). 2003, c. 537, §§13-15 (AMD). 2003, c. 537, §53 (AFF).

## §965. MEMBERSHIP

There shall be 15 voting members of the authority as follows. [1989, c. 598, §4 (AMD).]

### 1. Selected board members.

[ 2001, c. 417, §5 (RP) .]

**2. Designated members.** Three members appointed by the Governor and subject to review by the joint standing committee of the Legislature having jurisdiction over economic development and subject to confirmation by the Legislature shall consist of:

- A. One member who is a certified public accountant; [1983, c. 519, §6 (NEW).]
- B. One member who is an attorney; and [1983, c. 519, §6 (NEW).]
- C. One member who is a commercial banker. [1983, c. 519, §6 (NEW).]

[ 1987, c. 596, §1 (AMD) .]

**3. At-large members.** Nine members appointed by the Governor in accordance with the following and subject to review by the joint standing committee of the Legislature having jurisdiction over economic development matters and subject to confirmation by the Legislature must be appointed from at large.

- A. Two of the at-large members must be veterans. [2001, c. 417, §6 (NEW).]
- B. Two of the at-large members must be knowledgeable in the field of natural resource enterprises or financing. [2001, c. 417, §6 (NEW).]
- C. One of the at-large members must be knowledgeable in the field of student financial assistance. [2001, c. 417, §6 (NEW).]

D. One of the at-large members must be knowledgeable in the field of higher education. [2001, c. 417, §6 (NEW).]

[2001, c. 417, §6 (AMD) .]

**4. State members.** Three members of the authority shall represent the State and shall consist of:

A. The Commissioner of Economic and Community Development or the commissioner's designee; [2005, c. 425, §24 (AMD).]

B. One natural resources commissioner designated by the Governor from either the Department of Agriculture, Conservation and Forestry or the Department of Marine Resources; and [1985, c. 344, §12 (AMD); 2011, c. 657, Pt. W, §5 (REV).]

C. The Treasurer of State, ex officio. [1987, c. 403, §2 (RPR).]

[2005, c. 425, §24 (AMD); 2011, c. 657, Pt. W, §5 (REV) .]

**4-A. Director; serving on more than one board.** With the exception of a member serving in an ex officio capacity pursuant to subsection 4, a member may not serve at the same time as a director or officer of any nonprofit corporation formed pursuant to the former Title 20, section 2237 and Title 20-A, section 11407 or of any entity that has a contract to provide a significant level of administrative services to the authority or to any nonprofit corporation formed pursuant to the former Title 20, section 2237 and Title 20-A, section 11407.

[2015, c. 170, §6 (AMD); 2015, c. 170, §30 (AFF) .]

**5. Compensation.** A member of the authority shall be compensated as provided in Title 5, chapter 379.

[1985, c. 344, §13 (NEW) .]

#### SECTION HISTORY

1983, c. 519, §6 (NEW). 1985, c. 344, §§10-13 (AMD). 1987, c. 403, §§1,2 (AMD). 1987, c. 534, §§B7,B23 (AMD). 1987, c. 596, §1 (AMD). 1989, c. 559, §§5-7 (AMD). 1989, c. 598, §§4,5 (AMD). 1989, c. 698, §5 (AMD). 1991, c. 511, §A1 (AMD). 1991, c. 854, §§A1,2 (AMD). 1993, c. 359, §§C2,3 (AMD). 1999, c. 728, §9 (AMD). 2001, c. 417, §§5,6 (AMD). 2005, c. 425, §24 (AMD). 2011, c. 657, Pt. W, §5 (REV). 2015, c. 170, §6 (AMD). 2015, c. 170, §30 (AFF).

## §966. TERMS OF OFFICE

The terms of office for the designated and at-large members defined in section 965, subsections 2 and 3, are for 4 years, except for initial appointees. [2001, c. 417, §7 (AMD).]

**1. Initial terms of office.** The initial terms of office shall apply to the initial designated and at-large appointees, as defined in section 965, subsections 2 and 3. The initial terms of office for these members shall be as follows:

A. One shall be appointed for one year; [1983, c. 519, §6 (NEW).]

B. Two shall be appointed for 2 years; [1983, c. 519, §6 (NEW).]

C. Two shall be appointed for 3 years; and [1983, c. 519, §6 (NEW).]

D. One shall be appointed for one year. [1983, c. 519, §6 (NEW).]

For purposes of determining eligibility for reappointment of the designated and at-large members, the initial appointments for one or 2 years, as described in paragraphs A and B, shall not be deemed to be full terms.

[ 1983, c. 519, §6 (NEW) .]

**2. Limitation on terms; removal.** Except for state members, a member of the authority shall serve no more than 2 full consecutive terms. Any member of the board may be removed by the Governor for cause.

[ 1983, c. 519, §6 (NEW) .]

#### SECTION HISTORY

1983, c. 519, §6 (NEW). 2001, c. 417, §7 (AMD).

## **§967. COMPENSATION; EXPENSES; INDEMNIFICATION** *(REPEALED)*

#### SECTION HISTORY

1983, c. 519, §6 (NEW). 1983, c. 812, §§63,64 (AMD). 1985, c. 344, §14 (RP).

### **§967-A. LIMITATION OF LIABILITY**

No member of the authority, no member of any board of the authority and no employee of the authority may be subject to any personal liability for having acted within the course and scope of his membership or employment to carry out any power or duty under this chapter. 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 him in connection with the defense of any action or proceeding in which he is made a party by reason of past or present association with the authority. [1985, c. 344, §15 (NEW) .]

#### SECTION HISTORY

1985, c. 344, §15 (NEW).

## **§968. ADMINISTRATION**

The authority shall elect one of its members as chairman; one member as vice-chairman, who shall serve as secretary; one member as treasurer; and shall employ a chief executive officer. [1983, c. 519, §6 (NEW) .]

#### SECTION HISTORY

1983, c. 519, §6 (NEW).

## **§969. POWERS AND DUTIES OF THE AUTHORITY** *(REPEALED)*

#### SECTION HISTORY

1983, c. 519, §6 (NEW). 1985, c. 344, §16 (RP).

### **§969-A. POWERS AND DUTIES OF THE AUTHORITY**

The authority may, subject to any limitation of this chapter: [1985, c. 344, §17 (NEW) .]

**1. Borrow.** Borrow money or otherwise obtain credit in its own name;

[ 1985, c. 344, §17 (NEW) .]

**2. Lend.** Lend money or otherwise extend credit to any person and exercise all powers of a lender or creditor;

[ 1985, c. 344, §17 (NEW) .]

**2-A. Interest subsidies; grants.** Provide grants or interest rate subsidies on commercial loans to businesses, farms and nonprofit organizations and provide or participate in interest rate cap agreements and other agreements providing businesses with protection against interest rate fluctuations;

[ 1991, c. 511, Pt. A, §2 (AMD) .]

**3. Insure.** Insure or guarantee performance of any loan agreement or other obligation, including taking all actions necessary to implement and administer a program of insurance for loans to students pursuing postsecondary education;

[ 2013, c. 34, §2 (AMD) .]

**4. Property.** Acquire, use, improve or dispose 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 receipt of reimbursements for expenses incurred in carrying out its purposes and the expenditure or investment of its funds;

[ 1985, c. 344, §17 (NEW) .]

**5. Loan transactions.** Purchase, sell, service, pledge, invest in, hold, trade, accept as collateral or otherwise deal in, acquire or transfer, on such terms and conditions as the authority may specify, any loan, pass-through certificate, pledge including any pledge of revenue participation certificate, revenue obligation security or other mortgage-backed or mortgage-related security. Any such transaction may be conducted by public or private offering, with or without public bidding. In connection with the purchase or sale of a loan or of a beneficial interest or participation in a loan, the authority may enter into one or more agreements providing for the custody, control and administration of the loan. Any such agreement may provide that the authority, a financial institution or other person shall act as trustor, trustee or custodian under the agreement. Any such agreement may provide that, with respect to loans governed by the agreement, title to a loan, or to a beneficial interest or participation in a loan, is deemed to have been transferred on terms and to the extent specified in that agreement and that the effect of a sale of a beneficial interest or participation in a loan is the same as a sale of a loan.

The authority may issue or cause to be issued certificates or other instruments evidencing the holder's fractional interest in a pool of loans, which interest may be undivided or limited to one or more specific loans. Whether or not the certificates or instruments are of such form or character as to be negotiable instruments under Title 11, article 3-A, the certificates or instruments are negotiable instruments within the meaning of and for all the purposes of Title 11, article 3-A, subject only to such registration requirements as the authority may establish.

In connection with the exercise of the powers authorized in this subsection and those powers otherwise granted to the authority, the authority may create and operate a secondary market and warehousing facility or facilities for loans or the insured portion of loans that provide liquidity to lenders making loans;

[ 2003, c. 537, §16 (AMD); 2003, c. 537, §53 (AFF) .]

**6. Information.** Obtain, develop or disseminate any information useful or convenient for carrying out any purpose or power of the authority, including any information pertaining to:

- A. Management or financing of any enterprise or project eligible for assistance from the authority; [1985, c. 344, §17 (NEW).]
- B. Producing, processing or marketing of any product of any enterprise eligible for assistance from the authority; [1985, c. 344, §17 (NEW).]
- C. Land use; [1985, c. 344, §17 (NEW).]
- D. Other regulatory or assistance programs, resources or services; [1985, c. 344, §17 (NEW).]
- E. Design and construction techniques; and [1985, c. 344, §17 (NEW).]
- F. Any project receiving financial assistance from or through the authority, including, without limitation, by means of examination of books or records pertaining to the project. [1985, c. 344, §17 (NEW).]

The authority may conduct hearings, hear testimony under oath, administer oaths, issue subpoenas requiring the attendance of witnesses or the production of records or other things and may issue commissions for the examination of witnesses who are outside of the State or unable to attend or are excused from attendance;

[ 1985, c. 344, §17 (NEW) .]

**6-A. Matching service.** Subject to the requirements and limitations of applicable law, establish and implement a program to assist the growth of business within the State by matching businesses seeking investment capital with investors seeking investment opportunities;

[ 1989, c. 552, §6 (NEW) .]

**7. Insurance.** Procure insurance in aid of any of its corporate purposes;

[ 1985, c. 344, §17 (NEW) .]

**8. Nonprofit entity.** In accordance with the limitations and restrictions of this chapter, cause any of its powers or duties to be carried out by one or more nonprofit organizations exempt from taxation under the Internal Revenue Code and organized, created or operated under the laws of this State;

[ 1989, c. 765, §1 (AMD) .]

**9. Certifications.** Obtain any certification, warranty, affidavit or other representation necessary or useful for carrying out any of its powers or duties;

[ 1985, c. 344, §17 (NEW) .]

**10. Employees.** 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. The authority shall obtain fidelity insurance coverage on behalf of its full-time employees. Employees of the authority shall not be subject to Title 5, chapters 71 and 372. The members of the authority may by rulemaking pursuant to Title 5, chapter 375, subchapter II, delegate powers and duties of the authority to employees of the authority and each employee is fully authorized to act in the name and on behalf of the authority pursuant to any delegation;

[ 1989, c. 502, Pt. C, §3 (AMD) .]

**11. Sue; be sued.** Sue or initiate or appear in any proceeding. The authority may be sued in accordance with Title 1, section 409; Title 5, chapter 375; or Title 14, chapter 741;

[ 1985, c. 344, §17 (NEW) .]

**12. Office.** Maintain an office at a place designated by it within the State;

[ 1985, c. 344, §17 (NEW) .]

**13. Seal.** Adopt an official seal and alter it at pleasure;

[ 1985, c. 344, §17 (NEW) .]

**14. Rules.** Pursuant to Title 5, chapter 375, adopt any rule, including its bylaws, necessary or useful for carrying out any of its powers or duties;

[ 1985, c. 344, §17 (NEW) .]

**14-A. Receive funds.** 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 chapter, 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. In fiscal year 1992-93 only, the State Controller shall pay the authority's state allotment to the authority on July 1st and December 1st of that year. Effective July 1, 1993, the State Controller shall pay the authority's state allotment on the first day of each quarter to meet the estimated quarterly disbursement requirements of the authority for higher education programs. The authority shall submit a General Fund request for the fiscal year 1993-94 and fiscal year 1994-95 biennium in accordance with Title 5, section 1665 to support the administration of higher education programs;

[ 1991, c. 780, Pt. P, §1 (AMD) .]

**14-B. Invest funds.** Invest funds received from any source for carrying out this chapter, and expend interest earnings on those funds as appropriate to implement this chapter, including use for program and administrative costs;

[ 1989, c. 698, §6 (NEW) .]

**14-C. Student loan secondary market.** Take all actions necessary to implement and administer a student loan secondary market;

[ 2003, c. 455, §1 (NEW) .]

**15. Agreements.** Make, modify and carry out any agreement necessary or useful for carrying out any of its powers, duties or purposes, including without limitation any construction agreement, purchase or acquisition agreement, loan or lease agreement, agreement conditioned upon the subleasing of the demised premises, partnership agreement, limited partnership agreement, joint venture agreement, participation agreement or agreement with leasing corporations or other financial intermediaries; and

[ 1985, c. 344, §17 (NEW) .]

**16. Other powers.** Do any act or thing necessary or useful for carrying out any of its powers, duties or purposes.

[ 1985, c. 344, §17 (NEW) .]

#### SECTION HISTORY

1985, c. 344, §17 (NEW). 1985, c. 714, §7 (AMD). 1985, c. 818, §1 (AMD). 1989, c. 502, §C3 (AMD). 1989, c. 552, §6 (AMD). 1989, c. 698, §6 (AMD). 1989, c. 765, §1 (AMD). 1991, c. 511, §§A2,3 (AMD). 1991, c. 780, §P1 (AMD). 2003, c. 455, §1 (AMD). 2003, c. 537, §16 (AMD). 2003, c. 537, §53 (AFF). 2013, c. 34, §2 (AMD).

## **§970. INSURED OR GUARANTEED LOANS FOR INDUSTRIAL PROJECTS** *(REPEALED)*

### SECTION HISTORY

1983, c. 519, §6 (NEW). 1985, c. 344, §18 (RP).

## **§970-A. OTHER MORTGAGE INSURANCE**

In carrying out the purposes of this chapter, the authority shall, to the greatest extent possible, require the utilization of private or other governmental sources of mortgage insurance or credit enhancement devices in order to assure the most effective and efficient use of state resources for mortgage insurance. [1985, c. 344, §19 (NEW).]

### SECTION HISTORY

1985, c. 344, §19 (NEW).

## **§971. ACTIONS OF THE MEMBERS**

Seven members of the authority constitute a quorum of the members. The affirmative vote of the greater of 5 members, present and voting, or a majority of those members present and voting is necessary for any action taken by the members. No vacancy in the membership of the authority may impair the right of the quorum to exercise all powers and perform all duties of the members. [1995, c. 117, Pt. C, §1 (AMD).]

Notwithstanding any other provision of law, in a situation determined by the chief executive officer to be an emergency requiring action of the members on not more than 3 days' oral notice, an emergency meeting of the members may be conducted by telephone in accordance with the following. [1995, c. 117, Pt. C, §1 (NEW).]

**1. Placement of call.** A conference call to the members must be placed by ordinary commercial means at an appointed time.

[ 1995, c. 117, Pt. C, §1 (NEW) .]

**2. Record of call.** The authority shall arrange for recordation of the conference call when appropriate and prepare minutes of the emergency meeting.

[ 1995, c. 117, Pt. C, §1 (NEW) .]

**3. Notice of emergency meeting.** Public notice of the emergency meeting must be given in accordance with Title 1, section 406 and that public notice must include the time of the meeting and the location of a telephone with a speakerphone attachment that enables all persons participating in the telephone meeting to be heard and understood and that is available for members of the public to hear the business conducted at the telephone meeting.

[ 1995, c. 117, Pt. C, §1 (NEW) .]

### SECTION HISTORY

1983, c. 519, §6 (NEW). 1985, c. 344, §20 (AMD). 1985, c. 714, §8 (AMD). 1995, c. 117, §C1 (AMD).

## §972. CHIEF EXECUTIVE OFFICER

The chief executive officer shall be the chief administrative officer of the authority and shall be appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over housing and economic development and to confirmation by the Legislature. At least 10 days before the Governor seeks review by the joint standing committee, the Governor shall consult with the members of the authority regarding the proposed appointee. [1989, c. 4, §1 (AMD).]

The chief executive officer shall supervise the administrative affairs and technical activities of the authority in accordance with rules and policies of the authority. The chief executive officer shall, in the name and on behalf of the authority: [1985, c. 344, §21 (AMD).]

**1. Employ directors.** In accordance with procedures of the authority, employ the directors of the divisions established by the authority. The directors shall serve at the pleasure of the chief executive officer;

[ 1993, c. 359, Pt. C, §4 (AMD) .]

**2. Employ professional and nonprofessional personnel.** In accordance with procedures of the authority, employ professional and nonprofessional personnel, including private legal counsel and financial experts, of the authority. The personnel shall serve at the pleasure of the chief executive officer;

[ 1985, c. 344, §21 (AMD) .]

**3. Provide for coordination of personnel and programs.** Provide for the sharing of personnel among the divisions and the authority and provide for the coordination of administration of common projects and programs;

[ 1985, c. 344, §21 (AMD) .]

**4. Attend meetings.** Attend or be represented at meetings of the members and boards of the authority;

[ 1985, c. 344, §21 (AMD) .]

**5. Approve expenses.** Approve all accounts for salaries, per diems, allowable expenses of the authority, or of any employee or consultant, and expenses incidental to the operation of the authority;

[ 1983, c. 519, §6 (NEW) .]

**6. Publish an annual report.** Make an annual report to the members of the authority documenting its actions and make other reports at the request of the members of the authority;

[ 1985, c. 344, §21 (AMD) .]

**7. Maintain a liaison with other state agencies.** Maintain a close liaison with the Department of Economic and Community Development; Department of Agriculture, Conservation and Forestry; and Department of Marine Resources; and provide assistance to facilitate the planning and financing of eligible projects;

[ 1989, c. 552, §8 (AMD); 2011, c. 657, Pt. W, §5 (REV) .]

**8. Perform other duties.** Perform other duties directed by action of the members of the authority in carrying out the purposes of this chapter; and

[ 1985, c. 344, §21 (AMD) .]

**9. Provide information on employment opportunities.** Provide copies of the employment plans required by section 979 to the Department of Labor and the Department of Health and Human Services.

[ 1987, c. 697, §1 (RPR); 2003, c. 689, Pt. B, §6 (REV) .]

#### SECTION HISTORY

1983, c. 519, §6 (NEW). 1985, c. 344, §21 (AMD). 1987, c. 534, §§B8,B23 (AMD). 1987, c. 697, §1 (AMD). 1989, c. 4, §1 (AMD). 1989, c. 552, §§7,8 (AMD). 1989, c. 598, §6 (AMD). 1989, c. 698, §7 (AMD). 1993, c. 359, §C4 (AMD). 2003, c. 689, §B6 (REV). 2011, c. 657, Pt. W, §5 (REV).

### §973. CONFLICTS OF INTEREST

Notwithstanding Title 5, section 18, subsection 1, paragraph B, each member of the authority and each employee, contractor, agent or other representative of the authority is deemed an "executive employee" solely for purposes of Title 5, section 18, and for no other purpose, except that the chief executive officer in addition is deemed an "executive employee" for purposes of Title 5, section 19. Title 17, section 3104 does not apply to any of those representatives. [2001, c. 417, §8 (AMD).]

#### SECTION HISTORY

1983, c. 519, §6 (NEW). 1985, c. 344, §22 (RPR). 1989, c. 598, §7 (AMD). 1989, c. 698, §8 (AMD). 1993, c. 359, §C5 (AMD). 1993, c. 460, §3 (AMD). 1993, c. 460, §9 (AFF). 1995, c. 462, §A16 (RPR). 2001, c. 417, §8 (AMD).

### §974. ANNUAL REPORT; AUDIT

**1. Report.** The authority shall submit to the Governor, the Speaker of the House of Representatives, the President of the Senate and the joint standing committees of the Legislature having jurisdiction over housing and economic development and education, 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 its operations, including a description of projects assisted under this chapter; [1985, c. 344, §23 (AMD).]

B. An accounting of its receipts and expenditures, assets and liabilities at the end of its fiscal year; [1983, c. 519, §6 (NEW).]

C. A schedule of the bonds and notes outstanding at the end of its fiscal year and a statement of the amounts redeemed and issued during its fiscal year, including a report on its reserve funds; [1983, c. 519, §6 (NEW).]

D. A statement of its proposed and projected activities for the ensuing year and the relationship of these activities to the State's economic development policies; [1989, c. 552, §9 (AMD).]

E. Recommendations as to further actions which may be suitable for achieving the purposes of this chapter; [1983, c. 730, §1 (AMD).]

F. A statement of the defaults, if any, of persons, firms, corporations and other organizations receiving assistance under this chapter in those cases where substantial liquidation of collateral has taken place, a statement of the total amount of mortgage insurance payments made during the fiscal year and a

statement of the percentage derived by dividing the amount of the mortgage insurance payments during the fiscal year into the outstanding principal balance as of the fiscal year end of the authority's unpaid obligations pursuant to mortgage insurance contracts; [1985, c. 714, §9 (AMD).]

G. A summary of the actual and potential employment opportunities reported on employment plans pursuant to section 979; [1987, c. 697, §2 (AMD).]

H. A separate section pertaining to the activities of the authority carried out pursuant to subchapter I-A, which shall provide the following:

- (1) A description of the operations of the authority pursuant to subchapter I-A, including a description of the progress toward the accomplishment of the purposes of section 982;
- (2) An analysis of the needs of the natural resource-based sector in the State and a statement of the authority's proposed and projected activities for the ensuing year to meet these needs; and
- (3) Recommendations as to further actions which may be suitable for achieving the purposes of subchapter I-A; [1985, c. 344, §23 (NEW).]

I. A description of any financial assistance provided for energy conservation purposes, the success of various energy saving techniques assisted and the overall energy benefits achieved by the financial assistance; [1989, c. 552, §9 (AMD); 1989, c. 698, §9 (AMD).]

J. [1989, c. 552, §9 (RP).]

K. A description of the operations of the authority pursuant to section 980-A for the most recent calendar year and of its plans, if any, for revising any allocation system established pursuant to section 980-A; and [1989, c. 698, §9 (AMD).]

L. A complete report on the student financial assistance activities of the authority. [1989, c. 698, §9 (NEW).]

[ 1989, c. 552, §9 (AMD); 1989, c. 698, §9 (AMD) .]

**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 is also subject to the provisions of Title 5, chapter 11. The authority may combine for accounting purposes any or all funds established for its programs and activities.

[ 1989, c. 698, §9 (AMD) .]

#### SECTION HISTORY

1983, c. 519, §6 (NEW). 1983, c. 730, §§1,2 (AMD). 1985, c. 344, §23 (AMD). 1985, c. 714, §§9,10 (AMD). 1987, c. 697, §2 (AMD). 1989, c. 552, §9 (AMD). 1989, c. 698, §9 (AMD).

## §975. RECORDS CONFIDENTIAL

*(REPEALED)*

#### SECTION HISTORY

1983, c. 519, §6 (NEW). 1985, c. 344, §24 (RP).

## §975-A. DISCLOSURE AND CONFIDENTIALITY OF RECORDS

**1. Disclosure required.** Notwithstanding subsections 2 and 3 and except as provided in paragraph F, the following shall 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 which the authority may determine:

A. After filing of a written application or proposal for financial assistance or property transfer, in form specified by or acceptable to the authority:

- (1) Names of recipients of or applicants for financial assistance, including principals, where applicable;
- (2) Amounts, types and general terms of financial assistance provided to those recipients or requested by those applicants;
- (3) Descriptions of projects and businesses benefiting or to benefit from the financial assistance;
- (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) Number of jobs and the amount of tax revenues projected or resulting in connection with a project;
- (6) Upon the authority's satisfaction of its loan insurance liability, the amount of any loan insurance payments with respect to a loan insurance contract; and
- (7) Names of financial institutions participating in providing financial assistance and the general terms of that financial assistance; [2003, c. 537, §17 (AMD); 2003, c. 537, §53 (AFF).]

B. Any information pursuant to waiver deemed satisfactory by the authority; [1985, c. 344, §25 (NEW).]

C. Information which, as determined by the authority, has already been made available to the public; [1985, c. 344, §25 (NEW).]

D. Any information necessary to carry out section 1043 or 1063; [1985, c. 344, §25 (NEW).]

E. Information necessary to comply with Title 1, section 407, subsection 1; [1985, c. 344, §25 (NEW).]

F. Information or records specified in a written request signed by the chairmen of a legislative committee shall 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; and [1985, c. 344, §25 (NEW).]

G. The annual report of the authority required pursuant to section 974. [1985, c. 344, §25 (NEW).]

[ 2003, c. 537, §17 (AMD); 2003, c. 537, §53 (AFF) .]

**2. Confidential information.** The following records are designated as confidential for purposes of Title 1, section 402, subsection 3, paragraph A:

A. Any record obtained or developed by the authority prior to receipt of a written application or proposal, in form specified by or acceptable to the authority, for financial assistance 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 shall not be considered confidential unless it meets the requirements of other paragraphs of this subsection; [1985, c. 344, §25 (NEW).]

B. Any record obtained or developed by the authority which 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 information in the record gives the owner or a user an opportunity to obtain business or competitive advantage over another person who does not have access to the information, except through authority records, or that access to the information by others would result in a business or competitive disadvantage, loss of business or other significant

detriment, other than loss or denial of financial assistance from the authority, in the case of a person other than the authority, to any person to whom the record belongs or pertains; [1985, c. 344, §25 (NEW).]

C. Any 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; [1985, c. 344, §25 (NEW).]

D. Any record including any 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 provided or to be provided by or with the assistance of the authority; [1985, c. 344, §25 (NEW).]

E. Any record obtained or developed by the authority which 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; [1989, c. 552, §10 (NEW).]

F. Any financial statement or business and marketing plan in connection with any project receiving or to receive financial assistance from the authority pursuant only to subchapters III or IV, except section 1053, subsection 5, if a person to whom the statement or plan belongs or pertains has requested that the record be designated confidential; and [1989, c. 552, §10 (AMD).]

G. Any record, including any financial statement, business plan or tax return obtained or developed by the authority in connection with the matching of potential investors with Maine businesses by the authority through its maintenance of a data base or other record keeping system. For purposes of this section, an application by a potential investor shall not be deemed to be an application for financial assistance. [1989, c. 552, §11 (NEW).]

[ 1989, c. 552, §§10, 11 (AMD) .]

**3. Wrongful disclosure prohibited.** No member, officer, employee, agent, other representative of the authority or other person may 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 or under the following circumstances:

A. Impersonal, statistical or general information; [1985, c. 344, §25 (NEW).]

B. If necessary in connection with processing any application for, obtaining or maintaining financial assistance for any person or in connection with acquiring, maintaining or disposing of property; [1985, c. 344, §25 (NEW).]

C. To a financing institution or credit reporting service; [1985, c. 344, §25 (NEW).]

D. Information necessary to comply with any federal or state law, including section 979, or rule or with any agreement pertaining to financial assistance; [1987, c. 697, §3 (AMD).]

E. Information to the extent the authority deems the disclosure necessary to the sale or transfer of revenue obligation securities or to the sale or transfer of bonds of the State; [1985, c. 344, §25 (NEW).]

F. If necessary to assure collection of any obligation in which it has or may have an interest; [1985, c. 344, §25 (NEW).]

G. In any litigation or proceeding in which the authority has appeared, introduction for the record of any information obtained from records declared confidential by this section; and [1985, c. 344, §25 (NEW).]

H. Pursuant to a subpoena, request for production of documents, warrant or other order by competent authority, provided that any such order appears to have first been served on the person to whom the confidential information sought pertains or belongs and provided that any such order appears on its face or otherwise to have been issued or made upon lawful authority. [1985, c. 344, §25 (NEW).]

[ 1987, c. 697, §3 (AMD) .]

**4. Records on effective date.** Whether any record in the possession of the authority on the effective date of this section is confidential shall be determined pursuant to this section and not pursuant to the law in effect when the authority or any of its predecessors obtained any such record and any such record shall or may be disclosed or divulged to the extent required or permitted by this section.

[ 1985, c. 344, §25 (NEW) .]

#### SECTION HISTORY

1985, c. 344, §25 (NEW). 1987, c. 697, §3 (AMD). 1989, c. 552, §§10,11 (AMD). 2003, c. 537, §17 (AMD). 2003, c. 537, §53 (AFF).

### §976. LIBERAL CONSTRUCTION

This chapter, being necessary for the welfare of the State and its inhabitants, shall be liberally construed. In the event of any conflict between this chapter and any other law, this chapter shall prevail, but the power and authority granted is deemed to be in addition to and not in derogation of power and authority granted by any other law. [1983, c. 519, §6 (NEW).]

#### SECTION HISTORY

1983, c. 519, §6 (NEW).

### §977. THE FINANCE AUTHORITY OF MAINE; SUCCESSOR

The authority shall be the successor to the Maine Guarantee Authority, the Maine Veterans Small Business Loan Authority and the Maine Small Business Loan Authority. All properties, rights in land, buildings and equipment and any funds, moneys, revenues and receipts or assets of each of the authorities, including funds previously appropriated by the State for the Maine Guarantee Authority, the Maine Veterans Small Business Loan Authority and the Maine Small Business Loan Authority shall belong to the Finance Authority of Maine as successor. All liabilities of the Maine Guarantee Authority, the Maine Veterans Small Business Loan Authority and the Maine Small Business Loan Authority shall become liabilities of the Finance Authority of Maine. Any resolution with respect to the issuance of bonds or insurance by the Maine Guarantee Authority, the Maine Veterans Small Business Loan Authority, the Maine Small Business Loan Authority and any other action taken by them with respect to assisting in the financing of any project shall be a resolution of the Finance Authority of Maine or an action taken by the Finance Authority of Maine. [1983, c. 519, §6 (NEW).]

#### SECTION HISTORY

1983, c. 519, §6 (NEW).

### §978. GOVERNMENTAL FUNCTION

The Finance Authority of Maine shall administer and exercise the authority granted to it by this chapter. The carrying out of its powers and duties is deemed the performance of an essential governmental function. [1983, c. 519, §6 (NEW).]

#### SECTION HISTORY

1983, c. 519, §6 (NEW).

## §979. EMPLOYMENT PLAN

The authority and its chief executive officer shall ensure that each applicant for assistance submit an employment plan which describes the business and its products or services and which provides information on new employment opportunities, including types of jobs, skills and training necessary for placement and training the applicant could provide. The chief executive officer shall provide this information to the Department of Labor and the Department of Health and Human Services. This provision shall apply only to those applicants with more than 10 employees. [1987, c. 697, §4 (RPR); 2003, c. 689, Pt. B, §6 (REV).]

### SECTION HISTORY

1983, c. 730, §3 (NEW). 1987, c. 697, §4 (RPR). 2003, c. 689, §B6 (REV).

## §980. TAXATION AND FEES

Notwithstanding any other provision of law, for the purposes of this chapter, transactions and property of the authority shall be treated as follows. [1985, c. 344, §26 (NEW).]

**1. Revenue obligation securities; exemption from taxation.** Revenue obligation securities of the authority are declared to be issued for an essential public and governmental purpose and to be public instruments and, together with interest and income, including the profit made from their transfer or sale, shall be exempt from taxation within the State.

[ 1985, c. 344, §26 (NEW) .]

**2. Conveyances, leases, mortgages, deeds of 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 shall be 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.

[ 1985, c. 344, §26 (NEW) .]

**3. Property exemption from taxation and other assessments.** Property acquired, held or transferred by the authority shall be exempt from all taxes and from betterments and special assessments of the city, town, county, State or any political subdivision thereof. The authority may agree to make payments in lieu of taxes to the applicable political subdivisions.

[ 1985, c. 344, §26 (NEW) .]

### SECTION HISTORY

1985, c. 344, §26 (NEW).

## §980-A. ALLOCATION OF FEDERAL BOND CEILING

The authority may, by rulemaking pursuant to Title 5, chapter 375, subchapter II, establish a process that is different from the federal formula for allocating that portion of the ceiling established by the United States Code, Title 26, Section 146, as amended, allocated to the authority pursuant to section 363. For purposes of this section, the authority may also limit the types of projects which are eligible to receive allocations of the ceiling and establish other requirements and limitations for assuring effective and efficient use of the ceiling. The authority shall include in its report pursuant to section 974 a description of its operations pursuant to this section for the most recent calendar year and of its plans, if any, to revise any allocation system established

pursuant to this section. The chief executive officer is designated as the state official authorized to issue the certification under the United States Code, Title 26, Section 149(e)(2)(F), as amended, for allocations of the state ceiling allocated to the authority pursuant to section 363. [1987, c. 3, §3 (AMD).]

SECTION HISTORY

1985, c. 344, §26 (NEW). 1985, c. 594, §2 (AMD). 1987, c. 3, §3 (AMD).

## **§980-B. MAINE VETERANS' SMALL BUSINESS LOAN BOARD**

*(REPEALED)*

SECTION HISTORY

1985, c. 344, §26 (NEW). 1989, c. 503, §B52 (AMD). 1989, c. 857, §46 (RPR). 1991, c. 511, §A4 (AMD). 1991, c. 622, §S22 (RP).

## **§980-C. LOCATION OR USE OF COLLATERAL**

The authority shall, by rulemaking pursuant to Title 5, chapter 375, subchapter II, establish for each program governed by or operated pursuant to this chapter requirements and limitations for assuring that any eligible project or collateral maintains minimum contact with the State. In the case of real estate, the authority shall require that the real estate be located within the State. The authority shall establish requirements and limitations pertaining to fishing or other vessels. [1985, c. 344, §26 (NEW).]

SECTION HISTORY

1985, c. 344, §26 (NEW).

## **§980-D. PAYROLL PROCESSOR RECOVERY FUND**

The Payroll Processor Recovery Fund, referred to in this section as "the fund," is created. The fund must be deposited with and maintained by the authority. The fund must be administered by the Superintendent of Consumer Credit Protection within the Department of Professional and Financial Regulation, referred to in this section as "the fund administrator," in accordance with the provisions of chapter 222. All money received by the authority from the fund administrator for the purpose of providing a source of recovery for employers injured by a payroll processor's failure to pay taxes or unemployment premiums must be credited to the fund. A portion of the interest earned on money in the fund may be used to pay the fund maintenance expenses of the authority; the balance must be credited to the fund. The balance in the fund must revert to the fund administrator if the need for the fund is obviated. [2005, c. 500, §1 (NEW); 2007, c. 273, Pt. B, §6 (REV); 2007, c. 695, Pt. A, §47 (AFF).]

SECTION HISTORY

2005, c. 500, §1 (NEW). 2007, c. 273, Pt. B, §7 (AFF). 2007, c. 273, Pt. B, §7 (AFF). 2007, c. 273, Pt. B, §6 (REV). 2007, c. 273, Pt. B, §6 (REV). 2007, c. 695, Pt. A, §47 (AFF).

### **Subchapter 1-A: NATURAL RESOURCES FINANCING AND MARKETING PROGRAMS**

## **§981. LEGISLATIVE FINDINGS**

The Legislature has consistently found that agriculture, forestry and fisheries are major industries in the State, contributing substantially to the state's overall economy, essential to the maintenance and strengthening of rural life and values and necessary to the preservation of the health, safety and welfare of all of the people of the State. The Legislature also recognizes that food and fiber production is an appropriate use of the natural resources of the State. The Legislature finds that the survival of the family farm and of fishing and forestry enterprises is of special concern to the people of the State and that the ability of these enterprises to

prosper, while producing an abundance of high quality food and fiber, deserves a place of high priority in the determination of public policy. In addition, the Legislature specifically finds: [ 1983, c. 519, §7 (NEW) . ]

**1. Existing conditions.** Compared with the national average, Maine is a capital-short State, with particular lack of long-term debt and equity capital. The existing interest rates and the existing pattern of lending to the agricultural, forestry and fishing industries are constraining the optimal economic use of farm, fisheries and forest resources. The State, in the past, has been overly reliant on the financing programs of the Federal Government, particularly the Farmers Home Administration. The ordinary operations of private enterprise in the State have not corrected this condition, leaving Maine vulnerable to changes in federal policy. Farm debt has risen much faster than gross income, with the cost of borrowing money rising more rapidly than any other production cost. Similar financing difficulties confront other natural resource enterprises, particularly wood-processing and other value-added enterprises;

[ 1983, c. 519, §7 (NEW) . ]

**2. New natural resource enterprises.** New natural resource enterprises face particular problems in obtaining adequate financing. There are more full-time farmers going out of business than entering farming, a problem which is caused, in part, because loans for new farmers for agricultural land, improvements and operations are either unavailable or unaffordable through the conventional credit markets. There are increasing numbers of new, small and part-time farmers whose needs are not adequately served by any existing financing or technical assistance programs;

[ 1983, c. 519, §7 (NEW) . ]

**3. Marketing and technical assistance.** Enterprises adding the greatest value by conversion of native raw products and by promotion of raw and processed Maine products are of particular benefit to the State. Producers and processors of natural resource products are not receiving sufficient assistance in marketing and management. There is an overall lack of a statewide marketing strategy for natural resource products and producers of these products do not receive the market information, technical assistance or market service necessary to optimize their marketing and profits. There is a need for technical assistance and training in business management, particularly among new, small and part-time participants in natural resource enterprises;

[ 1983, c. 519, §7 (NEW) . ]

**4. Resulting problems.** The lack of affordable financing options and marketing and other technical assistance jeopardizes the maintenance of agricultural, forestry and fishery operations at present levels and makes expansion and diversification of these enterprises more difficult. The lack of appropriate financing and technical assistance is contributing to the abandonment of agricultural lands in the State. The inability to continue agricultural, forestry and fishery operations at current or expanded levels jeopardizes the continued existence of family-owned natural resource enterprises and lessens the supply of locally produced food and fiber available to fulfill the needs of the citizens of this State. The constraints on the operation and expansion of natural resource enterprises decrease the available employment, particularly in rural areas and result in the problems attendant on unemployment. The threat to the viability of the family farm and other natural resource enterprises directly threatens the essence of the rural values and way of life, to the detriment of the welfare of all the people of the State;

[ 1983, c. 519, §7 (NEW) . ]

**5. Public necessity.** The existing situation will not be relieved or improved through the operation of private enterprise alone. It is necessary, desirable and in the best interest of the welfare of all of the citizens of the State that provisions be made to work with existing public and private institutions to promote the

development of natural resources by making available to persons engaged in natural resource enterprises or wishing to enter these enterprises, adequate marketing and technical assistance, as well as adequate financing opportunities, at interest rates lower than would be otherwise obtainable; and

[ 1985, c. 344, §27 (AMD) . ]

**6. Public purpose and benefit.** The authority is established to stimulate the economy, to reduce unemployment, to support community development and to assure an adequate supply of food and fiber, in all respects for the benefit of the people of the State and for the improvement of their health, safety and welfare. The authority will be serving a public purpose and performing an essential governmental function in the exercise of the powers and duties conferred upon it by this subchapter. Any benefits accruing to private individuals or associations, as a result of the activities of the authority, are deemed by the Legislature to be incidental to the public purposes to be achieved by the implementation of this subchapter.

[ 1985, c. 344, §27 (AMD) . ]

#### SECTION HISTORY

1983, c. 519, §7 (NEW). 1985, c. 344, §27 (AMD).

### §982. PURPOSE

The purposes of this subchapter include: [1983, c. 519, §7 (NEW) . ]

**1. General.** To relieve those conditions which now exist which represent difficulties in natural resource enterprise financing and development and to assist in planning, coordinating and implementing programs that will encourage further public and private participation and investment to achieve this end;

[ 1983, c. 519, §7 (NEW) . ]

**2. Current and increased production.** To maintain the land and water base necessary to the production of food and fiber and to encourage the continuation and expansion of successful production of the natural resource products of the State in order to secure adequate food and fiber to the people of the State, to secure markets and to assure the stability of the local economy;

[ 1983, c. 519, §7 (NEW) . ]

**3. Value added.** To encourage the creation and expansion of processing or manufacturing enterprises adding value to agricultural, forestry and fisheries products, grown or harvested in the State;

[ 1983, c. 519, §7 (NEW) . ]

**4. Market improvements.** To coordinate, improve and expand the marketing of raw, processed and manufactured products of the fisheries, farms and forests of the State;

[ 1983, c. 519, §7 (NEW) . ]

**5. Employment opportunities.** To expand opportunities for full and part-time gainful employment and facilitate entry into farming, fishing and forestry in order to maintain adequate food and fiber production capabilities in the State and to improve the unemployment situation in the State and the demands on state services which arise because of unemployment and related problems;

[ 1983, c. 519, §7 (NEW) . ]

**6. Expanded participation of lending institutions and improved credit opportunities.** To provide for additional capital resources for natural resource enterprises from the sale of bonds and to otherwise make adequate credit available at interest rates that enable persons to enter, maintain and expand natural resource enterprises; to encourage the investment of private capital and the diversification and competition among financing institutions in the natural resource sector; and

[ 1983, c. 519, §7 (NEW) .]

**7. Improved technical assistance.** To provide a central source for credit information and other financial management training and services to farmers, fishermen and foresters to better enable them to obtain adequate financial assistance from existing sources and to provide similar technical assistance, research and service in marketing products of natural resource enterprises.

[ 1983, c. 519, §7 (NEW) .]

#### SECTION HISTORY

1983, c. 519, §7 (NEW) .

### §983. DEFINITIONS

*(REPEALED)*

#### SECTION HISTORY

1983, c. 519, §7 (NEW). 1985, c. 344, §28 (RP) .

### §984. NATURAL RESOURCES FINANCING AND MARKETING PROGRAMS

**1. Implementation of programs.** The authority shall be responsible for the implementation of the Natural Resources Financing and Marketing Programs.

[ 1985, c. 344, §29 (AMD) .]

**2. Powers and duties.** The authority shall have all the powers and duties necessary to carry out the purposes and provisions of this subchapter, including, but not limited to, the power to:

A. In cooperation with the University of Maine System and other state, local and federal agencies or instrumentalities, conduct studies, including studies concerning land use and availability, financial management and marketing, to analyze the situation and needs of those persons in the State engaged in or wishing to enter natural resource enterprises. The authority may develop plans and recommendations as to its role and the role of the State generally in facilitating the development of natural resource enterprises; [1985, c. 779, §40 (AMD) .]

B. [1985, c. 344, §29 (RP) .]

C. [1985, c. 344, §29 (RP) .]

D. Provide to public and private entities technical assistance and advice related to purposes of this subchapter, including:

(1) Establishment of an expert advisory group which shall be available, upon request, to consult with financing institutions as to the merits of loan applications for natural resource enterprises;

(2) Provision of advice to persons engaged or seeking to be engaged in natural resource enterprises as to the nature and source of relevant governmental assistance programs; and

(3) Provision of advice and educational programs as to production, processing, marketing and managing natural resource enterprises; [1983, c. 519, §7 (NEW) .]

E. Contract with financing institutions to make natural resource enterprise loans on behalf of the authority. In establishing a financing program pursuant to this paragraph, the authority shall establish guidelines for the operation of and participation in loan programs and shall assure compliance with those guidelines. Loans made under this paragraph shall not exceed \$250,000. The authority shall promulgate regulations governing eligibility which take into consideration the established guidelines and the ability of applicants to compete successfully in the private lending market and to pay amounts at which private enterprise is providing natural resource financing. In promulgating such regulations, the authority may establish income or asset limitations for eligibility.

The authority may, without contracting with a financing institution, make natural resource enterprise loans only in one or more areas of the State, to the extent that no financing institution, after both initial and such successive reasonable opportunities as the authority shall provide, has contracted with the authority to participate in a natural resource enterprise loan program; [1985, c. 344, §29 (AMD).]

F. Develop mechanisms for guaranteeing repayment of loans or other obligations of indebtedness incurred in connection with natural resource enterprises; [1985, c. 344, §29 (AMD).]

G. [1985, c. 344, §29 (RP).]

H. [1985, c. 344, §29 (RP).]

I. [1985, c. 344, §29 (RP).]

J. Take, in addition to the other powers enumerated in this section, such actions as may be necessary to qualify as an "other financing institution" as that term is defined by the Federal Intermediate Credit Bank, to participate in an agricultural credit corporation or to act in any similar way to achieve the purposes of this subchapter; [1983, c. 519, §7 (NEW).]

K. Serve as a clearinghouse for information relating to financing, management and marketing concerns of natural resource enterprises and gather and disseminate information regarding these activities. The authority shall encourage and coordinate effective use of existing and new services to assist natural resource enterprise development; [1985, c. 344, §29 (AMD).]

L. Receive advice and assistance from, and coordinate its programs with, the Department of Economic and Community Development, the Maine State Housing Authority, the Maine Development Foundation and other state agencies with relevant expertise. In addition, programs authorized in this subchapter may be coordinated or combined with other public and private national, state, regional or local programs that the agency determines will facilitate the purposes of this subchapter; and [2001, c. 417, §9 (AMD).]

M. [1985, c. 344, §29 (RP).]

N. Be designated by the Governor as the public agency of the State to receive federal funds available to the State in relation to financing natural resource enterprises and, once designated, receive and expend these funds. [1985, c. 344, §29 (AMD).]

[ 2001, c. 417, §9 (AMD) .]

#### SECTION HISTORY

1983, c. 519, §7 (NEW). 1985, c. 344, §29 (AMD). 1985, c. 779, §40 (AMD). 1987, c. 534, §§B9,B23 (AMD). 2001, c. 417, §9 (AMD).

### **§985. THE NATURAL RESOURCE FINANCING AND MARKETING BOARD** *(REPEALED)*

#### SECTION HISTORY

1983, c. 519, §7 (NEW). 1983, c. 812, §65 (AMD). 1985, c. 344, §30 (AMD). 1987, c. 402, §A89 (AMD). 1989, c. 4, §2 (AMD). 2001, c. 417, §10 (RP).

## §986. GENERAL STANDARDS AND DUTIES

In the implementation of this subchapter and in the specific selection of persons, programs and projects to receive its assistance, the following powers, duties and standards shall apply. [1983, c. 519, §7 (NEW) .]

**1. Ownership.** The authority shall not become an owner of land or facilities, except on a temporary basis where necessary to protect its investments, to maintain land in natural resource production, to facilitate transfer of lands or facilities for the use of entrants to natural resource enterprises or to otherwise implement its programs, provided that this limitation shall not apply to any development rights related to agricultural land which may be acquired by the authority, which rights may be retained by the authority, nor shall this section apply to any property acquired without payment by the authority of financial consideration. During the period of time that the authority may hold any such property, it is declared to be public property used for essential public and governmental purposes.

[ 1985, c. 344, §31 (AMD) .]

**2. Accepted business standards.** The authority shall exercise diligence and care in selection of persons and projects to receive its assistance and shall apply reasonable business and lending standards in selection and subsequent implementation of the programs and individual agreements authorized by this subchapter.

[ 1983, c. 519, §7 (NEW) .]

**3. Delegation.** In addition to section 984, the authority may delegate primary responsibility for determination and implementation of a project to any federal agency which assumes an obligation to repay any loan, either directly or by insurance or guarantee, for that project.

[ 1983, c. 519, §7 (NEW) .]

**4. Procure insurance.** The authority may procure insurance from public or private entities against any loss in connection with its operations and property interests, including insurance for any loss in connection with any bonds or obligations held by it and any of its property or assets and for payment of any bonds or obligations issued by it. To the maximum extent possible, the authority shall use the loan insurance program established pursuant to subchapter 2.

[ 2003, c. 537, §18 (AMD); 2003, c. 537, §53 (AFF) .]

**5. Exercise of departmental authority.** Upon the concurrence of the applicable commissioner, the authority may exercise such powers of the Department of Marine Resources or the Department of Agriculture, Conservation and Forestry as may be necessary to the purposes of this subchapter.

[ 1983, c. 519, §7 (NEW); 2011, c. 657, Pt. W, §5 (REV) .]

**6. Nondiscrimination.** The opportunity to receive assistance from the authority, directly or indirectly, shall be open to all persons regardless of race, creed, color, sex, national origin, age, physical or mental impairment or religion. The authority shall assure the availability of its programs on an equitable basis in all geographic areas of the State, provided that this section does not preclude the authority from identifying

areas of the State which may be better suited to certain natural resource enterprises than others and does not preclude the authority from recognizing the value of a critical mass of natural resource economic activity in given areas.

[ 1985, c. 344, §31 (AMD) . ]

**7. Maximum amounts.** The authority may, by rule, determine the portion of a project or class of projects to be financed by it, but in no case may the authority finance or guarantee more than 90% of the total value of a project.

[ 1983, c. 519, §7 (NEW) . ]

#### SECTION HISTORY

1983, c. 519, §7 (NEW). 1985, c. 344, §31 (AMD). 2003, c. 537, §18 (AMD). 2003, c. 537, §53 (AFF). 2011, c. 657, Pt. W, §5 (REV).

## §987. STANDARDS FOR FINANCING ASSISTANCE

In addition to the applicable provisions of section 986, financing assistance provided pursuant to this subchapter shall not be provided for except upon a finding that the following criteria have been satisfied.

[1985, c. 344, §32 (AMD).]

**1. Residence.** If the person is seeking assistance for the purchase of agricultural land, the person is a resident of the State, or in the case of corporations, partnerships, joint ventures or other associations, the majority interest of the association shall be beneficially owned by residents of the State. If the person, corporation, partnership, joint ventures or other association is seeking assistance for some other purpose, a preference shall be given to residents.

[ 1983, c. 519, §7 (NEW) . ]

**2. Location.** The project is or will be located within the State.

[ 1985, c. 344, §32 (AMD) . ]

**3. Experience.** The person has sufficient education, training, ability and expertise in the type of natural resource enterprise for which financing assistance is requested.

[ 1983, c. 519, §7 (NEW) . ]

**4. Access to resources.** The person has or will have access to adequate resources in addition to the financing assistance provided under this subchapter to commence or continue the enterprise.

[ 1983, c. 519, §7 (NEW) . ]

**5.**

[ 1985, c. 344, §32 (RP) . ]

**6. Agricultural land.** If the financing assistance is for the acquisition of agricultural land, the person agrees in writing for such period as the authority shall specify to follow such soil conservation and related standards as the authority shall, by rule, adopt; not to convey the land without written permission of the authority and, in the case of farmland within the definition of Title 36, section 1102, to apply and continue

to elect to apply during the period of receipt of financing assistance for farm and open space classifications under Title 36, chapter 105, subchapter X. This agreement shall be recorded in the registry of deeds for the county or counties where the land is located.

[ 1985, c. 344, §32 (AMD) . ]

**7. State policy.** The natural resource enterprise will comply with enunciated state policy regarding soil conservation, environmental protection, agricultural development and similar state initiatives. In particular, all projects receiving financing assistance through the authority shall be in accordance with any plan adopted pursuant to section 984 and with the applicable planning, zoning, sanitary and building laws, ordinances and regulations of the State and of the locality in which the project is situated.

[ 1985, c. 344, §32 (AMD) . ]

**8. Public benefit.** The natural resource enterprise will provide for the betterment of the health and welfare of the inhabitants of the State and make a significant contribution to either the economic growth of the community or to the retention of agricultural land in production. For purposes of this section, the authority shall, by rule, adopt criteria defining the acceptable impact on employment, natural resource production, harvesting, marketing, land use and other factors. In reaching its determination in this regard, the authority shall be guided by the provisions of sections 981 and 982.

[ 1985, c. 344, §32 (AMD) . ]

#### SECTION HISTORY

1983, c. 519, §7 (NEW). 1985, c. 344, §32 (AMD).

## §988. FINANCING ASSISTANCE TO NATURAL RESOURCE ENTERPRISES

The authority may provide financing assistance or participate in providing financing assistance to eligible persons under this section and section 997 in the following manner. [1983, c. 519, §7 (NEW) . ]

**1. General conditions.** Financing assistance provided pursuant to this subchapter may be on such terms and conditions as may be agreed upon by the authority from time to time. These terms may include, but are not limited to, requirements as to prepayment, period of repayment, interest rate, rentals, project design and planning, security requirements and evidences of indebtedness. The authority may require a borrower to execute a note, loan agreement or other evidence of indebtedness and furnish additional assurances and guarantees, including insurance, reasonably related to protecting the security of the loan.

[ 1985, c. 344, §33 (AMD) . ]

**2. Assured compliance.** The authority may, by rule, provide for permitted assumptions of loans or for other transfers of interest in property financed by the authority to persons who are otherwise qualified to receive assistance under this chapter. In all other cases, the person receiving the financing assistance shall agree, in writing, to use the land or property so acquired only for the purposes specified in the application to or subsequent written agreement with the authority. These agreements shall be recorded in the registry of deeds for the county or counties in which the property is located.

The authority, at its option, may declare immediately payable all amounts due the authority if all or a part of the land, facilities or other property involved is leased, sold or otherwise transferred to another person.

[ 1985, c. 344, §34 (AMD) . ]

#### SECTION HISTORY

1983, c. 519, §7 (NEW). 1985, c. 344, §§33,34 (AMD).

## §988-A. NATURAL RESOURCES CAPITAL INVESTMENT FUND

**1. Creation.** The Natural Resources Capital Investment Fund is created and established under the jurisdiction and control of the authority.

[ 1989, c. 552, §12 (NEW) . ]

**2. Sources of money.** There shall be paid into the fund the following:

A. All money appropriated for inclusion in the fund; [1989, c. 552, §12 (NEW) . ]

B. Subject to any pledge, contract or other obligation, all interest, dividends or other pecuniary gains from investment of money of the fund; [1989, c. 552, §12 (NEW) . ]

C. Subject to any pledge, contract or other obligation, any money which the authority receives in repayment of advances from the fund; and [1989, c. 552, §12 (NEW) . ]

D. Any other money available to the authority and directed by the authority to be paid into the fund. [1989, c. 552, §12 (NEW) . ]

[ 1989, c. 552, §12 (NEW) . ]

**3. Application of fund.** Money in the fund may be applied to carry out any power of the authority under or in connection with section 988-B, including, without limitation, to pledge or transfer and deposit money in the fund as security for and to apply money in the fund in payment of principal, interest, dividends and other amounts due on secured loans or equity interests. Money in the fund may be used for direct loans in connection with a project eligible under section 988-B. The authority, pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, shall adopt rules for determining eligibility, feasibility, terms, conditions and security for direct loans or secured loans or investments. Money in the fund not needed currently to meet the obligations of the authority as provided in this section may be invested in a manner permitted by law.

[ 1989, c. 552, §12 (NEW) . ]

**4. Accounts within fund.** The authority may divide the fund into separate accounts as it determines necessary or convenient for carrying out this section, including, but not limited to, accounts reserved for direct loan funds.

[ 1989, c. 552, §12 (NEW) . ]

**5. Revolving fund.** The fund shall be a nonlapsing, revolving fund. All money in the fund shall be continuously applied by the authority to carry out this section and section 988-B.

[ 1989, c. 552, §12 (NEW) . ]

### SECTION HISTORY

1989, c. 552, §12 (NEW) .

## §988-B. NATURAL RESOURCES CAPITAL INVESTMENT PROGRAM

**1. Purpose.** The purpose of this section is to establish a program to provide assistance in the financing and development of natural resource projects designed to increase the State's capacity to produce, harvest, store, process, distribute, market and improve the quality of its natural resource products. The goal is to expand the opportunities for natural resource enterprises and promote the quality of Maine products nationally and internationally.

[ 1989, c. 552, §12 (NEW) . ]

**2. Eligible projects.** To be eligible for assistance under the program, projects must be located in the State and must consist of the construction, renovation or acquisition of land, buildings, equipment, docks, wharves, piers or vessels used in connection with a commercial natural resource enterprise, as that term is defined in section 963-A, subsection 41. Financing assistance may be provided with respect to the soft costs associated with eligible projects, but not for working capital.

[ 1989, c. 552, §12 (NEW) . ]

**3. Eligible borrowers.** Eligible borrowers shall include profit and nonprofit businesses, producer groups, cooperatives and governmental entities.

[ 1989, c. 552, §12 (NEW) . ]

**4. Assistance provided.** The authority is authorized to provide assistance in the form of direct loans or security for commercial loans or equity investments, subject to the following limitations.

A. In the case of direct loans, funds may be provided from the fund established under section 988-A for up to 45% of total project costs. Borrowers must contribute at least 10% of total project costs in equity or the equivalent and the balance of project costs may be financed by a lender. The authority may provide that repayment of loans from the fund and the security therefor may be subordinate to the lender loan. The interest rate, other loan terms and conditions and fees to the authority may be established by the authority by rulemaking pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, provided that the interest rate is not less than 5% per year and loan terms do not exceed 10 years for equipment, 20 years for vessels and 25 years for real estate. [ 1989, c. 552, §12 (NEW) . ]

B. In the case of security for commercial loans, funds may be provided from the fund established under section 988-A to the lender as collateral for the loan on terms and conditions established by the authority by rulemaking pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, provided that funds deposited with the lender do not exceed 45% of the total loan. The authority may also provide funds to a lender as a deposit in the name of the authority at a reduced rate of interest provided that the interest savings to the lender is passed on to the borrower in the form of a lower interest rate on the loan. [ 1989, c. 552, §12 (NEW) . ]

C. In the case of security for equity investments, the authority may pledge or deposit money from the fund established under section 988-A as security for up to 30% of a direct equity investment in an eligible borrower on terms and conditions established by the authority by rulemaking pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II. [ 1989, c. 552, §12 (NEW) . ]

D. Assistance from the fund pursuant to this section may not exceed in aggregate 45% of total project costs of an eligible project. The authority may establish a mechanism for reserving funds for or giving priority to projects in industries or areas of the State deemed to require special assistance. [ 1989, c. 552, §12 (NEW) . ]

E. Each applicant must demonstrate a reasonable likelihood that it would not be able to obtain financing or investment sufficient for the project's needs on reasonable terms without assistance from the fund, that there is a reasonable likelihood that it will be able to repay the loan or secured investment and that the project will assist in accomplishing the purposes of this subchapter. [1989, c. 552, §12 (NEW).]

[ 1989, c. 552, §12 (NEW) .]

SECTION HISTORY

1989, c. 552, §12 (NEW).

**§989. FINANCING ASSISTANCE TO AND PURCHASES OF LOANS**

*(REPEALED)*

SECTION HISTORY

1983, c. 519, §7 (NEW). 1985, c. 344, §35 (RP).

**§990. BONDS OF THE AUTHORITY**

*(REPEALED)*

SECTION HISTORY

1983, c. 519, §7 (NEW). 1985, c. 344, §35 (RP).

**§991. REFUNDING BONDS**

*(REPEALED)*

SECTION HISTORY

1983, c. 519, §7 (NEW). 1985, c. 344, §35 (RP).

**§992. NOTICE REQUIREMENTS**

*(REPEALED)*

SECTION HISTORY

1983, c. 519, §7 (NEW). 1985, c. 344, §35 (RP).

**§993. RESERVE FUNDS AND APPROPRIATIONS**

*(REPEALED)*

SECTION HISTORY

1983, c. 519, §7 (NEW). 1985, c. 344, §35 (RP).

**§994. REMEDIES OF BONDHOLDERS AND NOTEHOLDERS**

*(REPEALED)*

SECTION HISTORY

1983, c. 519, §7 (NEW). 1985, c. 344, §35 (RP).

**§995. AGREEMENT OF THE STATE**

*(REPEALED)*

SECTION HISTORY

1983, c. 519, §7 (NEW). 1985, c. 344, §35 (RP).

## **§996. BONDS AND NOTES AS LEGAL INVESTMENTS** *(REPEALED)*

### SECTION HISTORY

1983, c. 519, §7 (NEW). 1985, c. 344, §35 (RP).

## **§997. PROGRAM FOR ENTRANTS TO NATURAL RESOURCE ENTERPRISES**

In addition to other programs and financing assistance established under this subchapter which may be available to natural resource enterprises, the authority shall establish a supplemental financing and technical assistance program designed specifically to meet the needs of entrants to natural resource enterprises.

[1985, c. 344, §36 (AMD).]

**1. Criteria for participation.** In addition to the applicable provisions of sections 987 and 988, persons seeking financing assistance under the entrants to natural resource enterprises programs shall be subject to the following.

A. In the case of an applicant who is an individual, the entrant to natural resource enterprises shall be a resident of the State and shall have, together with his spouse and dependent children, an aggregate net worth, as determined by the authority, of \$100,000 or less when an application is made. In the case of an applicant which is a business organization, the entrant to natural resource enterprises shall be organized under the laws of the State so that at least 51% of the controlling ownership is held by residents of the State each of whom has, together with his or her spouse and dependent children, an aggregate net worth, as determined by the authority, of \$100,000 or less when an application is made. [1985, c. 344, §36 (RPR).]

B. The authority shall provide financing assistance in such amount as it determines is appropriate to reflect the cost of a reasonably-sized beginning enterprise. [1985, c. 344, §36 (AMD).]

C. The entrant has not previously received financing assistance under the program for the acquisition of property similar in nature to the property for which the financing assistance is sought, except that this restriction shall not apply if the amount previously received for an enterprise, plus the amount of the additional assistance sought for that enterprise, does not exceed the total determined by the authority pursuant to paragraph B. [1985, c. 344, §36 (AMD).]

D. The entrant agrees to engage in one or more natural resource enterprises and to participate in such marketing and training programs as the authority may require. [1985, c. 344, §36 (AMD).]

E. The entrant agrees to such other conditions as the authority may impose. [1985, c. 344, §36 (AMD).]

[1985, c. 344, §36 (AMD).]

**2. Financing assistance terms.** In addition to the applicable provisions of sections 987 and 988, assistance provided pursuant to this section may involve special financing terms, including, but not limited to:

A. For the acquisition of land and facilities, arrangements where the authority agrees to make payments and binding commitments and to continue these payments, if necessary, over the life of the mortgage on behalf of entrants to natural resource enterprises in order to reduce interest costs on market rate credit to the level the authority by rule determines conducive to achieving the purpose of this section, provided that the rate shall not be lower than 5%. Persons benefiting from these assistance payments may be required to pay a larger interest payment as their ability to pay increases. No commitment made by the authority under this paragraph may be construed to commit the faith and credit of the State; [1985, c. 344, §36 (AMD).]

B. Deferred payment schedules; [1983, c. 519, §7 (NEW).]

## C. Loan insurance for loans that satisfy the following requirements:

- (1) The lender must be a seller of agricultural land and other eligible collateral:
  - (a) Who is a natural person; or
  - (b) That is a family farm corporation;
- (2) The borrower must be an entrant to natural resource enterprises;
- (3) The loan must be made for the purpose of financing all or part of the purchase price of agricultural land and other eligible collateral; and
- (4) The interest rate on the loan must be significantly less than the market interest rate, if required by the authority; and [2003, c. 537, §19 (AMD); 2003, c. 537, §53 (AFF).]

## D. Other similar agreements to facilitate participation in the natural resource sector. [1983, c. 519, §7 (NEW).]

[ 2003, c. 537, §19 (AMD); 2003, c. 537, §53 (AFF) .]

## SECTION HISTORY

1983, c. 519, §7 (NEW). 1985, c. 344, §36 (AMD). 2003, c. 537, §19 (AMD). 2003, c. 537, §53 (AFF).

**§997-A. AGRICULTURALLY DERIVED FUEL FUND**

*(REPEALED)*

## SECTION HISTORY

1999, c. 474, §2 (NEW). 2007, c. 395, §§5, 6 (AMD). 2009, c. 124, §1 (RP).

**§997-B. AGRICULTURAL PRODUCTS UTILIZATION COMMISSION**

*(REPEALED)*

## SECTION HISTORY

1999, c. 474, §2 (NEW). 1999, c. 731, §VVV3 (AMD). 2007, c. 395, §7 (RP).

**§998. LIMITATION OF LIABILITY**

*(REPEALED)*

## SECTION HISTORY

1983, c. 519, §7 (NEW). 1985, c. 344, §37 (RP).

**§999. TAXATION AND FEES**

*(REPEALED)*

## SECTION HISTORY

1983, c. 519, §7 (NEW). 1985, c. 344, §37 (RP).

**§1000. ANNUAL REPORT**

*(REPEALED)*

## SECTION HISTORY

1983, c. 519, §7 (NEW). 1985, c. 344, §37 (RP).

## **§1000-A. LIBERAL CONSTRUCTION**

*(REPEALED)*

### SECTION HISTORY

1983, c. 519, §7 (NEW). 1985, c. 344, §37 (RP).

## Subchapter 1-B: DIVISION OF MAINE BUSINESS DEVELOPMENT AND FINANCE

## **§1001. DEFINITIONS**

*(REPEALED)*

### SECTION HISTORY

1981, c. 476, §2 (NEW). 1983, c. 519, §7 (RPR). 1983, c. 648, §§1,2 (AMD). 1983, c. 699, §§1,2 (AMD). 1983, c. 856, §1 (AMD). 1983, c. 862, §30 (AMD). 1985, c. 344, §38 (RP).

## **§1002. GENERAL POWERS**

*(REPEALED)*

### SECTION HISTORY

1981, c. 476, §2 (NEW). 1983, c. 519, §7 (RPR). 1983, c. 856, §§2,3 (AMD). 1985, c. 344, §39 (RP).

## **§1003. DEFINITIONS**

*(REPEALED)*

### SECTION HISTORY

1981, c. 476, §2 (NEW). 1981, c. 698, §49 (AMD). 1981, c. 698, §50 (AMD). 1983, c. 519, §6 (RP).

## **§1004. ORGANIZATION**

*(REPEALED)*

### SECTION HISTORY

1981, c. 476, §2 (NEW). 1981, c. 698, §§51,52 (AMD). 1983, c. 519, §6 (RP).

## **§1005. GENERAL POWERS**

*(REPEALED)*

### SECTION HISTORY

1981, c. 476, §2 (NEW). 1981, c. 698, §53 (AMD). 1983, c. 499, §1 (AMD). 1983, c. 519, §6 (RP). 1985, c. 506, §B9 (AMD).

## **§1006. INVESTMENT PLAN; REPORTS**

*(REPEALED)*

### SECTION HISTORY

1981, c. 476, §2 (NEW). 1983, c. 519, §6 (RP).

**§1007. RECORDS CONFIDENTIAL**

*(REPEALED)*

SECTION HISTORY

1981, c. 476, §2 (NEW). 1983, c. 519, §6 (RP).

**§1008. LIBERAL CONSTRUCTION**

*(REPEALED)*

SECTION HISTORY

1981, c. 476, §2 (NEW). 1983, c. 519, §6 (RP).

**§1009. GOVERNMENTAL FUNCTION**

*(REPEALED)*

SECTION HISTORY

1981, c. 476, §2 (NEW). 1983, c. 519, §6 (RP).

Subchapter 1-C: NATURAL DISASTER BUSINESS ASSISTANCE

**§1011. NATURAL DISASTER BUSINESS ASSISTANCE FUND**

**1. Fund established.** The Natural Disaster Business Assistance Fund is established under the jurisdiction of the Finance Authority of Maine.

[ 1987, c. 159, §1 (NEW) .]

**2. Sources of fund.** The following shall be paid into the fund:

A. All money appropriated for inclusion in the fund; [1987, c. 159, §1 (NEW).]

B. Subject to any pledge, contract or other obligation, any money which the authority receives in repayment of loans or advances from the fund; [1987, c. 159, §1 (NEW).]

C. Subject to any pledge, contract or other obligation, all interest, dividends or other income from investment of the fund; and [1987, c. 159, §1 (NEW).]

D. Any other money, including federal money, deposited in the fund to implement the provisions of this subchapter. [1987, c. 159, §1 (NEW).]

[ 1987, c. 159, §1 (NEW) .]

**3. Application of fund.** The authority may apply money in the fund to carry out any power of the authority under this subchapter, including, without limitation, to make loans or to pledge or transfer and deposit money in the fund as security for, and to apply money in the fund in payment of principal of, interest and other amounts due on loans made or secured by the authority pursuant to this subchapter. Money in the fund not needed currently to meet the obligations of the authority as provided for in this subchapter may be invested in such manner as may be permitted by law.

[ 1987, c. 159, §1 (NEW) .]

**4. Accounts within fund.** The authority may divide the funds into such separate accounts as it determines necessary or convenient for carrying out this subchapter.

[ 1987, c. 159, §1 (NEW) .]

**5. Revolving fund.** The fund shall be a nonlapsing revolving fund. All money in the fund shall be continuously applied by the authority to carry out this subchapter.

[ 1987, c. 159, §1 (NEW) . ]

**6. Commitment and administrative fees.** The authority may fix commitment fees in an amount not to exceed 1% of the initial principal amount of a loan made or insured under this subchapter. These fees shall be deposited into the fund created under this section.

[ 1987, c. 159, §1 (NEW) . ]

#### SECTION HISTORY

1987, c. 159, §1 (NEW) .

## §1012. MAINE NATURAL DISASTER BUSINESS ASSISTANCE PROGRAM

**1. Purpose.** The authority shall administer the Maine Natural Disaster Business Assistance Program for the purpose of providing assistance to businesses that are victims of natural disasters which have caused the State or portions of the State to be declared disaster areas by the President of the United States or his authorized representative.

[ 1987, c. 159, §1 (NEW) . ]

**2. Eligibility.** Any eligible enterprise, as defined in section 963-A, subsection 9, shall be eligible for financial assistance under the program provided that:

- A. The applicant has suffered serious financial hardship as a direct result of a natural disaster; [ 1987, c. 159, §1 (NEW) . ]
- B. The applicant has insufficient access to federal or other disaster funds or other financial assistance on a timely basis other than pursuant to this program; and [ 1987, c. 159, §1 (NEW) . ]
- C. The applicant is a business enterprise operated for profit. [ 1987, c. 159, §1 (NEW) . ]

[ 1987, c. 159, §1 (NEW) . ]

**3. Operation.** Financial assistance under the program shall be used for the purpose of assisting eligible enterprises in recovering from the effects of natural disasters. The program may be administered in conjunction with other programs of the authority. Money in the fund may be used:

- A. To provide direct loans to eligible enterprises; [ 1987, c. 159, §1 (NEW) . ]
- B. As security for loans from financial institutions to eligible enterprises; and [ 1987, c. 159, §1 (NEW) . ]
- C. To provide direct interim financing to eligible applicants pending receipt of federal disaster funds or financial assistance from other sources, which funds or financial assistance will be used to repay the interim loan from the authority. [ 1987, c. 159, §1 (NEW) . ]

[ 1987, c. 159, §1 (NEW) . ]

**4. Criteria.** No financial assistance may be approved unless the authority determines that there is a reasonable likelihood that the applicant will be able to repay any loan made or secured under the program, that the applicant has demonstrated that it has insufficient access to other sources of funds and that the financial assistance is needed to assure the recovery of the applicant from the effects of the natural disaster. All applications must be received not later than June 30, 1987. The authority, by rules adopted in accordance

with the Maine Administrative Procedure Act, Title 5, chapter 375, may establish temporary reservations for geographic areas of the State and may establish such other criteria as may be consistent with the purposes of the program.

[ 1987, c. 159, §1 (NEW) .]

**5. Limitations on financial assistance.** Financial assistance under this subchapter shall be subject to the following limitations.

A. The initial term of financial assistance to applicants who are eligible to apply for federal funds as a result of a natural disaster shall not exceed 6 months. If federal funds are not available within the initial 6-month term to repay loans made or secured under this subchapter, the authority may extend the financial assistance or convert a loan from a financial institution secured under this subchapter to a direct loan for such term and on such conditions as may be appropriate and consistent with the purposes of this subchapter. [1987, c. 159, §1 (NEW).]

B. Loans pursuant to this subchapter shall ordinarily be made at interest rates not exceeding the prime rate of interest as reported in national financial publications and for terms not exceeding 20 years, provided that the authority may in its discretion vary those limitations if necessary to ensure the viability of the enterprise and repayment of the loan, and provided further that the authority may charge a higher rate of interest after default. [1987, c. 159, §1 (NEW).]

C. Loans made or secured under this subchapter shall be secured by such collateral, including personal guarantees, as may be reasonably available. The authority may provide financial assistance with less than adequate collateral when the applicant is credit worthy and demonstrates the ability to repay the loan. [1987, c. 159, §1 (NEW).]

D. The amount of financial assistance to an applicant from the fund shall not exceed \$50,000, provided that the initial amount of each loan shall not exceed the minimum amount necessary for operation of the applicant's business during the initial 6-month term, as determined by the authority. [1987, c. 159, §1 (NEW).]

E. The authority may agree to deposit money from the fund with a financial institution to secure a loan to an eligible applicant and may waive the payment to the authority of some or all of the interest accruing on such deposit, provided that the applicant receives a reduced interest rate as a result of the deposit. [1987, c. 159, §1 (NEW).]

F. The authority may impose and collect a penalty of an amount not to exceed 50% of the amount of principal, interest and other charges due from a recipient of financial assistance under this subchapter in any case when the authority determines that the recipient has willfully applied the financial assistance to purposes or uses other than those purposes or uses approved by the authority or when the recipient has willfully failed to promptly repay the financial assistance with federal or other disaster funds available for that purpose as required by the authority. [1987, c. 159, §1 (NEW).]

G. Money from the fund shall not be released to or for the benefit of recipients until all applicable local, state and federal permits have been issued, and, for recipients located in flood plains, evidence of flood insurance has been provided. [1987, c. 159, §1 (NEW).]

[ 1987, c. 159, §1 (NEW) .]

#### SECTION HISTORY

1987, c. 159, §1 (NEW).

### Subchapter 1-D: STUDENT FINANCIAL ASSISTANCE PROGRAM

## §1013. PROGRAM ESTABLISHED

The authority shall administer a program of comprehensive, consolidated student financial assistance for Maine students and their families. The authority is authorized to carry out various programs making financial and other assistance available to borrowers, institutions, or both, to finance costs of attendance at institutions of higher education. The authority is further authorized to issue its bonds, lend the proceeds of the bonds and exercise any other power set forth in this subchapter for these purposes. In carrying out its responsibilities, the authority shall be responsible for administering: [1989, c. 698, §10 (RPR) .]

**1. Maine State Grant Program.** The Maine State Grant Program, pursuant to Title 20-A, chapter 419-A;

[ 2001, c. 70, §1 (AMD) .]

**2. Teachers for Maine Program.** The Teachers for Maine Program, as established in Title 20-A, chapter 428;

[ 1997, c. 97, §1 (RPR) .]

**3. State Osteopathic Loan Fund.** The State Osteopathic Loan Fund, as established in Title 20-A, chapter 423;

[ 1989, c. 698, §10 (RPR) .]

**4. Postgraduate medical education program.** The postgraduate medical education program, as established in Title 20-A, chapter 421;

[ 1989, c. 698, §10 (RPR) .]

**5. Loan insurance programs.** The Robert T. Stafford Loan Program, the Parent Loans to Undergraduate Students Program and the Supplemental Loans for Students Program pursuant to Title 20-A, chapter 417, subchapter I;

[ 1989, c. 698, §10 (RPR) .]

**6. Robert C. Byrd Honors Scholarship Program.** The Robert C. Byrd Honors Scholarship Program, pursuant to Title 20-A, chapter 417, subchapter II;

[ 1989, c. 698, §10 (RPR) .]

**7. Paul Douglas Teacher Scholarship Program.** The Paul Douglas Teacher Scholarship Program, pursuant to Title 20-A, chapter 417, subchapter II;

[ 1989, c. 698, §10 (RPR) .]

**8. Supplemental loan program.** The supplemental loan program as established in Title 20-A, chapter 417-B;

[ 1991, c. 603, §3 (AMD) .]

**9. Tuition waiver program.** The tuition waiver program pursuant to Title 20-A, chapter 429;

[ 1989, c. 559, §8 (NEW); 1989, c. 698, §10 (RPR) .]

**10. Student financial assistance counseling and outreach program.** The student financial assistance counseling and outreach program, as established in Title 20-A, chapter 430-B;

[ 1997, c. 97, §2 (AMD) .]

**11. Student Educational Enhancement Deposit Plan.**

[ 1991, c. 824, Pt. B, §4 (RP) .]

**12. Maine Choice Program.**

[ 1995, c. 462, Pt. A, §18 (RP) .]

**13. Higher Education Loan and Loan Insurance Program.** The Higher Education Loan and Loan Insurance Program, as established in Title 20-A, chapter 417-C;

[ 2013, c. 34, §3 (AMD) .]

**14. University of Maine System Scholarship Fund.**

[ 2005, c. 683, Pt. A, §14 (RP) .]

**15. Scholarships for Maine Fund.** The Scholarships for Maine Fund, as established in Title 20-A, chapter 419-C;

[ 2001, c. 417, §11 (AMD) .]

**16. Maine College Savings Program.** The Maine College Savings Program, as established in Title 20-A, chapter 417-E; and

[ 2001, c. 417, §12 (AMD) .]

**17. Maine Dental Education Loan Program.** The Maine Dental Education Loan Program as established in Title 20-A, chapter 426.

[ 2001, c. 417, §13 (NEW) .]

SECTION HISTORY

1989, c. 559, §8 (NEW). 1989, c. 698, §10 (RPR). 1991, c. 603, §§3-5 (AMD). 1991, c. 612, §§1,2 (AMD). 1991, c. 824, §§A12,B4,C1 (AMD). 1995, c. 462, §§A17,18 (AMD). 1997, c. 97, §§1-4 (AMD). 1997, c. 732, §§2,3 (AMD). 2001, c. 70, §1 (AMD). 2001, c. 417, §§11-13 (AMD). 2005, c. 683, §A14 (AMD). 2013, c. 34, §3 (AMD).

**§1014. LOAN INSURANCE PROGRAM**

The authority may establish and administer a student loan insurance program as provided in Title 20-A, chapter 417. [1989, c. 698, §10 (NEW).]

**1. Agency of jurisdiction for guaranteed loan program.** For the purpose of the Constitution of Maine, Article VIII, Part First, Section 2, the authority, in accordance with Title 20-A, chapter 417, is the agency authorized under the federal guaranteed loan program to direct the issuance of bonds, to loan funds and to secure funds for loans to Maine students attending institutions of higher education.

[ 1989, c. 698, §10 (NEW) .]

SECTION HISTORY

1989, c. 698, §10 (NEW).

## §1015. LEGAL SERVICES

Upon request of the authority, the Attorney General shall provide legal services related to implementation of this subchapter. [1989, c. 698, §10 (NEW).]

SECTION HISTORY

1989, c. 698, §10 (NEW).

## §1016. MAINE EDUCATION ASSISTANCE BOARD

*(REPEALED)*

SECTION HISTORY

1989, c. 598, §8 (NEW). 1989, c. 698, §10 (RPR). 1989, c. 700, §A37 (AMD). 1989, c. 878, §F1 (AMD). 1995, c. 519, §4 (AMD). 2001, c. 417, §14 (RP).

## §1017. SUNSET

*(REPEALED)*

SECTION HISTORY

1989, c. 698, §10 (NEW). 1991, c. 832, §2 (RP).

### Subchapter 1-E: NURSING EDUCATION

## §1019. NURSING EDUCATION LOAN REPAYMENT PROGRAM

**1. Nursing education loan repayment program.** The nursing education loan repayment program is established for the purpose of increasing the number of nursing faculty in nursing education programs in the State.

[ 2005, c. 417, §1 (NEW) .]

**2. Criteria.** For an applicant to participate in the nursing education loan repayment program established under subsection 1, the applicant must:

- A. Be a nurse; [2005, c. 417, §1 (NEW).]
- B. Complete a master's or doctoral degree in nursing; [2005, c. 417, §1 (NEW).]
- C. Possess an outstanding education loan relating to the master's or doctoral nursing degree; and [2005, c. 417, §1 (NEW).]

D. Sign a statement of intent in a form acceptable to the authority to work as nursing faculty in a nursing education program in the State for a minimum of 3 years after acceptance into the nursing education loan repayment program. [2005, c. 417, §1 (NEW).]

[ 2005, c. 417, §1 (NEW) .]

**3. Nursing education loan repayment fund.** The nursing education loan repayment fund, referred to in this section as "the fund," is created as a nonlapsing, interest-earning, revolving fund to carry out the purposes of this subchapter.

A. The authority may receive, invest and expend on behalf of the fund money from gifts, grants, bequests, loans and donations in addition to money appropriated or allocated by the State. Money received by the authority on behalf of the fund must be used for the purposes of this subchapter. The fund must be maintained and administered by the authority. Any unexpended balance in the fund carries forward for continued use under this subchapter. [2005, c. 417, §1 (NEW).]

B. Costs and expenses of maintaining, servicing and administering the fund and of administering the nursing education loan repayment program may be paid out of amounts in the fund. [2005, c. 417, §1 (NEW).]

[ 2005, c. 417, §1 (NEW) .]

**4. Administration.** The nursing education loan repayment program and the nursing education loan repayment fund are administered by the authority. The authority shall repay the loan of an applicant who meets the criteria in subsection 2 in the amount of up to \$4,500 for a master's degree and up to \$6,000 for a doctoral degree. The authority may adopt rules to carry out the purposes of this subchapter. Rules adopted pursuant to this subsection are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A.

[ 2005, c. 417, §1 (NEW) .]

#### SECTION HISTORY

2005, c. 417, §1 (NEW).

## Subchapter 1-F: WASTE MOTOR OIL DISPOSAL SITE REMEDIATION PROGRAM

### §1020. WASTE MOTOR OIL REVENUE FUND

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

A. "Eligible person" means a person that is eligible, pursuant to section 1020-A, to have that person's share of response costs paid from the proceeds of revenue obligation securities issued pursuant to this subchapter or is eligible to have that person's share of response costs paid from the fund as otherwise set forth in this subchapter. [2011, c. 211, §2 (AMD); 2011, c. 211, §27 (AFF).]

A-1. [2011, c. 211, §27 (AFF); 2011, c. 211, §2 (RP).]

A-2. "Diesel engine crankcase oil" means motor vehicle oil that is classified for use in a diesel engine crankcase by meeting the performance requirements of the American Petroleum Institute beginning with CA standards and all succeeding specifications under those standards, inclusive of all original equipment manufacturer-specific engine oils. [2011, c. 211, §2 (AMD); 2011, c. 211, §27 (AFF).]

B. [2007, c. 618, §14 (AFF); 2007, c. 618, §4 (RP).]

C. "Fund" means the Waste Motor Oil Revenue Fund established under subsection 2 to be deposited with and administered by the authority. [2007, c. 464, §6 (NEW).]

C-1. "Gasoline engine crankcase oil" means motor vehicle oil that is classified for use in a gasoline engine crankcase by meeting the performance requirements of the American Petroleum Institute, beginning with SA standards through the most current standards, inclusive of original equipment manufacturer-specific engine oils, and International Lubricant Standardization and Approval Committee GF-1 standards through current standards, inclusive of all original equipment manufacturer-specific engine oils. [2011, c. 211, §2 (AMD); 2011, c. 211, §27 (AFF).]

D. "Motor vehicle" has the same meaning as in Title 29-A, section 101, subsection 42. [2007, c. 464, §6 (NEW).]

E. [2007, c. 618, §14 (AFF); 2007, c. 618, §6 (RP).]

F. "Motor vehicle oil" means any lubricating oil or other lubricant that is reclaimable and classified for use in an internal combustion engine or the transmission, gear box, hydraulic system, compressor or differential for a motor vehicle, including but not limited to natural, synthetic and re-refined motor oils, whether or not in retail containers. [2011, c. 211, §2 (AMD); 2011, c. 211, §27 (AFF).]

G. "Motor vehicle oil dealer" means any person, firm or corporation engaged in the business of producing, packaging or otherwise preparing motor vehicle oil for market, or selling or distributing motor vehicle oil. [2007, c. 618, §8 (NEW).]

H. [2011, c. 211, §27 (AFF); 2011, c. 211, §2 (RP).]

[ 2011, c. 211, §2 (AMD); 2011, c. 211, §27 (AFF) .]

**2. Creation; sources of fund.** The Waste Motor Oil Revenue Fund is established. The fund consists of:

A. All money appropriated for inclusion in the fund; [2007, c. 464, §6 (NEW).]

B. Subject to any pledge, contract or other obligation, all interest, dividends or other pecuniary gains from investment of money in the fund; [2007, c. 464, §6 (NEW).]

C. Any other money available to the authority and directed by the authority to be paid into the fund; and [2007, c. 464, §6 (NEW).]

D. All revenue received from the State Tax Assessor pursuant to former subsection 6 and subsection 6-A. [2009, c. 434, §1 (AMD); 2009, c. 434, §84 (AFF).]

[ 2009, c. 434, §1 (AMD); 2009, c. 434, §84 (AFF) .]

**3. Application of fund.** Money in the fund must be applied to the payment of principal of, interest on, redemption premiums on or other costs of revenue obligation securities issued pursuant to section 1020-A and may, in whole or in part, be pledged or transferred and deposited as security for those securities. Money in the fund not immediately needed to meet the obligations of the authority as provided for in this subsection may be invested in such a manner as permitted by law. Any reasonable costs incurred by the authority in administering this fund may be taken from the money in the fund.

Notwithstanding any provision of this subchapter to the contrary, money in the fund may not be transferred from the fund or otherwise applied except as expressly provided in this subsection unless:

A. All amounts required by the trust documents securing those revenue obligation securities to be transferred to the trustee or to a paying agent have been transferred during the same calendar year; [2011, c. 211, §3 (NEW).]

B. All costs incurred, or projected by the authority to be incurred, in administering the fund in that calendar year have been funded through the transfer of such amounts to the authority; and [2011, c. 211, §3 (NEW).]

C. The completion of the transfer or other application does not result in a balance in the fund of less than \$600,000. [2011, c. 211, §3 (NEW).]

[ 2011, c. 211, §3 (AMD) .]

**3-A. Excess revenue; application.** By April 15th annually, the authority shall determine whether, as of the immediately preceding December 31st, the fund contained more than \$600,000, which is referred to in this subsection as "excess revenue." Excess revenue must be used to satisfy the following obligations in the following order each year, until the excess revenue is exhausted or the obligations have been satisfied, whichever comes first.

A. As the first obligation, an amount not to exceed \$65,000 per year for payments to eligible motor vehicle oil dealers pursuant to section 1020-C. The amount available for reimbursement must be reported to the State Tax Assessor no later than April 15th annually. [2011, c. 211, §4 (NEW).]

B. [2011, c. 211, §4 (NEW); T. 10, §1020, sub3A, ¶B (RP).]

C. [2011, c. 211, §4 (NEW); T. 10, §1020, sub3A, ¶C (RP).]

D. As the 4th obligation, transfer of up to \$1,000,000 per year to the Uncontrolled Sites Fund established under Title 38, section 1364, subsection 6 until \$6,919,681.57 has been transferred for response costs incurred by the Department of Environmental Protection at the waste motor oil disposal site. [2011, c. 211, §4 (NEW).]

E. As the 5th obligation, an additional reimbursement from the fund to eligible motor vehicle oil dealers pursuant to section 1020-C. The amount available for reimbursement under this paragraph must be reported to the State Tax Assessor no later than April 15th annually. [2011, c. 211, §4 (NEW).]

F. As the 6th obligation, notwithstanding the \$1,000,000 annual limit specified in paragraph D, an additional transfer of any remaining excess revenues to the Uncontrolled Sites Fund established under Title 38, section 1364, subsection 6 until the amount specified in paragraph D is paid in full. [2011, c. 211, §4 (NEW).]

[ 2011, c. 211, §4 (NEW) .]

**4. Accounts within fund.** The authority may divide the fund into separate accounts as it determines necessary or convenient for carrying out the purposes of this subchapter.

[ 2007, c. 464, §6 (NEW) .]

**5. Revolving fund.** The fund is a nonlapsing, revolving fund. All money in the fund must be continuously applied by the authority to carry out the purposes of this subchapter except as provided in subsection 3.

[ 2007, c. 464, §6 (NEW) .]

## **6. Premium.**

[ 2007, c. 618, §10 (AMD); T. 10, §1020, sub-§6 (RP) .]

**6-A. Premium.** In addition to any other tax or charge imposed under state or federal law, a premium is imposed on motor vehicle oil sold or distributed in the State as provided in this subsection. A motor vehicle oil dealer that makes the first sale or distribution of motor vehicle oil in the State shall pay the premium.

The premium is calculated as follows:

A. Diesel engine crankcase oil is subject to a premium of 35¢ per gallon; [2011, c. 211, §5 (NEW); 2011, c. 211, §27 (AFF).]

B. Gasoline engine crankcase oil sold or distributed in a container with a volume of 5 gallons or less is subject to a premium of 35¢ per gallon; [2011, c. 211, §5 (NEW); 2011, c. 211, §27 (AFF).]

C. Gasoline engine crankcase oil sold or distributed in a container with a volume of more than 5 gallons is subject to a premium of \$1.10 per gallon; and [2011, c. 211, §5 (NEW); 2011, c. 211, §27 (AFF).]

D. All motor vehicle oil other than diesel engine crankcase oil and gasoline engine crankcase oil that is sold or distributed in a container with a volume of 16 gallons or less is subject to a premium of 35¢ per gallon. [2011, c. 211, §5 (NEW); 2011, c. 211, §27 (AFF).]

All premiums must be paid to the State Tax Assessor and are subject to the administrative provisions of Title 36, Parts 1 and 3 as though they were a sales tax liability. By the 20th day of each month, the State Tax Assessor shall notify the State Controller and the Treasurer of State of the amount of revenue attributable to the premium collected under this subsection in the previous month. When notified by the State Tax Assessor, the State Controller shall transfer that amount to the fund.

[ 2011, c. 211, §27 (AFF); 2011, c. 211, §5 (RPR) .]

**7. Effective date.** This section takes effect on October 1, 2007 and remains in effect until the later of June 30, 2018 and any date thereafter but no later than December 31, 2030 on which the authority notifies the State Tax Assessor that there are no outstanding revenue obligation securities that were issued pursuant to section 1020-A.

[ 2007, c. 618, §12 (AMD) .]

#### **8. Successor standards.**

[ 2011, c. 211, §6 (RP) .]

#### SECTION HISTORY

2007, c. 464, §6 (NEW). 2007, c. 618, §§2-13 (AMD). 2007, c. 618, §14 (AFF). 2009, c. 213, Pt. KKK, §§1, 2 (AMD). 2009, c. 434, §1 (AMD). 2009, c. 434, §84 (AFF). 2011, c. 211, §§2-6 (AMD). 2011, c. 211, §27 (AFF).

### **§1020-A. WASTE MOTOR OIL DISPOSAL SITE REMEDIATION PROGRAM**

**1. Issue of securities.** The authority shall issue revenue obligation securities pursuant to subchapter 3 in an amount sufficient to:

A. Pay the response costs of eligible persons, except that a revenue obligation security may not be issued after July 1, 2011 to fund the payments required by this paragraph; [2011, c. 211, §7 (AMD).]

B. Establish any capital reserve fund pursuant to section 1053; and [2007, c. 464, §6 (NEW).]

C. Pay the costs of issuance of revenue obligation securities. [2007, c. 464, §6 (NEW).]

[ 2007, c. 464, §6 (NEW); 2011, c. 211, §7 (AMD) .]

**2. Payment of proceeds.** The authority shall pay proceeds of the revenue obligation securities to or on behalf of the responsible parties in accordance with subsection 4.

[ 2011, c. 211, §8 (AMD); 2011, c. 211, §27 (AFF) .]

**3. Revenue refunding securities.** The authority may provide for issuance of revenue refunding securities pursuant to section 1048.

[ 2007, c. 464, §6 (NEW) . ]

**4. Certificate of determination.** From time to time, the authority shall ascertain from the Department of Environmental Protection, the United States Environmental Protection Agency or the responsible parties, as applicable, the final remedy selection and response costs for each waste motor oil disposal site.

A. When the authority is advised by the Department of Environmental Protection, the United States Environmental Protection Agency or the responsible parties of the issuance of a final remedy selection and that the remedy will be implemented pursuant to a consent decree or other final settlement order or agreement determining substantially final response costs for a waste motor oil disposal site, the authority shall determine those costs for that waste motor oil disposal site that represent the collective share of those persons eligible under subsection 7 to have their share of those costs for the waste motor oil disposal site paid from the proceeds of revenue obligation securities. In determining the amount of response costs incurred by an eligible person prior to the effective date of a consent decree or other final settlement order or agreement, the authority shall rely on a written certificate of costs from the potentially responsible party (PRP) group, if any, at the waste oil disposal site. If a potentially responsible party (PRP) group is not active at a waste oil disposal site, the authority shall rely on a written certificate of costs from each eligible person supported by copies of invoices, receipts or other evidence of payment. The certificate of costs must be made under oath and subject to the provisions of Title 17-A, section 451. In determining the amount of response costs to be incurred by an eligible person after the effective date of a consent decree or other final settlement order or agreement, the authority shall rely on the final allocation of response costs as agreed on by the responsible parties and as reflected in the consent decree or other final settlement order or agreement. [2007, c. 464, §6 (NEW) . ]

A-1. [2011, c. 211, §9 (RP) . ]

B. With respect to a waste motor oil disposal site, following the determinations made pursuant to paragraph A, the authority shall issue a certificate of determination setting forth the amount of:

- (1) The response costs paid or to be paid with respect to that waste motor oil disposal site;
- (2) The eligible response costs with respect to that waste motor oil disposal site to be paid from the proceeds of revenue obligation securities; and
- (3) The proceeds of the revenue obligation securities to be paid to or on behalf of the responsible parties. [2011, c. 211, §10 (AMD) . ]

C. The authority may issue no more than one supplemental certificate of determination with respect to a waste motor oil disposal site, which may provide for the payment from the proceeds of additional revenue obligation securities of an amount equal to no more than 10% of the amount of costs initially certified for that waste motor oil disposal site. The authority is not authorized to issue more than 2 certificates of determination for a waste motor oil disposal site. [2007, c. 464, §6 (NEW) . ]

[ 2011, c. 211, §§9, 10 (AMD) . ]

**5. Eligibility.** For purposes of this section, "person" means any natural person, corporation, partnership or other entity identified as a responsible party at a waste motor oil disposal site. The following persons that contributed waste motor oil to a waste motor oil disposal site and who have been designated by the Department of Environmental Protection or the United States Environmental Protection Agency as responsible parties with respect to any of the waste motor oil disposal sites are eligible to have their share of response costs paid from the proceeds of revenue obligation securities issued pursuant to this subchapter:

A. Those responsible parties that the Department of Environmental Protection or United States Environmental Protection Agency determines are insolvent, unlocated or defunct; [2007, c. 464, §6 (NEW) . ]

B. Those responsible parties that the Department of Environmental Protection or United States Environmental Protection Agency determines have a limited ability to pay; [2007, c. 464, §6 (NEW).]

C. Those responsible parties that the Department of Environmental Protection or United States Environmental Protection Agency determines are responsible for 110 gallons or less of waste motor oil at a waste motor oil disposal site; [2007, c. 464, §6 (NEW).]

D. The State and any agencies, authorities, departments, boards, commissions or instrumentalities of the State or political subdivisions of the State; [2007, c. 464, §6 (NEW).]

E. All franchised new car and truck dealers licensed pursuant to Title 29-A, chapter 9, subchapter 3 or the successors in interest of any such franchised new car or truck dealers. The Secretary of State shall certify to the authority those responsible parties that were licensed pursuant to Title 29-A, chapter 9, subchapter 3; [2007, c. 464, §6 (NEW).]

F. All used car and truck dealers licensed in accordance with Title 29-A, chapter 9, subchapter 3 or the successors in interest of any such used car and truck dealers. The Secretary of State shall certify to the authority those responsible parties that were licensed pursuant to Title 29-A, chapter 9, subchapter 3; [2007, c. 464, §6 (NEW).]

G. A person or its successor in interest that:

- (1) Performed repairs at repair facilities located in this State on motor vehicles that are owned by 3rd parties;
- (2) Is identified as qualified under this subsection by the potentially responsible party (PRP) group at the waste oil disposal site or, in the case when the response action was or will be undertaken by the State, by the Department of Environmental Protection; and
- (3) Certifies to the authority under oath and subject to the provisions of Title 17-A, section 451 that it is qualified under this subsection; [2009, c. 304, §3 (AMD).]

H. Any person or its successor in interest that performed repairs on its own fleet of motor vehicles, is identified by the potentially responsible party group at the waste motor oil disposal site or, in the case when the response action was or will be undertaken by the State is identified by the Department of Environmental Protection, as qualified under this subsection and certifies to the authority under oath and subject to the provisions of Title 17-A, section 451 that it is qualified under this subsection. The motor vehicles at all pertinent times must have been registered, garaged and serviced in this State; and [2011, c. 211, §11 (AMD).]

I. Any person or its successor in interest that performed repairs, at repair facilities located in this State, on special equipment or special mobile equipment, as defined in Title 29-A, section 101, subsections 69 and 70, is identified by the potentially responsible party group at the waste motor oil disposal site or, in the case when the response action was or will be undertaken by the State is identified by the Department of Environmental Protection, as qualified under this subsection and certifies to the authority under oath and subject to the provisions of Title 17-A, section 451 that it is qualified under this subsection. [2011, c. 211, §11 (AMD).]

Notwithstanding any provision of this subsection to the contrary, at the Ellsworth, Casco and Presque Isle waste motor oil disposal sites identified in section 963-A, subsection 51-E, paragraphs B, C and D, eligible persons include all responsible parties except those enumerated in subsection 6.

[2011, c. 211, §11 (AMD).]

**6. Parties ineligible.** The United States of America and its agencies, authorities, departments, boards, commissions and instrumentalities are not eligible to have any share of any of their obligation for response costs covered by revenue obligation securities issued pursuant to this section.

[2007, c. 464, §6 (NEW).]

**7. Registry determinations regarding eligibility.** In accordance with the criteria set forth in subsection 5, the authority shall establish a registry of all responsible parties who qualify to have their share of response costs paid pursuant to this subchapter.

A. In order to establish the registry, the authority shall review the list of responsible parties prepared by the Department of Environmental Protection or the United States Environmental Protection Agency with respect to the waste motor oil disposal sites, must have access to all Department of Environmental Protection and United States Environmental Protection Agency records that relate in any way to the volume or composition of materials that may have been deposited in a waste motor oil disposal site and shall confirm which responsible parties meet the criteria established in subsection 5. The confirmed responsible parties must be placed on the registry. In addition, with regard to eligibility, the authority may consider and rely upon information provided by the potentially responsible party (PRP) group conducting response activities at the waste motor oil disposal site. Copies of the registry must be made available to the public at the office of the chief executive officer of the authority. [ 2007, c. 464, §6 (NEW) . ]

B. The authority shall cause the registry for each waste motor oil disposal site to be published 2 times, 7 days apart, simultaneously in the weekend edition of the following newspapers or any of their successors: the Bangor Daily News, the Portland Press Herald, the Kennebec Journal, the Morning Sentinel, the Brunswick Times Record, the Aroostook Republican, the Lewiston Sun Journal and the Biddeford Journal Tribune. [ 2007, c. 464, §6 (NEW) . ]

C. Any responsible party may request reconsideration of any authority decision relating to eligibility for that responsible party. All reconsideration determinations must be made by the Department of Environmental Protection and in accordance with Title 5, chapter 375, subchapter 4. All requests for reconsideration must be mailed, postage prepaid, to the Department of Environmental Protection at the address designated by the authority. All requests for reconsideration must be in writing and include such information as the responsible party desires to draw to the Department of Environmental Protection's attention and must be received by the department no later than 30 days from the 2nd date of publication of notice in the newspapers identified in paragraph B. The request for reconsideration must be accompanied by a filing fee to the Department of Environmental Protection in the amount of \$500. The decision of the Department of Environmental Protection constitutes final agency action. [ 2007, c. 464, §6 (NEW) . ]

D. Any responsible party may appeal a decision by the Department of Environmental Protection to the Kennebec County Superior Court pursuant to Title 5, section 9061 within 30 days of the date of the decision. An appeal under this paragraph is nontestimonial. The record consists solely of written materials reviewed by the Department of Environmental Protection and its decision. [ 2011, c. 559, Pt. A, §9 (AMD) . ]

[ 2011, c. 559, Pt. A, §9 (AMD) . ]

**8. Rules.** The authority shall adopt rules necessary to implement this subchapter. Rules adopted by the authority pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

[ 2007, c. 464, §6 (NEW) . ]

**9. Liability releases and covenants at certain sites.** This subsection applies to the Ellsworth, Casco and Presque Isle waste motor oil disposal sites identified in section 963-A, subsection 51-E, paragraphs B, C and D and referred to in this subsection as "the sites." Upon receipt by the Department of Environmental Protection of the first \$3,500,000 pursuant to section 1020, subsection 3-A, paragraphs D and F:

A. The Department of Environmental Protection or any other agency or instrumentality of the State may not sue or take administrative action against any responsible party at a waste motor oil disposal site under any state or federal statute or common law regarding response costs or environmental conditions related to the release, threatened release or presence of hazardous substances at or from any of the sites

prior to the effective date of this paragraph, including, without limitation, past response costs, future response costs, oversight costs, natural resource damages and the cost of assessment; [2011, c. 211, §12 (NEW).]

B. The State, including all of its departments, agencies and instrumentalities, by and through the Attorney General, shall execute a release in favor of all eligible persons at the sites. The release must forever discharge and release all eligible persons from all claims, suits, actions, liabilities, causes of action, demands, costs, damages and expenses of any nature whatsoever, including, without limitation, past response costs, future response costs, oversight costs, natural resource damages and the cost of assessment, whether known or unknown, arising out of, directly or indirectly, a release, threatened release or presence of hazardous substances at or from the sites prior to the effective date of this paragraph; and [2011, c. 211, §12 (NEW).]

C. The eligible persons at the sites are protected from contribution actions or claims regarding those sites. [2011, c. 211, §12 (NEW).]

The State shall include a covenant not to sue and contribution protection in any consent decree or other settlement agreement entered into between the State and federal agencies related to recovery of the State's response costs at the sites.

[2011, c. 211, §12 (NEW) .]

#### SECTION HISTORY

2007, c. 464, §6 (NEW). 2009, c. 304, §§1-5 (AMD). 2011, c. 211, §§7-12 (AMD). 2011, c. 211, §27 (AFF). 2011, c. 559, Pt. A, §9 (AMD).

## §1020-B. STATUS REPORTS

The following reports related to the waste motor oil disposal site remediation program under section 1020-A must be submitted to the joint standing committee of the Legislature having jurisdiction over natural resources matters. [2009, c. 213, Pt. KKK, §3 (NEW).]

**1. Program report.** By January 15, 2010 and every 2 years thereafter, the authority and the Department of Environmental Protection shall report on the status of the waste motor oil disposal site remediation program under section 1020-A.

[2009, c. 213, Pt. KKK, §3 (NEW) .]

**2. Funding report.** By February 15, 2010 and every year thereafter, the authority and the State Tax Assessor shall report the revenue collected pursuant to section 1020, subsection 6-A for the preceding calendar year. The report may be incorporated into the biennial report required under subsection 1. The joint standing committee of the Legislature having jurisdiction over natural resources matters shall determine, beginning in 2013 and every odd-numbered year thereafter, whether the premium imposed pursuant to section 1020, subsection 6-A may be reduced or eliminated in a manner that does not adversely affect the ability of the authority to provide for the full and timely payment of the principal of, interest on, redemption premiums on or other costs of all revenue obligation securities issued pursuant to section 1020-A that remain outstanding as those costs become due or adversely affect the security for those revenue obligation securities and may submit legislation related to the determination and report required under this subsection.

[2011, c. 211, §13 (AMD) .]

#### SECTION HISTORY

2009, c. 213, Pt. KKK, §3 (NEW). 2011, c. 211, §13 (AMD).

## §1020-C. MOTOR VEHICLE OIL PREMIUM REIMBURSEMENT

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

A. "Eligible dealer" means a motor vehicle oil dealer that has sold or distributed motor vehicle oil outside the State on which the motor vehicle oil premium was imposed by section 1020, subsection 6-A. [2011, c. 548, §1 (AMD); 2011, c. 548, §36 (AFF).]

B. "Eligible premium" means a premium that has been reported and paid by a motor vehicle oil dealer to the State Tax Assessor on motor vehicle oil that was subsequently sold or distributed by an eligible dealer outside the State during the relevant reimbursement period. [2011, c. 548, §1 (AMD); 2011, c. 548, §36 (AFF).]

C. "Reimbursement claim" means the value of all eligible premiums reported by an eligible dealer during a reimbursement year. [2011, c. 211, §14 (NEW).]

D. "Unreimbursed eligible premium" means a properly filed eligible premium that has not been reimbursed to the eligible dealer for current or prior year obligations. [2011, c. 211, §14 (NEW).]

[ 2011, c. 548, §1 (AMD); 2011, c. 548, §36 (AFF) .]

**2. Annual application for reimbursement.** An eligible dealer shall submit a claim for reimbursement of eligible premiums on motor vehicle oil sold by that dealer outside the State on a form prescribed by the State Tax Assessor no later than March 31st annually. An application filed in 2011 or 2012 may include a reimbursement request for eligible premiums paid from October 1, 2009 to December 31, 2011. Reimbursement claims submitted beginning in 2013 may be made only for eligible premiums paid in the immediately preceding calendar year. All applications for reimbursement must be made under penalties of perjury. For purposes of this subsection, an application for reimbursement is considered a return, as defined in Title 36, section 111, subsection 4.

[ 2011, c. 548, §2 (AMD); 2011, c. 548, §36 (AFF) .]

**3. Calculation of reimbursement.** Reimbursement of funds available in the fund is calculated according to this subsection.

A. Annually, no later than April 30th immediately following notification by the authority pursuant to section 1020, subsection 3-A, paragraphs A and E, the State Tax Assessor shall calculate the value of reimbursement claims. The State Tax Assessor shall provide reimbursement, as determined pursuant to paragraph B, to eligible dealers no later than the immediately following May 31st. [2011, c. 211, §14 (NEW).]

B. For any reimbursement year, the total amount reimbursed to an eligible dealer may not exceed that eligible dealer's unreimbursed eligible premiums. Priority is given to the oldest unreimbursed eligible premiums in succession until all eligible premiums have been reimbursed. [2011, c. 211, §14 (NEW).]

The amount of reimbursement for each eligible dealer is calculated as follows: The State Tax Assessor shall reimburse each eligible dealer for any reimbursement year an amount equal to a fraction, the numerator of which is the total amount of each eligible dealer's eligible premium and the denominator of which is the total amount of reimbursement claims for the same reimbursement year, multiplied by the amount determined as available by the authority pursuant to section 1020, subsection 3-A, paragraphs A and E. Interest is not due on any reimbursement made to an eligible dealer pursuant to this subsection.

[ 2011, c. 211, §14 (NEW) .]

**4. Payment.** A reimbursement made in accordance with this section must be paid from the amount the authority reports to the State Tax Assessor pursuant to section 1020, subsection 3-A, paragraphs A and E.

[ 2011, c. 211, §14 (NEW) .]

#### SECTION HISTORY

2011, c. 211, §14 (NEW). 2011, c. 548, §§1, 2 (AMD). 2011, c. 548, §36 (AFF).

## Subchapter 2: MORTGAGE INSURANCE PROGRAMS

### §1021. CREDIT OF STATE PLEDGED

The authority may insure the payment of mortgage loans, secured by eligible projects, and may insure or guaranty insured certificates, and to this end the faith and credit of the State is pledged, consistent with the terms and limitations of the Constitution of Maine, Article IX, Sections 14-A and 14-D and such further limitations as may be provided by this subchapter. [1993, c. 460, §4 (AMD).]

#### SECTION HISTORY

1981, c. 476, §2 (NEW). 1983, c. 519, §8 (AMD). 1985, c. 344, §41 (AMD). 1993, c. 460, §4 (AMD).

### §1022. POWERS OF THE AUTHORITY UNDER THIS PROGRAM

*(REPEALED)*

#### SECTION HISTORY

1981, c. 476, §2 (NEW). 1985, c. 344, §42 (RP).

### §1023. CREATION OF MORTGAGE INSURANCE FUND

*(REPEALED)*

#### SECTION HISTORY

1981, c. 476, §2 (NEW). 1981, c. 698, §§54,55 (AMD). 1983, c. 519, §9 (AMD). 1985, c. 344, §43 (RP).

### §1023-A. PROCEEDS RECEIVED BY AUTHORITY

*(REPEALED)*

#### SECTION HISTORY

1981, c. 698, §56 (NEW). 1985, c. 344, §44 (RP).

### §1023-B. MORTGAGE INSURANCE FUND

**1. Creation.** There is created and established under the jurisdiction and control of the authority the Mortgage Insurance Fund.

[ 1985, c. 344, §45 (NEW) .]

**2. Deposited with Treasurer of State or invested.** Money in the fund, not needed currently to meet the obligations of the authority as provided for in this subchapter, shall be deposited with the Treasurer of State to the credit of the fund or may be invested in such manner as is provided for by law.

[ 1985, c. 344, §45 (NEW) .]

**3. Items charged or credited.** The authority may charge or credit to the fund:

A. All expenses of the authority, including payments required pursuant to mortgage insurance agreements and operating expenses; and [1985, c. 344, §45 (NEW).]

B. All income of the authority, including mortgage insurance premiums, fees, reimbursements and proceeds of sale, lease or other disposition of its property, except that proceeds received by the authority from the sale, lease or other disposition of property it may have acquired in accordance with section 1025, subsection 1, shall be credited either to the Mortgage Insurance Fund or the Loan Insurance Reserve Fund as directed by the authority. [1985, c. 714, §11 (AMD).]

[ 1985, c. 714, §11 (AMD) .]

**4. Accounts.** The authority may divide the fund into such separate accounts as it determines are necessary or convenient for carrying out the purposes of this chapter.

[ 1985, c. 344, §45 (NEW) .]

**5. Bond proceeds.** Proceeds of bonds issued for purposes authorized by the Constitution of Maine, Article IX, Section 14-A, may not be commingled, for accounting purposes, with proceeds of bonds issued for purposes of the Constitution of Maine, Article IX, Section 14-D.

[ 1985, c. 344, §45 (NEW) .]

**6. Revolving fund.** The fund shall be a nonlapsing revolving fund. All money in the fund shall be continuously applied by the authority to carry out this chapter.

[ 1985, c. 344, §45 (NEW) .]

**7. Successor.** Funds held by the authority under prior law in the Mortgage Insurance Fund, the Maine Small Business Loan Insurance Fund and the Veterans' Small Business Loan Insurance Fund shall be held in the Mortgage Insurance Fund created by this section.

[ 1985, c. 344, §45 (NEW) .]

#### SECTION HISTORY

1985, c. 344, §45 (NEW). 1985, c. 714, §11 (AMD).

### §1023-C. LOAN INSURANCE RESERVE FUND

**1. Creation.** There is created and established under the jurisdiction and control of the authority the Loan Insurance Reserve Fund.

[ 1985, c. 714, §12 (NEW) .]

**2. Sources of fund.** There shall be paid into the Loan Insurance Reserve Fund:

A. All money appropriated for inclusion in the fund; [1985, c. 714, §12 (NEW).]

B. Subject to any pledge, contract or other obligation, any money which the authority receives in repayment of advances from the fund; [1985, c. 714, §12 (NEW).]

C. Subject to any pledge, contract or other obligation, all interest, dividends or other pecuniary gains from investment of money of the fund; [1985, c. 714, §12 (NEW).]

D. After the sum of \$300,000 is transferred into the General Fund by the State Controller, the balance available in the Guarantee Reserve Fund shall be transferred to the fund by the State Controller in accordance with the following:

(1) The transfer described in this paragraph shall take place 91 days after the adjournment of the Second Regular Session of the 112th Legislature; and

(2) The sum to be transferred from the Guarantee Reserve Fund to the Loan Insurance Reserve Fund shall be reduced by the amount of any transfers of money to the authority pursuant to section 1024 on or before the transfer provided for by this paragraph. [1985, c. 714, §12 (NEW).]

E. Any other money available to the authority and directed by the authority to be paid into the fund. [1985, c. 714, §12 (NEW).]

[ 1985, c. 714, §12 (NEW) .]

**3. Application of fund.** Money in the Loan Insurance Reserve Fund may be applied to carry out any power of the authority, including, without limitation, to pledge or transfer and deposit money in the fund as security for and to apply money in the fund in payment of principal of, interest on or redemption premiums on revenue obligation securities of the authority. Money in the fund not needed currently to meet the obligations of the authority as provided for in this chapter may be invested in such manner as may be permitted by law.

[ 1985, c. 714, §12 (NEW) .]

**4. Accounts within fund.** The authority may divide the Loan Insurance Reserve Fund into such separate accounts as it determines are necessary or convenient for carrying out the purposes of this chapter.

[ 1985, c. 714, §12 (NEW) .]

**5. Revolving fund.** The Loan Insurance Reserve Fund shall be a nonlapsing, revolving fund. All money in the fund shall be continuously applied by the authority to carry out this chapter.

[ 1985, c. 714, §12 (NEW) .]

#### SECTION HISTORY

1985, c. 714, §12 (NEW).

## §1023-D. UNDERGROUND OIL STORAGE REPLACEMENT FUND

**1. Creation.** The Underground Oil Storage Replacement Fund is created and established under the jurisdiction and control of the authority.

[ 1989, c. 543, §3 (AMD) .]

**2. Sources of money.** There must be paid into the fund the following:

A. All money appropriated for inclusion in the fund or appropriated to the authority for use in providing financial assistance to owners of underground oil storage facilities or tanks, subject to any restrictions applicable to the appropriation; [1989, c. 543, §3 (AMD).]

B. Subject to any pledge, contract or other obligation, all interest, dividends or other pecuniary gains from investment of money of the fund; [1987, c. 521, §4 (NEW).]

C. Subject to any pledge, contract or other obligations, any money the authority receives in repayment of advances from the fund; and [1995, c. 399, §1 (AMD); 1995, c. 399, §21 (AFF).]

D. Any other money available to the authority and directed by the authority to be paid into the fund. [1987, c. 521, §4 (NEW).]

Without limiting the generality of any other power or authority given to or conferred upon the authority in anticipation of the appropriation or transfer of any money for inclusion in the fund, the authority may borrow funds for application to the fund. All funds borrowed pursuant to this authorization, including interest on the borrowed funds, must be repaid from such fees or by other appropriation.

[ 1999, c. 505, Pt. A, §6 (AMD) .]

**3. Application of fund.** Money in the fund may be applied to carry out any power of the authority under this section or under or in connection with section 1026-A, subsection 1, paragraph A, subparagraph (1), division (b), including, but not limited to, to pledge or transfer and deposit money in the fund as security for and to apply money in the fund in payment of principal, interest and other amounts due on insured loans. Except as otherwise prohibited under this subsection, money in the fund may be used for direct loans or grants for all or part of underground oil storage facility projects, underground oil storage tank projects, aboveground oil storage tank or facility construction or replacement projects or gasoline service station vapor control or petroleum liquids transfer vapor recovery projects when the authority determines that:

A. One or more of the following circumstances exists:

- (1) The underground oil storage facility or tank is leaking or has been identified by the Department of Environmental Protection as posing an environmental threat, or removal is required by applicable law;
- (2) The applicant is required to install equipment related to the improvement of air quality pursuant to requirements for gasoline service station vapor control and petroleum liquids transfer vapor recovery;
- (3) The applicant is constructing, replacing or renovating a tank or facility used for the aboveground storage of oil and the work is supervised by a state-registered professional engineer with training and experience in aboveground oil storage facility installation; or
- (4) The applicant is renovating an underground oil storage tank or facility, the work is supervised by an underground oil storage tank installer certified by the Board of Underground Storage Tank Installers under Title 32, chapter 104-A and the estimated cost of the work exceeds \$1,000; [2003, c. 537, §20 (AMD); 2003, c. 537, §53 (AFF).]

B. The applicant, if the applicant is not a unit of local government, demonstrates financial need for the assistance; and [1993, c. 601, §2 (RPR).]

C. If the assistance includes a loan, there is a reasonable likelihood that the applicant will be able to repay the loan. [1993, c. 601, §2 (RPR).]

D. [1989, c. 543, §3 (RP).]

E. [1993, c. 601, §2 (RP).]

Applicants demonstrating the requirement to install equipment related to the improvement of air quality pursuant to section 1026-A, subsection 1, paragraph A, subparagraph (1), division (b) and who own fewer than 15 service stations, and who are not able to repay a loan, are eligible to receive no more than \$35,000 per service station in grants for the payment of expenses relating to the installation of this equipment.

The authority, pursuant to Title 5, chapter 375, subchapter 2, shall adopt rules for determining eligibility, feasibility, terms, conditions and security for the loans and grants. In the case of loans, the authority may charge an interest rate that may be as low as 0% and may be greater, depending on the financial ability of the applicant to pay as determined by the authority, up to a maximum of the prime rate of interest charged by major New York banks. The maximum the authority may loan or grant to any one borrower, including related entities as determined by the authority, is \$600,000. Loans or grants for the purposes listed in paragraph A,

subparagraph (3) may not exceed \$1,000,000 in a 12-month period. Grants may not be made for the purpose listed in paragraph A, subparagraph (4). Money in the fund not needed currently to meet the obligations of the authority as provided in this section may be invested as permitted by law.

[ 2003, c. 537, §20 (AMD); 2003, c. 537, §53 (AFF) .]

**4. Accounts within fund.** The authority may divide the fund into such separate accounts as it determines are necessary or convenient for carrying out this section, including, but not limited to, accounts reserved for direct loan funds or grants for underground oil storage facility removal and direct loan funds or grants for tank removal.

[ 1989, c. 543, §3 (AMD) .]

**5. Revolving fund.** The fund is a nonlapsing, revolving fund. All money in the fund must be continuously applied by the authority to carry out this section and section 1026-A, subsection 1, paragraph A, subparagraph (1), division (b).

[ 2003, c. 537, §21 (AMD); 2003, c. 537, §53 (AFF) .]

#### SECTION HISTORY

1987, c. 521, §4 (NEW). 1989, c. 543, §3 (AMD). 1991, c. 439, §5 (AMD). 1993, c. 601, §2 (AMD). 1995, c. 399, §1 (AMD). 1995, c. 399, §21 (AFF). 1997, c. 613, §1 (AMD). 1999, c. 505, §A6 (AMD). 2001, c. 231, §3 (AMD). 2003, c. 537, §§20,21 (AMD). 2003, c. 537, §53 (AFF).

### §1023-E. OVERBOARD DISCHARGE REPLACEMENT FUND

*(REPEALED)*

#### SECTION HISTORY

1987, c. 846, §5 (NEW). 2003, c. 537, §53 (AFF). 2003, c. 537, §22 (RP).

### §1023-F. INNOVATION FINANCE FUND

*(REPEALED)*

#### SECTION HISTORY

1989, c. 552, §12 (NEW). 1989, c. 585, §C9 (NEW). 1989, c. 878, §A25 (RPR). 2003, c. 537, §53 (AFF). 2003, c. 537, §23 (RP).

### §1023-G. WASTE REDUCTION AND RECYCLING LOAN FUND

**1. Creation.** The Waste Reduction and Recycling Loan Fund, referred to in this section as the "fund," is created under the jurisdiction and control of the authority.

[ 1989, c. 878, Pt. A, §26 (NEW) .]

**2. Sources of money.** The fund shall consist of the following:

A. All money appropriated or allocated for inclusion in the fund; [1989, c. 878, Pt. A, §26 (NEW) .]

B. Subject to any pledge, contract or other obligation, all interest, dividends or other pecuniary gains from investment of money from the fund; [1989, c. 878, Pt. A, §26 (NEW) .]

C. Subject to any pledge, contract or other obligations, any money that the authority receives in repayment of advances from the fund; and [1989, c. 878, Pt. A, §26 (NEW).]

D. Any other money available to the authority and directed by the authority to be paid into the fund. [1989, c. 878, Pt. A, §26 (NEW).]

[ 1989, c. 878, Pt. A, §26 (NEW) .]

**3. Application of fund.** Money in the fund may be used for direct loans to finance all or part of any project when the authority determines that:

A. The project is:

(1) Designed to substantially reduce or eliminate the production in a trade or business of solid waste or hazardous waste as defined in Title 38, section 1303-C;

(2) A project devoted to resource recovery, as defined in Title 38, section 1303-C, except that the combustion of solid or hazardous waste shall not be considered resource recovery for the purposes of this section; or

(3) A project devoted to the reuse of post-consumer materials; [1989, c. 878, Pt. A, §26 (NEW).]

B. There is a reasonable likelihood that the applicant will be able to repay the loan; [1989, c. 878, Pt. A, §26 (NEW).]

C. The amount and terms of the loan are reasonable to provide an incentive to the applicant to undertake the project, which may include a below-market interest rate, and the project will not result in a net increase in solid or hazardous waste to be disposed of within the State; and [1989, c. 878, Pt. A, §26 (NEW).]

D. The project will contribute to achieving the goals identified in the state waste management and recycling plan adopted under Title 38, chapter 24 and is determined by the Department of Environmental Protection to be consistent with that plan. Prior to adopting the state waste management and recycling plan, the fund may be used for projects that help achieve the goals identified in the state recycling plan approved under former Title 38, section 1310-M. [2011, c. 655, Pt. GG, §4 (AMD); 2011, c. 655, Pt. GG, §70 (AFF).]

The authority, pursuant to Title 5, chapter 375, subchapter II, shall adopt rules for determining eligibility, feasibility, terms, conditions and security for the loans. Money in the fund not needed currently to meet the obligations of the authority as provided in this section may be invested in such a manner as permitted by law.

[ 2011, c. 655, Pt. GG, §4 (AMD); 2011, c. 655, Pt. GG, §70 (AFF) .]

**4. Accounts within fund.** The authority may divide the fund into separate accounts as it determines necessary or convenient for carrying out this section, including, but not limited to, accounts reserved for direct loan funds.

[ 1989, c. 878, Pt. A, §26 (NEW) .]

**5. Revolving fund.** The fund shall be a nonlapsing, revolving fund. All money in the fund shall be continuously applied by the authority to carry out this section.

[ 1989, c. 878, Pt. A, §26 (NEW) .]

#### SECTION HISTORY

1989, c. 878, §A26 (NEW). 1995, c. 656, §A2 (AMD). 2011, c. 655, Pt. GG, §4 (AMD). 2011, c. 655, Pt. GG, §70 (AFF).

## §1023-I. ECONOMIC RECOVERY PROGRAM FUND

**1. Creation.** The Economic Recovery Program Fund, referred to in this section as the "fund," is created under the jurisdiction and control of the authority.

[ 1991, c. 849, §1 (NEW); 1991, c. 849, §7 (AFF) .]

**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. 849, §1 (NEW); 1991, c. 849, §7 (AFF).]

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. 849, §1 (NEW); 1991, c. 849, §7 (AFF).]

C. Subject to any pledge, contract, fee or other obligation, any money that the authority receives in repayment of advances from the fund; and [1991, c. 849, §1 (NEW); 1991, c. 849, §7 (AFF).]

D. Any other money available to the authority and directed by the authority to be paid into the fund. [1991, c. 849, §1 (NEW); 1991, c. 849, §7 (AFF).]

[ 1991, c. 849, §1 (NEW); 1991, c. 849, §7 (AFF) .]

**3. Application of the fund.** Money in the fund, except money in the 1994 Bond Proceeds Account, may be applied to carry out any power of the authority under or in connection with section 1026-J or to pay obligations incurred in connection with the fund. Money in the 1994 Bond Proceeds Account may be applied to carry out any power of the authority under or in connection with section 1026-J or 1026-L or to pay obligations incurred in connection with the fund. Money in the fund not needed currently to meet the obligations of the authority as provided in this section may be invested in a manner permitted by law.

[ 1995, c. 117, Pt. B, §1 (AMD); 1995, c. 117, Pt. B, §2 (AFF) .]

**4. Accounts within fund.** The authority may divide the fund into separate accounts it determines necessary or convenient for carrying out this section. Notwithstanding this subsection, the authority shall create and establish within the fund the 1992 Bond Proceeds Account and the 1994 Bond Proceeds Account. The authority shall allocate and deposit to the 1992 Bond Proceeds Account all proceeds of bonds issued pursuant to Private and Special Law 1991, chapter 113, Part A and, subject to any pledge, contract or other obligation, all interest, dividends or other pecuniary gains from investment of money or any money that the authority receives in repayment of advances from the 1992 Bond Proceeds Account in the fund and shall allocate to the 1994 Bond Proceeds Account all proceeds of any bonds authorized in 1994 to be issued for the purpose of meeting the needs of the Economic Recovery Program and, subject to any pledge, contract or other obligation, all interest, dividends or other pecuniary gains from investment of money or any money that the authority receives in repayment of advances from the 1994 Bond Proceeds Account in the fund.

[ 1993, c. 722, Pt. B, §1 (AMD); 1993, c. 722, Pt. B, §3 (AFF) .]

**5. Revolving fund.** The fund is a nonlapsing, revolving fund. All money in the 1992 Bond Proceeds Account of the fund must be continuously applied by the authority to carry out this section and section 1026-J and all money in the 1994 Bond Proceeds Account of the fund must be continuously applied by the authority to carry out this section, section 1026-A, subsection 1, paragraph A, subparagraph (2) and section 1026-J.

[ 2003, c. 537, §24 (AMD); 2003, c. 537, §53 (AFF) .]

### SECTION HISTORY

1991, c. 849, §1 (NEW). 1991, c. 849, §7 (AFF). 1993, c. 722, §B1 (AMD). 1993, c. 722, §B3 (AFF). 1995, c. 117, §B1 (AMD). 1995, c. 117, §B2 (AFF). 2003, c. 537, §24 (AMD). 2003, c. 537, §53 (AFF).

## **§1023-J. AGRICULTURAL MARKETING LOAN FUND**

The Agricultural Marketing Loan Fund, referred to in this section as the "fund," is created. The fund must be deposited with and maintained by the Finance Authority of Maine. The fund must be administered by the Commissioner of Agriculture, Conservation and Forestry in accordance with Title 7, chapter 101, subchapter 1-D. All money received by the Finance Authority of Maine from any source for the development and implementation of an improved agricultural marketing loan program must be credited to the fund. Any money credited to the fund from the issuance of bonds on behalf of the State for financing loans for agricultural enterprises may be used only for the following purposes: to provide assistance to agricultural enterprises in this State for the design, construction or improvement of commodity and storage buildings and packing and marketing facilities; for the purchase, construction or renovation of buildings, equipment, docks, wharves, piers or vessels used in connection with a commercial agricultural enterprise; for the purchase of land in connection with development of new cranberry acreage; for the purchase of land for irrigation reservoirs or to provide direct access to water for irrigation; for the purchase of land necessary for the start-up of a new agricultural enterprise; for the expansion of an existing agricultural enterprise when the land acquisition is necessary to comply with land use regulations; for the development of a business plan in accordance with the provisions of Title 7, section 436-A; for improvements to pastureland, including seeding and actions to promote rotational grazing; or, if the commissioner so approves at the time of loan insurance commitment, to pledge money in the fund as security for, and to apply money in the fund to, payment of principal, interest and other amounts due on any term loans insured by the Finance Authority of Maine to an eligible dairy farmer. Repayment of these loans and interest on these loans must be credited to the fund and may be used for the purposes stated in this section or Title 7, section 436. Interest earned on money in the fund and interest earned on loans made from the fund may be used to pay the administrative costs of processing loan applications and servicing and administering the fund and loans and grants made from the fund since the inception of the agricultural marketing loan program, to the extent that these costs exceed the fee for administrative costs established by Title 7, section 435, subsection 4. [2011, c. 380, Pt. 000, §1 (AMD); 2011, c. 657, Pt. W, §6 (REV).]

A purchaser of a modern storage facility that was previously financed with a state loan from the Potato Marketing Improvement Fund may receive a loan from the Agricultural Marketing Loan Fund, but not for the same project financed by the Potato Marketing Improvement Fund. Mortgages obtained from the fund may be assumed by subsequent purchasers of the property. [1995, c. 658, §2 (NEW).]

In order to provide monetary support for Maine milk producers, the Commissioner of Agriculture, Conservation and Forestry may take actions and direct the Finance Authority of Maine to take actions to provide support including entering into agreements as may be necessary to sell, assign or otherwise pledge amounts in the aggregate principal amount of loans and undivided interests in a pool of loans, and assign or pledge any cash balances in the fund, mortgages or other security to provide assurance that amounts provided as monetary support by the commissioner to milk producers are returned to their original source. [2003, c. 120, §3 (NEW); 2011, c. 657, Pt. W, §6 (REV).]

### SECTION HISTORY

1995, c. 658, §2 (NEW). 1999, c. 593, §2 (AMD). 1999, c. 769, §7 (AMD). 2001, c. 471, §A12 (AMD). 2003, c. 120, §3 (AMD). 2003, c. 578, §8 (AMD). 2011, c. 380, Pt. 000, §1 (AMD). 2011, c. 657, Pt. W, §6 (REV).

## **§1023-K. CLEAN FUEL VEHICLE FUND**

*(REPEALED)*

### SECTION HISTORY

1997, c. 500, §5 (NEW). 1999, c. 684, §§2-4 (AMD). 2001, c. 367, §3 (AMD). 2001, c. 714, §§JJ2-4 (AMD). 2003, c. 537, §§25,26 (AMD). 2003, c. 537, §53 (AFF). 2009, c. 124, §2 (AMD). 2011, c. 655, Pt. MM, §§6, 7 (AMD). 2011, c. 655, Pt. MM, §26 (AFF). 2013, c. 368, Pt. SSSS, §1 (RP).

## **§1023-L. WASTE OIL CLEAN-UP FUND**

*(REPEALED)*

### SECTION HISTORY

RR 1999, c. 1, §§12,13 (COR). 1999, c. 505, §A7 (NEW). 1999, c. 531, §H1 (AMD). 1999, c. 531, §H2 (AFF). 1999, c. 604, §§1,2 (AMD). 1999, c. 713, §2 (AMD). 2001, c. 356, §6 (AMD). 2003, c. 451, §§X11,12 (AMD). 2003, c. 537, §27 (AMD). 2003, c. 537, §53 (AFF). 2007, c. 464, §§7, 8 (AMD). 2011, c. 211, §27 (AFF). 2011, c. 211, §15 (RP).

## **§1023-M. PLYMOUTH WASTE OIL LOAN PROGRAM**

*(REPEALED)*

### SECTION HISTORY

1999, c. 713, §3 (NEW). 2001, c. 356, §7 (AMD). 2001, c. 561, §1 (AMD). 2003, c. 129, §§1-4 (AMD). 2003, c. 129, §5 (AFF). 2003, c. 537, §28 (AMD). 2003, c. 537, §53 (AFF). 2003, c. 596, §1 (AMD). 2007, c. 220, §§1, 2 (AMD). 2007, c. 479, §1 (AMD). 2007, c. 479, §2 (AFF). 2011, c. 211, §27 (AFF). 2011, c. 211, §16 (RP).

## **§1023-N. POTATO MARKETING IMPROVEMENT FUND**

There is created a fund known as the Potato Marketing Improvement Fund, referred to in this section as "thefund." The fund must be deposited with and maintained by the authority to be used solely for investment in the Maine potato industry. The fund must be administered by the Maine Potato Board, established in Title 36, section 4603 and referred to in this section as "the board," and the Potato Marketing Improvement Fund Committee, established in Title 5, section 12004-H, subsection 10-A. All money received by the authority from any source for the development and implementation of improved storage, packing and marketing and programs and activities that improve the economic viability of the potato industry must be credited to the fund. Any money credited to the fund from the issuance of bonds on behalf of the State for agricultural development may be used only for the purposes of state loans as prescribed by Title 7, section 974-A to provide assistance to potato farmers for the design, construction, improvement, support and operation of storage, packing and marketing facilities; for programs and activities that improve the economic viability of the potato industry; and to pay the administrative costs of processing loan applications and servicing and administering the fund and loans and grants made therein, to the extent that the costs exceed the fee for administrative costs established by Title 7, section 974-A, subsection 2. At the discretion of the Commissioner of Agriculture, Conservation and Forestry, the authority shall make payments directly to the board, which shall use those payments to implement the requirements of this section. During any period that the commissioner has authorized direct payments from the authority to the board, the authority shall make written annual reports to the commissioner and the joint standing committee of the Legislature having jurisdiction over agriculture, conservation and forestry matters detailing the amounts of payments to the board and the dates payments were made and detailing the expenditure of those payments. Repayment of the loans and interest on the loans must be credited to the fund to be available for making additional state loans for the same purposes, except that any interest earned on the cash balance of the fund may be used for the grants authorized by Title 7, section 975-A. In order to provide additional amounts for loans, the commissioner, upon consultation with the board, may take such actions and enter into such agreements as may be necessary to sell or assign up to \$2,000,000 in the aggregate principal amount of loans and undivided

interests in a pool of loans and assign or pledge any mortgage or other security to the authority, under the terms and conditions the commissioner considers advisable upon consultation with the board. The assignment and related transactions may not result in indebtedness of the State. The proceeds of the sale or assignment must be credited to the fund and used for the purposes authorized in this section. [2013, c. 403, §11 (AMD).]

A purchaser of a modern storage facility that was previously financed with a state loan from the fund may receive a loan under the conditions of this section. Mortgages obtained from the fund may be assumed by subsequent purchasers of the property. The board shall adopt rules concerning the purchase of existing buildings. [2013, c. 403, §12 (AMD).]

Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A. These rules must include provisions that ensure that such purchases are in keeping with the purposes and intent of this subchapter and of Private and Special Law 1981, chapters 65 and 75. They must also include a definition of a modern storage facility. [2001, c. 125, §6 (NEW).]

#### SECTION HISTORY

2001, c. 125, §6 (NEW). 2005, c. 335, §7 (AMD). 2011, c. 657, Pt. W, §§5, 6 (REV). 2013, c. 403, §§11, 12 (AMD).

### **§1023-O. VISUAL AND DIGITAL MEDIA LOAN FUND**

*(REPEALED)*

#### SECTION HISTORY

2011, c. 372, §2 (NEW). MRSA T. 10, §1023-O, sub-§3 (RP).

### **§1023-P. DAIRY IMPROVEMENT FUND**

The Dairy Improvement Fund, referred to in this section as "the fund," is created. The fund must be deposited with and maintained by the authority. The Commissioner of Agriculture, Conservation and Forestry shall administer the fund in accordance with Title 7, section 2910-B and this section. All money received by the authority in accordance with Title 7, section 2910-B and Title 8, section 1036, subsection 2-A, paragraph M must be credited to the fund. Money credited to the fund must be used to provide loans to assist dairy farmers in making capital improvements to maintain and enhance the viability of their farms and to pay the administrative costs of processing loan applications and servicing and administering the fund and loans made from the fund. [2011, c. 625, §5 (NEW); 2011, c. 657, Pt. W, §6 (REV).]

Repayment of loans and interest on these loans must be credited to the fund and may be used for the purposes stated in this section and Title 7, section 2910-B. [2011, c. 625, §5 (NEW).]

The authority may adopt rules necessary to implement this section. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [2011, c. 625, §5 (NEW).]

#### SECTION HISTORY

2011, c. 625, §5 (NEW). 2011, c. 657, Pt. W, §6 (REV).

### **§1024. ADDITIONS TO FUNDS**

**1. Request for funds.** If at any time the money in the Mortgage Insurance Fund and the money in the Loan Insurance Reserve Fund, exclusive of the money pledged or assigned as security for specific obligations of the authority, is insufficient to meet expenses and obligations of the authority, as these expenses and obligations are projected by the authority to become due and payable, the authority shall in writing request the Governor to provide the necessary money. The Governor shall transfer sufficient money to the Mortgage Insurance Fund or Loan Insurance Reserve Fund, as directed by the authority, from the State Contingent Account or the proceeds of bonds of the State issued pursuant to subsection 2. If at any time the money

in the Underground Oil Storage Replacement Fund, exclusive of any amounts reserved by law for direct loans pursuant to section 1023-D, subsection 3, is insufficient to meet the expenses and obligations of the authority incurred pursuant to section 1026-A, subsection 1, paragraph A, subparagraph (1), division (b), as these expenses and obligations are projected by the authority to become due and payable, the authority shall in writing request the Governor to provide the necessary money. Within 30 days of receipt of the request, the Governor shall transfer sufficient money to the Underground Oil Storage Replacement Fund from the Maine Ground and Surface Waters Clean-up and Response Fund or the proceeds of bonds of the State issued pursuant to subsection 2.

[ 2015, c. 319, §3 (AMD) . ]

**2. Issuance of bonds.** If a request for funds is made under subsection 1 and if there are insufficient funds in the State Contingent Account, bonds of the State shall be issued in the following manner:

- A. By the Treasurer of State on orders from the Governor; [1985, c. 714, §13 (RPR) . ]
- B. In the amount required, but not exceeding in the aggregate at any one time outstanding the amount set forth in:
  - (1) The Constitution of Maine, Article IX, Section 14-A, as it may be from time to time amended, except that bonds issued under that section and this subsection may not exceed in the aggregate at any one time outstanding the principal amount of \$90,000,000; and
  - (2) The Constitution of Maine, Article IX, Section 14-D, as it may be from time to time amended, except that bonds issued under that section and this subsection may not exceed in the aggregate at any one time outstanding the principal amount of \$4,000,000; [1993, c. 460, §5 (AMD) . ]
- C. To mature serially or to run for such periods as the Governor may determine, not to exceed 10 years, to be subject to prior redemption or repurchase at the option of the State or the holder, as the Governor may determine, with or without premium; [1985, c. 714, §13 (RPR) . ]
- D. At variable or fixed rates of interest, in such denominations, at such price, at public or private sale, in such manner and on such other terms and conditions as approved by the Governor; and [1985, c. 714, §13 (RPR) . ]
- E. As a pledge of the full faith and credit of the State. [1985, c. 714, §13 (RPR) . ]

If, at any time, the Governor fails to honor such a request for funds or to so order the Treasurer of State or, if the Treasurer of State fails to issue such bonds upon such order, any beneficiary of a valid mortgage insurance obligation of the authority may, by suit against the Governor, seek to require the Governor to honor the request either by payment from the State Contingent Account or by ordering the Treasurer of State to issue such bonds with the proceeds applied to honor the request and may, by suit against the Treasurer of State, seek to require the Treasurer of State to issue the bonds.

[ 1993, c. 460, §5 (AMD) . ]

**3. Insurance authorization.** The authority shall not at any time have, in the aggregate principal amount outstanding, mortgage insurance obligations pursuant to this subchapter in excess of the amounts of authorized and unissued bonds pursuant to subsection 2, paragraph B.

[ 1985, c. 714, §13 (RPR) . ]

**4. Refunding bonds.** The State, acting through the Treasurer of State on orders from the Governor, may issue refunding bonds of the State to refund any outstanding bonds issued pursuant to subsection 2. The refunding bonds shall meet the conditions of subsection 2, paragraphs C, D and E. In computing the total

amount of bonds of the State which may at any time be outstanding pursuant to subsection 2, the amount of the outstanding bonds refunded or to be refunded from the proceeds of the sale of new bonds or by exchange of new bonds shall be excluded.

[ 1985, c. 714, §13 (RPR) .]

#### SECTION HISTORY

1981, c. 476, §2 (NEW). 1981, c. 698, §§57,58 (AMD). 1983, c. 4, (AMD). 1985, c. 198, §1 (AMD). 1985, c. 344, §46 (RPR). 1985, c. 714, §13 (RPR). 1987, c. 521, §§5,6 (AMD). 1987, c. 697, §5 (AMD). 1987, c. 846, §§6,7 (AMD). 1989, c. 543, §4 (AMD). 1993, c. 460, §5 (AMD). 2003, c. 537, §29 (AMD). 2003, c. 537, §53 (AFF). 2015, c. 319, §3 (AMD).

### §1025. SAFEGUARDING THE MORTGAGE INSURANCE FUND

When, in the opinion of the authority, the action is necessary to safeguard the Mortgage Insurance Fund, Loan Insurance Reserve Fund, Underground Oil Storage Replacement Fund or Overboard Discharge Replacement Fund and to maintain income from eligible projects, the authority may, in addition to its other powers: [1989, c. 543, §5 (AMD).]

**1. Acquisition and disposal of property.** Take assignments of insured mortgages and other forms of security and take title by foreclosure or conveyance to any eligible project. The authority may sell, or on a temporary basis lease or rent, the eligible project for a use other than that specified in this chapter. The authority shall be liable to a municipality for property taxes on any unimproved real property owned by it in the municipality due on or after April 1st at least one year after acquisition of the property by the authority;

[ 1985, c. 344, §47 (AMD) .]

**2. Mortgagor rent or lease.** Permit a mortgagor to lease or rent an insured project, temporarily and under conditions set by the authority, to a responsible lessee or tenant for a use other than that specified in this chapter; and

[ 1985, c. 344, §47 (AMD) .]

**3. Extend time.** Extend the time of payment of the loan beyond original maturity, extend the insurance accordingly, waive mortgage insurance premiums and extend or waive other terms and conditions of the loan.

[ 1985, c. 714, §15 (AMD) .]

#### SECTION HISTORY

1981, c. 476, §2 (NEW). 1983, c. 519, §10 (AMD). 1985, c. 344, §47 (AMD). 1985, c. 714, §§14,15 (AMD). 1987, c. 521, §7 (AMD). 1987, c. 846, §8 (AMD). 1989, c. 543, §5 (AMD).

### §1026. CRITERIA FOR PROJECTS

*(REPEALED)*

#### SECTION HISTORY

1981, c. 476, §2 (NEW). 1981, c. 698, §59 (AMD). 1985, c. 344, §48 (RP).

## §1026-A. INSURANCE OF LOANS

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

1. (TEXT EFFECTIVE UNTIL CONTINGENCY: See PL 2015, c. 38, §3) **Insurance.** The authority may make commitments and agreements to insure loan payments. Any loan insurance must be subject to the following:

A. Loan insurance may not exceed:

(1) One hundred percent of the principal amount of the loan made to any borrower including related entities for any of the following types of loans or projects:

(a) Loans to veterans and wartime veterans, except that the authority may not at any time have, in the aggregate amount of the principal and interest outstanding, loan insurance obligations pursuant to this division exceeding \$5,000,000;

(b) Underground and aboveground oil storage facility projects and projects to install equipment related to the improvement of air quality pursuant to requirements for gasoline service station vapor control and petroleum liquids transfer vapor recovery, except that the authority may not at any time have, in the aggregate amount of the principal and interest outstanding, loan insurance obligations pursuant to this division exceeding \$5,000,000;

(c) Clean fuel vehicle projects and sustainable biofuel vehicle projects, except that the authority may not at any time have, in the aggregate amount of the principal and interest outstanding, loan insurance obligations pursuant to this division exceeding \$5,000,000;

(d) Waste oil disposal site clean-up projects, except that the authority may not at any time have, in the aggregate amount of the principal and interest outstanding, loan insurance obligations pursuant to this division exceeding \$1,000,000; or

(e) The Plymouth waste oil remedial study, except that the authority may not at any time have, in the aggregate amount of the principal and interest outstanding, loan insurance obligations pursuant to this division exceeding \$1,000,000; and

(2) Ninety percent of the principal amount of the loan made to any borrower, including related entities for any other manufacturing enterprise, industrial enterprise, recreational enterprise, fishing enterprise, agricultural enterprise, natural resource enterprise or any other eligible business enterprise; [2009, c. 124, §3 (AMD).]

B. The loan must be serviced as required by the authority; [2003, c. 537, §30 (AMD); 2003, c. 537, §53 (AFF).]

C. [2003, c. 537, §53 (AFF); 2003, c. 537, §30 (RP).]

D. The authority must determine that there is a reasonable prospect that the loan will be repaid; [2003, c. 537, §30 (NEW); 2003, c. 537, §53 (AFF).]

E. The loan must be in compliance with the credit policy of the authority; [2003, c. 537, §30 (NEW); 2003, c. 537, §53 (AFF).]

F. Loan insurance payments may not exceed the lesser of:

(1) Principal, outstanding accrued interest and collection costs approved by the authority; and

(2) The original insured amount; and [2003, c. 537, §30 (NEW); 2003, c. 537, §53 (AFF).]

G. Terms other than those specified in paragraphs A to F as may be required by law or by rule of the authority. [2003, c. 537, §30 (NEW); 2003, c. 537, §53 (AFF).]

The authority may provide insurance for related entities of up to \$7,000,000.

Notwithstanding any provision to the contrary in this chapter, the authority may provide special loan insurance benefits to veterans and wartime veterans determined by rule of the authority developed in consultation with the Department of Defense, Veterans and Emergency Management, Bureau of Maine Veterans' Services.

For all loan insurance liability in excess of \$1,000,000 and in other instances when the authority determines it is appropriate, the authority shall obtain a written assessment from the Department of Environmental Protection of the environmental conditions known by the department to exist at a project location so that the authority fully considers environmental risks when making its decisions. Environmental conditions posing risks that must be considered include, but are not limited to, licensing obligations, existing or historic regulatory noncompliance and site clean-up responsibilities.

[ 2009, c. 124, §3 (AMD) . ]

**1. (TEXT EFFECTIVE ON CONTINGENCY: See PL 2015, c. 38, §3) Insurance.** The authority may make commitments and agreements to insure loan payments. Any loan insurance must be subject to the following:

A. Loan insurance may not exceed:

(1) One hundred percent of the principal amount of the loan made to any borrower including related entities for any of the following types of loans or projects:

(a) Loans to veterans and wartime veterans, except that the authority may not at any time have, in the aggregate amount of the principal and interest outstanding, loan insurance obligations pursuant to this division exceeding \$5,000,000;

(b) Underground and aboveground oil storage facility projects and projects to install equipment related to the improvement of air quality pursuant to requirements for gasoline service station vapor control and petroleum liquids transfer vapor recovery, except that the authority may not at any time have, in the aggregate amount of the principal and interest outstanding, loan insurance obligations pursuant to this division exceeding \$5,000,000;

(c) Clean fuel vehicle projects and sustainable biofuel vehicle projects, except that the authority may not at any time have, in the aggregate amount of the principal and interest outstanding, loan insurance obligations pursuant to this division exceeding \$5,000,000;

(d) Waste oil disposal site clean-up projects, except that the authority may not at any time have, in the aggregate amount of the principal and interest outstanding, loan insurance obligations pursuant to this division exceeding \$1,000,000; or

(e) The Plymouth waste oil remedial study, except that the authority may not at any time have, in the aggregate amount of the principal and interest outstanding, loan insurance obligations pursuant to this division exceeding \$1,000,000; and

(2) Ninety percent of the principal amount of the loan made to any borrower, including related entities for any other manufacturing enterprise, industrial enterprise, recreational enterprise, fishing enterprise, agricultural enterprise, natural resource enterprise or any other eligible business enterprise; [2009, c. 124, §3 (AMD).]

B. The loan must be serviced as required by the authority; [2003, c. 537, §30 (AMD); 2003, c. 537, §53 (AFF).]

C. [2003, c. 537, §53 (AFF); 2003, c. 537, §30 (RP).]

D. The authority must determine that there is a reasonable prospect that the loan will be repaid; [2003, c. 537, §30 (NEW); 2003, c. 537, §53 (AFF).]

E. The loan must be in compliance with the credit policy of the authority; [2003, c. 537, §30 (NEW); 2003, c. 537, §53 (AFF).]

F. Loan insurance payments may not exceed the lesser of:

- (1) Principal, outstanding accrued interest and collection costs approved by the authority; and
- (2) The original insured amount; and [2003, c. 537, §30 (NEW); 2003, c. 537, §53 (AFF).]

G. Terms other than those specified in paragraphs A to F as may be required by law or by rule of the authority. [2003, c. 537, §30 (NEW); 2003, c. 537, §53 (AFF).]

The authority may provide insurance for related entities of up to \$10,000,000.

Notwithstanding any provision to the contrary in this chapter, the authority may provide special loan insurance benefits to veterans and wartime veterans determined by rule of the authority developed in consultation with the Department of Defense, Veterans and Emergency Management, Bureau of Maine Veterans' Services.

For all loan insurance liability in excess of \$1,000,000 and in other instances when the authority determines it is appropriate, the authority shall obtain a written assessment from the Department of Environmental Protection of the environmental conditions known by the department to exist at a project location so that the authority fully considers environmental risks when making its decisions. Environmental conditions posing risks that must be considered include, but are not limited to, licensing obligations, existing or historic regulatory noncompliance and site clean-up responsibilities.

[ 2015, c. 38, §1 (AMD); 2015, c. 494, Pt. C, §7 (AFF) .]

#### **1-A. Coinsurance.**

[ 2003, c. 537, §53 (AFF); 2003, c. 537, §30 (RP) .]

**2. Loan eligibility.** The authority may insure loan payments under this subchapter subject to the following requirements:

A. The loan must be secured by a lien on or a security interest in eligible collateral, subject to such encumbrances, including, without limitation, coordinate first liens, as are acceptable to the authority; [2003, c. 537, §30 (AMD); 2003, c. 537, §53 (AFF).]

B. The eligible collateral must be owned, leased, used or held by or otherwise benefit an eligible enterprise; [2003, c. 537, §30 (AMD); 2003, c. 537, §53 (AFF).]

C. The documents must contain provisions satisfactory to the authority pertaining to the payment of principal and interest and contain covenants and other provisions satisfactory to the authority pertaining to taxes, assessments, repairs, maintenance, insurance, default, remedies, transfer or alteration of eligible collateral, change in management or control of the business and such other matters as the authority may determine; and [2003, c. 537, §30 (AMD); 2003, c. 537, §53 (AFF).]

D. Other conditions prescribed by law or by the authority must have been complied with. [2003, c. 537, §30 (AMD); 2003, c. 537, §53 (AFF).]

[ 2003, c. 537, §30 (AMD); 2003, c. 537, §53 (AFF) .]

#### **3. Mortgage insured loan limitation for small businesses.**

[ 2003, c. 537, §53 (AFF); 2003, c. 537, §30 (RP) .]

**4. Ineligible for loan insurance.** The authority may not provide loan insurance for the following:

A. Investment real estate; [2003, c. 537, §30 (NEW); 2003, c. 537, §53 (AFF).]

B. Religious organizations; [2003, c. 537, §30 (NEW); 2003, c. 537, §53 (AFF).]

C. Fraternal organizations; [2003, c. 537, §30 (NEW); 2003, c. 537, §53 (AFF).]

D. Residential housing, other than congregate or group housing; or [2003, c. 537, §30 (NEW); 2003, c. 537, §53 (AFF).]

E. Consumer loans. [2003, c. 537, §30 (NEW); 2003, c. 537, §53 (AFF).]

[ 2003, c. 537, §30 (NEW); 2003, c. 537, §53 (AFF) .]

**5. Limitations on loan insurance.** The authority may establish a maximum insurance liability for particular sectors and for existing loans by rule. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[ 2009, c. 131, §1 (AMD) .]

#### SECTION HISTORY

1985, c. 344, §49 (NEW). 1985, c. 714, §§16-18 (AMD). 1987, c. 697, §6 (AMD). 1991, c. 854, §§A3-6 (AMD). 1993, c. 319, §1 (AMD). 2003, c. 537, §30 (AMD). 2003, c. 537, §53 (AFF). 2009, c. 124, §3 (AMD). 2009, c. 131, §1 (AMD). 2015, c. 38, §1 (AMD). 2015, c. 38, §3 (AFF). 2015, c. 494, Pt. C, §7 (AFF).

### **§1026-B. MORTGAGE INSURANCE OF \$1,000,000 OR LESS**

*(REPEALED)*

#### SECTION HISTORY

1985, c. 344, §49 (NEW). 1985, c. 714, §§19-21 (AMD). 1987, c. 393, §§3,4 (AMD). 1987, c. 402, §B14 (AMD). 1987, c. 581, §§1,2 (AMD). 1991, c. 511, §§A5-7 (AMD). 1999, c. 504, §9 (AMD). 2003, c. 537, §53 (AFF). 2003, c. 537, §31 (RP).

### **§1026-C. MORTGAGE INSURANCE FOR VETERANS**

*(REPEALED)*

#### SECTION HISTORY

1985, c. 344, §49 (NEW). 1985, c. 714, §§22,23 (AMD). 1987, c. 393, §§5-7 (AMD). 1989, c. 857, §47 (AMD). 1991, c. 626, §3 (AMD). 1991, c. 854, §A6 (AMD). 1997, c. 455, §6 (AMD). 1997, c. 489, §6 (AMD). 2003, c. 537, §53 (AFF). 2003, c. 537, §32 (RP).

### **§1026-D. MORTGAGE INSURANCE FOR OTHER PROJECTS**

*(REPEALED)*

#### SECTION HISTORY

1985, c. 344, §49 (NEW). 1985, c. 714, §24 (AMD). 1987, c. 393, §§8,9 (AMD). 1987, c. 697, §§7,8 (AMD). 1989, c. 552, §13 (AMD). 1991, c. 606, §F1 (AMD). 2001, c. 417, §15 (AMD). 2003, c. 537, §53 (AFF). 2003, c. 537, §33 (RP).

## §1026-E. POOL INSURANCE

In addition to its other powers under this chapter, subject to the limitations of this subchapter, the authority may insure mortgage payments with respect to mortgage loans designated as one or more pools or other segregated portfolios. Any such insurance may not exceed 50% of the aggregate principal balances of the mortgage loans as of the date on which the mortgage loans are designated for inclusion in a pool. The authority shall, by rulemaking pursuant to Title 5, chapter 375, subchapter 2, establish requirements for demonstrating project feasibility and for collateral. [2003, c. 537, §34 (AMD); 2003, c. 537, §53 (AFF).]

**1. Secondary market pool insurance.** Notwithstanding the first paragraph in connection with the creation and operation of a secondary market program for mortgage loans and the insured portions of mortgage loans, in addition to its other powers under this chapter, the authority may insure or guarantee payment, including timely payment, of principal and interest due to holders of insured certificates, if each such insured certificate evidences a fractional undivided ownership interest in a separate and identifiable pool consisting only of that portion of individual mortgage loans that, at origination of the pool, is insured by the authority pursuant to one or more applicable provisions of this chapter. Any such insurance or guaranty of an insured certificate must be in lieu of and not in addition to its insurance of that portion of the individual mortgage loan evidenced by the insured certificate.

[ 1993, c. 460, §6 (NEW) .]

### SECTION HISTORY

1985, c. 344, §49 (NEW). 1985, c. 714, §25 (AMD). 1993, c. 460, §6 (AMD). 2003, c. 537, §34 (AMD). 2003, c. 537, §53 (AFF).

## §1026-F. MORTGAGE INSURANCE FOR UNDERGROUND AND ABOVEGROUND OIL STORAGE FACILITY PROJECTS AND PROJECTS RELATED TO THE INSTALLATION OF EQUIPMENT RELATED TO THE IMPROVEMENT OF AIR QUALITY PURSUANT TO REQUIREMENTS FOR GASOLINE SERVICE STATION VAPOR CONTROL AND PETROLEUM LIQUIDS TRANSFER VAPOR RECOVERY

*(REPEALED)*

### SECTION HISTORY

1987, c. 521, §8 (NEW). 1993, c. 601, §3 (AMD). 2003, c. 537, §53 (AFF). 2003, c. 537, §35 (RP).

## §1026-G. MORTGAGE INSURANCE FOR OVERBOARD DISCHARGE REPLACEMENT PROJECTS

*(REPEALED)*

### SECTION HISTORY

1987, c. 846, §9 (NEW). 2003, c. 537, §53 (AFF). 2003, c. 537, §36 (RP).

## §1026-H. INNOVATION FINANCE PROGRAM

*(REPEALED)*

### SECTION HISTORY

1989, c. 552, §14 (NEW). 2003, c. 537, §53 (AFF). 2003, c. 537, §37 (RP).

## §1026-J. ECONOMIC RECOVERY PROGRAM

*(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)*

The Economic Recovery Program, referred to in this section as the "program," is established to provide loans to businesses that do not have sufficient access to credit but demonstrate the ability to survive, preserve and create jobs, and repay the obligations. [1999, c. 731, Pt. VVV, §4 (AMD).]

**1. Eligibility for loans.** Businesses may apply to the authority for loans under the program.

A. The projects to be financed must pertain to manufacturing, industrial, recreational or natural resource enterprises, be located in the State and provide significant public benefit in relation to the amount of the loan, as determined by the authority. Public benefits include, but are not limited to, preservation of jobs, increased opportunities for employment, increased capital flows, particularly capital flowing in from outside the State, and increased state and municipal tax revenues. Loan proceeds may be used for any appropriate commercial purpose, as determined by the authority, including working capital and bridge loans pending other financing. [1997, c. 563, Pt. A, §1 (AMD).]

B. The authority must determine that the borrower is a for-profit or nonprofit commercial entity and, except as provided in subsection 4, that it is creditworthy and reasonably likely to repay the loan. [1997, c. 563, Pt. A, §1 (AMD).]

C. The authority must determine that the borrower has insufficient access to other funds and that the loan is necessary in order for the public benefits of the application to be realized. [1991, c. 849, §1 (NEW); 1991, c. 849, §7 (AFF).]

D. [1999, c. 731, Pt. VVV, §5 (RP).]

[ 1999, c. 731, Pt. VVV, §5 (AMD) .]

**2. (TEXT EFFECTIVE UNTIL CONTINGENCY: See PL 2015, c. 224, §2) Loan terms and conditions.** Loans may not exceed \$1,000,000 per project. The authority may establish prudent terms and conditions for loans, including limits on the amount of loans for any one project and requiring adequate collateral for the loans. Loan terms may not exceed 20 years in the case of loans primarily secured by real estate, 10 years in the case of loans secured primarily by machinery and equipment and 7 years for other loans. The interest rate charged on each loan may not exceed the prime rate for interest plus 4%, as determined by the authority. The authority may establish conditions, such as balloon payments, to encourage borrowers to make the transition to conventional financing as soon as they are reasonably able to do so. The authority may further assist the borrower by allowing for the deferral of interest or principal payments for a period of time. Loans may be subject to conditions that allow the authority to make a reasonable return based on the risk of the investment, which may include royalties or additional payments based on sales, net cash flow or other financial measures and rights to equity in the company.

[ 1999, c. 731, Pt. VVV, §6 (AMD) .]

**2. (TEXT EFFECTIVE ON CONTINGENCY: See PL 2015, c. 224, §2) Loan terms and conditions.** Loans may not exceed \$2,000,000 per project. The authority may establish prudent terms and conditions for loans, including limits on the amount of loans for any one project and requiring adequate collateral for the loans. Loan terms may not exceed 20 years in the case of loans primarily secured by real estate, 10 years in the case of loans secured primarily by machinery and equipment and 7 years for other loans. The interest rate charged on each loan may not exceed the prime rate for interest plus 4%, as determined by the authority. The authority may establish conditions, such as balloon payments, to encourage borrowers to make the transition to conventional financing as soon as they are reasonably able to do so. The authority may further assist the borrower by allowing for the deferral of interest or principal payments for a period of time. Loans may be

subject to conditions that allow the authority to make a reasonable return based on the risk of the investment, which may include royalties or additional payments based on sales, net cash flow or other financial measures and rights to equity in the company.

[ 2015, c. 224, §1 (AMD); 2015, c. 494, Pt. C, §8 (AFF) .]

**3. Rulemaking.** The authority shall establish rules for the implementation of the program established by this section, including, but not limited to, the establishment of fees that may be charged for the administration of the program, and may do so notwithstanding:

A. The omission of any such rules from the authority's current regulatory agenda prepared pursuant to Title 5, section 8060 or provided pursuant to Title 5, section 8053-A, subsection 2; or [1991, c. 849, §1 (NEW); 1991, c. 849, §7 (AFF).]

B. Any limitation imposed by Title 5, section 8064. [1991, c. 849, §1 (NEW); 1991, c. 849, §7 (AFF).]

[ 1991, c. 849, §1 (NEW); 1991, c. 849, §7 (AFF) .]

**4. Business injured in 1998 ice storms.** In order to provide timely and effective assistance to businesses injured by the 1998 ice storms, related power outages and other impacts, the authority is authorized to provide loans of up to \$10,000 in addition to and not to the exclusion of larger loans under the program. For purposes of this subsection, the authority may establish a streamlined application, loan approval and disbursement process for borrowers that demonstrate that:

A. They have been damaged by the storm; [1997, c. 563, Pt. A, §2 (NEW).]

B. They have insufficient access to conventional sources of capital or to federal disaster assistance in a timely manner; and [1997, c. 563, Pt. A, §2 (NEW).]

C. Their credit history demonstrates a reasonable willingness and ability to pay past debts and other obligations or that any past credit problems can be explained to the satisfaction of the authority. [1997, c. 563, Pt. A, §2 (NEW).]

The authority may require less than adequate collateral for loans under this subsection, may provide for deferral of payments of principal or both principal and interest, and may waive accrual of interest for a period of up to 12 months. In order to process loan requests as promptly as possible, the chief executive officer is authorized to act on behalf of the authority and may approve loans under this section on such terms and conditions as the chief executive officer determines necessary or prudent, without the need for rulemaking and without being limited by the provisions of existing rules adopted in accordance with subsection 3. Assistance under this subsection is limited to an aggregate of no more than \$2,000,000, and all applications under this subsection must be received no later than April 30, 1998.

[ 1997, c. 563, Pt. A, §2 (NEW) .]

#### SECTION HISTORY

1991, c. 849, §1 (NEW). 1991, c. 849, §7 (AFF). 1997, c. 563, §§A1,2 (AMD). 1999, c. 731, §§VVV4-6 (AMD). 2015, c. 224, §1 (AMD). 2015, c. 224, §2 (AFF). 2015, c. 494, Pt. C, §8 (AFF).

## §1026-K. LOAN INSURANCE FOR SMALL BUSINESSES

*(REPEALED)*

#### SECTION HISTORY

1993, c. 319, §2 (NEW). 2003, c. 537, §53 (AFF). 2003, c. 537, §38 (RP).

## §1026-L. CAPITAL ACCESS PROGRAM

**1. Capital Access Program established.** The authority shall establish a program known as the Capital Access Program, referred to in this section as "CAP," for the benefit of each participating state bank. The Capital Access Program Fund, referred to in this section as the "fund," is established to implement the CAP. The fund must be separate and apart from all other funds of the authority and held exclusively to secure the principal of and the interest on CAP loans made by a participating state bank.

[ 1993, c. 722, Pt. B, §2 (NEW); 1993, c. 722, Pt. B, §3 (AFF) .]

**2. Contribution limit.** The amount of the authority's contribution to the fund may not exceed 10% of the principal amount of CAP loans to be secured by the fund. As a condition of the authority making a contribution to the fund, the authority may require the borrower or the participating state bank to make a contribution to the fund and may impose other conditions the authority determines necessary. All money contributed to the fund by the authority must be held in the name of the authority. Investment earnings on the fund must be credited to the fund and periodically paid to the authority, unless a CAP participation agreement pursuant to subsection 3 provides otherwise.

[ 1993, c. 722, Pt. B, §2 (NEW); 1993, c. 722, Pt. B, §3 (AFF) .]

**3. Bank participation; rules.** Before establishing a CAP at a participating state bank, the authority must enter into a CAP participation agreement with the participating state bank. The CAP participation agreement must specify:

A. The maximum amount of the authority's contributions to the CAP; [1993, c. 722, Pt. B, §2 (NEW); 1993, c. 722, Pt. B, §3 (AFF).]

B. Conditions under which the authority may make contributions to the CAP; [1993, c. 722, Pt. B, §2 (NEW); 1993, c. 722, Pt. B, §3 (AFF).]

C. Conditions under which the participating state bank may demand payment from a CAP to pay a defaulted CAP loan; [1993, c. 722, Pt. B, §2 (NEW); 1993, c. 722, Pt. B, §3 (AFF).]

D. Minimum due diligence procedures for servicing CAP loans; [1993, c. 722, Pt. B, §2 (NEW); 1993, c. 722, Pt. B, §3 (AFF).]

E. Conditions under which the participating state bank or a borrower may be required to contribute to the CAP; [1993, c. 722, Pt. B, §2 (NEW); 1993, c. 722, Pt. B, §3 (AFF).]

F. Provisions for the payment of authority fees, costs and expenses from earnings on the CAP or otherwise; [1993, c. 722, Pt. B, §2 (NEW); 1993, c. 722, Pt. B, §3 (AFF).]

G. Provisions for the termination of the CAP, in whole or in part, and disbursement of any excess funds in the CAP; [1993, c. 722, Pt. B, §2 (NEW); 1993, c. 722, Pt. B, §3 (AFF).]

H. Criteria and procedures that qualify a loan as a CAP loan; [1993, c. 722, Pt. B, §2 (NEW); 1993, c. 722, Pt. B, §3 (AFF).]

I. The requirement that the participating state bank report to the authority at least annually regarding outstanding balances on CAP loans, delinquent CAP loans and such other information as the authority determines appropriate; [1993, c. 722, Pt. B, §2 (NEW); 1993, c. 722, Pt. B, §3 (AFF).]

J. Permitted investments in the CAP; and [1993, c. 722, Pt. B, §2 (NEW); 1993, c. 722, Pt. B, §3 (AFF).]

K. Other terms and conditions the authority determines necessary. [1993, c. 722, Pt. B, §2 (NEW); 1993, c. 722, Pt. B, §3 (AFF).]

[ 1993, c. 722, Pt. B, §2 (NEW); 1993, c. 722, Pt. B, §3 (AFF) .]

**4. Minimum requirements.** At a minimum, CAP loans must meet the following requirements.

A. The borrower must be either a start-up business or may not have had annual sales in its most recently completed fiscal year greater than \$5,000,000. [1993, c. 722, Pt. B, §2 (NEW); 1993, c. 722, Pt. B, §3 (AFF).]

B. The total outstanding principal amount of CAP loans to the borrower may not exceed \$500,000. [1993, c. 722, Pt. B, §2 (NEW); 1993, c. 722, Pt. B, §3 (AFF).]

C. The proceeds of the CAP loan must be used for business purposes. [1993, c. 722, Pt. B, §2 (NEW); 1993, c. 722, Pt. B, §3 (AFF).]

By written notice to participating state banks, the authority may impose requirements on CAP loans in addition to those contained in this subsection or in a CAP participation agreement. Additional requirements do not apply to CAP loans already made or to CAP loans for which written commitments exist if CAP loans from these written commitments are made within 3 months after the date of the written notice.

[ 1993, c. 722, Pt. B, §2 (NEW); 1993, c. 722, Pt. B, §3 (AFF) .]

#### SECTION HISTORY

1993, c. 722, §B2 (NEW). 1993, c. 722, §B3 (AFF).

## §1026-M. REGIONAL ECONOMIC DEVELOPMENT REVOLVING LOAN PROGRAM

**1. Established.** The Regional Economic Development Revolving Loan Program, referred to in this section as the "program," is established to provide financial assistance to businesses that need assistance in order to create or retain jobs. The authority shall administer the program on behalf of participating eligible economic development corporations or entities. The Regional Economic Development Revolving Loan Program Fund, referred to in this section as the "fund," is established as a revolving fund, into which must be deposited all amounts appropriated to the program, interest earnings on the fund and any amounts repaid to the program by participating corporations. Amounts in the fund must be used by the authority for purposes authorized in this section. The authority shall reserve an amount not less than \$300,000 for loans for quality child care projects and may make loans directly to those projects.

[ 1999, c. 401, Pt. 000, §1 (AMD) .]

**2. Eligible corporations.** The fund is open to local, regional and statewide nonprofit or governmental economic development corporations or entities that are capable of providing financial assistance to businesses in order to create and protect jobs, as well as revitalize downtowns and build strong communities and a sustainable economy, referred to in this section as "corporations." In the case of loans to quality child care projects, the authority may also provide loans directly to eligible borrowers. To be eligible for assistance from the fund:

A. A corporation must apply to the authority to participate in the fund. The application must describe the corporation and its funding sources, the region or regions it serves, its methods and criteria for qualifying borrowers, including any targeted lending and economic development strategies, its expertise in management assistance and financing of small and emerging businesses, the method by which it will leverage funds from other sources in an amount at least equal to 2 times the amount requested from the fund and other information the authority determines necessary; [2013, c. 605, §1 (AMD); 2013, c. 605, §9 (AFF).]

B. A corporation must have a strategy for the creation and retention of jobs, an effective small business marketing and technical assistance plan and enough expert assistance available to it to underwrite, document and service loans and assist its clients or it must have a strategy for real estate development including commercial and mixed-use real estate and community facilities; [2013, c. 605, §1 (AMD); 2013, c. 605, §9 (AFF).]

C. The corporation must be determined by the authority to be able to prudently and effectively administer a direct loan fund and to coordinate with other business assistance programs and employment training and social assistance programs; [1999, c. 401, Pt. 000, §1 (AMD).]

D. The corporation must propose performance measurements and goals and a process for monitoring compliance with proposed measurements and goals. The authority shall assist corporations in developing loan or equity-like debt underwriting and administrative capacity and in portfolio monitoring and servicing and may establish one or more advisory boards or committees to assist corporations; and [2013, c. 605, §1 (AMD); 2013, c. 605, §9 (AFF).]

E. A child care project must apply to the authority or to a corporation and meet the eligibility criteria for a borrower. [1999, c. 401, Pt. 000, §1 (NEW).]

[2013, c. 605, §1 (AMD); 2013, c. 605, §9 (AFF) .]

**3. Disbursements from fund.** If an application is approved, the authority shall determine the amount to be disbursed to the corporation, taking into account:

A. The size of the region or regions served by the corporation and the expected demand for loan funds in that region or those regions; [2013, c. 605, §2 (AMD); 2013, c. 605, §9 (AFF).]

B. The demand for funds from other eligible corporations in relation to the total amount available in the fund; and [1993, c. 722, Pt. C, §1 (NEW); 1993, c. 722, Pt. C, §2 (AFF).]

C. Whether an eligible corporation will serve statewide or will serve a geographic area or segment of potential business borrowers not served by other applicants. [2013, c. 605, §2 (AMD); 2013, c. 605, §9 (AFF).]

A corporation may not receive more than \$3,500,000 from the fund. Funds must be disbursed directly to and retained by the eligible corporation in accordance with the contract between the corporation and the authority. Funds must be disbursed to the corporation in the form of a loan or a grant. The authority may, in its discretion, disburse fund amounts in one lump sum or periodic disbursements.

[2013, c. 605, §2 (AMD); 2013, c. 605, §9 (AFF) .]

**4. Contract.** A corporation that has been approved for participation in the program may enter into a contract with the authority. The contract governs the administration of the program and the use of funds. The contract must provide that a corporation shall, at a minimum, conform to the following terms and conditions:

A. The corporation shall certify that it will use funds only for eligible purposes; [1993, c. 722, Pt. C, §1 (NEW); 1993, c. 722, Pt. C, §2 (AFF).]

B. The corporation shall review applications for financial assistance, determine the feasibility of the application and approve or deny the application, which determination is final in the case of loans under \$150,000 or in the case of denials of any amount; [2009, c. 131, §3 (AMD).]

C. An officer or employee of the corporation or a member of its credit committee may not participate in any way in, or have any influence over, a decision on a project in which that officer, employee or member has a direct or indirect personal financial interest; [1993, c. 722, Pt. C, §1 (NEW); 1993, c. 722, Pt. C, §2 (AFF).]

D. If the corporation breaches its contract with the authority or ceases to operate a loan program in substantial conformance with its proposal to the authority, the authority may withhold further funding and may require repayment of any undisbursed loan funds and loan repayments to the authority; and [1993, c. 722, Pt. C, §1 (NEW); 1993, c. 722, Pt. C, §2 (AFF).]

E. Other terms and conditions as the authority determines appropriate. [1993, c. 722, Pt. C, §1 (NEW); 1993, c. 722, Pt. C, §2 (AFF).]

[ 2009, c. 131, §3 (AMD) .]

**5. Administrative costs.** A corporation may not use any money disbursed from the fund by the authority for administrative expenses, but may charge a commitment fee of up to 2% and may use interest earnings not to exceed 7% of each loan annually on loans to cover reasonable operating costs, including loan fund management, technical assistance and education. The authority shall review and approve a corporation's administrative expenses on an annual basis. The authority may establish by rule reasonable administrative fees for its administration of the fund.

[ 2013, c. 605, §3 (AMD); 2013, c. 605, §9 (AFF) .]

**6. Financing terms and conditions.** Loans may be made from program funds under the following terms and conditions.

A. Loans may not exceed \$350,000 to a borrower, including an affiliated entity, and approval of the authority is required for any loan in excess of \$150,000. Loans or portions of loans to a quality child care project to be used solely for lead abatement may not exceed \$15,000. [2013, c. 605, §4 (AMD); 2013, c. 605, §9 (AFF).]

B. Loans of \$50,000 or more for borrowers other than quality child care projects may not exceed 1/2 of the net new funds being provided to a borrower. Loans of less than \$50,000 and loans for quality child care projects may be for the total amount of new funds being provided to the borrower. [2013, c. 605, §5 (AMD); 2013, c. 605, §9 (AFF).]

C. The authority and each corporation shall establish interest rates, amortization schedules and repayment terms for each borrower, except that loans may not be for a term longer than 20 years and:

- (1) Loans to a quality child care project must bear a rate of interest not greater than 5%; or
- (2) Loans to any other eligible borrower may not bear a rate of interest greater than the prime rate of interest plus 7%. [2013, c. 605, §6 (AMD); 2013, c. 605, §9 (AFF).]

D. When necessary, a corporation may provide for flexible repayment terms and may require additional payments tied to the borrower's financial success. [1993, c. 722, Pt. C, §1 (NEW); 1993, c. 722, Pt. C, §2 (AFF).]

E. A corporation shall require collateral for loans when available, but may subordinate to loans from other lenders. [1993, c. 722, Pt. C, §1 (NEW); 1993, c. 722, Pt. C, §2 (AFF).]

[ 2013, c. 605, §§4-6 (AMD); 2013, c. 605, §9 (AFF) .]

**7. Eligible projects.** In order for a project or borrower to be eligible for financial assistance under the program, the following criteria must be met.

A. The business for which funds are requested has 100 or fewer employees or annual sales of \$10,000,000 or less, and it consists of or involves at least one of the following:

- (1) Manufacturing technologies, such as value-added wood products, specialty fabricated metal and electronic products, precision manufacturing and use of composites or advanced materials;
- (2) Technologies, such as advanced information systems, advanced telecommunications, energy and environmental products and services;

- (3) Value-added natural resource enterprises and biological and natural resource technologies, such as aquaculture, marine technology, agriculture, forestry products and biotechnology;
- (4) A business converting from defense dependency;
- (5) A business significantly engaged in export of goods or services to locations outside the State;
- (6) A business that dedicates significant resources to research and development activities;
- (7) Other businesses with 15 or fewer employees;
- (8) A child care project that includes any business that, for compensation, provides a regular service of care and protection for any part of a day less than 24 hours to a child or children under 16 years of age whose parents work outside the home, attend an educational program or are otherwise unable to care for their children;
- (9) A business significantly engaged in commercial and mixed-use real estate and community facilities; and
- (10) A business significantly engaged in serving tourists, such as in the areas of outdoor recreation, culture and heritage and hospitality.

Notwithstanding the requirements of this paragraph, until June 30, 2012, a project or a borrower that is eligible for loan insurance under section 1026-A is eligible for financial assistance under the program. [2013, c. 605, §7 (AMD); 2013, c. 605, §9 (AFF).]

B. The borrower is unable to obtain funding needed for the project from other public and private sources, including the personal resources of the owners of the business borrowing from the fund. [1993, c. 722, Pt. C, §1 (NEW); 1993, c. 722, Pt. C, §2 (AFF).]

C. The borrower has committed all reasonably available resources to the project, obtained financial commitment from other sources of financing and demonstrated a reasonable likelihood that the loan can be repaid. [1993, c. 722, Pt. C, §1 (NEW); 1993, c. 722, Pt. C, §2 (AFF).]

D. The loan is not used to make distributions to or for the benefit of an owner of the business borrowing from the fund or a related entity. [1993, c. 722, Pt. C, §1 (NEW); 1993, c. 722, Pt. C, §2 (AFF).]

[ 2013, c. 605, §7 (AMD); 2013, c. 605, §9 (AFF) .]

**8. Priorities.** Among eligible applicants, a corporation shall give priority to businesses and projects with the potential of meeting one or more of the following objectives.

A. The financing will help the business pursue a business that adds significant value to raw materials or inventory. [1993, c. 722, Pt. C, §1 (NEW); 1993, c. 722, Pt. C, §2 (AFF).]

B. The financing is likely to result in a long-term net increase in permanent, quality jobs that meet a local or regional need or the retention of jobs in jeopardy of being lost. [1993, c. 722, Pt. C, §1 (NEW); 1993, c. 722, Pt. C, §2 (AFF).]

[ 2013, c. 605, §8 (AMD); 2013, c. 605, §9 (AFF) .]

**9. Reports.** A corporation shall report at least semiannually to the authority on the projects the corporation funds and the administration of the program. The report must include a description of each project, the amount, type and terms of assistance the project received, the number of jobs that were created or retained and other information the authority requires. The report must contain an accounting of the loan portfolio and any loans that are in default, as well as an accounting of the corporation's administrative and technical assistance expenses incurred and charged to the program.

[ 1993, c. 722, Pt. C, §1 (NEW); 1993, c. 722, Pt. C, §2 (AFF) .]

**10. Audit.** The authority shall review annually each corporation's participation in the program and may, in its discretion, require an independent audit at the expense of the corporation. If the authority determines that a corporation has used funds for ineligible purposes, the corporation shall repay those funds to the authority for deposit into the fund. The authority may not disburse additional funds to a corporation until the corporation has repaid the misapplied funds and has fully complied with its obligations under the contract with the authority.

[ 1993, c. 722, Pt. C, §1 (NEW); 1993, c. 722, Pt. C, §2 (AFF) .]

**11. Written procedures.** The authority shall adopt rules governing the program pursuant to Title 5, chapter 375.

[ 1993, c. 722, Pt. C, §1 (NEW); 1993, c. 722, Pt. C, §2 (AFF) .]

#### SECTION HISTORY

1993, c. 722, §C1 (NEW). 1993, c. 722, §C2 (AFF). 1999, c. 401, §§0001-3 (AMD). 2001, c. 639, §§1,2 (AMD). 2003, c. 195, §1 (AMD). 2007, c. 683, Pt. B, §1 (AMD). 2009, c. 131, §§2-6 (AMD). 2011, c. 11, §1 (AMD). 2013, c. 605, §§1-8 (AMD). 2013, c. 605, §9 (AFF).

## §1026-N. MAINE ECONOMIC DEVELOPMENT VENTURE CAPITAL REVOLVING INVESTMENT PROGRAM

**1. Established.** The Maine Economic Development Venture Capital Revolving Investment Program, referred to in this section as the "program," is established to provide venture capital to businesses that need assistance in order to create or retain jobs. The Maine Economic Development Venture Capital Revolving Investment Program Fund, referred to in this section as the "fund," is established as a revolving fund, into which must be deposited all amounts appropriated to the program or allocated for inclusion in the fund, from whatever source, interest and investment earnings on the fund and any amounts repaid to the program by participating venture capital funds.

[ 1999, c. 731, Pt. VVV, §7 (AMD) .]

**2. Eligible venture capital funds.** Money in the fund may be invested in one or more private, professionally managed venture capital funds located in the State capable of providing venture capital to businesses in order to create and protect jobs and that provide evidence of past or potential management success and risk diversification. To be eligible for investments from the fund, a private venture capital fund must:

A. Apply to the authority. The application must describe the private venture capital fund and its funding sources, the region it serves, its methods and criteria for qualifying investments, including any targeted investing and economic development strategy, its expertise in venture capital assistance and investing in small and emerging businesses, the method by which it will leverage funds from other sources than those received from the fund and other information the authority determines necessary; [1995, c. 424, §1 (NEW) .]

B. Have a strategy for the creation and retention of jobs, an effective small business marketing and technical assistance plan and enough expert assistance available to it to underwrite, document and service investments and to assist the businesses in which it invests; [1995, c. 424, §1 (NEW) .]

C. Be determined by the authority to be able to prudently and effectively administer venture capital investments; and [1995, c. 424, §1 (NEW) .]

D. Propose performance standards and goals and a process for monitoring compliance with proposed measurement and goals. [1995, c. 424, §1 (NEW).]

[ 1999, c. 731, Pt. VVV, §7 (AMD) .]

**3. Disbursements from fund.** If an application is approved, the authority shall determine the amount to be invested in the private venture capital fund, taking into account:

A. The size of the region served by the private venture capital fund and the expected demand for venture capital investments in that region; and [1995, c. 424, §1 (NEW).]

B. The demand for venture capital investments from other eligible private venture capital funds in relation to the total amount available in the fund and whether an eligible private venture capital fund will serve a geographic area or segment of potential businesses not served by other applicants. [1995, c. 424, §1 (NEW).]

Funds must be disbursed directly to and retained by the eligible private venture capital fund in accordance with a contract of investment between the private venture capital fund and the authority. All money invested in the private venture capital fund by the authority must be held in the name of the authority. Investment earnings on amounts invested by the authority must be credited to the authority and periodically paid to the authority. Any uncommitted balances existing in the fund at any time may, at the discretion of the authority, be transferred to the Economic Recovery Program Fund established in section 1023-I.

[ 2015, c. 47, §1 (AMD) .]

**4. Investment contract.** A private venture capital fund that has been approved for participation in the program may enter into a contract with the authority. The contract governs the administration of the program and the use of funds. The contract must provide that a private venture capital fund shall, at a minimum, conform to the following terms and conditions:

A. The private venture capital fund shall certify that it will use funds only for eligible purposes and that it will make best efforts to invest an amount equal to the authority's investment in the fund in businesses that meet all eligibility requirements for a tax credit certificate pursuant to section 1100-T, subsection 2, paragraph B; [1999, c. 731, Pt. VVV, §8 (AMD).]

B. [1999, c. 731, Pt. VVV, §9 (RP).]

B-1. The authority has rights equal to those of all other investors in the private venture capital fund; [1999, c. 731, Pt. VVV, §10 (NEW).]

C. If the private venture capital fund breaches its contract with the authority or ceases to operate an investment program in substantial conformance with its proposal to the authority, the authority may require immediate repayment to the authority of any investment made to it from the fund; and [1995, c. 424, §1 (NEW).]

D. Other terms and conditions that the authority determines appropriate. [1995, c. 424, §1 (NEW).]

[ 1999, c. 731, Pt. VVV, §§8-10 (AMD) .]

**5. Administrative costs.** A private venture capital fund may not use more than 4% annually of the amount invested from the fund by the authority for administrative expenses or load charges. The authority shall review and approve a private venture capital fund's administrative expenses on an annual basis. The authority may establish by rule reasonable administrative fees for its administration of the fund.

[ 1999, c. 731, Pt. VVV, §11 (AMD) .]

**6. Eligible investments.**

[ 1999, c. 731, Pt. VVV, §12 (RP) .]

**7. Reports.** A private venture capital fund shall report at least semiannually to the authority on the businesses in which the private venture capital fund invests and the administration of the program. The report must include a description of each business, the amount, type and terms of assistance the business received, the amount of funds invested in businesses that meet the criteria of section 1100-T, subsection 2, paragraph B, the number of jobs that were created or retained and other information the authority requires. The report must contain an accounting of the investment portfolio and any investments that are in default, as well as an accounting of the private venture capital fund's administrative and technical assistance expenses incurred and charged.

[ 1999, c. 731, Pt. VVV, §13 (AMD) .]

**8. Audit.** The authority shall review annually each private venture capital fund's participation in the program and, in its discretion, may require an independent audit at the expense of the private venture capital fund. If the authority determines that a private venture capital fund has used funds for ineligible purposes, the private venture capital fund shall repay those funds to the authority for deposit into the fund.

[ 1995, c. 424, §1 (NEW) .]

**9. Rules.** The authority shall adopt rules governing the program pursuant to Title 5, chapter 375.

[ 1995, c. 424, §1 (NEW) .]

## SECTION HISTORY

1995, c. 424, §1 (NEW). 1999, c. 731, §§VVV7-13 (AMD). 2015, c. 47, §1 (AMD).

**§1026-O. EMPLOYEE STOCK OWNERSHIP PROGRAM**

*(REPEALED)*

## SECTION HISTORY

1997, c. 217, §1 (NEW). 2003, c. 537, §53 (AFF). 2003, c. 537, §39 (RP).

**§1026-P. MORTGAGE INSURANCE FOR CLEAN FUEL VEHICLE PROJECTS**

*(REPEALED)*

## SECTION HISTORY

1997, c. 500, §6 (NEW). 2003, c. 537, §53 (AFF). 2003, c. 537, §40 (RP).

**§1026-Q. EARLY CARE AND EDUCATION REVOLVING LOAN PROGRAM**

**1. Established.** The Early Care and Education Revolving Loan Program, referred to in this section as the "program," is established to provide financial assistance to businesses providing early care and education. The authority shall administer the program, which may include direct loans to early care and education providers, as well as loans or grants by the authority to eligible economic development corporations or entities for the purpose of providing loans to early care and education providers. The Early Care and Education Revolving Loan Program Fund, referred to in this section as the "fund," is established as a revolving fund,

into which must be deposited all amounts appropriated to the program, interest earnings on the fund, any amounts repaid to the program by loan recipients and funds from any other source. Amounts in the fund must be used by the authority for purposes authorized in this section.

[ 1999, c. 401, Pt. 000, §4 (NEW) .]

**2. Eligible corporations.** The program is open to local, regional and statewide nonprofit or governmental economic development corporations or entities capable of providing financial assistance to businesses providing early child care and education. To be eligible to participate in the program:

A. A corporation must apply to the authority to participate in the program. The application must describe the corporation and its funding sources, the region it serves, its methods and criteria for qualifying borrowers, strategies in locating qualified borrowers, its expertise in management assistance and financing of early child care and education businesses, its ability to leverage funds from other sources and other information the authority determines necessary; [1999, c. 401, Pt. 000, §4 (NEW) .]

B. A corporation must have a strategy for the provision of marketing and technical assistance to early child care and education businesses and enough expert assistance available to underwrite, document and process loans and assist its clients; and [1999, c. 401, Pt. 000, §4 (NEW) .]

C. A corporation must be determined by the authority to be able to prudently and effectively administer a direct loan fund and to coordinate the administration of a loan fund with other business assistance programs and employment training and social assistance programs. [1999, c. 401, Pt. 000, §4 (NEW) .]

[ 1999, c. 401, Pt. 000, §4 (NEW) .]

**3. Disbursements from fund.** If an application is approved, the authority shall determine the amount to be disbursed to the corporation, taking into account:

A. The size of the region served by the corporation and the expected demand for loan funds in that region; [1999, c. 401, Pt. 000, §4 (NEW) .]

B. The demand for funds from other eligible corporations in relation to the total amount available in the fund; and [1999, c. 401, Pt. 000, §4 (NEW) .]

C. Whether an eligible corporation serves a geographic area or segment of potential business borrowers not served by other applicants. [1999, c. 401, Pt. 000, §4 (NEW) .]

The authority shall allocate funds in the program considering each of the factors in this subsection and such other factors as the authority establishes by rule. The authority may reserve up to 50% of the funds appropriated for loans to be made by the authority. Funds allocated to a corporation must be disbursed directly to and retained by the eligible corporation in accordance with the contract between the corporation and the authority. Funds must be disbursed to the corporation in the form of a loan or grant. The authority may disburse fund amounts in one lump sum or periodic disbursements.

[ 1999, c. 401, Pt. 000, §4 (NEW) .]

**4. Contract.** A corporation that has been approved for participation in the program may enter into a contract with the authority. The contract governs the administration of the program and the use of funds. The contract must provide that a corporation may disburse program funds statewide. The contract must provide that a corporation shall, at a minimum, conform to the following terms and conditions:

A. The corporation shall certify that it will use funds only for eligible purposes; [1999, c. 401, Pt. 000, §4 (NEW) .]

B. The corporation shall review each application for financial assistance, determine the feasibility of the application and approve or deny the application; [1999, c. 401, Pt. 000, §4 (NEW) .]

C. An officer or employee of the corporation or a member of its credit committee may not participate in any way in, or have any influence over, a decision on a project in which that officer, employee or member has a direct or indirect personal financial interest; [1999, c. 401, Pt. 000, §4 (NEW).]

D. If the corporation breaches its contract with the authority or ceases to operate a loan program in substantial conformance with its proposal to the authority, the authority may withhold further funding and may require repayment of any undisbursed loan funds and loan repayments to the authority; and [1999, c. 401, Pt. 000, §4 (NEW).]

E. Other terms and conditions as the authority determines appropriate. [1999, c. 401, Pt. 000, §4 (NEW).]

[ 1999, c. 401, Pt. 000, §4 (NEW) .]

**5. Administrative costs.** A corporation may not use any money disbursed from the fund by the authority for administrative expenses, but may charge a commitment fee on each loan of up to 1% and may use interest earnings not to exceed 5% of each loan annually to cover reasonable administrative and technical assistance costs. The authority shall review and approve a corporation's administrative expenses on an annual basis. The authority may establish by rule reasonable administrative fees for its origination of loans and administration of the fund.

[ 1999, c. 401, Pt. 000, §4 (NEW) .]

**6. Financing terms and conditions.** Loans may be made from program funds under the following terms and conditions.

A. Loans may not exceed \$100,000 to an eligible borrower, except that loans or portions of loans to be used for lead abatement may not exceed \$5,000. [1999, c. 401, Pt. 000, §4 (NEW).]

B. Each corporation and the authority shall establish interest rates, amortization schedules and repayment terms for each borrower, except that loans may not bear a rate of interest that, when added to the commitment fee and administrative and technical assistance cost, is less than 6% or exceeds the prime rate of interest. [1999, c. 401, Pt. 000, §4 (NEW).]

C. A corporation or the authority may provide for flexible repayment terms. [1999, c. 401, Pt. 000, §4 (NEW).]

D. A corporation or the authority shall require collateral for loans when available, but may subordinate to loans from other lenders. [1999, c. 401, Pt. 000, §4 (NEW).]

[ 1999, c. 401, Pt. 000, §4 (NEW) .]

**7. Eligible borrower.** A project or borrower is eligible for financial assistance under the program if the following criteria are met.

A. The business for which funds are requested must provide early child care and education services to at least 3 children who are not related to the owner of the business or any provider of early care and education services working for the borrower. [1999, c. 401, Pt. 000, §4 (NEW).]

B. The borrower has insufficient access to funding for the project from other public and private sources. [1999, c. 401, Pt. 000, §4 (NEW).]

C. The borrower has committed all reasonably available resources to the project, obtained financial commitment from other sources of financing and demonstrated a reasonable likelihood that the loan can be repaid. [1999, c. 401, Pt. 000, §4 (NEW).]

D. In selecting child care providers to receive loan guarantees, the authority must use the following criteria:

- (1) An applicant's status as a licensed or certified child care center;

(2) An applicant's interest in obtaining and ability to obtain accreditation by a nationally recognized program that utilizes recognized quality indicators for child care services that have been approved by the Office of Head Start and Child Care, including input from parents or clients or both, reviews of policies, procedures and program records and on-site program reviews;

(3) The degree of coordination with Head Start and other community programs; and

(4) The quality of the child care provider's administrative and financial management. [1999, c. 401, Pt. 000, §4 (NEW).]

**8. Reports.** A corporation shall report at least semiannually to the authority on the projects the corporation funds and the administration of the program. The report must include a description of each borrower, the amount, type and terms of assistance each borrower received and other information the authority requires. The report must contain an accounting of the loan portfolio and any loans that are in default, as well as an accounting of the corporation's administrative and technical assistance expenses incurred and charged to the program.

[ 1999, c. 401, Pt. 000, §4 (NEW) .]

**9. Audit.** The authority shall periodically review each corporation's participation in the program and may, at its discretion, require an independent audit at the expense of the corporation. If the authority determines that a corporation has used funds for ineligible purposes, the corporation shall repay those funds to the authority for deposit into the fund. The authority may not disburse additional funds to a corporation until the corporation has repaid the misapplied funds and has fully complied with its obligations under the contract with the authority.

[ 1999, c. 401, Pt. 000, §4 (NEW) .]

**10. Written procedures.** The authority shall adopt rules governing the program. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

[ 1999, c. 401, Pt. 000, §4 (NEW) .]

**11. Annual report.** The authority shall report by the last business day of each year on the Early Care and Education Revolving Loan Program to the joint standing committee of the Legislature having jurisdiction over business and economic development matters.

*§1026-Q. Mortgage insurance for waste oil disposal site clean-up projects*

*(As enacted by PL 1999, c. 505, Pt. A, §8 is REALLOCATED TO TITLE 10, SECTION 1026-R)*

[ 1999, c. 401, Pt. 000, §4 (NEW) .]

#### SECTION HISTORY

RR 1999, c. 1, §14 (RAL). 1999, c. 401, §0004 (NEW). 1999, c. 401, Pt. 000, §4 (NEW). 1999, c. 505, §A8 (NEW).

## **§1026-R. MORTGAGE INSURANCE FOR WASTE OIL DISPOSAL SITE CLEAN-UP PROJECTS**

***(REPEALED)***

***(REALLOCATED FROM TITLE 10, SECTION 1026-Q)***

#### SECTION HISTORY

RR 1999, c. 1, §14 (RAL). 2003, c. 537, §53 (AFF). 2003, c. 537, §41 (RP).

## §1026-S. MORTGAGE LOANS FOR PLYMOUTH WASTE OIL SITE REMEDIAL STUDY

*(REPEALED)*

### SECTION HISTORY

1999, c. 713, §4 (NEW). 2003, c. 537, §53 (AFF). 2003, c. 537, §42 (RP).

## §1026-T. INNOVATION FINANCE PROGRAM

**1. Established.** The authority may create and oversee a state innovation finance program, referred to in this section as "the program," to increase the supply of venture capital to the economy of the State by improving access by innovative businesses in this State to venture capital funds. Investment performance of the program may be partially guaranteed by refundable tax credits issued by the authority to the retirement system. This section does not mandate or require any investment by the retirement system or give the retirement system any economic development responsibilities, its sole responsibility being to safeguard, invest and increase retirement system assets consistent with its fiduciary duty to its members.

[ 2009, c. 633, §4 (NEW) .]

**2. Investment goal; guidelines.** The goal of the program is to attract more venture capital to innovative businesses in this State by providing the retirement system with an incentive to invest in high-quality venture capital funds that evidence both a commitment to seeking investments in the State and the ability to produce favorable returns to minimize the risk of tax credit redemption. Consistent with this investment goal, the retirement system may, in the exercise of its discretion and consistent with its fiduciary duties to the beneficiaries of the retirement system, apply to the authority for approval under the program for proposed investments in venture capital funds. The authority may approve such a proposed venture capital fund investment under the program if it determines that the venture capital fund will give strong consideration to investing in businesses in this State that fall within the targeted technologies. In making this decision, the authority shall consider whether the venture capital fund:

- A. Will maintain at least a periodic presence in the State; [2009, c. 633, §4 (NEW) .]
- B. Will build linkages to, and accept referrals from, at least some of the organizations promoting the State's innovation economy, including the authority, the Maine Technology Institute under Title 5, section 15302, the Small Enterprise Growth Fund under section 383, the Department of Economic and Community Development, the Maine Patent Program under section 1921, the University of Maine System and other venture capital investors within the State; [2009, c. 633, §4 (NEW) .]
- C. Will actively prospect for investments in the State; [2009, c. 633, §4 (NEW) .]
- D. Expresses a commitment to seek investments in businesses in this State that meet its investment criteria; and [2009, c. 633, §4 (NEW) .]
- E. Demonstrates the ability to make successful venture capital investments. [2009, c. 633, §4 (NEW) .]

[ 2009, c. 633, §4 (NEW) .]

**3. Investment restrictions.** Investments under the program are governed by this subsection.

- A. The retirement system may not invest directly in individual businesses under this program but may invest only in venture capital funds that are managed to best achieve the purpose set out under subsection 2. [2009, c. 633, §4 (NEW) .]
- B. No more than \$4,000,000 of tax credits may be placed at risk with respect to any single commitment to a venture capital fund. [2009, c. 633, §4 (NEW) .]

C. The retirement system may cooperate with the authority and other organizations promoting the State's innovation economy by encouraging participating venture capital funds to consider investments in this State consistent with their investment strategies. The retirement system may at any time be relieved of this obligation by releasing the State from its obligations under all outstanding tax credit certificates issued under the program. [2009, c. 633, §4 (NEW).]

[ 2009, c. 633, §4 (NEW) .]

**4. Refundable tax credits.** The authority may issue to the retirement system certificates of up to \$20,000,000 in refundable tax credits as provided by Title 36, section 5219-EE to serve as partial security against a loss of capital under the program. Certificates must be issued to expire no later than July 1, 2028.

A. Refundable tax credits as authorized by this subsection may be redeemed only as necessary to offset 80% of any realized loss of capital in the program. [2009, c. 633, §4 (NEW).]

B. A certificate of tax credits issued by the authority under this section is binding on the State and constitutes a solemn contractual commitment of the State protected under the contract clauses of the Constitution of Maine, Article I, Section 11 and the United States Constitution, Article I, Section 10. Once issued, as long as the retirement system is not in default under its agreement with the authority with respect to any certificate of tax credits, the certificate may not be modified, terminated or rescinded until the certificate expires, is redeemed or is released by the retirement system. [2009, c. 633, §4 (NEW).]

C. The authority shall register each refundable tax credit under this section with the Department of Administrative and Financial Services, Bureau of Revenue Services. The retirement system shall report annually to the authority on the status and valuation of investments secured by the certificate of tax credits and such other information as may be required pursuant to an agreement between the retirement system and the authority. The report must include details of capital calls and distributions. [2009, c. 633, §4 (NEW).]

D. A refundable tax credit allowed pursuant to this section is not a security under Title 32, chapter 135. [2009, c. 633, §4 (NEW).]

E. On the final liquidation of a venture capital fund for which a certificate of tax credits has been issued, the retirement system shall notify the authority of termination of the investment and certify the amount of any loss. The authority may request such information or documentation from the retirement system as it determines reasonably necessary to confirm the amount of any loss and shall promptly certify any capital loss to the Department of Administrative and Financial Services, Bureau of Revenue Services. Upon submission by the authority, the bureau shall redeem registered credits as necessary to pay 80% of the loss certified by the authority up to a maximum payment of \$4,000,000 with respect to any single venture capital fund investment or an aggregate loss under the program of \$20,000,000. For purposes of this subsection, "loss" means the total amount of investment by the retirement system into the venture capital fund less the total value of all distributions received by the retirement system from such venture capital fund, as determined by the authority. [2009, c. 633, §4 (NEW).]

F. Nothing in this section may be construed to place the assets of the authority at risk. Except for those rights that relate to refundable tax credits, nothing in this section may be construed to create an obligation of the State or of any political subdivision of the State, and this section may not be construed to require or mandate the retirement system to make any investments under the program. [2009, c. 633, §4 (NEW).]

G. The authority may charge the retirement system reasonable fees for the cost of implementing and administering the program and any tax credits authorized by this section, not to exceed the authority's out-of-pocket costs plus an annualized fee not to exceed 1% of the outstanding balance of tax credits. In

addition, the authority may assess a reasonable program fee from gains received by the retirement system from investments under the program. Any such fees are subject to the approval of the retirement system and the authority. [2009, c. 633, §4 (NEW).]

[ 2009, c. 633, §4 (NEW) .]

#### SECTION HISTORY

2009, c. 633, §4 (NEW).

## §1026-U. MAINE CAPITAL INVESTMENT PROGRAM

*(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)*

*(WHOLE SECTION TEXT EFFECTIVE ON CONTINGENCY: See PL 2015, c. 415, §2)*

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

A. "Business development project" means a project that involves the construction, development, rehabilitation, modernization or acquisition of a building, a structure, a system, machinery, equipment or a facility that has a projected cost of at least \$50,000,000 or is projected to result in the creation or retention of a least 250 full-time employment positions that pay at least 125% of the annual average weekly wage under Title 26, section 1043, subsection 1-A. [2015, c. 415, §1 (NEW); 2015, c. 415, §2 (AFF).]

B. "Fund" means the Maine Capital Investment Fund established in subsection 4. [2015, c. 415, §1 (NEW); 2015, c. 415, §2 (AFF).]

C. "Program" means the Maine Capital Investment Program authorized pursuant to subsection 2. [2015, c. 415, §1 (NEW); 2015, c. 415, §2 (AFF).]

[ 2015, c. 415, §1 (NEW); 2015, c. 415, §2 (AFF) .]

**2. Program authorized.** The authority may create and oversee the Maine Capital Investment Program to increase the availability of capital to eligible business development projects as provided under this section.

[ 2015, c. 415, §1 (NEW); 2015, c. 415, §2 (AFF) .]

**3. Authority assets; obligation.** This section may not be construed to place the assets of the authority at risk. This section may not be construed to create an obligation of the State or of any political subdivision of the State.

[ 2015, c. 415, §1 (NEW); 2015, c. 415, §2 (AFF) .]

**4. Maine Capital Investment Fund.** The Maine Capital Investment Fund is established as a nonlapsing revolving loan and equity fund administered by the authority to support the capital needs of business development projects under the program. The fund is capitalized by sums that are appropriated or allocated by the Legislature or transferred to the fund from time to time by the State Controller, interest earned from the investment of fund balances, state bond issues, state employee pension funds, institutional endowments and other funds from any public or private source received for use for any of the purposes for which the fund has been established. The authority may charge the fund reasonable fees for the cost of implementing and administering the program and any loans or bonds authorized by this section.

[ 2015, c. 415, §1 (NEW); 2015, c. 415, §2 (AFF) .]

**5. Criteria to qualify for financial support.** The authority shall provide financial support to an applicant to support a business development project under the program based in part but not solely on the following criteria:

- A. The creditworthiness of the applicant, including factors such as the applicant's historical financial performance, management ability, plan to market the applicant's product or service and whether the applicant meets or exceeds industry average financial performance ratios commonly accepted in determining creditworthiness in the applicant's industry; [2015, c. 415, §1 (NEW); 2015, c. 415, §2 (AFF).]
- B. The sufficiency of collateral pledged by the applicant; [2015, c. 415, §1 (NEW); 2015, c. 415, §2 (AFF).]
- C. The sufficiency of projected revenues from the business development project or other sources to repay the financial support received under and meet the requirements of subsection 6 for the term of the obligation; [2015, c. 415, §1 (NEW); 2015, c. 415, §2 (AFF).]
- D. The extent to which financial support from the authority enhances the employment and wage benefits projected to be created by the business development project; [2015, c. 415, §1 (NEW); 2015, c. 415, §2 (AFF).]
- E. The duration of the employment and wage benefits projected to be created by the business development project; and [2015, c. 415, §1 (NEW); 2015, c. 415, §2 (AFF).]
- F. Demonstration that the financial support from the authority is necessary due to the reduced cost and increased flexibility of the financial support and not due to the applicant's inability to obtain financing from another source. [2015, c. 415, §1 (NEW); 2015, c. 415, §2 (AFF).]

[ 2015, c. 415, §1 (NEW); 2015, c. 415, §2 (AFF) .]

**6. Financial support.** The authority may provide the following financial support to an applicant determined to be qualified under subsection 5:

- A. A direct loan of up to \$50,000,000 from the fund for a single business development project, which must be matched by an amount that is equal to at least 25% of the loan amount and that is obtained from a source other than the fund; or [2015, c. 415, §1 (NEW); 2015, c. 415, §2 (AFF) .]
- B. Up to \$100,000,000 in bond funding from bonds issued pursuant to subsection 7 for a single business development project and up to \$200,000,000 in bond funding to the same applicant for multiple business development projects. [2015, c. 415, §1 (NEW); 2015, c. 415, §2 (AFF).]

The authority may require other terms or conditions of financial support under this subsection as the authority determines necessary and reasonable.

[ 2015, c. 415, §1 (NEW); 2015, c. 415, §2 (AFF) .]

**7. Bonding authorization.** The authority may provide by resolution for the issuance of bonds in accordance with subsection 6, paragraph B for the purpose of funding business development projects. Bonds issued pursuant to this subsection do not constitute a general obligation of the authority, and the authority may not pledge an obligation under section 1053 or otherwise seek an appropriation for repayment. Bonds issued under this subsection do not constitute a debt of the State or any agency or political subdivision of the State and are payable solely from the revenues of the business development project for which the bonds are issued. Neither the faith nor credit nor taxing power of the State or any political subdivision of the State may be pledged to payment of the bonds issued under this subsection. Notwithstanding any other provision of law, any bonds issued pursuant to this subsection are fully negotiable. If any member of the authority whose

signature appears on the bond or coupons ceases to be a member of the authority before the delivery of those bonds, that signature is valid and sufficient for all purposes as if that member of the authority had remained a member of the authority until delivery.

[ 2015, c. 415, §1 (NEW); 2015, c. 415, §2 (AFF) .]

**8. Requirements of recipient.** A recipient of financial support under subsection 6 shall provide the following.

A. In addition to repayment of the financial support received under subsection 6 pursuant to the terms set by the authority, within 5 years after the completion of the business development project the recipient shall pay to the fund an amount equal to 10% of the amount of the financial support received under subsection 6 pursuant to terms determined by the authority. [2015, c. 415, §1 (NEW); 2015, c. 415, §2 (AFF).]

B. The recipient shall report to the authority 5 years after completion of the business development project. The report must include a description of the business development project and the number of jobs created or retained. The report must identify the entity or entities using the business development project and, for each entity, indicate the extent to which the entity is owned or managed by minorities or women, the percentage of the entity's operations located within and outside the State, the entity's payroll and the property taxes paid by the entity. [2015, c. 415, §1 (NEW); 2015, c. 415, §2 (AFF) .]

[ 2015, c. 415, §1 (NEW); 2015, c. 415, §2 (AFF) .]

**9. Report.** The authority shall report annually, on or before January 1st, to the joint standing committee of the Legislature having jurisdiction over economic development matters. The report must include a description of each business development project under the program, the amount, type and terms of financial support the business development project received and the information reported to the authority pursuant to subsection 8. The report must contain an accounting of the fund, bonds issued pursuant to subsection 7 and any loans or bonds that are in default. The accounting must include, at a minimum, identification of amounts received from each public or private source, identification of amounts returned to each public or private source and an accounting of the authority's implementation and administration expenses incurred and charged to the fund.

The committee may request that the joint legislative committee established to oversee program evaluation and government accountability matters direct the Office of Program Evaluation and Government Accountability to review the program as provided in Title 3, section 991.

[ 2015, c. 415, §1 (NEW); 2015, c. 415, §2 (AFF) .]

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

[ 2015, c. 415, §1 (NEW); 2015, c. 415, §2 (AFF) .]

#### SECTION HISTORY

2015, c. 415, §1 (NEW). 2015, c. 415, §2 (AFF).

## §1027. INSURANCE OF MORTGAGES

*(REPEALED)*

#### SECTION HISTORY

1981, c. 476, §2 (NEW). 1983, c. 519, §11 (AMD). 1985, c. 344, §50 (RP).

## §1028. MORTGAGE INSURANCE PREMIUMS

The authority may fix mortgage insurance premiums for the insurance of mortgage payments under this subchapter. The effective rate of the insurance premiums shall not be more than 2% per year of the actual or scheduled outstanding principal obligation at the beginning of each year. The authority shall determine and prescribe the manner in which the premiums shall be payable, the effective rate of the insurance premium, the actual or scheduled outstanding principal obligation and other matters necessary and proper for the assessment and collection of the premiums. [1985, c. 714, §26 (AMD).]

### SECTION HISTORY

1981, c. 476, §2 (NEW). 1985, c. 344, §51 (AMD). 1985, c. 714, §26 (AMD).

## §1029. INSURANCE OF SUBCHAPTER 3 LOANS

**1. Eligible for insurance.** All payments required under a mortgage, a loan agreement or related documents for a project financed by revenue obligation securities issued pursuant to subchapter 3, including revenue obligation securities that provide full or partial financing for more than one project, are eligible for insurance to the extent permitted under this subchapter.

[ 2003, c. 537, §43 (AMD); 2003, c. 537, §53 (AFF) .]

**2. Insurance payment.** In any case when the authority becomes obligated by contract or other agreement to make an insurance payment with respect to any insured mortgage or other agreement issued with respect to insured subchapter 3 loans, the authority shall:

- A. Make the payment at the time and in the manner provided by the applicable contract or agreement, charging the payment to the Mortgage Insurance Fund, Loan Insurance Reserve Fund or, in the case of payments required under agreements issued for aboveground and underground storage facility replacement projects, to the Underground Oil Storage Replacement Fund; [2003, c. 537, §43 (AMD); 2003, c. 537, §53 (AFF).]
- B. [1985, c. 714, §27 (RP).]
- C. [1985, c. 714, §27 (RP).]
- D. Take all reasonable steps to enforce the payment of amounts due from the mortgagor. [1985, c. 714, §27 (AMD).]
- E. [1985, c. 714, §27 (RP).]

The trustee for any bond or note issued in anticipation of the bond or, if there is no trustee, the holder of any bond or note has the right to bring suit against the authority for payment in accordance with the contract or other agreement executed by the authority.

[ 2003, c. 537, §43 (AMD); 2003, c. 537, §53 (AFF) .]

### SECTION HISTORY

1981, c. 476, §2 (NEW). 1985, c. 344, §52 (AMD). 1985, c. 714, §27 (AMD). 1987, c. 521, §9 (AMD). 1987, c. 846, §10 (AMD). 2003, c. 537, §43 (AMD). 2003, c. 537, §53 (AFF).

## §1030. INCONTESTABILITY

Any loan insurance commitment or contract executed and delivered by the authority under this subchapter is conclusive evidence of the eligibility of the loan for insurance subject to satisfaction of any conditions set forth in the loan insurance contract or commitment and that the requirements of sections 1026-A and 1026-E have, to the extent determined applicable by the authority, been satisfied or made conditions of

the loan insurance commitment or contract, and the validity of any loan insurance commitment or contract so executed and delivered is incontestable in the hands of an insured except for fraud or misrepresentation on the part of the insured. [2003, c. 537, §44 (AMD); 2003, c. 537, §53 (AFF).]

#### SECTION HISTORY

1981, c. 476, §2 (NEW). 1985, c. 344, §53 (AMD). 1987, c. 521, §10 (AMD). 1987, c. 846, §11 (AMD). 2003, c. 537, §44 (AMD). 2003, c. 537, §53 (AFF).

### §1031. LOANS ELIGIBLE FOR INVESTMENT

Loans insured under this subchapter are made legal investments for all insurance companies, trust companies, banks, investment companies, savings banks, savings and loan associations, executors, trustees and other fiduciaries, public and private pension or retirement funds and other persons. [2003, c. 537, §45 (AMD); 2003, c. 537, §53 (AFF).]

#### SECTION HISTORY

1981, c. 476, §2 (NEW). 1983, c. 519, §12 (AMD). 1985, c. 344, §54 (AMD). 2003, c. 537, §45 (AMD). 2003, c. 537, §53 (AFF).

### §1032. 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 any money appropriated and made available by the State for the purposes of any such fund and any other money available to the authority. For purposes of this section, the amount of any letter of credit, insurance contract, surety bond, indemnification agreement or similar financial undertaking available to be drawn on and applied to obligations to which money in any such fund may be applied shall be deemed to be and counted as money in the capital reserve fund.

[ 1987, c. 697, §9 (NEW) .]

**2. Application.** Money in any capital reserve fund created pursuant to subsection 1, except as provided in this section, must be used solely with respect to mortgage loans, repayment of which is secured by any such fund, for the payment of principal, accrued interest and costs and expenses chargeable to the mortgage loan, with respect to interest rate swap agreements benefiting eligible enterprises, and with respect to amounts borrowed by the authority to be used for direct loans from the authority to eligible businesses or students pursuing higher education when direct loans have been authorized by law. Money in any capital reserve fund may be used to pay all amounts due and payable, whether by acceleration or otherwise, under the contractual agreements pertaining to such mortgage loans, interest rate swap agreements and loans to the authority, including fees, commissions, indemnities, expenses and other amounts due. Money in excess of the reserve requirement established pursuant to subsection 4 may be transferred to other funds and accounts of the authority.

[ 1993, c. 410, Pt. EEEE, §2 (AMD) .]

**3. Security for loans.** With respect to any loans that may be insured under this subchapter, interest rate swap agreements benefiting eligible enterprises and loans to the authority to be used for direct loans to eligible enterprises or students pursuing higher education, the authority may provide that such loans, interest rate swap agreements or loans to the authority must be secured by one or more capital reserve funds established pursuant to subsection 1 instead of or in addition to insurance provided under other sections of this subchapter. Limitations and requirements applicable to insurance under sections 1026-A to 1028 are applicable to loans, but not interest rate swap agreements or loans to the authority, to which one or more capital reserve funds apply as if the loans were backed by insurance. Capital reserve funds may secure interest rate swap agreements pertaining to eligible enterprises that demonstrate the ability to honor the swap

agreement as determined by the authority and that do not have as a principal element space for retail sales or professional office space, as defined by the authority. Any commitment with respect to a loan executed and delivered pursuant to this section is conclusive evidence of the eligibility of the loan for insurance and the validity of any such commitment or contract is incontestable in the hands of a lender, swap counterparty or lender to the authority except for fraud or misrepresentation on the part of the lender, swap counterparty or lender to the authority. Loans secured by capital reserve funds under this section are made legal investments for all insurance companies, trust companies, banks, investment companies, savings banks, savings and loan associations, executors, trustees and other fiduciaries, public and private pension or retirement funds and other persons.

[ 2003, c. 537, §46 (AMD); 2003, c. 537, §53 (AFF) .]

**4. Reserve requirement.** The authority may provide that money in any such capital reserve fund shall not be withdrawn at any time in an amount that would reduce the amount of any such fund below an amount established by the authority with respect to the fund, except for the purpose of paying the amount due pursuant to the terms of any mortgage loan or interest rate swap agreement or loan to the authority, repayment of which is secured by any such fund.

[ 1989, c. 552, §15 (AMD) .]

**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 to which this section is stated in any written agreement of the authority to apply, to the reserve requirement established by the authority. The Governor shall pay directly from the State Contingent Account to any such fund as much of the amount as is available in that account and shall transmit directly to the Legislature certification and a statement of the amount, if any, remaining to be paid. The certified amount shall be appropriated and paid to the authority during the current state fiscal year.

[ 1987, c. 697, §9 (NEW) .]

**6. Obligations outstanding.** The authority may not have at any one time outstanding obligations to which this section is stated in any agreement of the authority to apply in principal amount exceeding \$150,000,000, less the amount of revenue obligation securities to which section 1053 is stated in the trust agreement or other document to apply. Amounts of revenue obligation securities that are not taken into account pursuant to section 1053, subsection 6, may not be taken into account for purposes of determining the amount that may be outstanding under this section. Notwithstanding the foregoing, the authority may additionally have outstanding at any one time up to \$3,500,000 of obligations relating to direct loans to students pursuing higher education.

[ 2003, c. 537, §47 (AMD); 2003, c. 537, §53 (AFF) .]

#### SECTION HISTORY

1987, c. 697, §9 (NEW). 1989, c. 552, §15 (AMD). 1993, c. 410, §EEEE2 (AMD). 1993, c. 460, §7 (AMD). 1993, c. 680, §A19 (AMD). 1997, c. 217, §2 (AMD). 2003, c. 537, §§46,47 (AMD). 2003, c. 537, §53 (AFF).

## Subchapter 2-A: INDUSTRIAL STABILITY PROGRAM

### §1035. PURPOSE

*(REPEALED)*

#### SECTION HISTORY

1985, c. 433, §1 (NEW). 1989, c. 857, §48 (RP).

**§1036. PILOT PROGRAM***(REPEALED)*

## SECTION HISTORY

1985, c. 433, §1 (NEW). 1987, c. 349, §H8 (AMD). 1989, c. 857, §48 (RP).

**Subchapter 2-B: SOCIAL WORK EDUCATION LOAN REPAYMENT PROGRAM****§1038. SOCIAL WORK EDUCATION LOAN REPAYMENT PROGRAM**

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

A. "Fund" means the Social Work Education Loan Repayment Fund established in subsection 4. [2009, c. 427, §1 (NEW).]

B. "Program" means the Social Work Education Loan Repayment Program established in subsection 2. [2009, c. 427, §1 (NEW).]

[ 2009, c. 427, §1 (NEW) .]

**2. Social Work Education Loan Repayment Program.** The Social Work Education Loan Repayment Program is established for the purpose of increasing the number of social workers practicing in the State.

[ 2009, c. 427, §1 (NEW) .]

**3. Criteria.** For an applicant to participate in the program, the applicant must:

A. Be a social worker licensed under Title 32, chapter 83; [2009, c. 427, §1 (NEW).]

B. Have completed a bachelor's, master's or doctoral degree in social work from an accredited school of social work within 3 years prior to the date the applicant's application is received by the authority; [2009, c. 427, §1 (NEW).]

C. Possess an outstanding education loan relating to the degree; [2009, c. 427, §1 (NEW).]

D. Practice in an underserved practice area, including but not limited to the practice of social work:

(1) In a public or private child welfare or family service agency;

(2) In a public interest law service;

(3) In a public child care facility;

(4) In a public service for individuals with disabilities;

(5) In a public service for the elderly;

(6) In a public service for veterans; or

(7) At an organization exempt from taxation under the United States Internal Revenue Code, Section 501(c)(3).

Priority consideration must be given to social workers practicing in a public or private child welfare or family service agency, in a public service for the elderly or in a public service for individuals with disabilities; [2009, c. 1, §11 (COR).]

E. Submit an application to the authority, which must include but is not limited to information concerning academic performance, awards and special honors and community involvement; and [2009, c. 427, §1 (NEW).]

F. Have signed a statement of intent in a form acceptable to the authority to work as a social worker in the State for a minimum of 3 years after acceptance into the program. [2009, c. 427, §1 (NEW).]

[ 2009, c. 1, §11 (COR) .]

**4. Social Work Education Loan Repayment Fund.** The Social Work Education Loan Repayment Fund is created as a nonlapsing, interest-earning, revolving fund to carry out the purposes of this subchapter.

A. The authority may receive, invest and expend on behalf of the fund money from gifts, grants, bequests and donations in addition to money appropriated or allocated by the State and any federal funds received by the State for the benefit of social workers who have outstanding education loans. Money received by the authority on behalf of the fund must be used for the purposes of this subchapter. The fund must be maintained and administered by the authority. Any unexpended balance in the fund carries forward for continued use under this subchapter. [2009, c. 427, §1 (NEW).]

B. Costs and expenses of maintaining, servicing and administering the fund and of administering the program may be paid out of amounts in the fund. [2009, c. 427, §1 (NEW).]

[ 2009, c. 427, §1 (NEW) .]

**5. Administration.** The program and the fund are administered by the authority. The authority shall repay the loans of up to 3 applicants each year who meet the criteria in subsection 3 in the amount of up to \$5,000 for each applicant. The authority may adopt rules to carry out the purposes of this subchapter. Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

[ 2009, c. 427, §1 (NEW) .]

#### SECTION HISTORY

RR 2009, c. 1, §11 (COR). 2009, c. 427, §1 (NEW).

### Subchapter 3: REVENUE OBLIGATION SECURITIES PROGRAM

#### §1041. GENERAL POWERS

The authority may in addition to its other powers and in furtherance of the purposes of this chapter: [1985, c. 344, §55 (RPR).]

**1. Kinds of projects.** Acquire, construct, reconstruct, maintain, renew, replace or provide financing assistance for eligible projects, or assist users to acquire, construct, reconstruct, maintain, renew or replace eligible projects;

[ 1985, c. 344, §56 (RPR) .]

**2. Securities for projects.** Issue revenue obligation securities to pay the cost of or to provide financial assistance for acquisition, construction, reconstruction, renewal or replacement of eligible projects. Any single issue of securities may provide for the cost of or for financial assistance for acquisition, construction, reconstruction, renewal or replacement of any one or more projects which may be separate, unconnected, distinct and unrelated in purpose;

[ 1985, c. 344, §57 (AMD) .]

**3. Acquire securities.** Issue revenue obligation securities to acquire one or more issues of revenue obligation securities issued by municipalities or to acquire any other bond not eligible for purchase pursuant to Title 30-A, chapter 225. Any single issue of securities may provide funds for the acquisition of revenue obligation securities of one or more municipalities or of bonds for one or more projects which may be separate, unconnected, distinct and unrelated in purpose;

[ 1987, c. 737, Pt. C, §§14, 106 (AMD); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

**4. Refunding securities.** Issue revenue refunding obligation securities as provided to refund any outstanding revenue obligation securities issued under this subchapter or under subchapter IV or under previous chapter 104 or to refund any obligations or securities of any municipality;

[ 1993, c. 741, §1 (AMD) .]

**5. Serve as broker or agent.** Serve as a broker, agent or other financial intermediary for the secondary marketing of obligations issued or incurred in connection with the financing of eligible projects and for the encouragement of the flow of private funds for capital investment;

[ 1981, c. 476, §2 (NEW) .]

**6. Facilities.** Plan, carry out, acquire, lease and operate facilities and provide for the construction, reconstruction, improvement, alteration or repair of any facility or any part;

[ 1981, c. 476, §2 (NEW) .]

**7. Acquisition and disposal of property.** Acquire or enable a user to acquire upon reasonable terms from subchapter III funds, the lands, structures, property, rights, rights-of-way, franchises, easements and other interests in lands, including lands lying under water and riparian rights, which are located within the State and deemed necessary or convenient for the construction or operation of any subsection 1 project, and dispose of them;

[ 1981, c. 476, §2 (NEW) .]

**8. Contracts.** Make and enter into all financial documents and other contracts and trust agreements securing revenue obligation securities issued under this subchapter, provided all expenses shall be payable solely from funds made available under this subchapter;

[ 1981, c. 476, §2 (NEW) .]

**9. Consent to modification of contracts, lease or agreement.** To the extent not forbidden under its contract with the holders of bonds, consent to any modification of any contract, lease or agreement of any kind to which the authority is a party;

[ 1981, c. 476, §2 (NEW) .]

**10. Employment of specialists.** Employ consulting and other engineers, attorneys, accountants, construction and financial experts, superintendents, managers and other necessary employees and agents and fix their compensation, provided all expenses shall be payable solely from funds made available under this subchapter;

[ 1981, c. 476, §2 (NEW) .]

**11. Government contracts.** Enter into contracts with municipalities, the State or a federal agency relating to any eligible subsection 1 project. In the case of contracts with federal agencies involving pollution-control facilities, the consent of the Board of Environmental Protection shall first be obtained, notwithstanding Title 38, section 362;

[ 1981, c. 476, §2 (NEW) . ]

**12. Government aid.** Accept loans or grants for the planning, construction or acquisition of any eligible subsection 1 project from a municipality, an authorized agency of the State or a federal agency and enter into agreements with the agency respecting the loans or grants. In the case of loans, grants or other aid from a federal agency involving pollution-control facilities, the consent of the Board of Environmental Protection shall first be obtained, notwithstanding Title 38, section 362;

[ 1981, c. 476, §2 (NEW) . ]

**13. Private aid.** Receive and accept aid and contributions from any source of either money, property, labor or other things of value, to be held, used and applied only for the purposes for which these loans, grants and contributions may be made;

[ 1981, c. 476, §2 (NEW) . ]

**14. Applicability.** Provide financial assistance by means of leases which are not subject to Title 14, section 6010. Leases made under this section may provide that obligations of the lessees shall be unconditional;

[ 1985, c. 344, §59 (AMD) . ]

**15. Application of Title 32, chapter 13.** Provide financial assistance by means of revenue obligation securities which are not subject to the provisions of Title 32, chapter 13, relating to dealers in securities;

[ 1985, c. 344, §60 (AMD) . ]

**16. Energy conservation.** Provide financial assistance for energy conservation. The Department of Economic and Community Development shall provide assistance to the authority in determining technical eligibility and merit of applications for energy conservation loans. Each recipient of a loan under this section shall provide the authority, within one year, with detailed information on energy consumption before and after the completion of the energy conservation project;

[ 1989, c. 878, Pt. A, §27 (RPR) . ]

**17. Electricity.** Provide financial assistance for electricity generation projects;

[ 2011, c. 2, §5 (COR) . ]

**18. Recycling and waste reduction.** Provide financial assistance to businesses for recycling and waste reduction projects that are consistent with the management goals and objectives outlined in the state waste management and recycling plan under Title 38, chapter 24. The Department of Environmental Protection shall provide assistance to the authority in determining consistency, technical eligibility and merit of application for recycling loans; and

[ 2011, c. 2, §6 (COR) . ]

**19. Workers' compensation residual market mechanism projects.** Provide loans for workers' compensation residual market mechanism projects, if the authority determines that the financing requested by the workers' compensation residual market pool is a reasonable and prudent extension of credit. Revenue

obligation securities secured by capital reserve funds pursuant to section 1053 relating to any loan authorized by this section are limited obligations of the authority payable from revenues from the workers' compensation residual market pool and any capital reserve funds pledged for those securities and are not payable from any other assets or funds of the authority.

[ 1995, c. 289, §5 (NEW) .]

#### SECTION HISTORY

1981, c. 476, §2 (NEW). 1983, c. 519, §§13,14 (AMD). 1983, c. 648, §3 (AMD). 1983, c. 699, §3 (AMD). 1983, c. 862, §31 (AMD). 1985, c. 344, §§55-61 (AMD). 1985, c. 593, §1 (AMD). 1987, c. 737, §§C14,C106 (AMD). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,C10 (AMD). 1989, c. 501, §DD19 (AMD). 1989, c. 585, §§C10,C11 (AMD). 1989, c. 878, §A27 (AMD). 1993, c. 741, §1 (AMD). 1995, c. 289, §5 (AMD). 1995, c. 656, §A3 (AMD). 1999, c. 657, §3 (AMD). RR 2011, c. 2, §§5, 6 (COR). 2011, c. 655, Pt. GG, §5 (AMD). 2011, c. 655, Pt. GG, §70 (AFF).

## §1041-A. LIMITATIONS ON CERTAIN PROJECTS

The authority may not provide financing from proceeds of revenue obligation securities issued by the authority for any housing that is eligible for financing by the Maine State Housing Authority except with respect to property that the authority has acquired or may acquire on account or in anticipation of imminent or actual default under the insurance program. [2003, c. 537, §48 (AMD); 2003, c. 537, §53 (AFF).]

### 1. Scope.

[ 1991, c. 606, Pt. F, §2 (RP) .]

### 2. Retail stores.

[ 1991, c. 606, Pt. F, §2 (RP) .]

### 3. Professional office space.

[ 1991, c. 606, Pt. F, §2 (RP) .]

### 4. Reconstruction of existing building projects.

[ 1991, c. 606, Pt. F, §2 (RP) .]

### 5. Housing.

[ 1991, c. 606, Pt. F, §2 (RP) .]

#### SECTION HISTORY

1985, c. 344, §62 (NEW). 1985, c. 510, (AMD). 1985, c. 714, §28 (AMD). 1987, c. 393, §10 (AMD). 1991, c. 606, §F2 (RPR). 2003, c. 537, §48 (AMD). 2003, c. 537, §53 (AFF).

## §1042. ASSISTANCE TO APPLICANTS

The authority may assist applicants, who may be persons, firms and corporations, private or public, except as provided in this chapter, in the financing of projects by issuing revenue obligation securities, drafting financing documents, trust agreements and other contracts, arranging the financing and negotiating for the sale of the securities. [1981, c. 476, §2 (NEW).]

### SECTION HISTORY

1981, c. 476, §2 (NEW).

## §1043. CERTIFICATES OF APPROVAL

*(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)*

**1. Issue.** The authority is authorized and empowered to approve or disapprove projects following submission to it of applications for approval thereof, in such form and with such supporting data as it may require and, upon approval of a project, to issue a certificate of approval. The authority shall publish once in the state newspaper and in a newspaper of general circulation in the area of the State in which the project is to be located, notice of the date on which the authority will consider issuance of a certificate of approval for the project. The notice shall be published at least 7 days prior to the date scheduled for such consideration, shall set forth the name of the applicant, describe generally the project and set forth the time and place at which the application will be considered. In addition to the notice required to be published by the authority, the applicant shall make all reasonable efforts to give timely notice to any and all known competitors of the time and place at which the application will be considered. Where individual written notice is not practical, as determined by the authority, the authority may specify other or additional forms of notice, including display newspaper advertisements and written notice to any trade, industry, professional or interest group. The certificate of approval shall identify and describe each project as to location, purpose and the amount of revenue obligation securities to be issued. If a single issue of revenue obligation securities is to provide for the costs of more than one project, the certificate of approval shall identify the aggregate amount of revenue obligation securities to be issued.

[ 1985, c. 344, §63 (AMD) .]

**2. Criteria.** Before issuing a certificate of approval for any project, the authority shall determine that:

A. The project will make a contribution to the economic growth of, the control of pollution in or the betterment of the health, welfare or safety of the inhabitants of the State; [1985, c. 344, §63 (AMD) .]

B. The project will not result in a substantial detriment to existing business in the State. In order to make this determination, the authority shall consider, pursuant to rules adopted in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, such factors as it deems necessary to measure and evaluate the effect of the project on existing business, including considering:

(1) Whether a project should be approved if, as a result of the project, there will not be sufficient demand within the market area of the State to be 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 is outweighed by the contribution which the project will make to the economic growth of, the control of pollution in or the betterment of the health, welfare or safety of the inhabitants of the State.

The applicant shall have the burden of demonstrating that the project will not result in a substantial detriment to existing business in accordance with the requirements of this paragraph, including rules adopted in accordance therewith, except in cases where no interested parties object to the project, in which event the requirements of this paragraph shall be deemed satisfied. Interested parties shall be given an opportunity, with or without a hearing at the discretion of the authority, to present their objections to the project on grounds that the project will result in a substantial detriment to existing

business. If any such party presents such objections with reasonable specificity and persuasiveness, the authority may divulge whatever information concerning the project which it deems necessary for a fair presentation by the objecting party and evaluation of such objections. If the authority finds that the applicant has failed to meet its burden as specified in this paragraph, the application shall be denied. [1985, c. 714, §29 (AMD).]

C. Adequate provision is being made to meet any increased demand upon public facilities that might result from the project; [1981, c. 476, §2 (NEW).]

D. In cases where it is proposed to relocate an industrial-commercial or recreational facility existing in the State, there is a clear economic justification for such relocation; [1981, c. 476, §2 (NEW).]

E. [1985, c. 344, §63 (RP).]

E-1. In the case of recycling and waste reduction projects, the proposed facility must be consistent with the state waste management and recycling plan under Title 38, chapter 24, and will reduce the amount of solid or hazardous waste requiring disposal. [1989, c. 585, Pt. C, §12 (NEW).]

F. In the case of projects that are primarily pollution-control facilities:

- (1) The proposed users of the facilities make a contribution to the economy of the State;
- (2) A public benefit will result from including the facilities in the project; and
- (3) It is unlikely that public facilities meeting the needs of the users and securing comparable public benefit will become available in the reasonably foreseeable future; [1995, c. 4, §5 (AMD).]

G. [1985, c. 344, §63 (RP).]

H. [1985, c. 344, §63 (RP).]

I. The project will, to the extent possible, cooperate with representatives of the Department of Labor and the Department of Health and Human Services regarding employment opportunities for recipients of the services of those departments; [1999, c. 484, §5 (AMD); 2003, c. 689, Pt. B, §6 (REV).]

J. In the case of major business expansion projects, the applicant is creditworthy and there is a strong likelihood that the revenue obligation securities will be repaid through the revenues of the project and any other sources of revenues and collateral pledged to the repayment of those securities. In order to make this determination, the authority shall consider such factors as it considers necessary to measure and evaluate the sufficiency of the pledged revenues to repay the obligations, including:

- (1) Whether individuals or entities obligated to repay the obligations have demonstrated sufficient revenues from the project or from other sources to repay the obligations, and a strong probability that those revenues will continue to be available for the term of the revenue obligation securities;
- (2) Whether the applicant demonstrates a strong probability that the project will continue to operate and provide the public benefits projected to be created for the term of the revenue obligation securities;
- (3) Whether the applicant demonstrates that the benefits projected to be created by the project are enhanced through the use of financing assistance from the authority;
- (4) Whether the applicant's creditworthiness is demonstrated by such factors as historical financial performance, management ability, its plan for marketing its product or service and its ability to access conventional financing;
- (5) Whether the applicant meets or exceeds industry average financial performance ratios commonly accepted in determining creditworthiness in that industry;

(6) Whether the applicant demonstrates that the need for authority assistance is due to the reduced cost and increased flexibility of the financing for the project that result from authority assistance and not from an inability to obtain necessary financing without the capital reserve fund security provided by the authority; and

(7) Whether collateral securing the repayment obligation is reasonably sufficient under the circumstances.

Financing assistance for any one major business expansion project may not exceed \$25,000,000 in loan amount. The authority may establish, pursuant to rules adopted in accordance with Title 5, chapter 375, subchapter 2, application procedures, approval criteria and reasonable fees for major business expansion projects; [ 2003, c. 506, §2 (AMD). ]

K. In the case of a paper industry job retention project, the applicant is creditworthy and there is a strong likelihood that the revenue obligation securities will be repaid through the revenues of the project and any other sources of revenues and collateral pledged to the repayment of those securities. To assist in making its determination the authority may engage, at the borrower's expense, independent consultants to assist in the evaluation of the project. In making this determination, the authority shall consider factors it considers necessary to measure and evaluate the sufficiency of the pledged revenues to repay the securities, including:

(1) Whether individuals or entities obligated to repay the securities have demonstrated sufficient revenues from the project or from other sources to repay the securities and a strong probability that those revenues will continue to be available for the term of the securities;

(2) Whether the applicant demonstrates a strong probability that the project will continue to operate and to provide the public benefits projected to be created for the term of the securities;

(3) Whether the applicant demonstrates that the benefits projected to be created by the project are enhanced through the use of financial assistance from the authority;

(4) Whether the applicant's creditworthiness is demonstrated by such factors as historical financial performance, management ability and the applicant's plan for marketing products or service and its ability to access conventional financing;

(5) Whether the applicant meets or exceeds industry average financial performance ratios commonly accepted in determining creditworthiness in that industry. In assessing projected financial performance, the authority must consider the value and effect of any contractual labor cost reductions that will be in effect at the time the financial assistance is provided;

(6) Whether collateral securing the repayment obligation, valued in place and in use, is reasonably sufficient under the circumstances;

(7) Whether the owner will make an important equity contribution to the project. If the applicant requests financing assistance from the authority in an amount greater than \$25,000,000, the amount financed by the authority may not exceed \$25,000,000 plus 50% of the total project costs in excess of \$25,000,000. If other financing is subordinate to the financing provided by the authority, the amount financed by the authority may not exceed \$25,000,000 plus 70% of the total project costs in excess of \$25,000,000; and

(8) Whether the applicant demonstrates that the need for authority assistance is due to the reduced cost and increased flexibility of the financing for the project that result from the authority assistance and not from an inability to obtain necessary financing without the capital reserve fund security provided by the authority; [ 2009, c. 372, Pt. D, §5 (AMD). ]

L. In the case of transmission facilities projects, the applicant is creditworthy and there is a strong likelihood that the revenue obligation securities will be repaid through the revenues of the project and any other source of revenues and collateral pledged to the repayment of those securities. In order to make this determination, the authority shall consider such factors as it considers necessary and appropriate in light of the special purpose or other nature of the business entity owning the project to measure and evaluate the project and the sufficiency of the pledged revenues to repay the obligations, including:

- (1) Whether the individuals or entities obligated to repay the obligations have demonstrated sufficient revenues from the project or from other sources to repay the obligations and a strong probability that those revenues will continue to be available for the term of the revenue obligation securities;
- (2) Whether the applicant demonstrates a strong probability that the project will continue to operate and provide the public benefits projected to be created for the term of the revenue obligation securities;
- (3) Whether the applicant demonstrates that the benefits projected to be created by the project are enhanced through the use of financing assistance from the authority;
- (4) Whether the applicant's creditworthiness is demonstrated by factors such as its historical financial performance, management ability, plan for marketing its product or service and ability to access conventional financing;
- (5) Whether the applicant meets or exceeds industry average financial performance ratios commonly accepted in determining creditworthiness in that industry;
- (6) Whether the applicant demonstrates that the need for authority assistance is due to the reduced cost and increased flexibility of the financing for the project that result from authority assistance and not from an inability to obtain necessary financing without the capital reserve fund security provided by the authority;
- (7) Whether collateral securing the repayment obligation is reasonably sufficient under the circumstances;
- (8) Whether the proposed project enhances the opportunities for economic development;
- (9) The effect that the proposed project financing has on the authority's financial resources; and
- (10) Whether the Northern Maine Transmission Corporation, as established in section 9202, has recommended the project.

Upon request by the authority, state agencies, including but not limited to the Public Utilities Commission, shall provide necessary assistance to the authority in evaluating the feasibility of the project and its importance for northern Maine. In providing assistance, the Public Utilities Commission shall consider whether the proposed project enhances the competitiveness of the wholesale and retail energy market; how the proposed project is likely to affect energy prices for Maine residents; whether the proposed project will augment or enhance the reliability and stability of the grid; and whether there is likely to be a long-term need for the product as produced by the proposed project.

The authority may establish, pursuant to rules adopted in accordance with Title 5, chapter 375, subchapter 2, application procedures, approval criteria and reasonable fees for transmission facilities projects. Rules adopted by the authority under this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. In addition, the authority may require the applicant to pay the reasonable costs of an evaluation of the project risks by an independent consultant. If the authority directs the applicant to pay for such an independent evaluation of the project, the authority shall make every reasonable effort, in its discretion, to minimize the cost of the evaluation and any delay such an evaluation may cause in authority action.

The authority may not finance any project involving an electric transmission line capable of operating at 69 kilovolts or more unless the Public Utilities Commission has issued a certificate of public convenience for the construction of the line pursuant to Title 35-A, section 3132; [ 2009 , c . 517 , § 7 ( AMD ) . ]

M. In the case of an Efficiency Maine project, as defined in section 963-A, subsection 10-A, there is a reasonable likelihood that the income, proceeds, revenues and funds of Efficiency Maine Trust derived from or held for activities under Title 35-A, chapter 97 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 authority shall consider Efficiency

Maine Trust'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 Efficiency Maine Trust reasonable fees and expenses. The authority may require that it be indemnified, defended and held harmless by Efficiency Maine Trust for any liability or cause of action arising out of or with respect to the bonds. The principal and interest of bonds must be made payable solely from the income, proceeds, revenues and funds of Efficiency Maine Trust derived from or held for activities under Title 35-A, chapter 97 or other provision of law. 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 Efficiency Maine Trust under Title 35-A, chapter 97; [ 2011, c. 261, § 2 (AMD). ]

N. In the case of recovery zone facility bonds, the project will benefit the county or counties in which it is located; and [ 2011, c. 261, § 3 (AMD). ]

O. (TEXT REPEALED 1/1/20) (TEXT EFFECTIVE UNTIL 1/1/20) In the case of an energy distribution system project or an energy generating system project regulated by the Public Utilities Commission with respect to rates or terms of service or that requires, for construction or operation, authorization or certification from the commission, the following conditions are met.

- (1) The energy distribution system project or the energy generating system project has received all authorizations or certifications from the Public Utilities Commission necessary for construction and operation of the project. The authority may issue a certificate of approval for a project that has received conditional approvals or certifications from the commission, except that the authority's certificate becomes legally effective only upon fulfillment of the conditional provisions of the commission's certificates or approvals. If the commission has approved rates to be charged by the project or has issued a certificate of public convenience and necessity for the project, the authority shall take into consideration any findings and conclusions of law of the commission, including any findings and conclusions pertaining to the need for the project and the financial viability of the project.
- (2) The authority has reviewed and considered any comments provided by the Director of the Governor's Energy Office and the Public Advocate.
- (3) The authority has determined that the applicant is creditworthy and that there is a reasonable likelihood that the revenue obligation securities will be repaid through the revenues of the project and any other sources of revenues and collateral pledged to the repayment of those securities. In order to make these determinations, the authority shall consider such factors as it considers necessary and appropriate in light of the special purpose or other nature of the business entity owning the project and the specific purposes of the project to measure and evaluate the project and the sufficiency of the pledged revenues to repay the obligations, including, but not limited to:
  - (a) Whether the individuals or entities obligated to repay the obligations have demonstrated sufficient revenues from the project or from other sources to repay the obligations and a reasonable probability that those revenues will continue to be available for the term of the revenue obligation securities;
  - (b) Whether the applicant demonstrates a reasonable probability that the project will continue to operate and provide the public benefits projected to be created for the term of the revenue obligation securities;
  - (c) Whether the applicant's creditworthiness is demonstrated by factors such as its historical financial performance, management ability, plan for marketing its product or service and ability to access conventional financing;
  - (d) Whether the applicant meets or exceeds industry average financial performance ratios commonly accepted in determining creditworthiness in that industry;

- (e) Whether the applicant demonstrates that the need for authority assistance is due to the reduced cost and increased flexibility of the financing for the project that result from authority assistance and not from an inability to obtain necessary financing without the capital reserve fund security provided by the authority;
- (f) Whether collateral securing the repayment obligation is reasonably sufficient under the circumstances;
- (g) Whether the proposed project enhances the opportunities for economic development;
- (h) The effect that the proposed project financing has on the authority's financial resources;
- (i) The financial performance of similar projects;
- (j) The need for the project, as determined by the Public Utilities Commission and as indicated by any comments provided by the Director of the Governor's Energy Office, other public officials and members of the public;
- (k) The nature and extent of customer commitment to use the project or the fuel or energy the project distributes, transmits or generates;
- (l) The cost advantages to end users of the fuel or energy to be distributed, transmitted or generated by the project, to the extent those advantages may affect market penetration by the project; and
- (m) The nature and extent of the applicant's equity contribution to payment of the costs of the project; such a contribution may not be less than 25% of the expected cost of the project.

This paragraph is repealed January 1, 2020. [ 2015, c. 504, §3 (AMD) . ]

[ 2015, c. 504, §3 (AMD) . ]

**3. Effect of certificate.** A certificate of approval issued under this subchapter shall be conclusive proof that the authority has made the determinations required by this section.

[ 1981, c. 476, §2 (NEW) . ]

**4. Exception.** This section and section 1044, subsection 2, shall not apply in the case of issue by the authority of revenue obligation securities for the purpose of acquiring one or more issues of outstanding revenue obligation securities issued by municipalities or one or more issues of any other bond not eligible for purchase pursuant to Title 30-A, chapter 225.

[ 1987, c. 737, Pt. C, §§15, 106 (AMD); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) . ]

**5. Assistance.** In considering any request for financial assistance from an applicant for a project regulated by the Public Utilities Commission with respect to rates or terms of service or that requires for construction or operation authorization or certification from the commission, the commission, upon request of the authority, shall provide assistance in analyzing financial, economic or technical issues on which the commission has expertise. At the request of the commission, the authority shall assess the applicant a fee to be paid to the commission to reimburse the commission for any costs incurred by the commission that cannot be absorbed within its existing resources.

[ 2011, c. 261, §5 (NEW) . ]

#### SECTION HISTORY

1981, c. 476, §2 (NEW). 1981, c. 698, §§60-64 (AMD). 1985, c. 344, §63 (AMD). 1985, c. 714, §29 (AMD). 1987, c. 697, §10 (AMD). 1987, c. 737, §§C15,C106 (AMD). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,C10 (AMD). 1989, c. 585, §C12 (AMD). 1995, c. 4, §§5-7 (AMD).

1999, c. 484, §§5-7 (AMD). 2003, c. 506, §§2-4 (AMD). 2003, c. 689, §B6 (REV). 2009, c. 372, Pt. D, §§5-7 (AMD). 2009, c. 517, §§7-9 (AMD). 2011, c. 261, §§2-5 (AMD). 2011, c. 586, §3 (AMD). 2011, c. 655, Pt. MM, §8 (AMD). 2011, c. 655, Pt. MM, §26 (AFF). 2015, c. 504, §3 (AMD).

## §1044. ISSUANCE OF REVENUE OBLIGATION SECURITIES

**1. Notice of intent to issue bonds; actions to contest validity.** The authority may provide, at one time or from time to time, for the issuance of revenue obligation securities of the authority for the purposes authorized in this chapter. No revenue obligation securities of the authority may be issued until:

A. A certificate of approval, as provided in section 1043, has been issued; and [1985, c. 344, §64 (AMD).]

B. [1985, c. 344, §64 (RP).]

C. A notice of the intent of the authority to issue the securities is published at least once in the state newspaper and in a newspaper of general circulation in the municipality in which the project is to be located:

- (1) No later than 14 full days after the date on which the certificate is issued;
- (2) Describing the general purpose or purposes for which the securities are to be issued;
- (3) Stating the maximum principal amount of the proposed securities;
- (4) Setting forth or summarizing the text of the certificate of approval; and
- (5) Including a statement as to the time within which any petition to contest the issuance of the securities or to set aside or otherwise obtain relief on the grounds of invalidity of the certificate of approval must be commenced. [1985, c. 344, §64 (AMD).]

Any action or proceeding in any court to contest the issuance of the securities, to set aside a certificate of approval or to obtain relief upon the grounds that the certificate of approval was improperly issued, was issued for unauthorized purposes, or is otherwise invalid for any reason, must be started within 30 days after the date of the publication required by paragraph C and otherwise shall be governed by Title 5, chapter 375, subchapter VII. Notwithstanding the provisions of section 969-A, subsection 11 and Title 5, chapter 375, subchapter VII, including, but not limited to, Title 5, sections 11002 and 11003, any such action or proceeding must be commenced only by first serving the petition for review upon the authority, in hand, within that 30-day period. For the purposes of this subchapter and the Maine Administrative Procedure Act, Title 5, chapter 375, the later date of newspaper publication required by paragraph C shall constitute the final agency action with respect to the certificate of approval and the issuance of the securities. After the expiration of the 30-day period of limitation, no right of action or defense founded upon the invalidity of the approval or contesting any provision or the issuance of the certificate of approval or the issuance of the securities may be started or asserted nor may the certificate of approval or the issuance of the securities be open to question in any court upon any grounds.

[ 1989, c. 765, §2 (AMD) .]

**2. Treasurer of State as agent.** The Treasurer of State shall at the direction of the authority, act as the authority's agent for the sale and delivery of revenue obligation securities and anticipatory notes. The Treasurer of State shall assist the authority in the preparation, issuance, negotiation and sale of the securities and notes and provide reasonable advice and management assistance. The authority may employ further counsel or assistants or act in its own behalf, provided that the sale and delivery of revenue obligation securities and anticipatory notes shall be carried out at the authority's direction with and through the Treasurer of State.

[ 1981, c. 476, §2 (NEW) .]

### 3. Resolution.

[ 1985, c. 344, §65 (RP) . ]

**4. Conclusive authorization.** All revenue obligation securities of the authority shall be conclusively presumed to be fully authorized and issued under the laws of the State, and any person or governmental unit shall be estopped from questioning their authorization, sale, issuance, execution or delivery by the authority.

[ 1985, c. 344, §66 (AMD) . ]

**5. Maturity; interest.** The securities of each issue of revenue obligation securities shall be dated, shall mature at a time or times not exceeding 30 years from their date and shall bear interest at a rate or rates determined by the authority. At the option of the authority, the securities may be made redeemable before maturity at a price or prices and under terms and conditions fixed prior to their issuance.

[ 1981, c. 476, §2 (NEW) . ]

**6. Form.** The authority shall determine the form of the securities, including any attached interest coupons, the manner of execution of the securities, the denomination or denominations of the securities and the place or places for payment of principal and interest, which may be at any financial institution within or without the State. Revenue obligation securities shall be executed in the name of the authority by the manual or facsimile signature of the authorized official or officials. Any attached coupons shall be executed with the manual or facsimile signature of the authorized official or officials. Signatures and facsimiles of signatures on securities and coupons will be valid for all purposes even if the authorized official ceases to hold office before delivery of the securities. The securities may be issued in coupon or registered form or both as the authority may determine. Provision may be made for the registration of any coupon securities as to principal alone and as to both principal and interest, and for the reconversion into coupon securities of any securities registered as to both principal and interest. In addition to this subsection, the authority may provide for transfer of registration of its registered revenue obligation securities by book entry on the records of the entity designated for that purpose and may enter into such contractual arrangements as may be necessary to accomplish these purposes. In the event a book entry method of transfer is used, principal of and interest on those registered securities shall be payable to the registered owner shown in the book entry, his legal representatives, successors or transferees.

[ 1985, c. 344, §67 (AMD) . ]

**7. Sale.** The authority may sell the securities at a public or private sale, in a manner and at a price it determines is in the best interest of the authority. The authority shall not sell the securities to any firm, partnership, corporation or association, including an affiliate or subsidiary, which is a party to any contract pertaining to the financed project or which is to rent, purchase, lease or otherwise occupy premises constituting part of the project. The authority may sell its securities to a seller of the project if the project is to be used and operated by a 3rd party.

[ 1981, c. 476, §2 (NEW) . ]

**8. Proceeds.** The proceeds of each issue shall be used solely for the authorized purposes and shall be disbursed as provided in the securing trust agreement or other document. Administration costs incurred by the authority under this program may be drawn from those proceeds. If the proceeds are less than the cost of the project, by error in the estimate or otherwise, additional securities may be issued in a like manner to provide the amount of the deficit and, unless otherwise provided in the securing trust agreement or such other document and without again carrying out the procedures set forth in section 1043, the additional securities are deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the securities first issued for the same purpose. The authority may place limits or restrictions on the issuance of additional revenue obligation securities through the securing trust agreement or other document. The authority may provide for the replacement of mutilated, destroyed or lost securities. Revenue obligation

securities may be issued under this subchapter without obtaining the consent of any department, division, commission, board, bureau or agency of the State and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions or things which are specifically required by this subchapter. Notwithstanding any of the other provisions of this subchapter, or of any recitals in any securities issued under this subchapter, all such securities are deemed to be negotiable instruments issued under the laws of this State.

[ 1985, c. 344, §68 (AMD) . ]

**9. Credit not pledged.** Except as provided in this subsection, securities issued under this subchapter do not constitute any debt or liability of the State or of any municipality therein or any political subdivision thereof, or of the authority or a pledge of the faith and credit of the State or of any such municipality or political subdivision, but are payable solely from the revenues of the project or projects for which they are issued or from other eligible collateral or the revenues or proceeds of other eligible collateral pledged to the payment of the revenue obligation securities and all such securities must contain on their face a statement to that effect. The issuance of securities under this subchapter does not directly or indirectly or contingently obligate the State or any municipality or political subdivision to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment. Under subchapter 2, the authority may insure loans made with the proceeds of revenue obligation securities. To these ends, the faith and credit of the State may be pledged, under and consistent with the terms and limitations of the Constitution of Maine, Article IX, Section 14-A or 14-D, and such further limitations, if any, as may be provided by statute.

[ 2003, c. 537, §49 (AMD); 2003, c. 537, §53 (AFF) . ]

**10. Anticipatory borrowing.** In anticipation of the sale of securities under this subchapter, the authority may issue temporary notes and renewal notes, the total face amount of which does not exceed at any one time outstanding the authorized amount of the securities. The period of such anticipatory borrowing shall not exceed 3 years and the time within which the securities are to become due shall not be extended by the anticipatory borrowing beyond the term permitted by law.

[ 1985, c. 344, §70 (AMD) . ]

**11. Environmental protection.** For all revenue obligation securities in excess of \$1,000,000 and in other instances when the authority determines it is appropriate, the authority shall obtain a written assessment from the Department of Environmental Protection of the environmental conditions known by the department to exist at a project location so that the authority fully considers environmental risks when making its decisions. Environmental conditions posing risks that must be considered include, but are not limited to, licensing obligations, existing or historic regulatory noncompliance and site clean-up responsibilities.

[ 2003, c. 537, §53 (AFF); 2003, c. 537, §50 (RPR) . ]

**12. Energy facilities.** In the case of an energy generating system, an energy distribution system or an industrial-commercial project, any of which includes hydroelectric facilities:

A. Revenue obligation securities of the authority shall not be issued until the Public Utilities Commission has certified that all licenses required by that commission with respect to the project have been issued or that none are required; and [1985, c. 344, §71 (NEW) . ]

B. Revenue obligation securities of the authority shall not be issued until the Director of Energy Resources has reviewed and commented upon the project proposal. The director shall make his comments within 30 days after receipt of a notification and copy of the project proposal from the authority. The authority shall take the comments into consideration in its processing of the project.

[1985, c. 344, §71 (NEW) . ]

[ 1985, c. 714, §32 (AMD) . ]

**13. Limitation.** The authority may not issue revenue obligation securities for energy distribution system projects or energy generating system projects unless the authority issued a certificate of approval for the energy distribution system project or energy generating system project before January 1, 2020. Notwithstanding this subsection, revenue refunding securities may be issued to refund any outstanding revenue obligation securities.

[ 2015, c. 504, §4 (AMD) .]

#### SECTION HISTORY

1981, c. 476, §2 (NEW). 1981, c. 698, §§65,66 (AMD). 1983, c. 519, §15 (AMD). 1985, c. 344, §§64-71 (AMD). 1985, c. 714, §§30-32 (AMD). 1989, c. 765, §2 (AMD). 2003, c. 537, §§49,50 (AMD). 2003, c. 537, §53 (AFF). 2011, c. 586, §4 (AMD). 2015, c. 504, §4 (AMD).

## §1045. TRUST AGREEMENTS; FINANCIAL DOCUMENTS; RESOLUTIONS

*(REPEALED)*

#### SECTION HISTORY

1981, c. 476, §2 (NEW). 1985, c. 344, §72 (RP).

## §1045-A. TRUST AGREEMENTS OR OTHER DOCUMENTS

**1. Trust agreements or other documents.** At the discretion of the authority, revenue obligation securities may be issued under this subchapter pursuant to a trust agreement or other document. The trust agreement or other document may:

- A. Pledge or assign the revenues or proceeds of the project or projects or other eligible collateral; [1985, c. 344, §73 (NEW).]
- B. Set forth the rights and remedies of the security holders and other persons and contain any reasonable and legal provisions for protecting the rights and remedies of the security holders; [1985, c. 344, §73 (NEW).]
- C. Restrict the individual right of action by security holders; and [1985, c. 344, §73 (NEW).]
- D. Include covenants setting forth the duties of the authority and user in relation to:
  - (1) Acquisition of property or eligible collateral;
  - (2) Construction, reconstruction, renewal, replacement and insurance of the project or eligible collateral;
  - (3) Rents to be charged or other payments to be made for use;
  - (4) Payment for the project or eligible collateral; and
  - (5) Custody, safeguarding and application of all money. [1985, c. 344, §73 (NEW).]

Any financial institution may furnish indemnifying bonds or pledge the securities as may be required by the authority.

[ 1985, c. 344, §73 (NEW) .]

**2. Mortgages.** To further secure the payment of the revenue obligation securities, the trust agreement or other document may mortgage or assign the mortgage of the project, or any part, and create a lien upon or security interest in any or all of the project. In the event of a default with respect to the revenue obligation securities, the trustee, mortgagee or other person may be authorized by the trust agreement or other document containing a mortgage or assignment of a mortgage to take possession of, hold, manage and operate all or any

part of the mortgaged property and, with or without taking possession, to sell or, from time to time, to lease the property in accordance with law. Any security interest granted by the authority under this chapter may be created and perfected in accordance with the Uniform Commercial Code, Title 11, Article 9-A.

[ 1999, c. 699, Pt. D, §4 (AMD); 1999, c. 699, Pt. D, §30 (AFF) .]

**3. Additional provisions.** Any trust agreement or other document may contain provisions which shall be a part of the contract with holders of revenue obligation securities as to:

A. Pledging any specified revenues or assets of the authority to secure the payment of the securities, subject to agreements with existing holders of securities; [1985, c. 344, §73 (NEW).]

B. Pledging all or any part of the unencumbered revenues or assets of the authority to secure the payment of the securities, subject to agreements with existing holders of securities; [1985, c. 344, §73 (NEW).]

C. Setting aside of, regulating and disposing of reserves or sinking funds; [1985, c. 344, §73 (NEW).]

D. Limitations on the purpose to which the proceeds of sale of securities may be applied and the pledge of the proceeds to secure the payment of the securities or of any issue of securities; [1985, c. 344, §73 (NEW).]

E. Limitations on the issuance of additional securities; [1985, c. 344, §73 (NEW).]

F. The terms upon which additional securities may be issued and secured and the refunding of outstanding or other securities; [1985, c. 344, §73 (NEW).]

G. The procedure, if any, by which the terms of any contract with holders of securities may be amended or abrogated, including the proportion of the holders which must consent and the manner in which the consent may be given; [1985, c. 344, §73 (NEW).]

H. Limitations on the amount of money to be expended by the authority for operating expenses of the authority; [1985, c. 344, §73 (NEW).]

I. Vesting in a trustee or trustees such property, rights, powers and duties in trust as the authority may determine, which may include any or all of the rights, powers and duties of the trustee appointed by the holders of the securities under this subchapter and limiting or abrogating the right of the holders of the securities to appoint a trustee under this chapter or limiting the rights, powers and duties of the trustee; [1985, c. 344, §73 (NEW).]

J. Defining the acts or omissions to act which will constitute a default in the obligations and duties of the authority to the holders of the securities and providing for the rights and remedies of the holders of the securities in the event of default, including, as a matter of right, the appointment of a receiver; but only if the rights and remedies are not inconsistent with the general laws of the State and other provisions of this subchapter; and [1985, c. 344, §73 (NEW).]

K. Any other matters, of like or different character, which in any way affect the security or protection of the holders of the securities. [1985, c. 344, §73 (NEW).]

[ 1985, c. 344, §73 (NEW) .]

**4. Expenses; pledges.** All expenses incurred in carrying out a trust agreement or financial document may be treated as a part of the cost of the operation of the project. All pledges of revenue or eligible collateral under this subchapter shall be valid and binding from the time when the pledge is made. All the revenues or eligible collateral pledged and later received by the authority shall immediately be subject to the lien of the pledges without any physical delivery or further action under the Uniform Commercial Code or otherwise. The lien of the pledges shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise, against the authority, irrespective of whether the parties have notice thereof.

[ 1985, c. 344, §73 (NEW) .]

**5. Other provisions.** A trust agreement or financial document may contain other provisions the authority deems reasonable and proper for the security of the security holders.

[ 1985, c. 344, §73 (NEW) . ]

#### SECTION HISTORY

1985, c. 344, §73 (NEW). 1999, c. 699, §D4 (AMD). 1999, c. 699, §D30 (AFF) .

## §1046. RENTALS AND REVENUES

**1. Provisions.** Before issuing revenue obligation securities, the authority shall determine that there will at all times be revenues and funds sufficient:

A. To pay the principal of and the interest of the securities as they become due and payable and, in its discretion, to create and maintain reserves for that purpose; and [1985, c. 344, §74 (AMD) . ]

B. To pay the cost of maintaining and, where applicable, repairing the project unless provision is made in the financial document or other contract for maintenance and, where applicable, repair. [1985, c. 344, §74 (AMD) . ]

[ 1985, c. 344, §74 (AMD) . ]

**2. Sinking fund.** All project rentals and other revenues, except those required in subsection 1, paragraph B or to provide reserves for maintenance and, where applicable, repair may be set aside at regular intervals, as provided in the trust agreement or other document, and deposited to the credit of a sinking fund charged with payment of the interest and principal of the securities as they fall due, any necessary charges of paying agents for paying principal and interest, and the redemption price or the purchase price of securities retired by call or purchase. The use and disposition of moneys to the credit of the sinking fund shall be subject to regulations prescribed in the trust agreement or other document. Except as may otherwise be provided in the trust agreement or other document, the sinking fund shall be a fund for the benefit of all securities issued for the project or projects without distinction or priority of one over another.

[ 1985, c. 344, §74 (AMD) . ]

**3. Trust funds.** All moneys received under this subchapter shall be deemed trust funds, to be held and applied solely as provided in this subchapter. Any officer to whom, or any bank, trust company or other fiscal agent or trustee to which the moneys shall be paid shall act as trustees of the moneys and shall hold and apply them for the purposes of this subchapter, subject to the requirements of this subchapter, the trust agreement or other applicable document.

[ 1985, c. 344, §74 (AMD) . ]

#### SECTION HISTORY

1981, c. 476, §2 (NEW). 1985, c. 344, §74 (AMD) .

## §1047. REMEDIES

Any holder of revenue obligation securities or coupons issued under this subchapter and the trustee under any trust agreement, except as restricted by the trust agreement or applicable document, may, by appropriate legal action, protect and enforce any and all rights under the laws of this State or granted under this subchapter, the trust agreement or other document, including the appointment of a receiver, and may enforce and compel the performance of all duties required by this subchapter, the trust agreement or other

document to be performed by the authority, including the collecting of rates, fees and charges for the use of the project. Any proceeding shall be brought for the benefit of all holders of the securities and any coupons. [1985, c. 344, §75 (AMD).]

#### SECTION HISTORY

1981, c. 476, §2 (NEW). 1985, c. 344, §75 (AMD).

### **§1048. REVENUE REFUNDING SECURITIES**

The authority may provide for the issuance of revenue refunding securities of the authority to refund any outstanding revenue obligation securities issued under this subchapter, subchapter IV or under previous chapter 104 or to refund any obligations or securities of any municipality, including the payment of any redemption premiums and any interest accrued or to accrue to the date of redemption, and, if considered advisable by the authority, to construct or enable the construction of improvements, extensions, enlargements or additions of the original project. The authority may provide for the issuance of revenue obligation securities of the authority for the combined purpose of refunding any outstanding revenue obligation securities or revenue refunding securities issued under this subchapter, subchapter IV or under previous chapter 104 or to refund any obligations or securities of any municipality, including the payment of redemption premiums and interest accrued or to accrue and paying all or any part of the cost of acquiring or constructing or enabling the acquisition or construction of any additional project or part or any improvements, extensions, enlargements or additions of any project. The issuance of the securities, the maturities and other details, the rights and remedies of the holders and the rights, powers, privileges, duties and obligations of the authority are governed by the provisions of this subchapter insofar as they are applicable. [1993, c. 741, §2 (AMD).]

Notwithstanding the foregoing, the authority may approve or disapprove the issuance of revenue refunding securities without any notice of the issuance being given by the authority, by the applicant or otherwise, under section 1043, subsection 1; section 1044, subsection 1; or otherwise, and without having to hold any public hearing or otherwise fulfill the requirements of section 1043, if the authority determines that no expansion of the original project is involved and there will be no increase in the original amount of the revenue obligation securities issued for the project. Once the authority has made the determinations, it may approve the issuance of revenue refunding securities by issuing an amended certificate of approval. [1993, c. 741, §2 (NEW).]

If, in connection with any outstanding revenue obligation securities issued under previous chapter 104, any predecessor to the authority financed or guaranteed more than 90% of the total value of a project, the authority, in connection with issuing its revenue refunding securities, may continue to finance or guarantee the corresponding percentage of the total value of the project financed or guaranteed by its predecessor, notwithstanding section 1026-A, subsection 1, paragraph A, subparagraph (1). [2003, c. 537, §51 (AMD); 2003, c. 537, §53 (AFF).]

#### SECTION HISTORY

1981, c. 476, §2 (NEW). 1985, c. 344, §76 (AMD). 1985, c. 593, §2 (AMD). 1993, c. 741, §2 (AMD). 2003, c. 537, §51 (AMD). 2003, c. 537, §53 (AFF).

### **§1049. TAX EXEMPTION**

Revenue obligation securities issued under this subchapter shall constitute a proper public purpose and the securities, their transfer and the income from them, including any profits made on their sale, shall at all times be exempt from taxation within the State, whether or not those securities, their transfer or the income from them, including any profits made on their sale, are subject to taxation under the United States Internal Revenue Code, as amended. [1987, c. 393, §11 (AMD).]

#### SECTION HISTORY

1981, c. 476, §2 (NEW). 1987, c. 393, §11 (AMD).

## §1050. LEASEHOLD OR OTHER INTERESTS OF LESSEE TAXABLE

The interest of the user of any project is subject to taxation in the manner provided for similar interest in Title 36, section 551, subject to Title 36, sections 655 and 656. [1981, c. 476, §2 (NEW).]

### SECTION HISTORY

1981, c. 476, §2 (NEW).

## §1051. BONDS AS LEGAL INVESTMENTS

The revenue obligation securities of the authority and any loan or extension of credit issued under this subchapter, shall be legal investments in which all public officers and public bodies of the State, its political subdivisions, all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, banking associations, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries and all other persons who are now or may later be authorized to invest in bonds or other obligations of the State, may properly and legally invest funds, including capital, in their control or belonging to them. The revenue obligation securities and any loan or extension of credit which is issued under this subchapter are also made securities which may properly and legally be deposited with and received by all public officers and bodies of the State or any agency or political subdivisions and all municipalities and public corporations for any purpose for which the deposit of bonds or other obligations of the State is now or may later be authorized by law. [1985, c. 344, §77 (AMD).]

### SECTION HISTORY

1981, c. 476, §2 (NEW). 1985, c. 344, §77 (AMD).

## §1052. SUCCESSOR TO MAINE GUARANTEE AUTHORITY

The Finance Authority of Maine is the successor to the former Maine Guarantee Authority and all securities, mortgages, trust agreements, authorizations, financial documents, resolutions and actions of the Maine Guarantee Authority shall be obligations, resolutions or actions of the Finance Authority of Maine. [1983, c. 519, §16 (NEW).]

### SECTION HISTORY

1983, c. 519, §16 (NEW).

## §1053. 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 any money appropriated and made available by the State for the purposes of any such fund, any proceeds of sale by the authority of revenue obligation securities 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 shall be deemed to be and counted as money in the capital reserve fund.

[ 1987, c. 697, §11 (AMD) .]

**2. Application.** Money held in any capital reserve fund, except as provided in this section, shall be used solely with respect to revenue obligation securities, 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, as and 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.

[ 1989, c. 594, §1 (AMD); 1989, c. 594, §3 (AFF) . ]

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

[ 1989, c. 594, §2 (AMD); 1989, c. 594, §3 (AFF) . ]

**4. Issuance limit.** The authority may provide that it shall not issue revenue obligation securities if the capital reserve requirement established by the authority with respect to securities outstanding and then to be issued and secured by any such fund will exceed the amount of any such 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, shall deposit in any such fund from proceeds of the securities so to be issued, or from other sources, an amount, which, together with the amounts then in any such 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.

[ 1989, c. 594, §2 (AMD); 1989, c. 594, §3 (AFF) . ]

**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, to which this subsection is stated in the trust agreement or other document to apply, to the capital reserve requirement. The Governor shall forthwith pay from the Contingent Account to any such fund so much of the amount as is available in the Contingent Account and shall forthwith transmit to the Legislature such certification and a statement of the amount, if any, remaining to be paid and the amount so certified shall be appropriated and paid to the authority during the then current state fiscal year.

[ 1985, c. 344, §78 (NEW) . ]

**6. Securities outstanding.** The principal amount of revenue obligation securities the authority may have outstanding at any one time, to which subsection 5 is stated to apply in the trust agreement or other document, may not exceed an aggregate principal amount equal to \$912,000,000 as follows:

- A. The sum of \$180,000,000 consisting of not more than \$150,000,000 for loans and up to \$30,000,000 for use of bond proceeds to fund capital reserve funds for revenue obligation securities issued pursuant to this subchapter relating to loans for electric rate stabilization projects, loans for energy generating system projects or loans for energy distribution system projects; [ 2015, c. 504, §5 (AMD) . ]
- B. The sum of \$120,000,000 consisting of not more than \$100,000,000 for loans and up to \$20,000,000 for use of bond proceeds to fund capital reserve funds for revenue obligation securities issued pursuant to this subchapter relating to loans for major business expansion projects; [ 1999, c. 531, Pt. G, §1 (RPR) . ]

C. The sum of \$57,000,000 consisting of not more than \$45,000,000 for loans and up to \$12,000,000 for use of bond proceeds to fund capital reserve funds for revenue obligation securities issued pursuant to this subchapter relating to workers' compensation residual market mechanism projects; [1999, c. 531, Pt. G, §1 (RPR).]

D. The sum of \$150,000,000 less the aggregate outstanding balance of mortgage loans secured by capital reserve funds pursuant to section 1032 for all other revenue obligation securities issued pursuant to this subchapter; [2003, c. 506, §5 (AMD).]

E. The sum of \$120,000,000 consisting of not more than \$100,000,000 for loans and up to \$20,000,000 for use of bond proceeds to fund capital reserve funds for revenue obligation securities issued pursuant to this subchapter relating to loans for paper industry job retention projects; [2007, c. 464, §9 (AMD).]

F. The sum of \$100,000,000 consisting of not more than \$85,000,000 for loans and up to \$15,000,000 for use of bond proceeds to fund capital reserve funds for revenue obligation securities issued pursuant to this subchapter relating to loans for transmission facilities projects as defined in section 963-A, subsection 49-H; and [2007, c. 464, §9 (AMD).]

G. The sum of \$35,000,000 consisting of not more than \$30,000,000 for the purposes stated in section 1020-A, subsection 1, paragraphs A and C and up to \$5,000,000 for use of bond proceeds to fund capital reserve funds for revenue obligation securities issued pursuant to section 1020-A, subsection 1, paragraph A. [2007, c. 464, §9 (NEW).]

The amount of revenue obligation securities issued to refund securities previously issued may not be taken into account in determining the principal amount of securities outstanding, as long as 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 revenue obligation securities of the authority that may at any time be outstanding for any purpose, the amounts of the outstanding revenue obligation securities 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.

[2015, c. 504, §5 (AMD).]

#### SECTION HISTORY

1985, c. 344, §78 (NEW). 1985, c. 714, §33 (AMD). 1987, c. 697, §§11-13 (AMD). 1989, c. 552, §18 (AMD). 1989, c. 594, §§1, 2 (AMD). 1989, c. 594, §3 (AFF). 1993, c. 460, §8 (AMD). 1993, c. 712, §5 (AMD). 1995, c. 4, §8 (AMD). 1995, c. 120, §1 (AMD). 1995, c. 120, §5 (AFF). 1995, c. 289, §6 (AMD). 1997, c. 489, §7 (AMD). 1997, c. 492, §1 (AMD). 1997, c. 492, §7 (AFF). 1997, c. 781, §1 (AMD). 1999, c. 484, §8 (AMD). 1999, c. 513, §5 (AMD). 1999, c. 531, §G1 (AMD). 2003, c. 506, §5 (AMD). 2007, c. 464, §9 (AMD). 2011, c. 261, §6 (AMD). 2011, c. 586, §5 (AMD). 2015, c. 504, §5 (AMD).

### §1054. TAXABLE BOND OPTION

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 the limitations and restrictions of this subchapter, 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 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 or any subsequent law. Bonds issued pursuant to this section are not subject to any limitations or restrictions of any law that may limit the authority's power to issue those bonds or to the procedures set forth in section 1043 or in section 1044, subsections 1, 11 and 12; except that the procedures set forth in section 1043 do apply with respect to major business expansion projects. The foregoing grant

of power may not be construed as limiting the inherent power of the State or its agencies under any other provision of law to issue debt, the interest on which is includable in the gross income of the holders of the interest under the United States Internal Revenue Code or any subsequent law. Any action or proceeding in any court to contest the issuance of the securities, the approval by the authority of a project to benefit from issuance of the securities or the approval by the authority of mortgage insurance or the provision of a capital reserve fund for the securities for any reason must be started within 30 days after the date on which the members of the authority adopt a formal resolution approving issuance of the securities and otherwise must be governed by Title 5, chapter 375, subchapter VII. Once the authority has adopted a resolution to approve the issuance of securities pursuant to this section, any action by the authority to amend, alter or revise the resolution may not commence a new period of time within which any such action or proceeding may be commenced. Notwithstanding the provisions of section 969-A, subsection 11 and Title 5, chapter 375, subchapter VII, including, but not limited to, Title 5, sections 11002 and 11003, any such action or proceeding may be commenced only by first serving the petition for review upon the authority, in hand, within that 30-day period. After the expiration of the 30-day period of limitation, no right of action or defense founded upon the invalidity of the resolution or contesting any provision of the resolution, any amendment to the resolution or the issuance of the securities may be started or asserted nor may the resolution or the issuance of the securities be open to question in any court upon any grounds. [1995, c. 4, §9 (AMD).]

## SECTION HISTORY

1985, c. 344, §78 (NEW). 1985, c. 593, §3 (AMD). 1987, c. 393, §12 (AMD). 1995, c. 4, §9 (AMD).

## **§1055. REVENUE OBLIGATION SECURITIES FOR WASTE FACILITIES, WASTE DISPOSAL SERVICES OR RECYCLING PROJECTS**

In addition to any other powers and for the purposes of this chapter and Title 38, chapter 24, the authority may exercise powers and authority previously granted to the former Maine Waste Management Agency in Title 38, sections 2211 to 2222. [1995, c. 465, Pt. B, §5 (NEW); 1995, c. 465, Pt. C, §2 (AFF).]

## SECTION HISTORY

1995, c. 465, §B5 (NEW). 1995, c. 465, §C2 (AFF).

### Subchapter 4: MUNICIPAL SECURITIES APPROVAL PROGRAM

## **§1061. POWERS OF THE MUNICIPALITY UNDER THIS PROGRAM**

A municipality may: [1981, c. 476, §2 (NEW).]

**1. Kinds of projects.** Acquire, construct, reconstruct, maintain, renew, replace or provide financing assistance for eligible projects, or assist a user to acquire, construct, reconstruct, maintain, renew or replace eligible projects;

A. [1985, c. 344, §79 (RP).]

B. [1985, c. 344, §79 (RP).]

[1985, c. 344, §79 (RPR) .]

**2. Securities.** Issue revenue obligation securities of the municipality to pay the costs of, or provide financing for, projects enumerated in subsection 1;

[1981, c. 476, §2 (NEW) .]

**3. Refunding securities.** Issue revenue refunding obligation securities of the municipality to refund any outstanding revenue obligation securities issued under this subchapter or under subchapter III or to refund any other obligations or securities of the municipality;

[ 1985, c. 593, §4 (AMD) . ]

**4. Acquisition and disposal of property.** Acquire or enable a user to acquire upon reasonable terms from subchapter IV funds the lands, structures, property, rights, rights-of-way, franchises, easements and other interests in lands, including lands lying under water and riparian rights, which are located within the State and deemed necessary or convenient for the construction or operation of any subsection 1 project and to dispose of them;

[ 1981, c. 476, §2 (NEW) . ]

**5. Contracts.** Make and enter into all financing documents including security agreements, mortgages, contracts and trust agreements securing revenue obligation securities issued under this subchapter, provided all expenses are payable solely from funds made available under this subchapter;

[ 1981, c. 476, §2 (NEW) . ]

**6. Employment of specialists.** Employ consulting and other engineers, attorneys, accountants, construction and financial experts, superintendents, managers and other necessary employees and agents and fix their compensation, provided all expenses are payable solely from funds made available under this subchapter;

[ 1981, c. 476, §2 (NEW) . ]

**7. Government contracts.** Enter into contracts with other municipalities, the State or a federal agency relating to any subsection 1 project. In the case of contracts with federal agencies involving pollution-control facilities, the consent of the Board of Environmental Protection shall first be obtained, notwithstanding Title 38, section 362;

[ 1981, c. 476, §2 (NEW) . ]

**8. Government aid.** Accept loans or grants for the planning, construction or acquisition of any subsection 1 project from an authorized agency of the State or a federal agency and enter into agreements with the agency respecting the loans or grants. In the case of loans, grants or other aid from a federal agency involving pollution-control facilities, the consent of the Board of Environmental Protection shall first be obtained, notwithstanding Title 38, section 362;

[ 1981, c. 476, §2 (NEW) . ]

**9. General powers.** Do all acts and things necessary or convenient to carry out the powers expressly granted in this subchapter. Except as otherwise provided in this subchapter, the powers of a municipality may be exercised by or under the direction of its municipal officers;

[ 1981, c. 476, §2 (NEW) . ]

**10. Applicability.** Title 14, section 6010, shall not apply to leases made under this section. Leases made under this section may provide that obligations of the lessees shall be unconditional; and

[ 1981, c. 476, §2 (NEW) . ]

**11. Application of Title 32, chapter 13.** The provisions of Title 32, chapter 13, relating to dealers in securities, shall not apply to revenue obligation securities issued, reissued or refunded under this subchapter.

[ 1981, c. 476, §2 (NEW) .]

#### SECTION HISTORY

1981, c. 476, §2 (NEW). 1983, c. 519, §17 (AMD). 1983, c. 648, §4 (AMD). 1983, c. 699, §4 (AMD). 1983, c. 862, §32 (AMD). 1985, c. 344, §79 (AMD). 1985, c. 593, §4 (AMD).

## **§1061-A. LIMITATIONS ON CERTAIN PROJECTS**

In the case of projects consisting of multi-family or single-family residential property, the Maine State Housing Authority has responsibility to approve or disapprove such projects in accordance with regulations adopted pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, in lieu of the approval required by the authority under this subchapter, provided that this section applies only to projects that require an allocation under any applicable state bond ceiling for tax-exempt bonds. [1991, c. 2, §30 (COR) .]

### **1. Retail stores.**

[ 1991, c. 606, Pt. F, §3 (RP) .]

### **2. Professional office space.**

[ 1991, c. 606, Pt. F, §3 (RP) .]

### **3. Reconstruction of existing building projects.**

[ 1991, c. 606, Pt. F, §3 (RP) .]

### **4. Residential property.**

[ 1991, c. 606, Pt. F, §3 (RP) .]

#### SECTION HISTORY

1985, c. 344, §80 (NEW). 1985, c. 594, §3 (AMD). 1987, c. 393, §13 (AMD). RR 1991, c. 2, §30 (COR). 1991, c. 606, §F3 (RPR).

## **§1061-B. DESIGNATION OF ISSUER OF RECOVERY ZONE FACILITY BONDS AND QUALIFIED ENERGY CONSERVATION BONDS**

To the extent permitted by federal law, and to the extent not previously reallocated pursuant to section 1074-A or 1074-B, the county commissioners of any county may authorize the authority to issue recovery zone facility bonds or qualified energy conservation bonds on behalf of that county pursuant to subchapter 3 or a municipality to issue recovery zone facility bonds or qualified energy conservation bonds on behalf of that county pursuant to this subchapter. [2009, c. 517, §10 (NEW) .]

#### SECTION HISTORY

2009, c. 517, §10 (NEW).

## §1062. ASSISTANCE TO MUNICIPALITIES

The authority may assist municipalities in negotiations with prospects, drafting of contracts, arranging for financing and negotiations for sale of securities to be issued under this subchapter. [1983, c. 519, §18 (AMD).]

### SECTION HISTORY

1981, c. 476, §2 (NEW). 1983, c. 519, §18 (AMD).

## §1063. CERTIFICATES OF APPROVAL

**1. Issue.** The authority may approve or disapprove projects and issue certificates of approval upon application by municipalities proposing to issue revenue obligation securities under this subchapter. The authority shall publish, once in the state newspaper and in a newspaper of general circulation in the municipality in which the project is to be located, notice of the date on which the authority will consider the application. The notice shall be published at least 7 days prior to the date scheduled for such consideration, shall set forth the name of the municipality and the proposed user of the project, describe generally the project and set forth the time and place at which the application will be considered. In addition to the notice required to be published by the authority, the applicant shall make all reasonable efforts to give timely notice to any and all known competitors of the time and place at which the application will be considered. Where individual written notice is not practical, as determined by the authority, the authority may specify other or additional forms of notice, including display newspaper advertisements and written notice to any trade, industry, professional or interest group. The certificate of approval shall identify and describe each project as to location, purpose and amount of revenue obligation securities to be issued.

[ 1985, c. 344, §81 (AMD) .]

**2. Criteria.** Before issuing a certificate of approval for any project, the authority shall determine that:

A. The project will make a contribution to the economic growth of, the control of pollution in or the betterment of the health, welfare or safety of the inhabitants of the State; [1985, c. 344, §82 (AMD) .]

B. The project will not result in a substantial detriment to existing business in the State. In order to make this determination, the authority shall consider, pursuant to rules adopted in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, such factors as it deems necessary to measure and evaluate the effect of the project on existing business, including considering:

(1) Whether a project should be approved if, as a result of the project, there will not be sufficient demand within the market area of the State to be 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 is outweighed by the contribution which the project will make to the economic growth of, the control of pollution in or the betterment of the health, welfare or safety of the inhabitants of the State.

The applicant shall have the burden of demonstrating that the project will not result in a substantial detriment to existing business in accordance with the requirements of this paragraph, including rules adopted in accordance therewith, except in cases where no interested parties object to the project, in which event the requirements of this paragraph shall be deemed satisfied. Interested parties shall be given an opportunity, with or without a hearing at the discretion of the authority, to present their objections to the project on grounds that the project will result in a substantial detriment to existing business. If any such party presents such objections with reasonable specificity and persuasiveness, the authority may divulge whatever information concerning the project which it deems necessary for a fair presentation by the objecting party and evaluation of such objections. If the authority finds that the applicant has failed to meet its burden as specified in this paragraph, the application shall be denied; [1985, c. 714, §34 (AMD).]

- C. Adequate provision is being made to meet any increased demand upon public facilities that might result from the project; [1981, c. 476, §2 (NEW).]
- D. In cases where it is proposed to relocate an energy generating system, energy distribution system, industrial-commercial project, water supply system or recreational facility existing in the State, there is a clear economic justification for the relocation; [1981, c. 476, §2 (NEW).]
- E. For all revenue obligation securities in excess of \$1,000,000 and in other instances when the authority determines it is appropriate, the Department of Environmental Protection has provided a written assessment to the authority of the environmental conditions known by the department to exist at a project location so that the authority fully considers environmental risks when making its decisions. Environmental conditions posing risks that must be considered include, but are not limited to, licensing obligations, existing or historic regulatory noncompliance and site clean-up responsibilities. [2003, c. 537, §53 (AFF); 2003, c. 537, §52 (RPR).]
- F. In the case of projects including pollution-control facilities:
- (1) The proposed users of the facilities make a significant contribution to the economy of the State;
  - (2) A substantial public benefit will result from including the facilities in the project; and
  - (3) It is unlikely that public facilities meeting the needs of the users and securing comparable public benefit will become available in the reasonable foreseeable future; [1981, c. 476, §2 (NEW).]
- G. [1985, c. 344, §84 (RP).]
- H. In the case of water supply system projects:
- (1) That the project will result in substantial public benefits;
  - (2) That the issuance of securities for the project has been reviewed and approved by the Public Utilities Commission in accordance with Title 35-A, chapter 9, sections 901 to 910 and 6508; and
  - (3) The Public Utilities Commission and the Department of Health and Human Services have certified that all permits, licenses and approvals required from those departments have been issued or granted or that none are required, and until a location permit from the applicable licensing authority has been issued or it is determined that none is required. Any subsequent enlargement of or addition to the project, for which approval is sought from the authority, shall also require certification by the Public Utilities Commission and the Department of Health and Human Services; [1987, c. 141, Pt. B, §8 (AMD); 2003, c. 689, Pt. B, §6 (REV).]
- I. In the case of an energy generating system project or energy distribution project which is intended to produce or distribute energy for sale to any person, municipality, firm, corporation or the State that the issuance of securities for the project has been reviewed and approved by the Public Utilities Commission in accordance with Title 35-A, chapter 9, sections 901 to 910 and 6508; [1987, c. 141, Pt. B, §8 (AMD).]
- I-1. In the case of recycling and waste reduction projects, the proposed facility is consistent with and will contribute to the management goals and objectives outlined in the state waste management and recycling plan under Title 38, chapter 24 and will reduce the amount of solid or hazardous waste requiring disposal. The Department of Environmental Protection shall provide assistance to the authority in determining consistency, technical eligibility and merit of applications for assistance under this subchapter. [2011, c. 655, Pt. GG, §6 (AMD); 2011, c. 655, Pt. GG, §70 (AFF).]
- J. In the case of an energy generating system, an energy distribution system or an industrial-commercial project, any of which includes hydroelectric facilities deemed necessary for the production of electricity:
- (1) The Public Utilities Commission has certified that all required licenses have been issued or that none are required; and

(2) The Director of the Governor's Office of Policy and Management has reviewed and commented upon the project proposal. The Director of the Governor's Office of Policy and Management shall make comments within 30 days after receipt of a notification and copy of the project proposal from the authority. The authority shall take the comments into consideration in its consideration of the project; and [2011, c. 655, Pt. EE, §15 (AMD); 2011, c. 655, Pt. EE, §30 (AFF).]

K. If the authority is satisfied that the determinations of this section can be made and that a certificate of approval can be issued, upon receipt of the certificate or certificates required by paragraphs E, H, I and J, the authority may advise the departments concerned which may treat such advice as the completion of arrangements for financing for the purposes of Title 38, section 451, subsection 1, paragraph B. [1985, c. 714, §35 (AMD).]

[ 2011, c. 655, Pt. EE, §15 (AMD); 2011, c. 655, Pt. GG, §6 (AMD); 2011, c. 655, Pt. GG, §70 (AFF) .]

**3. Effect of certificate.** A certificate of approval issued under this subchapter shall be conclusive proof that the authority has made the determinations required by this section.

[ 1981, c. 476, §2 (NEW) .]

#### SECTION HISTORY

1981, c. 476, §2 (NEW). 1981, c. 698, §67 (AMD). 1985, c. 344, §§81-84 (AMD). 1985, c. 714, §§34,35 (AMD). 1987, c. 141, §B8 (AMD). 1989, c. 501, §DD20 (AMD). 1989, c. 546, §1 (AMD). 1989, c. 585, §§C13,C14 (AMD). 1989, c. 878, §A28 (AMD). 1995, c. 656, §A4 (AMD). 2003, c. 537, §52 (AMD). 2003, c. 537, §53 (AFF). 2003, c. 689, §B6 (REV). 2011, c. 655, Pt. EE, §15 (AMD). 2011, c. 655, Pt. EE, §30 (AFF). 2011, c. 655, Pt. GG, §6 (AMD). 2011, c. 655, Pt. GG, §70 (AFF).

## §1064. ISSUANCE OF REVENUE OBLIGATION SECURITIES

**1. Notice of intent to issue bonds; actions to contest validity.** The municipal officers of any municipality are authorized to provide by resolution, at one time or from time to time, for the issuance of revenue obligation securities of the municipality for the purposes authorized in this subchapter. No revenue obligation securities of the municipality may be authorized and issued until:

A. A certificate of approval, as provided in section 1063, is received; [1981, c. 476, §2 (NEW) .]

B. A resolution is adopted by vote of the municipal officers; and [1981, c. 476, §2 (NEW) .]

C. A notice of the intent of the municipality to issue the securities is published at least once in the state newspaper and in a newspaper of general circulation in the municipality:

- (1) No later than 14 full days after the date on which the resolution is adopted;
- (2) Describing the general purpose or purposes for which the securities are to be issued;
- (3) Stating the maximum principal amount of the proposed securities;
- (4) Setting forth or summarizing the text of the certificate of approval; and
- (5) Including a statement as to the time within which any action or proceeding to set aside the resolution or otherwise obtain relief on the grounds of its invalidity or that of the certificate of approval must be commenced. [1981, c. 476, §2 (NEW) .]

Any action or proceeding in any court to set aside a resolution or certificate of approval or to obtain relief upon the grounds that the resolution or certificate of approval was improperly adopted, was adopted for unauthorized purposes or is otherwise invalid for any reason, must be started within 30 days after the date of

the publication. After the expiration of the period of limitation, no right of action or defense founded upon the invalidity of the resolution or approval or any provision shall be started or asserted nor shall the validity of the resolution or approval or provision be open to question in any court upon any grounds.

[ 1981, c. 476, §2 (NEW) . ]

**2. Maturity; interest.** The securities of each issue of revenue obligation securities shall be dated, shall mature at a time or times not exceeding 25 years from their date or dates and shall bear interest at a rate or rates determined by the option of the municipal officers. The securities may be made redeemable before maturity at a price or prices and under terms and conditions fixed prior to their issue. In determining an interest rate, the municipal officers shall specify a rate which shall be the maximum rate for the particular revenue obligation security issue related to a single project, which rate may be a variable rate measured as a percentage of or otherwise in relation to a prime rate or other measuring standard.

A. [1985, c. 714, §36 (RP) . ]

B. [1985, c. 714, §36 (RP) . ]

C. [1985, c. 344, §85 (RP) . ]

D. [1985, c. 714, §36 (RP) . ]

[ 1985, c. 714, §36 (RPR) . ]

**3. Form.** The municipal officers shall determine the form of the securities, including any attached interest coupons, the manner of execution of the securities, the denomination or denominations of the securities. Revenue obligation securities shall be executed in the name of the municipality by the manual or facsimile signature of the municipal officer or officers authorized in the resolution, but at least one signature on each security shall be a manual signature. Any attached coupons shall be executed with the facsimile signature of the designated official. Signatures and facsimiles of signatures on securities and coupons will be valid for all purposes, even if the designated official ceases to hold office before delivery of the securities. The securities may be issued in coupon or registered form, or both. Provision may be made for the registration of any coupon securities as to principal alone and as to both principal and interest, and for the reconversion into coupon securities of any securities registered as to both principal and interest.

[ 1981, c. 476, §2 (NEW) . ]

**4. Sale.** The municipal officers may sell the securities at a private or public sale, in a manner and at a price they determine, but no sale may be made at a price so low as to require the payment of interest on the money received at more than the interest approved by the authority.

The municipal officers shall not sell the securities to any firm, partnership, corporation, water company or association, including an affiliate or subsidiary, which is a party to any contract pertaining to the financial project or which is to rent, purchase, lease or otherwise occupy premises constituting part of the project. The municipal officers may sell the securities to a seller of the project if the project is to be used and operated by a 3rd party.

[ 1981, c. 476, §2 (NEW) . ]

**5. Use of proceeds; disbursements; deficits.** Proceeds of each issue shall be used solely for the authorized purposes and shall be disbursed as provided in the authorizing resolution or in the securing trust agreement. If the proceeds shall be less than the cost of the project, by error in the estimate or otherwise, additional securities may be issued in a like manner to provide the amount of the deficit and, unless otherwise provided in the authorizing resolution or the securing trust agreement, the additional securities are deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the securities first issued for the same purpose, provided the aggregate principal amount of revenue obligation securities of a municipality may not exceed the amount approved by the resolution of the municipal officers.

The municipality may place limits or restrictions on the issuance of additional revenue obligation securities through the authorizing resolution or any securing trust agreement. The municipality may provide for the replacement of mutilated, destroyed or lost securities. Revenue obligation securities may be issued under this chapter without obtaining the consent of any department, division, commission, board, bureau or agency of the State and without any other proceedings, or the happening of any other conditions or things than those proceedings, conditions or things which are specifically required by this chapter. Notwithstanding any of the other provisions of this subchapter or any recitals in any securities issued under this subchapter, all such securities are deemed to be negotiable instruments issued under the laws of this State.

[ 1985, c. 344, §86 (AMD) . ]

**6. Credit not pledged.** Securities issued under this subchapter shall not constitute any debt or liability of the State, its political subdivisions or any municipality; shall not constitute a pledge of the faith and credit of the State, its political subdivisions or any municipality; shall be payable solely from the revenues of the project or projects for which they are issued; and shall contain on their face a statement to that effect. The securities issued under this subchapter shall not directly or indirectly or contingently obligate the State, its political subdivisions or any municipality to levy or to pledge any form of taxation whatever or to make any appropriation for their payment. The prohibitions or limitations of this subsection shall not be construed to restrict any rights or obligations of a municipality arising under Title 38, section 1304-B.

[ 1985, c. 593, §5 (AMD) . ]

**7. Anticipatory borrowing.** In anticipation of the sale of securities under this subchapter, the municipal officers may issue temporary notes and renewal notes, the total face amount of which does not exceed at any one time outstanding the authorized amount of the securities. The period of such anticipatory borrowing shall not exceed one year, and the time within which the securities are to become due shall not be extended by the anticipatory borrowing beyond the time fixed in the authorizing resolution or, if no term is specified, beyond the term permitted by law.

[ 1981, c. 476, §2 (NEW) . ]

**8. Conclusive authorization.** All revenue obligation securities of the municipality shall be conclusively presumed to be fully authorized and issued under the laws of the State, and any person or governmental unit shall be estopped from questioning their authorization, sale, issuance, execution or delivery by the municipality.

[ 1985, c. 344, §87 (NEW) . ]

#### SECTION HISTORY

1981, c. 476, §2 (NEW). 1985, c. 344, §§85-87 (AMD). 1985, c. 593, §5 (AMD). 1985, c. 714, §36 (AMD).

## §1065. TRUST AGREEMENTS; RESOLUTIONS

**1. Trust agreements.** At the discretion of the municipal officers, any revenue obligation securities issued under this subchapter may be secured by a trust agreement between the municipality and any corporate trustee or by a mortgage or other financial document. The trust agreement, mortgage, security agreement or other financial document may:

- A. Pledge or assign the revenues of the project or projects; [1981, c. 476, §2 (NEW) . ]
- B. Set forth the rights and remedies of the security holders and the trustees and contain any reasonable and legal provisions for protecting the rights and remedies of the security holder; [1981, c. 476, §2 (NEW) . ]
- C. Restrict the individual right of action by security holders; and [1981, c. 476, §2 (NEW) . ]

D. Include covenants setting forth the duties of the municipal officers and used in relation to:

- (1) Acquisition of property;
- (2) Construction, reconstruction, renewal, replacement and insurance of the project;
- (3) Rents to be charged or other payments to be made for use;
- (4) Payment of the project; and
- (5) Custody, safeguarding and application of all moneys. [1981, c. 476, §2 (NEW).]

It shall be lawful for any bank or trust company incorporated under the laws of the State, which may act as depository of the proceeds of securities or of revenues, to furnish indemnifying bonds or to pledge the securities as may be required by the municipal officers.

[ 1981, c. 476, §2 (NEW) .]

**2. Mortgages.** To further secure the payment of the revenue obligation securities, the trust agreement or other financial document may mortgage the project or any part and create a lien upon any or all of the real or personal property of the project. In the event of a default with respect to the revenue obligation securities, the trustee or mortgagee may be authorized by the trust agreement or financial document containing a mortgage or assignment of a mortgage to take possession of, hold, manage and operate all or any part of the mortgaged property and, with or without taking possession, to sell or, from time to time, to lease the property in accordance with law. Any security interest granted by a municipality under this chapter may be created and perfected in accordance with the provisions of the Uniform Commercial Code, Article 9-A.

[ 1999, c. 699, Pt. D, §5 (AMD); 1999, c. 699, Pt. D, §30 (AFF) .]

**3. Authorizing resolutions.** Any resolutions authorizing any issue of revenue obligation securities may contain provisions which shall be a part of the contract with holders, as to:

- A. Pledging any specified revenues or assets of the project to secure the payment of the revenue obligation securities or of any issue of revenue obligation securities, subject to agreements with existing holders of revenue obligation securities; [1985, c. 344, §89 (AMD).]
- B. Pledging all or any part of the unencumbered revenues or assets of the project to secure the payment of the revenue obligation securities or any issue of revenue obligation securities, subject to agreements with existing holders of revenue obligation securities; [1985, c. 344, §89 (AMD).]
- C. Setting aside of, regulating and disposing of reserves or sinking funds; [1981, c. 476, §2 (NEW) .]
- D. Limitations on the purpose to which the proceeds of revenue obligation securities may be applied and the pledge of the proceeds to secure the payment of the revenue obligation securities or of any issue of revenue obligation securities; [1985, c. 344, §89 (AMD).]
- E. Limitations on the issuance of additional revenue obligation securities; [1985, c. 344, §89 (AMD) .]
- F. The terms upon which additional revenue obligation securities may be issued and secured and the refunding of outstanding or other revenue obligation securities; [1985, c. 344, §89 (AMD) .]
- G. The procedure, if any, by which the terms of any contract with holders of revenue obligation securities may be amended or abrogated, including the amount of revenue obligation securities to which the holders must consent and the manner in which the consent may be given; [1985, c. 344, §89 (AMD) .]
- H. Limitations on the amount of moneys to be expended by the municipality for operating expenses of the project; [1985, c. 344, §89 (AMD) .]

I. Vesting in a trustee or trustees such property, rights, powers and duties in trust as the municipality may determine, which may include any or all of the rights, powers and duties of the trustee appointed by the holders of the revenue obligation securities under this subchapter and limiting or abrogating the right of the holders of the revenue obligation securities to appoint a trustee under this chapter or limiting the rights, powers and duties of the trustee; [1985, c. 344, §89 (AMD).]

J. Defining the acts or omissions to act which shall constitute a default in the obligations and duties of the municipal officers to the holders of the revenue obligation securities and providing for the rights and remedies of the holders of the revenue obligation securities in the event of such default, including, as a matter of right, the appointment of a receiver; but only if the rights and remedies are not inconsistent with the general laws of the State and other provisions of this subchapter; and [1985, c. 344, §89 (AMD).]

K. Any other matters of like or different character which in any way affect the security or protection of the holders of the revenue obligation securities. [1985, c. 344, §89 (AMD).]

[ 1985, c. 344, §89 (AMD) .]

**4. Authorizing resolution; other provisions.** At the discretion of the municipal officers, the authorizing resolution may:

A. Pledge or assign the revenues of the project or projects; [1981, c. 476, §2 (NEW).]

B. Set forth the rights and remedies of the security holders and the trustees and contain any reasonable and legal provisions for protecting the rights and remedies of the security holder; [1981, c. 476, §2 (NEW).]

C. Restrict the individual right of action by security holders; and [1981, c. 476, §2 (NEW).]

D. Include covenants setting forth the duties of the municipal officers and user in relation to:

(1) Acquisition of property;

(2) Construction, reconstruction, renewal, replacement and insurance of the project;

(3) Rents to be charged or other payments to be made for use;

(4) Payment of the project; and

(5) Custody, safeguarding and application of all moneys. [1981, c. 476, §2 (NEW).]

It shall be lawful for any bank or trust company incorporated under the laws of the State which may act as depository of the proceeds of securities or of revenues to furnish indemnifying bonds or to pledge the securities as may be required by the authority.

[ 1981, c. 476, §2 (NEW) .]

**5. Expenses; pledges.** All expenses incurred in carrying out a trust agreement, financial document or resolution may be treated as a part of the cost of the operation of the project. All pledges of revenue under this subchapter shall be valid and binding from the time when the pledge is made. All the revenues pledged and later received by the municipality shall immediately be subject to the lien of the pledges without any physical delivery or further action under the Uniform Commercial Code, or otherwise. The lien of the pledges shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise against the municipality, irrespective of whether the parties have notice.

[ 1981, c. 476, §2 (NEW) .]

**6. Other provisions.** A trust agreement, financial document or authorizing resolution may contain other provisions the municipal officers deem reasonable and proper for the security of the security holders.

[ 1981, c. 476, §2 (NEW) .]

#### SECTION HISTORY

1981, c. 476, §2 (NEW). 1985, c. 344, §§88,89 (AMD). 1999, c. 699, §D5 (AMD). 1999, c. 699, §D30 (AFF).

## §1066. RENTALS AND REVENUES

**1. Provisions.** Before issuing revenue obligation securities for any project, the municipal officers shall determine that there will at all times be revenues and funds sufficient:

A. To pay the principal of and the interest of the securities as they become due and payable and, in their discretion, to create and maintain reserves for that purpose; and [1985, c. 714, §37 (AMD) .]

B. To pay the cost of maintaining and repairing the project unless provision is made in a lease or other contract for maintenance and repair. [1985, c. 714, §37 (AMD) .]

[ 1985, c. 714, §37 (AMD) .]

**2. Sinking fund.** All project rentals and other revenues, except those required in subsection 1, paragraph B, or to provide reserves for maintenance and repair may be set aside at regular intervals, as provided in the resolution, financial document or trust agreement and deposited to the credit of a sinking fund charged with payment of the interest and principal of the securities as they fall due, any necessary charges of paying agents for paying principal and interest, and the redemption price or the purchase price of securities retired by call or purchase. The use and disposition of moneys to the credit of the sinking fund shall be subject to regulations prescribed in the authorizing resolution, the trust agreement or applicable financial document. Except as may otherwise be provided in the resolution, financial document or trust agreement, the sinking fund shall be a fund for the benefit of all securities issued for the project or projects without distinction or priority of one over another.

[ 1985, c. 344, §90 (AMD) .]

**3. Trust funds.** All moneys received under this subchapter are deemed trust funds, to be held and applied solely as provided in the subchapter. Any officer to whom, or any bank, trust company or other fiscal agent or trustee in which the moneys shall be paid shall act as trustee of the moneys and shall hold and apply them for the purposes of this subchapter, subject to regulations provided in the subchapter, authorizing resolution or trust agreement.

[ 1981, c. 476, §2 (NEW) .]

#### SECTION HISTORY

1981, c. 476, §2 (NEW). 1985, c. 344, §90 (AMD). 1985, c. 714, §37 (AMD) .

## §1067. REMEDIES

Any holder of revenue obligation securities or attached coupons issued under this subchapter and the trustee under any trust agreement, except as restricted by the authorizing resolution, the trust agreement or applicable financial document, may, by appropriate legal action, protect and enforce any and all rights under the laws of the State or granted under this subchapter, the resolution, the trust agreement or financial document, including the appointment of a receiver, and may enforce and compel the performance of all duties required by this subchapter, the resolution, the trust agreement or financial document to be performed by the

municipality, the municipal officers or by any officer, including the collecting of rates, fees and charges for the use of the project. Any suit, action or proceeding shall be brought for the benefit of all the holders of the securities and coupons. [1985, c. 344, §91 (AMD).]

SECTION HISTORY

1981, c. 476, §2 (NEW). 1985, c. 344, §91 (AMD).

## §1068. REVENUE REFUNDING SECURITIES

The municipal officers may provide by resolution for the issuance of revenue refunding securities of the municipality for the purpose of refunding any outstanding revenue obligation securities issued under this subchapter or under subchapter III or refunding any other obligations or securities of the municipality, including the payment of any redemption premium and any interest accrued or to accrue to the date of redemption, and, if deemed advisable by the municipal officers, construct improvements, extensions, enlargements or additions of the original project. The municipal officers may provide by resolutions for the issuance of revenue obligation securities of the municipality for the combined purpose of refunding any outstanding revenue obligation securities or revenue refunding securities issued under this subchapter or under subchapter III or of refunding any other obligations or securities of the municipality, including the payment of any redemption premiums and any interest accrued or to accrue to the date of redemption, and paying all or any part of the cost of acquiring or constructing any additional project or part or any improvements, extensions, enlargements or additions of any project. The issuance of the securities, the maturities and other details, the rights and remedies of the holders and the rights, powers, privileges, duties and obligations of the municipality and the municipal officers are governed by the provisions of this subchapter insofar as applicable; provided that any action or proceeding in any court to set aside a resolution authorizing the issuance of revenue refunding securities under this subchapter or to obtain any relief on the ground the resolution was improperly adopted, was adopted for unauthorized purposes or is otherwise invalid for any reason, must be commenced within 30 days after publication by the clerk of the municipality in the state newspaper and in a newspaper of general circulation in the municipality of a notice stating that the resolution has been adopted, the principal amount of revenue refunding securities authorized to be issued and the purpose of that issuance. After the expiration of the period of limitations, no right of action or defense founded upon the invalidity of that resolution or any of its provisions shall be asserted nor shall the validity of that resolution or any of its provisions be open to question in any court upon any ground whatever. The authority is authorized and empowered to approve or disapprove the issuance of revenue refunding securities of a municipality for the purpose of refunding any outstanding revenue obligation securities issued by a municipality under this subchapter without any notice of the issuance being given by the authority, by the applicant or otherwise, without any requirement that voter approval of the general purpose and maximum principal amount of securities as set forth in section 1064, subsection 1 be obtained, and without having to hold any public hearing if the authority determines that no expansion of the original project is involved and there will be no increase in the original amount of the revenue obligation securities issued for the project. Once the authority has made the determinations, it is authorized and empowered to approve the issuance of revenue refunding securities by issuing an amended certificate of approval. [1989, c. 765, §3 (AMD).]

SECTION HISTORY

1981, c. 476, §2 (NEW). 1985, c. 344, §92 (AMD). 1985, c. 593, §6 (AMD). 1989, c. 765, §3 (AMD).

**§1069. AUTHORIZING RESOLUTION**

Notwithstanding any other law, either general, special or local, or any charter or charter amendment adopted by the municipality, or any ordinance, resolution, bylaw, rule or regulation of the municipality, it shall not be necessary to publish any resolution adopted under this chapter, either before or after its final passage. [1981, c. 476, §2 (NEW).]

## SECTION HISTORY

1981, c. 476, §2 (NEW).

**§1070. LEASEHOLD OR OTHER INTERESTS OF LESSEE TAXABLE**

The interest of the lessee of any project is subject to taxation in the manner provided for fee interests in real estate and personal property in Title 36, sections 551 and 602, subject to the provisions of Title 36, sections 655 and 656. [1983, c. 480, Pt. B, §14 (AMD).]

## SECTION HISTORY

1981, c. 476, §2 (NEW). 1983, c. 480, §B14 (AMD).

**§1071. TAX EXEMPTION**

Revenue obligation securities issued under this subchapter shall constitute a proper public purpose and the securities, their transfer and the income from them, including any profit made on their sale, shall at all times be exempt from taxation within the State, whether or not those securities, their transfer or the income from them, including any profits made on their sale, are subject to taxation under the United States Internal Revenue Code, as amended. [1987, c. 393, §14 (AMD).]

## SECTION HISTORY

1981, c. 476, §2 (NEW). 1987, c. 393, §14 (AMD).

**§1072. BONDS AS LEGAL INVESTMENTS**

The revenue obligation securities of the municipality and any loan or extension of credit issued under this subchapter, shall be legal investments in which all public officers and public bodies of the State, its political subdivisions, all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, banking associations, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons who are now or may later be authorized to invest in bonds or other obligations of the State, may properly and legally invest funds, including capital, in their control or belonging to them. The revenue obligation securities and any loan or extension of credit which is issued under this subchapter are also made securities which may properly and legally be deposited with and received by all public officers and bodies of the State or any agency or political subdivisions and all municipalities and public corporations for any purpose for which the deposit of bonds or other obligations of the State is now or may later be authorized by law. [1985, c. 344, §93 (AMD).]

## SECTION HISTORY

1981, c. 476, §2 (NEW). 1985, c. 344, §93 (AMD).

## §1073. SUCCESSOR TO PROGRAM

The Municipal Securities Approval Program is the successor to the program formerly administered by the Maine Guarantee Authority under Title 30, chapter 242, and all resolutions and actions taken by the Maine Guarantee Authority, without exception, relative to such program shall be a resolution or action taken by the Finance Authority of Maine. [1985, c. 714, §38 (AMD).]

### SECTION HISTORY

1983, c. 519, §19 (NEW). 1985, c. 714, §38 (AMD).

## §1074. TAXABLE BOND OPTION

With respect to all or any portion of any issue of bonds or any series of bonds which any municipality may issue in accordance with the limitations and restrictions of this subchapter, the municipality may covenant and consent that the interest on the bonds shall be includable, under the United States Internal Revenue Code of 1954 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 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 or any subsequent law. Bonds issued pursuant to this section shall not be subject to any limitations or restrictions of any law which may limit the municipality's power to issue those bonds or to the procedures set forth in section 1063 or in section 1064, subsection 1. Any bonds or issue or series of bonds with respect to which the municipality covenants and consents that the interest on the bonds shall be includable, under the United States Internal Revenue Code of 1954 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 interest on 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 or any subsequent law shall be a properly authorized, legal, valid, binding and enforceable obligation of the municipality, regardless of whether the bonds were authorized, executed, delivered or issued prior to or after the effective date of this section. The foregoing grant of power shall not be construed as limiting the inherent power of municipalities under any other provision of law to issue debt, the interest on which is includable in the gross income of the holders of the interest under the United States Internal Revenue Code or any subsequent law. [2009, c. 2, §10 (COR).]

### SECTION HISTORY

1985, c. 593, §7 (NEW). 1987, c. 393, §15 (AMD). RR 2009, c. 2, §10 (COR).

## §1074-A. RECOVERY ZONE FACILITY BONDS

**1. Recovery zones; statewide designation.** The Legislature finds that the entire State is experiencing significant poverty, unemployment, increasing rate of home foreclosures and general distress and, as a result, to the extent permitted by federal law, designates the entire State as a recovery zone as defined under 26 United States Code, Section 1400U-1, as amended.

[ 2009, c. 517, §11 (NEW) .]

**2. Reallocation.** To the extent permitted by federal law, the entire allocation to the counties of the State of the national recovery zone facility bond limitation established pursuant to 26 United States Code, Section 1400U-1, as amended, and as described in Internal Revenue Service Notice 2009-50, Section 6.03 is reallocated to the authority, as long as one half of each such allocation is further reallocated by the authority to projects located within and identified by the county commissioners of the county to which such allocation was originally made, if so identified on or before June 1, 2010. The remaining one half of such allocations, together with any portion of an allocation initially subject to reallocation at the direction of the applicable county before June 1, 2010, but not so reallocated, may be reallocated by the authority for any project in

any county of the State. Reallocations pursuant to this subsection are considered voluntary and affirmative waivers by the affected counties for the purposes of 26 United States Code, Section 1400U-1 et seq. and any regulations or guidance provided by the United States Department of the Treasury, Internal Revenue Service thereunder.

[ 2009, c. 517, §11 (NEW) .]

#### SECTION HISTORY

2009, c. 517, §11 (NEW).

### **§1074-B. QUALIFIED ENERGY CONSERVATION BONDS**

**1. Reallocation.** To the extent permitted by federal law, 30% of the allocation to the State and to the counties of the State of the national qualified energy conservation bond volume limitation established pursuant to 26 United States Code, Section 54D(e), as amended, and as described in Internal Revenue Service Notice 2009-29, Section 4 is reallocated to the authority as the issuer of qualified energy conservation bonds, for further reallocation by the authority for any project in any county of the State. Reallocations pursuant to this subsection are considered voluntary and affirmative waivers by the affected counties for the purposes of 26 United States Code, Section 54D et seq. and any regulations or guidance provided by the United States Department of the Treasury, Internal Revenue Service thereunder.

[ 2009, c. 517, §12 (NEW) .]

#### SECTION HISTORY

2009, c. 517, §12 (NEW).

### **§1074-C. ALLOCATION OF CERTAIN NATIONAL BOND LIMITATIONS**

To the extent permitted by federal law, the Governor may establish by executive order a procedure for the reallocation of any allocation of a portion of a national bond limitation to the State or to any issuer or governmental entity within the State pursuant to 26 United States Code, Sections 54D, 54E, 54F and 1400U-1 and for the reallocation of any portion of a national bond limitation that is not used within the applicable time period specified in federal law or that has been waived by an issuer or governmental entity within the State, except that allocation of the national recovery zone facility bond limitation established pursuant to 26 United States Code, Section 1400U-1, as amended, and as described in Internal Revenue Service Notice 2009-50, Section 6.03, must be carried out pursuant to section 1074-A, and the allocation of the national qualified energy conservation bond volume limitation established pursuant to 26 United States Code, Section 54D, as amended, and as described in Internal Revenue Service Notice 2009-29, Section 4 must be carried out pursuant to section 1074-B and Title 30-A, section 5953-F. [2009, c. 517, §13 (NEW) .]

#### SECTION HISTORY

2009, c. 517, §13 (NEW).

## **Subchapter 4-A: FAMILY DEVELOPMENT ACCOUNT PROGRAM**

### **§1075. DEFINITIONS**

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [1997, c. 518, §2 (NEW) .]

**1. Account holder.** "Account holder" means a person, whose family income is below 200% of the nonfarm income official poverty line as defined by the federal Office of Management and Budget and revised annually in accordance with the United States Omnibus Budget Reconciliation Act of 1981, Section 673, subsection 2, who owns a family development account.

[ 1997, c. 518, §2 (NEW) .]

**2. Community development organization.** "Community development organization" means a charitable organization, a community action agency or a nonprofit organization under the Internal Revenue Code, Section 501(c)(3) approved by the authority to administer a family development account program.

[ 1997, c. 518, §2 (NEW) .]

**3. Family development account; account.** "Family development account" or "account" means a financial instrument established pursuant to this subchapter.

[ 1997, c. 518, §2 (NEW) .]

**4. Family development account reserve fund.** "Family development account reserve fund" means the fund created by an approved community development organization for the purposes of funding the administrative costs of the program and providing matching funds for deposit in family development accounts.

[ 1997, c. 518, §2 (NEW) .]

**5. Financial institution.** "Financial institution" means a credit union or financial institution authorized to do business in this State under Title 9-B and that meets standards established by the authority.

[ 1997, c. 518, §2 (NEW) .]

**6. Program.** "Program" means the family development account program established in this subchapter.

[ 1997, c. 518, §2 (NEW) .]

#### SECTION HISTORY

1997, c. 518, §2 (NEW) .

## §1076. FAMILY DEVELOPMENT ACCOUNT PROGRAM

There is established the family development account program to allow eligible persons to establish savings accounts to be used for education, job training, purchase or repair of a home, purchase or repair of a vehicle for access to work or education, capitalization of a small business, health care costs over \$500 not covered by private or public insurance or other basic necessity. The program is designed to encourage savings as a means of investing in the future and investing in Maine people, institutions and businesses. [1997, c. 518, §2 (NEW) .]

**1. Soliciting proposals.** The authority shall solicit proposals from community development organizations seeking to administer family development accounts on a nonprofit basis. The authority may not limit the number of community development organizations participating based solely upon geographic region. The proposals must include:

A. A process for including account holders in decision making regarding the investment of funds in the accounts; [1997, c. 518, §2 (NEW) .]

B. The specific populations the community development organization plans to identify for participation in the program; and [1997, c. 518, §2 (NEW) .]

C. A requirement that deposits into accounts must be accepted from account holders with or without matching contributions and from community development organizations. [1997, c. 518, §2 (NEW) .]

[ 1997, c. 518, §2 (NEW) .]

**2. Reviewing proposals.** In reviewing the proposal of a community development organization, the authority shall establish criteria to use that must include the following factors:

A. The nonprofit status of the community development organization; [1997, c. 518, §2 (NEW) .]

B. The fiscal accountability of the community development organization; [1997, c. 518, §2 (NEW) .]

C. The ability of the community development organization to provide or raise money for matching contributions and to establish and administer a reserve fund account; and [1997, c. 518, §2 (NEW) .]

D. The significance and quality of proposed auxiliary services and their relationship to the goals of the family development account program. [1997, c. 518, §2 (NEW) .]

[ 1997, c. 518, §2 (NEW) .]

**3. Administrative costs.** Administrative costs may not exceed 15% of the family development account reserve fund.

[ 1997, c. 518, §2 (NEW) .]

**4. Establishment of accounts.** A financial institution approved by the authority may establish family development accounts pursuant to this subchapter. The financial institution shall certify to the authority in the manner required by the authority that accounts have been established pursuant to the provisions of this subchapter and that deposits have been made on behalf of account holders. A financial institution establishing a family development account shall:

A. Keep the account in the name of the account holder; [1997, c. 518, §2 (NEW) .]

B. Permit deposits to be made into the account by the account holder or a community development organization on behalf of the account holder, including money deposited to match the account holder's deposits. Matching contribution deposits may not exceed \$2000 per year and must be approved in writing by the community development organization. An account with a balance exceeding \$10,000 is ineligible for matching contribution deposits; [2001, c. 417, §16 (AMD) .]

C. Credit interest to the account at a rate equal to or higher than the rate applicable to comparable accounts within the financial institution; [2001, c. 417, §16 (AMD) .]

D. Permit the account holder to withdraw money from the account for any of the purposes listed in section 1077, subsection 1; and [2001, c. 417, §16 (AMD) .]

E. Require the account holder to allow the financial institution to provide all account information to the community development organization. [2001, c. 417, §16 (NEW) .]

[ 2001, c. 417, §16 (AMD) .]

**5. Appeals.** Any dispute between the account holder and the community development organization may be appealed to the authority. Any adverse decision of the authority may be appealed to the Superior Court pursuant to Title 5, chapter 375, subchapter VII.

[ 1997, c. 518, §2 (NEW) .]

**6. Rules.** The authority shall adopt rules to implement and administer the provisions of this subchapter. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

[ 1997, c. 518, §2 (NEW) .]

#### SECTION HISTORY

1997, c. 518, §2 (NEW). 2001, c. 417, §16 (AMD).

## §1077. WITHDRAWAL OF FUNDS

**1. Use of funds.** An account holder may withdraw funds from the account with the approval of the community development organization administrator without penalty for the following expenditures:

- A. Expenses for education or job training or to attend an accredited or approved postsecondary education or training institution; [1997, c. 518, §2 (NEW) .]
- B. The purchase or repair of a home that is or will be the person's principal residence; [1997, c. 518, §2 (NEW) .]
- C. The purchase or repair of a vehicle used for transportation to work or to attend an education or training program; [1997, c. 518, §2 (NEW) .]
- D. Expenses for an emergency that may cause the loss of shelter, employment or other basic necessities; [1997, c. 518, §2 (NEW) .]
- E. Capital to start a small business for any family member who is 18 years of age or older; or [1997, c. 518, §2 (NEW) .]
- F. Health care costs exceeding \$500 not covered by public or private insurance. [1997, c. 518, §2 (NEW) .]

[ 1997, c. 518, §2 (NEW) .]

**2. Unauthorized withdrawal; penalty.** Money withdrawn from an account by an account holder that is not withdrawn pursuant to subsection 1 is subject to a penalty of 15%. When a penalty is assessed, the account holder must be paid the funds that the account holder deposited less any penalties, plus interest on that amount. All matching contribution deposits and the interest on them are forfeited. All penalties and forfeited funds must be paid into the family development account reserve fund of the community development organization.

[ 1997, c. 518, §2 (NEW) .]

**3. Death of account holder.** When opening an account an account holder may name a beneficiary and contingent beneficiaries. An account holder may change beneficiaries at any time. When an account holder dies the account must be transferred to the ownership of the designated beneficiary or, if there is none or if the transfer is not possible, the account must be transferred to the estate of the deceased.

[ 1997, c. 518, §2 (NEW) .]

**4. Exempt from taxation.** Account balances and withdrawals are exempt from taxation pursuant to Title 36, chapter 803.

[ 1997, c. 518, §2 (NEW) .]

#### SECTION HISTORY

1997, c. 518, §2 (NEW).

## §1078. NO REDUCTION IN BENEFITS

Notwithstanding any other rule or provision of state law, the first \$10,000 of funds and any accrued interest in an account under this subchapter are excluded from consideration in determining eligibility or benefit levels for any assistance or benefit granted under state law. [1997, c. 518, §2 (NEW).]

### SECTION HISTORY

1997, c. 518, §2 (NEW).

## §1079. ADVISORY COMMITTEE

The Advisory Committee on Family Development Accounts, established in Title 5, section 12004-I, subsection 25-B, is referred to in this section as the "committee." [1997, c. 518, §2 (NEW).]

**1. Committee membership.** The committee consists of 12 members as follows:

A. Four members appointed by the Governor, including one representative of the Maine State Housing Authority, one representative of the Department of Health and Human Services and 2 representatives of financial institutions participating in the program; [2001, c. 417, §17 (AMD); 2003, c. 689, Pt. B, §6 (REV).]

B. Four members appointed by the Speaker of the House of Representatives, including one person who is an account holder or is eligible to be an account holder, 2 representatives of contributors of matching funds to the program and one representative of a community development organization; and [2001, c. 417, §17 (AMD).]

C. Four members appointed by the President of the Senate, including one representative of a contributor of matching funds to the program, one representative of a statewide community development foundation, one person who is an account holder or is eligible to be an account holder and one representative of a community development organization. [2001, c. 417, §17 (AMD).]

Members from state departments serve at the pleasure of their appointing authorities. All other members serve 3-year terms and may continue to serve beyond their terms until their successors are appointed. If a vacancy occurs before a term has expired, the vacancy must be filled for the remainder of the unexpired term by the authority who made the original appointment. If a member is absent for 2 consecutive meetings and has not been excused by the chair from either meeting, the committee may remove the member by majority vote.

[2005, c. 4, §1 (AMD).]

**2. Chair.** The committee shall elect a chair from its members.

[1997, c. 518, §2 (NEW).]

**3. Duties; report.** The committee shall meet at least 2 times per year to study and evaluate the effectiveness of family development accounts in this State and other states; make recommendations with respect to changes in law, rule or policy that will enhance the ability of account holders to improve their economic security; and advise the authority, relevant state agencies, community development organizations and the Legislature as to its findings. The committee shall provide a comprehensive report to the joint standing committee of the Legislature having jurisdiction over business and economic development matters and the joint standing committee of the Legislature having jurisdiction over health and human services matters by March 1st of each year, beginning in 1999.

[1999, c. 475, §1 (AMD); 1999, c. 475, §7 (AFF).]

**4. Freedom of access; confidential information.** Meetings of the committee are public meetings and records and papers of the committee are public records for the purposes of the freedom of access laws in Title 1, chapter 13, subchapter I, except that information obtained about account holders and their families that is confidential under state or federal law, rule or regulation is confidential and may not be disclosed.

[ 1997, c. 518, §2 (NEW) .]

**5. Staffing.** The authority shall provide staffing to the committee and may, within existing resources, obtain technical assistance from appropriate sources with expertise in asset development for low-income households.

[ 1997, c. 518, §2 (NEW) .]

**6. Voluntary service.** Members of the committee, except members representing account holders, serve without compensation or reimbursement for expenses.

[ 2005, c. 4, §2 (AMD) .]

#### SECTION HISTORY

1997, c. 518, §2 (NEW). 1999, c. 475, §1 (AMD). 1999, c. 475, §7 (AFF). 1999, c. 628, §1 (AMD). 2001, c. 417, §17 (AMD). 2003, c. 689, §B6 (REV). 2005, c. 4, §§1,2 (AMD).

### Subchapter 5: COMMUNITY INDUSTRIAL BUILDINGS PROGRAM

#### **§1081. POWERS OF THE AUTHORITY UNDER THIS PROGRAM**

*(REPEALED)*

#### SECTION HISTORY

1981, c. 168, §24 (AMD). 1981, c. 476, §2 (NEW). 1983, c. 519, §20 (RP).

#### **§1082. COMMUNITY INDUSTRIAL BUILDING FUND**

*(REPEALED)*

#### SECTION HISTORY

1981, c. 476, §2 (NEW). 1983, c. 519, §20 (RP).

#### **§1083. ASSISTANCE TO DEVELOPMENT CORPORATIONS**

*(REPEALED)*

#### SECTION HISTORY

1981, c. 168, §24 (AMD). 1981, c. 476, §2 (NEW). 1981, c. 698, §68 (AMD). 1983, c. 519, §20 (RP).

### Subchapter 5: MAINE SMALL BUSINESS LOAN PROGRAM

#### **§1091. CREDIT OF STATE PLEDGED**

*(REPEALED)*

#### SECTION HISTORY

1983, c. 519, §20 (NEW). 1985, c. 344, §94 (RP).

**§1092. LOAN INSURANCE FUND**

*(REPEALED)*

SECTION HISTORY

1983, c. 519, §20 (NEW). 1985, c. 344, §94 (RP).

**§1093. ADDITIONS TO**

*(REPEALED)*

SECTION HISTORY

1983, c. 519, §20 (NEW). 1985, c. 344, §94 (RP).

**§1094. ISSUANCE OF LOANS**

*(REPEALED)*

SECTION HISTORY

1983, c. 519, §20 (NEW). 1985, c. 198, §2 (AMD). 1985, c. 344, §94 (RP). 1987, c. 402, §A90 (RP).

**§1095. LOAN INSURANCE PREMIUMS**

*(REPEALED)*

SECTION HISTORY

1983, c. 519, §20 (NEW). 1985, c. 344, §94 (RP).

**§1096. ACQUISITION AND DISPOSAL OF PROPERTY**

*(REPEALED)*

SECTION HISTORY

1983, c. 519, §20 (NEW). 1985, c. 344, §94 (RP).

**§1097. LOANS ELIGIBLE FOR INVESTMENT**

*(REPEALED)*

SECTION HISTORY

1983, c. 519, §20 (NEW). 1985, c. 344, §94 (RP).

**§1098. LESS THAN FULL COLLATERAL FOR LOANS**

*(REPEALED)*

SECTION HISTORY

1983, c. 519, §20 (NEW). 1985, c. 344, §94 (RP).

**§1099. SAFEGUARDING THE FUND**

*(REPEALED)*

SECTION HISTORY

1983, c. 519, §20 (NEW). 1985, c. 344, §94 (RP).

Subchapter 5-A: WASTE OIL FURNACE LOAN PROGRAM

## §1099-A. DEFINITIONS

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [1989, c. 774, §4 (NEW).]

**1. Authority.** "Authority" means the Finance Authority of Maine.

[ 1989, c. 774, §4 (NEW) .]

**2. Effective interest rate.** "Effective interest rate" means an annual percentage interest rate paid by the borrower.

[ 1989, c. 774, §4 (NEW) .]

**3. Eligible entity.** "Eligible entity" means any person, business, corporation, association, firm, partnership, municipality or other organization located in the State but does not include any agency of the State.

[ 1991, c. 255, §1 (RPR) .]

**4. Fund.** "Fund" means the Waste Oil Furnace Loan Fund established by this subchapter.

[ 1989, c. 774, §4 (NEW) .]

**5. NFPA.** "NFPA" means the National Fire Protection Association.

[ 1989, c. 774, §4 (NEW) .]

**6. Program.** "Program" means the Waste Oil Furnace Loan Program established by this subchapter.

[ 1989, c. 774, §4 (NEW) .]

**7. Properly installed.** "Properly installed" means a boiler or furnace installed in accordance with NFPA Standard 31 or subsequent NFPA installation standards adopted by the Maine Fuel Board.

[ 2013, c. 300, §3 (AMD) .]

**8. Qualified boiler or furnace.** "Qualified boiler or furnace" means any new or replacement boiler or furnace fueled wholly or in part by waste oil that produces energy for space heating or cooling or for use in a manufacturing process and is listed by the Maine Fuel Board as a waste oil boiler or furnace.

[ 2013, c. 300, §4 (AMD) .]

**9. Waste oil.** "Waste oil" means a petroleum-based oil that, through use or handling, has become unsuitable for its original purpose due to the presence of impurities or the loss of original properties. Waste oil includes, but is not limited to, the following:

A. Automotive crankcase and lubricating oils; [1989, c. 774, §4 (NEW).]

B. Industrial lubricating oils including metal working oils, railroad and marine oils and turbine lubricating oils; [1989, c. 774, §4 (NEW).]

C. Industrial nonlubricating oils including hydraulic, transmission, and quenching oils, and transformer oils with polychlorinated biphenyl concentrations less than 50 parts per million; [1989, c. 774, §4 (NEW).]

D. Oil recovered from oil tank cleaning operations and deballasting operations; and [1989, c. 774, §4 (NEW).]

E. Oil spilled on land or water. [1989, c. 774, §4 (NEW).]

Waste oil does not include oily waste debris generated during the cleanup of oil spills, water residue generated from oil and water separation processes at waste oil facilities or mineral spirits having a flash point less than 140° Fahrenheit.

[ 1989, c. 774, §4 (NEW) .]

#### SECTION HISTORY

1989, c. 774, §4 (NEW). 1991, c. 255, §1 (AMD). 2013, c. 300, §§3, 4 (AMD).

## §1099-B. WASTE OIL FURNACE LOAN PROGRAM

**1. Program established.** There is established the Waste Oil Furnace Loan Program to be administered by the authority through approved lenders. The program subsidizes interest costs of loans made to eligible entities purchasing and properly installing qualified waste oil boilers and furnaces. The program subsidizes loan interest rates made by approved lenders to achieve an effective interest rate to borrowers of 3%. Loan amounts are limited to the purchase price of the boiler or furnace but may not exceed \$5,000 for any boiler or furnace. The term of loans made under this subchapter may not exceed 5 years.

[ 1991, c. 255, §2 (AMD) .]

**2. Fund established.** There is established the Waste Oil Furnace Loan Fund which is managed by the authority but held separate from other funds of the authority and used by the authority to carry out this subchapter. Payments to approved lenders equal to the present value of the difference between the total interest costs charged by the lenders over the terms of the loans and the interest costs paid by the borrowers at the program effective interest rate of 3% are charged to the fund.

[ 1989, c. 774, §4 (NEW) .]

**3. Lenders.** Lenders may not participate in the program without the authority's approval. As a condition of approval by the authority, the lender must agree to originate and administer all loans made under the program and to receive the interest payment for loans made under the program from the authority in an amount equal to the present value of the interest due over the term of the loan. The lender shall determine the interest rate of the loan.

[ 1989, c. 774, §4 (NEW) .]

**4. Entities.** Entities participating in the program are responsible for repayment of the principal borrowed plus 3% interest, subject to conditions established by the authority and the lenders. As a condition of the loan, entities must:

A. Properly install the boiler or furnace and consent to post-installation inspection procedures established by the authority; and [1989, c. 774, §4 (NEW).]

B. Agree to burn only self-generated waste oil or waste oil that has the characteristics of specification waste oil as defined by rule of the Department of Environmental Protection. [1989, c. 774, §4 (NEW).]

[ 1991, c. 255, §2 (AMD) .]

**5. Rulemaking.** The authority shall adopt rules to carry out this subchapter no later than January 1, 1991. The rules must be adopted in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, and must include:

A. A list of approved lenders; [1989, c. 774, §4 (NEW).]

B. Procedures governing the transfer of money from the fund to the lenders; [1989, c. 774, §4 (NEW).]

C. Procedures to determine the amount charged to the fund for each loan; and [1989, c. 774, §4 (NEW).]

D. Loan applications, program evaluation or program administration forms and procedures that the authority considers necessary to implement this subchapter. [1989, c. 774, §4 (NEW).]

[ 1989, c. 774, §4 (NEW) .]

SECTION HISTORY

1989, c. 774, §4 (NEW). 1991, c. 255, §2 (AMD).

Subchapter 6: MAINE VETERANS' SMALL BUSINESS LOAN PROGRAM

**§1100-A. ORGANIZATION OF LOAN BOARD**

*(REPEALED)*

SECTION HISTORY

1983, c. 519, §21 (NEW). 1983, c. 812, §66 (AMD). 1985, c. 344, §95 (RP).

**§1100-B. POWERS**

*(REPEALED)*

SECTION HISTORY

1983, c. 519, §21 (NEW). 1985, c. 344, §95 (RP).

**§1100-C. CREDIT OF THE STATE PLEDGED**

*(REPEALED)*

SECTION HISTORY

1983, c. 519, §21 (NEW). 1985, c. 344, §95 (RP).

**§1100-D. LOAN INSURANCE FUND**

*(REPEALED)*

SECTION HISTORY

1983, c. 519, §21 (NEW). 1985, c. 344, §95 (RP).

**§1100-E. ADDITIONS TO**

*(REPEALED)*

SECTION HISTORY

1983, c. 519, §21 (NEW). 1985, c. 344, §95 (RP).

**§1100-F. INSURANCE OF LOANS**

*(REPEALED)*

SECTION HISTORY

1983, c. 519, §21 (NEW). 1985, c. 344, §95 (RP).

**§1100-G. LOAN INSURANCE PREMIUMS***(REPEALED)*

## SECTION HISTORY

1983, c. 519, §21 (NEW). 1985, c. 344, §95 (RP).

**§1100-H. ACQUISITION AND DISPOSAL OF PROPERTY***(REPEALED)*

## SECTION HISTORY

1983, c. 519, §21 (NEW). 1985, c. 344, §95 (RP).

**§1100-I. LOANS ELIGIBLE FOR INVESTMENT***(REPEALED)*

## SECTION HISTORY

1983, c. 519, §21 (NEW). 1985, c. 344, §95 (RP).

**§1100-J. LESS THAN FULL COLLATERAL FOR LOANS***(REPEALED)*

## SECTION HISTORY

1983, c. 519, §21 (NEW). 1985, c. 344, §95 (RP).

**§1100-K. SAFEGUARDING THE FUND***(REPEALED)*

## SECTION HISTORY

1983, c. 519, §21 (NEW). 1985, c. 344, §95 (RP).

**§1100-L. ACCOUNTS***(REPEALED)*

## SECTION HISTORY

1983, c. 519, §21 (NEW). 1985, c. 344, §95 (RP).

## Subchapter 7: MAINE JOB-START PROGRAM

**§1100-M. AUTHORIZATION**

The Finance Authority of Maine may administer a statewide program to make low interest loans to stimulate the development and expansion of small business in this State pursuant to contracts between the authority and local community action agencies designated under Title 22, chapter 1477. This program is known as the Maine Job-start Program or the Maine Job-start Micro Enterprise Loan Program. [1993, c. 214, §1 (AMD).]

## SECTION HISTORY

1983, c. 856, §4 (NEW). 1993, c. 214, §1 (AMD).

## §1100-N. ADMINISTRATION AND PROCEDURES

**1. Contracts.** The authority may contract with any community action agency that seeks to organize a job-start program. The authority shall first contract with community action agencies that have current contracts with the authority to administer the Maine Job-start Program. The authority may then contract with any community action agency that seeks to organize a job-start program. A participating agency shall accept applications from eligible participants, regardless of whether an applicant resides in the region normally served by that agency, unless the applicant resides in a region served by another participating agency. The contract must provide as a minimum the following.

A. Each community action agency shall designate a coordinator who shall be responsible for the job-start program in that region. [1989, c. 857, §49 (AMD).]

B. The board of directors of a community action agency shall appoint a job-start advisory board, which may consist of a subcommittee of the board of directors, to review and make recommendations concerning loan applications and offer other advice to small businesses. The advisory board must consist of 5 members who represent low-income people and representatives knowledgeable of business and financial matters. Members of the job-start advisory board serve for a 2-year term and may be reappointed to successive terms. [1989, c. 857, §49 (AMD).]

C. The community action agency is responsible for up to 30% of the administrative costs of implementing the job-start program, which costs may be derived from direct financial support or in-kind services, or both. [1989, c. 857, §49 (AMD).]

D. The community action agency shall involve existing small business technical assistance and counseling programs in their implementation of the job-start program and shall, to the maximum extent feasible, contract or arrange for the in-kind donation of technical and counseling services to assist job-start loan applicants. [1989, c. 857, §49 (AMD).]

E. A majority vote of the local job-start advisory board is necessary to recommend approval of a loan. Upon approval, the loan is then transmitted to the authority for final disposition in accordance with the policies adopted by the authority. [1993, c. 214, §3 (NEW).]

F. Loan applications must be reviewed by both the local job-start advisory board and the authority to determine the feasibility and reasonableness of the business proposal, whether the applicant has sufficient capital, whether an adequate market analysis or other counseling requirement has been completed, whether the applicant is creditworthy within the scope of this program and whether adequate collateral is offered to secure the loan. [1993, c. 214, §3 (NEW).]

G. Loan applications must be on forms and accompanied by additional information required by the authority. Loan applicants may be required to submit personal or business-related financial information considered necessary to determine eligibility for the job-start program. [1993, c. 214, §3 (NEW).]

[ 1993, c. 214, §3 (AMD) .]

**1-A. Contracts for local agency control of funds.** The authority may contract with a community action agency to administer the Maine Job-start Program and may provide for agency control of a portion of the Job-start Revolving Loan Fund for a specified period of time. A contract entered into with an agency pursuant to this section may provide that the agency is responsible for the administration of all existing loans made by the authority upon the recommendation of the agency's advisory committee. A contract may be renewed upon a showing of continued compliance with all requirements. The authority may enter into a contract with a community action agency upon a showing by the local agency that it complies with each of the following requirements.

A. The agency must have a job-start loan board to review and make recommendations concerning loan applications. The loan board must consist of 5 members and include representatives of persons of low income and members experienced in business, lending and financial matters. [1993, c. 214, §4 (NEW).]

B. The agency must prove its capacity to originate prudent loans and to service those loans through:

- (1) The ability to solicit and screen potential applicants and provide necessary technical assistance to help applicants prepare a business plan and determine the viability of the business, repayment ability and the amount of loan funds needed;
- (2) The ability to properly document each loan transaction, including the perfection of the interest of the agency in all collateral;
- (3) The ability to access appropriate legal guidance to ensure adherence to all applicable laws concerning lending, loan administration and collection;
- (4) The ability to accurately account for all loan repayments;
- (5) The ability to pursue collection actions;
- (6) The ability to invest and administer the Job-start Revolving Loan Fund; and
- (7) Such other criteria as the authority determines necessary to ensure the efficient administration of the program. [1993, c. 214, §4 (NEW).]

C. The community action agency must agree to follow each of the following mechanisms for loan review and approval.

- (1) Loan applications must be reviewed by the job-start loan board to determine the feasibility and general reasonableness of the business proposal, whether the applicant has sufficient capital for the intended purpose, whether an adequate market analysis or other counseling requirement has been completed, whether the applicant is creditworthy within the scope of this program and whether adequate collateral is offered to secure the loan.
- (2) A majority vote of the full job-start loan board is necessary to approve a loan in accordance with the policies adopted by the agency and approved by the authority. The decision of the loan board is final.
- (3) Loan applications must be on forms and accompanied by additional information required by the agency. Loan applicants may be required to submit personal or business-related financial information considered necessary to determine eligibility for the job-start program. [1993, c. 214, §4 (NEW).]

D. The community action agency must provide the authority with an annual report detailing the loan fund activity in the form and containing the information required by the contract between the agency and the authority. [1993, c. 214, §4 (NEW).]

E. The community action agency must allow the authority or an agent of the authority to perform an audit of the loan fund and the administration of the program at the times and in the manner provided in the contract between the agency and the authority. [1993, c. 214, §4 (NEW).]

[ 1993, c. 214, §4 (NEW) . ]

**2. Loan criteria and procedures.** The authority may adopt rules to implement the Maine Job-start Program, which must include, but are not limited to, the following loan criteria:

A. The purpose of the loan shall be to establish, strengthen or expand a business of any person or business organization, except any nonprofit corporation, which in the case of:

- (1) An existing business, at the time application is made for financing assistance, employs 20 persons or less or has gross sales not exceeding \$2,500,000 per year; or

(2) A new business, at the time application is made for financing assistance, projects that, during the first 12 months of operation, it will employ 20 persons or less or will have gross sales not exceeding \$2,500,000; [1985, c. 344, §96 (AMD).]

B. Loans may be made to applicants with insufficient access to conventional sources of credit and whose gross annual household income is at or below income limits established by the authority by rulemaking pursuant to Title 5, chapter 375, subchapter II; [1985, c. 344, §96 (AMD).]

C. No loan may be made in an amount in excess of \$10,000 to any single applicant, nor at an interest rate in excess of rate limits established by the authority by rulemaking pursuant to Title 5, chapter 375, subchapter II; [1985, c. 344, §96 (AMD).]

D. [1993, c. 214, §5 (RP).]

E. [1993, c. 214, §5 (RP).]

F. Loans may not be insured or guaranteed by the State, but the authority shall require collateral in the form of security for the loan, if available, and may, in appropriate cases, take a mortgage on real estate; and [1993, c. 214, §6 (AMD).]

G. Loan funds must be made available by the authority for loan recommendations by community action agencies on the basis of a formula that takes into consideration both the population served by the agency and the economic conditions of the region, as evidenced by unemployment statistics and per capita income. [1993, c. 214, §6 (AMD).]

H. [1993, c. 214, §7 (RP).]

[ 1993, c. 214, §§5-7 (AMD) .]

**3. Business support group initiative.** Notwithstanding anything in this section to the contrary, the authority and any contracting community action agency may delegate application review, loan approval and servicing decisions to one or more designated business support groups in the area served by the contracting community action agencies, subject to the following requirements.

A. Each group shall be composed of not less than 5 individuals, corporations or partnerships which meet the eligibility criteria for job-start program applicants, are hopeful of starting or expanding separate businesses eligible for job-start financing and have community or other ties demonstrating a common mission or purpose. [1987, c. 697, §14 (NEW).]

B. Each group must agree to undergo a business management training program established by the authority and each group member must agree to provide business support to other members of the group. [1987, c. 697, §14 (NEW).]

C. The authority, in consultation with contracting community action agencies, may set aside by rule not more than \$75,000 in the aggregate for purposes of this initiative, which will be available for loans to business support group members. [1987, c. 697, §14 (NEW).]

D. The authority shall establish by rule limitations on the amount of loans which may be approved by each business support group and shall establish incentives which condition release of loan funds to each group on successful compliance with loan conditions and payment obligations on prior loans made to group members. [1987, c. 697, §14 (NEW).]

[ 1987, c. 697, §14 (NEW) .]

#### SECTION HISTORY

1983, c. 856, §4 (NEW). 1985, c. 344, §96 (AMD). 1985, c. 714, §39 (AMD). 1987, c. 697, §14 (AMD). 1989, c. 857, §49 (AMD). RR 1991, c. 2, §31 (COR). 1991, c. 622, §J19 (AMD). 1991, c. 622, §J25 (AFF). 1993, c. 214, §§2-7 (AMD).

## §1100-O. REVOLVING LOAN FUND

**1. Creation of fund.** A Job-start Revolving Loan Fund is established by the authority for the job-start program. The fund contains appropriations provided for that purpose and all repayments of principal and interest of loans under this subchapter and interest earned by the fund prior to its allocation for individual loans. The fund may be divided into separate revolving loan funds to be administered by community action agencies upon approval by the authority. Each separate fund must contain all repayments of principal and interest for loans made from that fund and interest earned by the fund. Interest and principal payments required by loan defaults are charged to the fund to which repayments are applied. The authority has sole responsibility for the allocation and distribution of the original fund and for appropriations and repayments applied to the original fund. Each community action agency has responsibility for the allocation and distribution of the portion of the fund allocated to its separate revolving loan fund. Any funds appropriated for this purpose may not lapse, but must remain available for the purposes set forth in this subchapter.

[ 1993, c. 214, §8 (AMD) . ]

**2. Administrative expenses.** All interest earned by the fund, either by means of investment or loan payments, is available to the authority or the community action agency administering that separate revolving loan fund to which the interest is attributable. The authority or the community action agency shall allocate these funds primarily for administrative and counseling services. Beginning in fiscal year 1990-91, the authority may allocate up to \$10,000 of administrative program funds for each agency with which it contracts under section 1100-N for expenses incurred by the authority under this program.

[ 1993, c. 214, §8 (AMD) . ]

**3. Deposited with authority or invested.** Moneys in the fund, not needed currently to meet the obligations of the authority, as provided for in this subchapter, shall be deposited with the authority to the credit of the fund or may be invested in such manner as is provided for by statute.

[ 1983, c. 856, §4 (NEW) . ]

### SECTION HISTORY

1983, c. 856, §4 (NEW). 1989, c. 857, §50 (AMD). 1993, c. 214, §8 (AMD).

## §1100-P. REPORTS

**1. Regional.** Each community action agency job-start program shall file the reports as required by the authority.

[ 1983, c. 856, §4 (NEW) . ]

**2. Authority.** The authority shall file a report showing the balance of each Job-start Revolving Loan Fund, the status of all outstanding loans and a report on all other program activities as part of the annual report required by section 974.

[ 1993, c. 214, §9 (AMD) . ]

### SECTION HISTORY

1983, c. 856, §4 (NEW). 1993, c. 214, §9 (AMD).

## Subchapter 8: MAINE OPPORTUNITY ZONE JOB GRANTS PROGRAM

## §1100-S. JOB GRANTS PROGRAM

(REPEALED)

### SECTION HISTORY

1987, c. 542, §§I4,I6 (NEW). 1987, c. 769, §A46 (AMD). 1989, c. 915, §9 (RP).

## Subchapter 9: MAINE SEED CAPITAL TAX CREDIT PROGRAM

## §1100-T. TAX CREDIT CERTIFICATES

**1. Legislative findings; authorization.** The Legislature finds that the growth of new and existing small businesses in the State results in increased job opportunities for Maine residents, produces more spending in the State and increases municipal tax bases. Businesses that export their products or services out of the State bring capital into the State and help to develop export markets for Maine products. Small new and existing businesses can provide significant economic benefits to the State if they can obtain sufficient seed equity financing to carry them from start-up through the initial development phases of a business. The jobs created by such businesses tend to pay higher wages and offer more benefits than other businesses; however, the per capita level of private venture capital investment in businesses located in the State is substantially below the national average and the average of the other New England states. In order to encourage the increased availability of risk equity capital to enterprises that have the potential for rapid growth and that bring capital into the State, the authority is authorized to issue certificates of eligibility for the seed capital investment tax credit permitted by Title 36, section 5216-B, subject to the requirements of this section. This program is known as the Maine Seed Capital Tax Credit Program.

[ 2011, c. 454, §1 (AMD) .]

**1-A. Private venture capital fund.** As used in this section, "private venture capital fund" means a professionally managed pool of capital organized to make equity or equity-like investments in unrelated private companies using capital derived from multiple limited partners or members at least half of which, measured in dollar commitments, are unaffiliated and unrelated, and includes any venture capital fund licensed by the United States Small Business Administration. The authority may require such information as may be necessary or desirable for determining whether an entity qualifies as a private venture capital fund. An entity that otherwise qualifies as a private venture capital fund may elect not to be treated as a private venture capital fund for purposes of this section with respect to any investment.

[ 2013, c. 438, §2 (AMD) .]

### **2. Eligibility for tax credit certificate for individuals and entities other than venture capital funds.**

The authority shall adopt rules in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, to implement the program. Without limitation, the requirements for eligibility for a tax credit certificate include the following.

A. For investments made in tax years beginning before January 1, 2012, a tax credit certificate may be issued in an amount not more than 40% of the amount of cash actually invested in an eligible Maine business in any calendar year or in an amount not more than 60% of the amount of cash actually invested in any one calendar year in an eligible Maine business located in a high-unemployment area, as determined by rule by the authority. For investments made in tax years beginning on or after January 1, 2012, a tax credit certificate may be issued to an investor other than a private venture capital fund in an amount not more than 60% of the amount of cash actually invested in an eligible Maine business in any calendar year. For investments made in tax years beginning on or after January 1, 2014, a tax credit certificate may be issued to an investor other than a private venture capital fund in an amount not more than 50% of the amount of cash actually invested in an eligible Maine business in any calendar year. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [2013, c. 438, §3 (AMD) .]

B. The Maine business must be determined by the authority to be a manufacturer or a value-added natural resource enterprise; must provide a product or service that is sold or rendered, or is projected to be sold or rendered, predominantly outside of the State; must be engaged in the development or application of advanced technologies; or must be certified as a visual media production company under Title 5, section 13090-L. The business must certify that the amount of the investment is necessary to allow the business to create or retain jobs in the State. [ 2013 , c. 438 , §3 (AMD) . ]

C. Aggregate investment eligible for tax credits may not be more than \$5,000,000 for any one business as of the date of issuance of a tax credit certificate. [ 2003 , c. 451 , Pt. E , §2 (AMD) . ]

D. The investment with respect to which any individual is applying for a tax credit certificate may not be more than an aggregate of \$500,000 in any one business in any 3 consecutive calendar years, except that this paragraph does not limit other investment by any applicant for which that applicant is not applying for a tax credit certificate and except that, if the entity applying for a tax credit certificate is a partnership, limited liability company, S corporation, nontaxable trust or any other entity that is treated as a flow-through entity for tax purposes under the federal Internal Revenue Code but not as a private venture capital fund, the aggregate limit of \$500,000 applies to each individual partner, member, stockholder, beneficiary or equity owner of the entity and not to the entity itself. [ 2013 , c. 438 , §3 (AMD) . ]

E. For investments made in tax years beginning before January 1, 2014, the business receiving the investment must have annual gross sales of \$3,000,000 or less . For investments made in tax years beginning on or after January 1, 2014, the business receiving the investment must have annual gross sales of \$5,000,000 or less. The operation of the business must be a substantial professional activity of at least one of the principal owners, as determined by the authority. The principal owner and the principal owner's spouse are not eligible for a credit for investment in that business. A tax credit certificate may not be issued to a parent, brother, sister or child of a principal owner if the parent, brother, sister or child has any existing ownership interest in the business. [ 2013 , c. 438 , §3 (AMD) . ]

F. The investment must be expended on plant, equipment, research and development, or working capital for the business or such other business activity as may be approved by the authority. [ 1987 , c. 854 , §§2 , 5 (NEW) . ]

G. The authority shall establish limits on repayment of the investment. The investment must be at risk in the business. [ 1991 , c. 854 , Pt. A , §10 (AMD) . ]

H. The investors qualifying for the credit must each own less than 1/2 of the business. [ 2011 , c. 454 , §4 (AMD) . ]

I. The business receiving the investment may not be in violation of the requirements of subsection 6. [ 2001 , c. 642 , §7 (NEW) ; 2001 , c. 642 , §12 (AFF) . ]

[ 2013 , c. 438 , §3 (AMD) . ]

**2-A. Eligibility of private venture capital funds for tax credit certificate.** The authority shall adopt rules in accordance with the Maine Administrative Procedure Act to implement application of the program to investment in a private venture capital fund. This subsection does not apply to credits claimed for tax years beginning on or after January 1, 2012. The requirements for eligibility for a tax credit certificate for investment in a private venture capital fund include the following.

A. For investments made in tax years beginning before January 1, 2012, a tax credit certificate may be issued to an individual who invests in a private venture capital fund in an amount that:

- (1) Is not more than 40% of the amount of cash actually invested in or unconditionally committed to a private venture capital fund in any calendar year by the individual or entity, except that with respect to fund investments that are made in eligible businesses that are located in a high unemployment area, as determined by rule of the authority under subsection 2, the tax credit certificate may not be more than 60% of the cash actually invested in or unconditionally committed to a private venture capital fund in any calendar year by the individual or entity; and

(2) Does not exceed 40% of the amount of cash invested by the fund in eligible businesses, except that with respect to fund investments that are made in eligible businesses that are located in a high unemployment area, as determined by rule of the authority under subsection 2, a tax credit certificate may not be more than 60% of the cash invested by the fund in any calendar year in such businesses; provided that the authority may issue tax credit certificates in an amount not to exceed 20% of the amount of cash actually invested in or unconditionally committed to a private venture capital fund in any calendar year if the authority determines that the private venture capital fund is located in this State, is owned and controlled primarily by residents of this State and has designated investing in eligible businesses of this State as a major investment objective. The credit may be revoked to the extent that the private venture capital fund does not make investments eligible for the tax credit in an amount sufficient to qualify for the credits within 3 years after the date of the tax credit certificates. Notwithstanding any revocation pursuant to this subparagraph, each investor remains eligible for tax credit certificates for eligible investments as and when made by the private venture capital fund.

The aggregate amount of credits issued to investors in a fund may not exceed 40% of the amount of cash invested by the fund in eligible businesses, except that with respect to fund investments in eligible businesses that are located in a high unemployment area, the aggregate amount of tax credits issued to investors in a fund may not exceed 60% of the cash invested by the fund in eligible businesses. [2011, c. 454, §5 (AMD).]

B. As used in this subsection, unless the context otherwise indicates, an "eligible business" means a business located in the State that:

- (1) Is a manufacturer;
- (2) Is engaged in the development or application of advanced technologies;
- (3) Provides a service that is sold or rendered, or is projected to be sold or rendered, predominantly outside of the State;
- (4) Brings capital into the State, as determined by the authority; or
- (5) Is certified as a visual media production company under Title 5, section 13090-L. [2009, c. 470, §3 (AMD).]

C. Aggregate investment eligible for tax credits may not be more than \$5,000,000 for any one business for any one private venture capital fund as of the date of issuance of a tax credit certificate. [2003, c. 451, Pt. E, §4 (AMD).]

D. The investment with respect to which any individual or entity is applying for a tax credit certificate may not be more than an aggregate of \$500,000 in any one eligible business invested in by a private venture capital fund in any 3 consecutive calendar years, except that this paragraph does not limit other investment by any applicant for which that applicant is not applying for a tax credit certificate and except that, if the entity applying for a tax credit certificate is a partnership, limited liability company, S corporation, nontaxable trust or any other entity that is treated as a flow-through entity for tax purposes under the federal Internal Revenue Code, the aggregate limit of \$500,000 or \$200,000, as applicable, applies to each individual partner, member, stockholder, beneficiary or equity owner of the entity and not to the entity itself. This paragraph does not limit other investment by any applicant for which that applicant is not applying for a tax credit certificate. [2003, c. 451, Pt. E, §4 (AMD).]

E. Each business receiving an investment from a private venture capital fund, which investment is used as the basis for the issuance of a tax credit certificate, must have annual gross sales of \$3,000,000 or less and the operation of the business must be the full-time professional activity of the principal owner, as determined by the authority. The principal owner and principal owner's spouse, if any, are not eligible for a credit for investment in that business or for an investment by the private venture capital fund in that business. A tax credit certificate may not be issued to a parent, brother, sister or child of a principal owner if the parent, brother, sister or child has any existing ownership interest in that business or for an investment by the private venture capital fund in that business. [2001, c. 446, §2 (AMD); 2001, c. 446, §6 (AFF).]

F. Each investment received by a business from a private venture capital fund, which investment is used as the basis for the issuance of a tax credit certificate, must be expended on plant maintenance and construction, equipment, research and development or working capital for the business or on such other business activity as may be approved by the authority. [1997, c. 774, §1 (AMD).]

G. The authority shall establish limits on repayment of the investment by an individual in and the investments made by a private venture capital fund, which investment is used as the basis for the issuance of a tax credit certificate. The investments must be at risk in the private venture capital fund and the business, respectively. [1997, c. 774, §1 (AMD).]

H. The investors in a private venture capital fund are not entitled to the credit for collective ownership in excess of 50% of any business. An investor in a private venture capital fund determined by the authority to be a principal owner of a business and the principal owner's spouse, if any, are not entitled to a credit with respect to investment in that business, nor are the principal owner's parents, siblings or children entitled to a credit if they have any existing ownership interest in the business. [2001, c. 446, §2 (AMD); 2001, c. 446, §6 (AFF).]

[ 2011, c. 454, §5 (AMD) .]

**2-B. Eligibility of private venture capital funds for tax credit certificate until July 1, 2001.**

[ 1999, c. 752, §2 (NEW); 1999, c. 752, §6 (AFF); T. 10, §1100-T, sub-§2-B (RP) .]

**2-C. Eligibility of private venture capital funds for refundable tax credit certificate.** This subsection applies to investments by private venture capital funds in eligible businesses made in tax years beginning on or after January 1, 2012. The authority shall adopt routine technical rules as defined in Title 5, chapter 375, subchapter 2-A to implement application of the program to investments in eligible businesses by private venture capital funds. The requirements for eligibility for a tax credit certificate for an investment by a private venture capital fund include the following.

A. For investments made in tax years beginning on or after January 1, 2012, a tax credit certificate may be issued to a private venture capital fund in an amount that is not more than 50% of the amount of cash actually invested in an eligible business. The tax credit certificate may be revoked and the credit recaptured pursuant to Title 36, section 5216-B, subsection 5 to the extent that the authority determines that the eligible business for which the tax credit certificate was issued moves substantially all of its operations and assets outside of the State during the period ending 4 years after an investment, except in the case of an arm's length, fair value acquisition approved by the authority. A private venture capital fund that received the 20% credit certificate under subsection 2-A, paragraph A, subparagraph (2) for an investment is not eligible for a tax credit certificate under this subsection for that investment. [2011, c. 454, §6 (NEW).]

B. As used in this subsection, unless the context otherwise indicates, "eligible business" means a business located in the State that has certified that the amount of the investment is necessary to allow the business to create or retain jobs in the State and that, as determined by the authority:

- (1) Is a manufacturer or a value-added natural resource enterprise;
- (2) Is engaged in the development or application of advanced technologies;
- (3) Provides a service that is sold or rendered, or is projected to be sold or rendered, predominantly outside of the State; or
- (5) Is certified as a visual media production company under Title 5, section 13090-L. [2013, c. 438, §4 (AMD).]

C. Aggregate investment eligible for tax credit certificates, including investments under this subsection and under subsection 2, may not be more than \$5,000,000 for any one eligible business. [2011, c. 454, §6 (NEW).]

D. The investment with respect to which any private venture capital fund is applying for a tax credit certificate may not be more than the lesser of an amount equal to \$500,000 times the number of investors in the private venture capital fund and an aggregate of \$4,000,000 in any one eligible business invested in by a private venture capital fund in any 3 consecutive calendar years, except that this paragraph does not limit other investment by an applicant for which that applicant is not applying for a tax credit certificate. A private venture capital fund must certify to the authority that it will be in compliance with these limitations. The tax credit certificate issued to a private venture capital fund may be revoked and any credit taken recaptured pursuant to Title 36, section 5216-B, subsection 5 if the fund is not in compliance with this paragraph. [ 2013 , c. 438 , §4 (AMD) . ]

E. For investments made in tax years beginning before January 1, 2014, an eligible business receiving an investment from a private venture capital fund, which investment is used as the basis for the issuance of a tax credit certificate, may not have annual gross sales of more than \$3,000,000 . For investments made in tax years beginning on or after January 1, 2014, an eligible business receiving an investment from a private venture capital fund, which investment is used as the basis for the issuance of a tax credit certificate, may not have annual gross sales of more than \$5,000,000. The operation of the business must be a substantial professional activity of one or more individuals who are not managers of the private venture capital fund, as determined by the authority. A tax credit certificate may not be issued to a private venture capital fund if a manager of the fund is a principal owner of the eligible business or a spouse, parent, sibling or child of a principal owner and if the spouse, parent, sibling or child has any existing ownership interest in the business. A private venture capital fund must certify to the authority that it will be in compliance with these limitations. The tax credit certificate issued to a private venture capital fund may be revoked and any credit taken recaptured pursuant to Title 36, section 5216-B, subsection 5 if the fund is not in compliance with this paragraph. [ 2013 , c. 438 , §4 (AMD) . ]

F. An investment received by an eligible business from a private venture capital fund for which the investment is used as the basis for the issuance of a tax credit certificate must be expended on plant maintenance and construction, equipment, research and development or working capital for the business or on such other business activity as may be approved by the authority. [ 2011 , c. 454 , §6 (NEW) . ]

G. The authority shall establish limits on repayment of the investments made by a private venture capital fund for which the investments are used as the basis for the issuance of tax credit certificates. The investments must be at risk in the private venture capital fund and the eligible business, respectively. [ 2011 , c. 454 , §6 (NEW) . ]

H. A private venture capital fund is not entitled to the credit if it owns in excess of 50% of the eligible business, except that, if the private venture capital fund is issued a tax credit certificate and later makes an additional investment that increases its ownership to more than 50%, the existing tax credit certificate remains valid and is not subject to revocation due to the ownership percentage as long as there was no intent to take controlling ownership at the time of the initial qualified investment. [ 2011 , c. 454 , §6 (NEW) . ]

[ 2013 , c. 438 , §4 (AMD) . ]

**3. Priority.** The authority may reserve \$500,000 in tax credit authorization for "natural resource enterprises," as defined in section 963-A, subsection 41.

[ 1995 , c. 462 , Pt. A , §19 (AMD) . ]

**4. Total of credits authorized.** The authority may issue tax credit certificates to investors eligible pursuant to subsections 2, 2-A and 2-C in an aggregate amount not to exceed \$2,000,000 up to and including calendar year 1996, \$3,000,000 up to and including calendar year 1997, \$5,500,000 up to and including calendar year 1998, \$8,000,000 up to and including calendar year 2001, \$11,000,000 up to and including calendar year 2002, \$14,000,000 up to and including calendar year 2003, \$17,000,000 up to and including calendar year 2004, \$20,000,000 up to and including calendar year 2005, \$23,000,000 up to and including

calendar year 2006, \$26,000,000 up to and including calendar year 2007 and \$30,000,000 up to and including calendar year 2013, in addition to which, the authority may issue tax credit certificates to investors eligible pursuant to subsections 2, 2-A and 2-C in an annual amount not to exceed \$675,000 for investments made between January 1, 2014 and December 31, 2014, \$4,000,000 for investments made in calendar year 2015 and \$5,000,000 each year for investments made in calendar years beginning with 2016. The authority may provide that investors eligible for a tax credit under this section in a year when there is insufficient credit available are entitled to take the credit when it becomes available subject to limitations established by the authority by rule. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[ 2013, c. 438, §5 (AMD) .]

**5. Revocation of tax credit certificate.** The authority may revoke a tax credit certificate if any representation to the authority in connection with the application for the certificate proves to have been false when made or if the applicant violates any conditions established by the authority and stated in the tax credit certificate. The revocation may be in full or in part as the authority may determine. The authority shall specify the amount of credit being revoked and shall send notice of the revocation to the investor and to the State Tax Assessor.

[ 1987, c. 854, §§2, 5 (NEW) .]

**6. Reports.** Any business eligible to have investors receive a tax credit under this section must report to the authority, in a manner to be determined by the authority, the following information regarding its activities in the State over the calendar year in which the investment occurred and for such additional years as may be required by the authority:

A. The total amount of private investment received; [2001, c. 642, §10 (NEW); 2001, c. 642, §12 (AFF).]

B. The total number of persons employed as of December 31st; [2001, c. 642, §10 (NEW); 2001, c. 642, §12 (AFF).]

C. The total numbers of jobs created and retained; [2001, c. 642, §10 (NEW); 2001, c. 642, §12 (AFF).]

D. Total annual payroll; and [2001, c. 642, §10 (NEW); 2001, c. 642, §12 (AFF).]

E. Total sales revenue. [2001, c. 642, §10 (NEW); 2001, c. 642, §12 (AFF).]

The authority shall report annually to the joint standing committee of the Legislature having jurisdiction over taxation matters on the activity under this section during the prior calendar year.

[ 2011, c. 454, §8 (AMD) .]

#### SECTION HISTORY

1987, c. 854, §§2,5 (NEW). 1989, c. 502, §A28 (AMD). 1989, c. 765, §4 (AMD). 1991, c. 854, §§A7-11 (AMD). 1995, c. 424, §§2-4 (AMD). 1995, c. 462, §A19 (AMD). 1995, c. 658, §§3,4 (AMD). 1997, c. 774, §1 (AMD). 1997, c. 782, §§1-4 (AMD). 1999, c. 504, §10 (AMD). 1999, c. 752, §§1-3 (AMD). 2001, c. 446, §§1-3 (AMD). 2001, c. 446, §6 (AFF). 2001, c. 642, §§4-10 (AMD). 2001, c. 642, §12 (AFF). 2003, c. 20, §§X1-5 (AMD). 2003, c. 451, §§E1-5 (AMD). 2009, c. 470, §§2, 3 (AMD). 2011, c. 454, §§1-8 (AMD). 2013, c. 438, §§2-5 (AMD).

## Subchapter 10: MEDICAL TRAINING ASSISTANCE

**§1100-U. DEFINITIONS***(REPEALED)*

## SECTION HISTORY

1991, c. 545, §2 (NEW). 1991, c. 830, §2 (RP).

**§1100-V. AUTHORIZATION; MAINE PRIMARY CARE RESIDENCY TRAINING ASSISTANCE PROGRAM***(REPEALED)*

## SECTION HISTORY

1991, c. 545, §2 (NEW). 1991, c. 830, §2 (RP).

**§1100-W. ADMINISTRATION***(REPEALED)*

## SECTION HISTORY

1991, c. 545, §2 (NEW). 1991, c. 830, §2 (RP).

**§1100-X. ADVISORY COMMITTEE***(REPEALED)*

## SECTION HISTORY

1991, c. 545, §2 (NEW). 1991, c. 830, §2 (RP).

**Subchapter 11: EDUCATIONAL ATTAINMENT  
AND RECRUITMENT TAX CREDITS****§1100-Y. EDUCATIONAL ATTAINMENT AND RECRUITMENT TAX CREDITS***(REPEALED)*

## SECTION HISTORY

RR 2001, c. 2, §A13 (COR). 2001, c. 700, §1 (NEW). 2003, c. 20, §§DD1,2 (AMD). 2003, c. 20, §DD7 (AFF). 2003, c. 451, §§JJ1,2 (AMD). 2003, c. 473, §§1-3 (AMD). 2005, c. 12, §§Q1,2 (AMD). 2007, c. 1, Pt. O, §§1, 2 (AMD). 2007, c. 1, Pt. O, §9 (AFF). 2009, c. 434, §2 (RP).

**Subchapter 12: MAINE NEW MARKETS CAPITAL INVESTMENT PROGRAM****§1100-Z. MAINE NEW MARKETS CAPITAL INVESTMENT PROGRAM**

**1. Findings and intent.** The Legislature finds that encouragement of investment in qualified businesses and developments located in economically distressed areas of the State and the creation and preservation of jobs are in the public interest and promote the general welfare of the State. The Legislature further finds that the enactment of incentives as set forth in this subchapter to promote investments is necessary in order to ensure the long-term economic vitality of this State, to preserve numerous opportunities for jobs for the people of the State and to make this State more competitive in the attraction of investment capital and thus to ensure the preservation and betterment of the economy of the State for the benefit of its people. The Legislature further finds that the foregoing benefits to the State and its people far exceed the costs to the State of providing the incentives set forth in this subchapter. The Legislature further finds that the provisions of this subchapter are necessary to accomplish these objectives.

The Legislature finds that the incentives offered by the State pursuant to this subchapter are intended to induce major investments in qualified businesses and developments located in economically distressed areas of the State and that any party who accepts and reasonably relies upon these inducements in making qualified investments is entitled to the full realization of these incentives without impairment by subsequent changes in law. The Legislature finds that when determining whether a project is financially feasible an investing party must rely in good faith upon the Legislature to ensure that the promised incentives of this subchapter will be available for a period of 7 years following the date of each qualified investment and that a party's confidence in the full realization of these benefits is a critical factor in inducing the party to make the desired investment. It is the intent of this Legislature that all successor Legislatures honor the commitments held out by this subchapter.

[ 2011, c. 380, Pt. Q, §1 (NEW); 2011, c. 380, Pt. Q, §7 (AFF) .]

**2. Program.** The Maine New Markets Capital Investment Program, referred to in this section as "the program," is established to encourage new investment in economically distressed areas of the State. For the purposes of this section, unless otherwise defined in this section, all terms have the same meaning as under Title 36, section 5219-HH and Section 45D of the United States Internal Revenue Code of 1986, as amended.

[ 2011, c. 548, §3 (AMD) .]

**3. Application for tax credits; allocation of tax credit authority.** Tax credit authority is allocated under the program as described in this subsection.

A. The authority shall provide an application form, which must be available to applicants no later than the date when the final rule implementing this section is adopted. [2011, c. 380, Pt. Q, §1 (NEW); 2011, c. 380, Pt. Q, §7 (AFF) .]

B. A qualified community development entity that seeks an allocation of tax credit authority shall apply to the authority. The qualified community development entity shall submit an application on a form that the authority provides. The application must include:

- (1) The name, address and tax identification number of the entity and evidence of the certification of the entity as a qualified community development entity;
- (2) A copy of an allocation agreement executed by the qualified community development entity, its controlling entity or other entity controlled by the same controlling entity and the Community Development Financial Institutions Fund of the United States Department of the Treasury, which includes the State in its service area;
- (3) A certificate executed by an executive officer of the qualified community development entity attesting that the allocation agreement remains in effect and has not been revoked or canceled by the Community Development Financial Institutions Fund;
- (4) Information regarding the amount of tax credit authority requested and the proposed use of proceeds from the issuance of the qualified equity investment or long-term debt security; and
- (5) Responses to the following 5 questions, which must be answered affirmatively or negatively without explanation or elaboration, to determine qualification for participating in the program:
  - (a) Whether the Community Development Financial Institutions Fund has awarded multiple rounds of federal New Markets Tax Credit allocation to the qualified community development entity, its controlling entity or other entity controlled by the same controlling entity;
  - (b) Whether the qualified community development entity, its controlling entity or other entity controlled by the same controlling entity has participated as a qualified community development entity in a state New Markets Tax Credit program or has made an investment in this State that qualifies for federal New Markets Tax Credits;

(c) Whether the qualified community development entity, its controlling entity or other entity controlled by the same controlling entity has made an investment qualified for tax credits in a business located in a nonmetropolitan census tract;

(d) Whether the qualified community development entity, its controlling entity or other entity controlled by the same controlling entity has made an investment qualified for tax credits in a state where it did not previously have substantial operations; and

(e) Whether the qualified community development entity, its controlling entity or other entity controlled by the same controlling entity has explored potential investment opportunities in this State that would qualify under this subchapter.

Applicants answering affirmatively to 4 or more of the 5 questions must be determined to be qualified. [2011, c. 380, Pt. Q, §1 (NEW); 2011, c. 380, Pt. Q, §7 (AFF).]

C. In the rule implementing this subchapter, the authority shall set a nonrefundable application fee, which must be paid to the authority at the time each application is submitted. The authority shall also set an annual report fee and establish a payment schedule along with requirements for the report pursuant to subsection 5. [2011, c. 380, Pt. Q, §1 (NEW); 2011, c. 380, Pt. Q, §7 (AFF).]

D. Within 60 days of receipt of an application for tax credit authority, the authority shall either approve the application and, as part of that approval, indicate the amount of tax credit authority issued to the qualified community development entity or determine that the authority intends to deny the application. If the authority intends to deny the application, it shall inform the qualified community development entity by written notice of the grounds for the intended denial. Upon receipt of the notice of intended denial by the qualified community development entity:

(1) If the qualified community development entity provides any additional information required by the authority or otherwise completes its application within 15 days, the application must be considered complete as of the original date of submission and the authority has an additional 30 days to either approve or deny the application; or

(2) If the qualified community development entity fails to provide the information or complete its application within the 15-day period, the application is deemed denied and may be resubmitted in full with a new submission date. [2011, c. 380, Pt. Q, §1 (NEW); 2011, c. 380, Pt. Q, §7 (AFF).]

E. The authority shall approve applications for tax credit authority in the order applications are received by the authority. Applications received on the same day are deemed to have been received simultaneously. For applications received on the same day and determined to be complete, the authority shall certify, consistent with remaining tax credit capacity, tax credit authority in proportionate percentages based upon the ratio of the amount of tax credit authority requested in an application to the total amount of tax credit authority requested in all applications received on the same day. If a pending request cannot be fully certified because of the limitations contained in this subchapter, the authority shall certify the portion that may be certified unless the qualified community development entity elects to withdraw its request rather than receive partial credit. The authority shall provide written notification to each qualified community development entity of the approval of tax allocation authority and the amount of tax credit authority it was allocated. [2011, c. 380, Pt. Q, §1 (NEW); 2011, c. 380, Pt. Q, §7 (AFF).]

F. Within 24 months after receipt of the notice of the allocation of tax credit authority, the qualified community development entity shall issue the qualified equity investments or long-term debt securities and receive cash in the amount of the total amount of tax credit authority that the qualified community development entity was allocated. The qualified community development entity shall provide the authority with evidence of the entity's receipt of the cash investment within 10 business days after receipt. If the qualified community development entity does not issue the qualified equity investment or long-term debt security and receive the cash purchase price within 24 months following receipt of the

tax credit authority notice for any portion of its allocation, such unused allocation of tax credit authority lapses and the qualified community development entity may not issue the qualified equity investments or long-term debt securities without reapplying to the authority for additional tax credit authority. Any tax credit authority that lapses reverts back to the authority and may be reissued only in accordance with the application process outlined in this section. [2011, c. 380, Pt. Q, §1 (NEW); 2011, c. 380, Pt. Q, §7 (AFF).]

G. Upon receipt of notice that a qualified community development entity has issued its qualified equity investments or long-term debt securities, the authority shall certify the entity's qualified equity investments or long-term debt securities as qualified equity investments and eligible for tax credits under Title 36, section 5219-HH. The authority shall provide written notice, sent by certified mail or any other means considered feasible by the authority, of the certification to the qualified community development entity, the Department of Administrative and Financial Services, Bureau of Revenue Services and the Commissioner of Administrative and Financial Services. The notice must include the names of persons eligible to claim the tax credits and their respective tax credit amounts. If the names of the persons that are eligible to claim the tax credits change due to a transfer of a qualified equity investment or a change in an allocation pursuant to this subchapter, the qualified community development entity shall notify the authority and the Department of Administrative and Financial Services, Bureau of Revenue Services of that transfer or change. [2015, c. 300, Pt. A, §1 (AMD).]

H. On the date designated by the authority, the authority shall begin accepting applications for the full \$250,000,000 of qualified equity investments under subsection 4. An applicant may not be awarded more than 25% of the total tax credit authority available. [2011, c. 380, Pt. Q, §1 (NEW); 2011, c. 380, Pt. Q, §7 (AFF).]

[ 2015, c. 300, Pt. A, §1 (AMD) .]

**4. Limit on amount of tax credits authorized.** The maximum aggregate amount of qualified equity investments for which the authority may issue tax credit authority under this section is \$250,000,000; a tax credit claim may not exceed \$20,000,000 in any one state fiscal year over the 7 years of the tax credit allowance dates as described in Title 36, section 5219-HH, subsection 1, paragraph A.

[ 2011, c. 548, §5 (AMD) .]

**5. Reporting and disclosure of information.** The authority shall require annual reports of a qualified community development entity granted tax credit allocation authority pursuant to subsection 3. Reports must be shared with the Department of Administrative and Financial Services, Bureau of Revenue Services and the Commissioner of Administrative and Financial Services. Notwithstanding section 975-A, the authority may disclose any information to the Department of Administrative and Financial Services, Bureau of Revenue Services and the Commissioner of Administrative and Financial Services that it considers necessary for the administration of the program pursuant to this section, Title 36, section 2533 or Title 36, section 5219-HH.

[ 2015, c. 300, Pt. A, §2 (AMD) .]

**6. Report.** The authority shall report no later than January 1, 2015 to 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 taxation matters on the activities of the program, including, but not limited to, the amount of private investment received and the total number of jobs created or retained.

[ 2011, c. 380, Pt. Q, §1 (NEW); 2011, c. 380, Pt. Q, §7 (AFF) .]

**7. Rules.** By December 30, 2011, the authority shall adopt rules necessary to implement this section. Rules adopted pursuant to this subsection are routine technical rules under Title 5, chapter 375, subchapter 2-A.

[ 2011, c. 380, Pt. Q, §1 (NEW); 2011, c. 380, Pt. Q, §7 (AFF) .]

SECTION HISTORY

2011, c. 380, Pt. Q, §1 (NEW). 2011, c. 380, Pt. Q, §7 (AFF). 2011, c. 548, §§3-6 (AMD). 2015, c. 300, Pt. A, §§1, 2 (AMD).

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