

**Amendment to LD 219 -
An Act To Enhance the Agricultural Marketing Loan Fund by Establishing a Variable
Interest Rate for Loans and To Allow Participants in the Maine Farms for the Future
Program To Borrow at That Rate**

Presented by Representative Pluecker
February 1, 2022

Amend the bill by striking out the title and inserting in its place the following:

An Act To Improve the Agricultural Marketing Loan Fund and Agricultural Development
Grant

Amend the bill by striking out everything after the title and inserting in its place the following:

Sec. 1. 7 MRSA §306-A is amended to read:

§306-A. Agricultural Development Fund

1. Agricultural Development Fund. The commissioner shall establish an agricultural development fund, referred to in this section as “the fund,” to accelerate ~~new~~ market development, adoption of ~~advantageous technologies~~ technology and promotion of state agricultural products by state producers. The State Controller shall transfer \$550,000 from the General Fund to the fund no later than July 31st of each year.

2. Fund operation. The commissioner shall utilize the agricultural development fund to:

A. Provide grants to public agencies, private for-profit entities and non-profit entities based in the state ~~individuals, firms or organizations~~ to conduct market research or to undertake market promotion activities for the purpose of expanding existing markets and developing new markets for state agricultural products; ~~and~~

B. Test and demonstrate new technologies related to the production, storage and processing of state agricultural products ~~commodities~~; and

C. Provide technical assistance grants for conducting market research, feasibility studies, engineering studies, construction planning, land-use planning, facility design and configuration planning and funding the purchase of on-farm equipment and other technology purchases that directly support the growth of agricultural enterprises.

During any of the 3 fiscal years following award of the grant to an applicant, the commissioner may disburse grant money awarded to an applicant.

3. Rulemaking. The commissioner shall establish, by rule, in a manner consistent with Title 5, chapter 375, subchapter 2-A criteria for the allocation of grant money, application requirements consistent with the provisions of this section, a schedule for accepting and

reviewing applications, reporting requirements on grant expenditures and project results and any other administrative requirements necessary for the efficient implementation of this program. Rules adopted pursuant to this subsection are ~~major-substantive~~ routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. The commissioner is guided by the following criteria:

A. Applications may be submitted by ~~individuals, firms or organizations~~ public agencies, private for-profit entities and non-profit entities based in the state in response to a request for proposals for competitive grants. The commissioner may also contract directly with individuals, firms or organizations for a special project under section 307;

B. A percentage of the total cost of any project must be funded by the applicant or applicants and a percentage of the total cost must be funded from nonpublic sources. These percentages must be established by rule. A single grant may not exceed 50% of the total funds available to be granted in a given year;

C. Information relative to market research or development activities provided to the commissioner prior to formal application, included in grant applications or provided to the commissioner to fulfill reporting requirements is confidential information and may not be publicly disclosed by the commissioner as long as:

(1) The person to whom the information belongs or pertains has requested that certain information be designated as confidential; and

(2) The commissioner has determined that the information gives the person making the request opportunity to obtain business or competitive advantage over another person who does not have access to the information or will result in loss of business or other significant detriment to the person making the request if access is provided to others; and

D. When possible, the commissioner shall award grants to applicants representing diverse agricultural enterprises and geographic areas of the State.

4. Advisory committee. The commissioner shall establish the Agricultural Development Committee to evaluate ~~market and production development competitive~~ grant applications and review project results.

Sec. 2. 7 MRSA §307 is amended to read:

§307. Special projects

The commissioner may contract directly with the University of Maine System or qualified ~~individuals, firms or organizations~~ public agencies, private for-profit entities and non-profit entities based in the state for market research, for testing new technologies and for research on technical problems related to the production, marketing, storage and processing of agricultural ~~commodities~~ products.

Sec. 3. 7 MRSA §308 is repealed.

~~§308. Special revenues~~

~~Interest in the Agricultural Marketing Loan Fund, established in Title 10, section 1023-J, and funds contributed by individuals, firms or organizations for special projects or for competitive agricultural development projects must be deposited in a dedicated account that does not lapse. Individuals, firms or organizations may specify that funds contributed to this account may be used to initiate projects affecting specific commodities.~~

Sec. 4. 7 MRSA §434 is amended to read:

§434. Definitions

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

1. Agricultural enterprise. "Agricultural enterprise" means a person or business located in this State and engaged or beginning to engage in the commercial growing or harvesting of plants; raising of animals; growing or obtaining plant or animal by-products; aquaculture, as defined in Title 12, section 6001, subsection 1; or further processing, storing, packaging or marketing a raw product derived from plants, animals, plant or animal by-products or aquaculture, as defined in Title 12, section 6001, subsection 1, with the intent that the product be sold or otherwise disposed of to generate income. "Agricultural enterprise" includes a business or activity that attracts visitors to a farm for the purpose of supplementing income from the primary crop or livestock operation. "Agricultural enterprise" does not include a business engaged primarily in the growing, harvesting or further processing of forest species of trees for the purpose of producing pulp or other materials used in the paper manufacturing or wood manufacturing process.

Sec. 5. 7 MRSA §435 is amended to read:

§435. Agricultural marketing loans

1. Administration. The commissioner shall administer the Agricultural Marketing Loan Fund established under Title 10, section 1023-J.

2. Conditions. Agricultural marketing loans are subject to the following conditions.

A. An agricultural marketing loan for any project under this subchapter, the total cost of which exceeds ~~\$100,000~~ \$200,000, may not exceed ~~75%~~ 90% of the project cost. A loan from the fund may not be provided for such a project unless the applicant demonstrates a commitment of private funds of at least 5% of the total cost of the project; except that, in order to encourage the undertaking of cooperative projects by 2 or more agricultural enterprises, an agricultural marketing loan may not be provided unless the cooperating agricultural enterprises as a group demonstrate a commitment of private funds of at least 5% of the total cost of the project.

B. An agricultural marketing loan for any project under this subchapter, the total cost of which is ~~\$100,000~~ \$200,000 or less, may not exceed 90% of the total cost of the project.

C. An agricultural marketing loan must be at the interest rate established pursuant to subsection 3 or 3-A.

D. 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 Agricultural Marketing Loan Fund may be assumed by subsequent purchasers of the property. The department shall adopt rules concerning the purchase of existing buildings. These rules must include provisions that ensure that the purchases are consistent with the purposes of this subchapter.

E. An agricultural marketing loan is subject to other terms and conditions prescribed, by rule, by the commissioner, including, but not limited to, a mechanism for reserving funds for, or giving priority to, projects in agricultural enterprises or areas of the State determined by the commissioner to require special assistance. When considering loans for aquacultural enterprises, the commissioner shall consult with the Department of Marine Resources.

3. Interest rate. ~~Except as provided in subsection 3-A, the interest rate for loans is 5% per year.~~ The interest rate for state loans is the federal prime rate on the date of loan commitment but may not be greater than 5%. Loans current on the effective date of this subsection may be refinanced at the borrower's request to an interest rate of the federal prime rate but not greater than 5%.

3-A. Loans for participants in the Maine Farms for the Future Program. The interest rate for loans for capital improvements identified in a business plan developed under section 318 for a farm determined eligible under section 319 is the federal prime rate on the date of loan commitment but may not be greater than 2% per year.

4. Administrative costs. The commissioner may establish, by rule, a fee for administrative costs on loans in excess of \$100,000. This fee may not exceed 1% of the loan. The commissioner may contract with the Finance Authority of Maine to assist in the administration of this subchapter.

5. Report. The commissioner shall submit an annual report on or before March 1st of each year to the joint standing committee of the Legislature having jurisdiction over agricultural matters. The report must include a summary of loans made under this section during the previous fiscal year and loans outstanding categorized by the types of agricultural enterprises receiving the loans. The report must address the effectiveness of the program. Effectiveness measures may include, but are not limited to, evaluation of the number of companies retained, expanded or created; the increase in the number of jobs created or retained; any increased business revenues and new capital raised; improved wages paid to employees; and any new capital investment and increase in profitability.

Sec. 6. 7 MRSA §436 is amended to read:

§436. Grants for technical assistance and research

The commissioner may use all or a portion of the accrued interest in the cash balance of the Agricultural Marketing Loan Fund ~~and all or a portion of loan repayments~~ for grants for technical assistance and the agricultural development grant program in chapter 10. ~~The commissioner may expend grant dollars designated to an applicant in one fiscal year during any of the 3 fiscal years following designation.~~

Sec. 7. 10 MRSA §1023-J is amended to read:

§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, purchase, construction, renovation or improvement of ~~commodity and storage~~ buildings and equipment essential to the agricultural enterprise 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 or to fund the development of new or existing sustainable water sources; for the purchase of land necessary for the start-up of a new agricultural enterprise; for the purchase of land necessary 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 for improvements to pastureland, including seeding and actions to promote rotational grazing; for the design or implementation of improvements to infrastructure, equipment and natural resources to enhance a commercial agricultural enterprise's climate adaptation or mitigation capacity; for refinancing existing loans used to finance eligible uses as defined in this section; 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.~~

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.

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.

Sec. 8. Transfer balance of interest in the Agricultural Marketing Loan Fund. Notwithstanding any other provision of law to the contrary, the Finance Authority of Maine shall transfer the balance of accrued interest in the Agricultural Marketing Loan Fund, as established under Title 10, section 1023-J, to the Department of Agriculture, Conservation and Forestry, Bureau of Agriculture, Food and Rural Resources, Agricultural Development Fund, as established under Title 7, section 306-A, no later than June 30, 2022.

SUMMARY

This amendment, which replaces the bill, separates the Agricultural Development Fund from the Agricultural Marketing Loan Fund. The amendment requires the State Controller to transfer \$550,000 from the General Fund to the Agriculture Development Fund annually. The amendment requires Commissioner of Agriculture, Conservation and Forestry to utilize the Agriculture Development Fund to provide technical assistance grants for conducting market research, feasibility studies, engineering studies, construction planning, land-use planning, facility design and configuration planning and fund the purchase of on-farm equipment and other technology purchases that directly support the growth of agricultural enterprises.

Under current law, an agricultural marketing loan, the total cost of which exceeds \$100,000 may not exceed 75% of the project cost. The amendment provides that an agricultural marketing loan, the total cost of which exceeds \$200,000 may not exceed 90% of the project cost. The amendment changes the interest rate for agricultural marketing loans from 5% per year to the federal prime rate on the date of loan commitment but may not be greater than 5%. The amendment provides that the agricultural marketing loan funds may be used to fund the development of new or existing sustainable water resources; for the design and implementation of improvements to infrastructure, equipment and natural resources to enhance a commercial agricultural enterprise's climate adaptation or mitigation capacity; and for refinancing existing loans used to finance eligible uses.