

## §13063-C. Job Retention Program

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

[PL 1995, c. 706, §2 (NEW).]

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

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

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

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

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

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

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

[PL 1995, c. 706, §2 (NEW).]

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

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

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

The commissioner may consider the layoff or termination of all, or substantially all, of the employees of a certified retained business as demonstration that it has ceased operations. [PL 2005, c. 2, Pt. A, §9 (AMD); PL 2005, c. 2, Pt. A, §14 (AFF).]

**5. Investment of funds.** The money in the program may be invested as provided by law with the earnings credited to the program. [PL 1995, c. 706, §2 (NEW).]

**6. Criteria for approval.** Prior to issuing a certificate of approval to a business, the commissioner must find that the applicant qualifies as a certified retained business. Notwithstanding the provisions of this section, the commissioner may not accept or certify an application for a certified retained business that is submitted by the applicant after February 28, 1997. [PL 1995, c. 706, §2 (NEW).]

#### SECTION HISTORY

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

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